



Legal Norms and Principles of Decentralization of Authorities in Handling the Covid-19 Pandemic

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Abstract. Covid-19 is a virus originating from Wuhan, China, which has spread throughout almost the world. In Indonesia, the virus spread began on March 2, 2020, allegedly starting from an Indonesian citizen who had direct contact with a foreign citizen from Japan. Over time, the spread of Covid-19 has experienced a significant increase. Due to the delay in anticipating and handling Covid-19 by the government, the government did not immediately determine the status of handling Covid-19, so the flow of coordination between the central government and regional governments became unclear in handling the substance, and technical aspects of Covid-19 in the Central Government and Regional governments experience overlapping authorities because there are arrangements in several laws that contradict each other and are not in harmony between the Central Government, Regional Governments and Duties and National Disaster Management Agency (*Badan Nasional Penanggulangan Bencana/BNPB*) so as to allow for the handling of the Covid-19 disaster. Thus, it is important to study whether the government's authority central and regional governments under the control of Covid-19 have been and are in accordance with the structure, duties, functions, as well as applicable regulations and the extent to which the consequences are due to the overlapping of central and regional authorities in the grip of the Covid-19 pandemic and how to deal with it. The legal responsibility of the Central and Regional Governments due to the slow handling of Covid-19.

Keywords: Covid-19, Authority, Legal Norm, Local Government, Legal Accountability



Abstrak. *Covid-19 merupakan virus yang berasal dari Wuban, China yang menyebar di hampir seluruh dunia Di Indonesia Penyebaran virus ini dimulai sejak tanggal 02 Maret 2020, diduga berawal dari salah satu warga negara Indonesia yang melakukan kontak langsung dengan warga negara asing yang berasal dari Jepang. Seiring dengan berjalannya waktu, penyebaran Covid-19 telah mengalami peningkatan yang signifikan. Meningkatnya kasus Covid-19 salah satunya disebabkan Karena adanya Keterlambatan antisipasi dan penanganan Covid-19 oleh pemerintah, pemerintah tidak segera menentukan status penanganan Covid-19 sehingga alur koordinasi antara pemerintah pusat dan pemerintah daerah menjadi tidak jelas Dalam penanganan substansi dan teknis Covid-19 di lapangan Pemerintah Pusat dan pemerintah daerah mengalami tumpang tindih kewenangan karena ada pengaturan di dalam beberapa Undang- Undang yang saling bertolak belakang dan tidak harmoni antara Pemerintah Pusat, Pemerintah daerah dan gugus Tugas serta Badan Nasional Penanggulangan Bencana (BNPB) sehingga berpotensi memperpanjang birokrasi penanggulangan bencana Covid-19. Dengan demikian, penting untuk dikaji adalah Apakah kewenangan pemerintah pusat dan daerah dalam menangani Covid-19 telah efektif dan sesuai dengan struktur, tugas, fungsi, serta peraturan-peraturan yang berlaku serta Sejauh mana akibat yang ditimbulkan karena adanya Tumpang Tindih kewenangan Pusat dan daerah dalam menangani Pandemi Covid-19 dan bagaimana pertanggung jawaban hukum Pemerintah Pusat dan Daerah akibat lambatnya Penanganan Covid-19.*

Kata kunci: *Covid-19, Kewenangan ,Pemerintah Pusat, Pemerintah Daerah, Pertanggungjawaban Hukum*

1. Introduction

Coronavirus disease 2019, which was later called Covid-19, is a virus that first appeared in Wuhan Province, China, and spread so quickly to almost all countries in the world that the WHO World Health Organization on March 11, 2020, declared Covid-19 a Pandemic.¹ The impact of the Covid-19 Pandemic itself has been felt by many infected countries, namely in terms of the economy and the increase in the death rate in these countries. To handle Covid-19, each country adopts policies that are considered to be able to break the chain of transmission from Covid-19, such as closing areas (Lock Down) and large-scale social restrictions, which are then called PSBB.

The spread of this virus in Indonesia began on March 2, 2020, allegedly starting from an Indonesian citizen who had direct contact with a foreign national from Japan. This has been announced directly by the President of the Republic of Indonesia.² Over time, the spread of Covid-19 has experienced a significant increase. The number of Covid-19 patients on March 1, 2021, reached 1,341,314 Positive Covid-19 with a death rate of 36,325, and this figure can still increase. One of the reasons for the increase in Covid-19 cases was due to delays in the anticipation and handling of Covid-19 by the government; the government did not immediately determine the status of handling Covid-19, so that the flow of coordination between the central government and regional governments became unclear. The relationship between the central and regional governments is something that is often discussed because, in practice, it still creates efforts to tug of interest (spanning of interest) between the two government units. Especially in a unitary state, the central government's efforts to always have control over various government affairs are very clear.³ Even though it has been stated in Law No. 24

¹ Gloria Setyvani Putri. *WHO resmi sebut virus corona Covid-19 sebagai pandemic global*. Jakarta: Kompas, 2020, Available at: <https://www.kompas.com/sains/read/2020/03/12/083129823/who-resmi-sebut-virus-corona-covid-19-sebagai-pandemi-global?page=all>.

² Ihsanuddin. *Jokowi Umumkan Dua Orang Di Indonesia Positif Corona*. Kompas, 2020, Available at: <https://nasional.kompas.com/read/2020/03/02/11265921/breaking-news-jokowi-umumkan-dua-orang-di-indonesia-positif-corona>.

³ Septi Nur Wijayanti. "Hubungan antara pusat dan daerah dalam negara kesatuan Republik Indonesia berdasarkan Undang-Undang Nomor 23 Tahun 2014." *Jurnal Media Hukum* 23, no. 2 (2016): 186-199.

of 2007 concerning Disaster Management (hereinafter referred to as the Law on Disaster Management) in Article 7 paragraph (1) letter c, namely: “Government authority in implementing disaster management includes: determining the status and level of national and regional disasters” so that the President should issue a Presidential Decree to determine that a situation has become a national disaster. Another law that can be referred to as Law No. 6 of 2018 concerning Health Quarantine (hereinafter referred to as the Health Quarantine Law); namely, in Article 10 paragraph (1) it is stated that the Public Health Emergency status must be determined and revoked by the Central Government. However, when Covid-19 began to spread in Indonesia, the status of handling Covid-19 was only based on the Decree of the Head of the National Disaster Mitigation Agency No. 9A of 2020 concerning the Determination of the Status of Certain Circumstances of Corona Virus Disease Outbreaks in Indonesia. The decree was then updated with the Decree of the Head of the National Disaster Management Agency No. 13A of 2020, which extended the status of the disaster to May 29, 2020.⁴

The process of handling substances and technically Covid-19 in the field by the Central Government and regional governments experienced overlapping authorities. This can be seen from the bureaucracy and coordination, which shows confusion between the Center and the Regions and the pattern of bureaucracy or coordination used. Authority overlaps when central and regional policies are contradictory where the central government is based on the Health Quarantine Law, especially the provisions of Article 11 paragraph (1) “Implementation of Health Quarantine in Public Health Emergencies is carried out by the Central Government quickly and precisely based on the magnitude of the threat, effectiveness, support of resources, and operational techniques taking into account state sovereignty, security, economy, society and culture” and Article 49 paragraph 3 “Regional Quarantine and Large-Scale Social Restrictions as referred to in paragraph (1) are stipulated by the Minister” based on these two Articles the Central Government has the right to determine the policy of whether the area will be subject to regional closure (lockdown) or large-scale area restrictions.

Polemics occur when there are several regions that issue regulations before the central government takes action, such as the area closure policy adopted by the

⁴ PSHK. *Tata Kelola Tumpang Tindih Penyebab Penanganan Covid 19 Lambat*. 2020, Available at: <https://pshk.or.id/publikasi/siaran-pers/tata-kelola-tumpang-tindih-penyebab-penanganan-covid-19-lambat/>.

Tegal Regent on March 23, 2020, by closing access to the city with a movable concrete barrier (MBC). The policy of the Governor of Papua has closed access to and from ports, airports, and land, including the State Cross Border Post, since March 26, 2020. The Governor of Bali's policy since March 27, 2020, has emphasized to the public not to gather, work, study and worship from home. Likewise, with several other regions, the Central Government has just issued Government Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating the Handling of Covid-19 on March 31, 2020.⁵ Furthermore, several regions adopted a lockdown or regional quarantine policy with different scales. Then the President, in his statement on a video broadcast by the Presidential Secretariat on March 16, 2020, emphasized that national and regional lockdowns are entirely the authority of the central government that regional governments cannot take.⁶ If based on Law No. 23 of 2014 concerning Regional Government (hereinafter referred to as the Regional Government Law), article 12 reads that several points become mandatory affairs for local governments in basic services: health, peace, public order, and community protection. This point is the basis for local governments to be involved in handling Covid-19 in their regions and based on Article 8 and Article 9 of the Disaster Management Law whereby the regional government has the authority and responsibility in implementing disaster management covering:

- a. Community protection from the impact of disasters;
- b. Disaster risk reduction and integration of disaster risk reduction with development programs
- c. Stipulation of disaster management policies in their respective regions in line with regional development policies;

Based on these regulations, the policy of establishing regional closures (lockdowns) from several regions constitutes the administration of government based on regional autonomy. Not breaking the law. The closure of access to and from regional areas was carried out in the context of handling Covid-19. In addition, this effort is being made so that public health can be guaranteed from the

⁵ Zayanti Mandasari. *Tarik Menarik Penanganan Covid 19*. 2020, Available at: <https://ombudsman.go.id/artikel/r/artikel--tarik-menarik-penanganan-Covid-19>.

⁶ Siti Chadijah. "Harmonisasi kewenangan penanganan pandemi Covid-19 antara pemerintah pusat dan daerah." *Kertha Semaya: Journal Ilmu Hukum* 8, no. 6 (2020): 858-866.

threat of Covid-19. With this access closed, medical staff can also work optimally in dealing with Covid-19. So that we can maintain peace and order from the threat of Covid-19

With the conditions stated above, it can be said that there is overlap in authority because there are arrangements in several laws that are contradictory and not in harmony between the central government and regional governments so that it has the potential to lengthen the Covid-19 disaster management bureaucracy. Based on the legal issues, it is formulated how to regulate norms regarding the authority of the central and regional governments in handling Covid-19.

2. Discussion

2.1. Regulation of Authority Norms of the Central and Regional Governments in Handling Covid-19

Norms are the institutionalization of good and bad values in the form of rules that contain permissibility, advice, or orders. Both suggestions and orders can contain rules that are positive or negative so that they include norms of recommendation to do or advice not to do something and norms of orders to do or orders not to do something.⁷ There are several kinds of norms contained in people's lives, namely legal norms, behavioral norms, religious norms, decency norms, decency norms, and other norms. When viewed from its function, the norm is an order to carry out certain behavior (the specific function of a norm is to command a certain behavior).⁸

Indonesia is in a system that is layered and tiered, and Pancasila is the basic norm of the state to serve as the basis and guideline for the formation of laws and regulations in Indonesia so that in order to achieve harmonization in a regulation, legal norms are needed in it. Legal norms are generally set forth in several forms, namely (i) regulatory products (*regeling*), (ii) stipulation products (*beschikking*), (iii) judge's decisions (*verdicts*), (iv) policy rules (*beleidsregel*). The four forms of law are generally written in nature, containing legal norms which result in the emergence of certain legal rights and obligations for each legal subject regulated or determined

⁷ Jimly Asshiddiqie. *Perihal Undang-Undang*. Jakarta: Raja Grafindo Persada, 2014.

⁸ Muhammad Aslansyah, and Firman Umar. "Studi Ajaran Hans Kelsen Tentang Pure Theory of Law Ditinjau Dari Perspektif Keadilan." *Jurnal Tomalebbi* 1, no. 1 (2014): 63-82.

by the relevant legal product.⁹ If the forms of policy regulations from both the central and regional governments violate higher legal norms or their implementation violates human rights and causes harm to citizens, then legal measures can be taken.

According to J.J.H Bruggink, legal norms are divided into 3, namely:

1. Legal norms of behavior, namely legal norms relating to people's behavior;
2. Legal norms as "meta norms", namely legal norms that determine the norms of behavior itself (in relation to "meta norms"); according to Hart meta norms are divided into 3 types. Norms of recognition are norms that determine which rules of behavior in a particular legal community must be obeyed.
 - a. Norms of change are norms that define how a norm of behavior can be changed and
 - b. Norms of authority are norms that determine by whom and through which procedures the norms of behavior are determined, and how a norm of behavior should be applied if in a certain incident there is ambiguity.
 - c. Authority norms can be subdivided into public authority norms and civil authority norms. Norms of public authority are subdivided into norms of authority for making laws; judicial authority and government authority. Whereas in civil law there are norms of authority consisting of, qualification norms, authority norms in the narrow sense, and procedural norms.
3. Independent norms and non-independent norms.

In this study, the authors will discuss more deeply related to norms of authority. Every government agency has authority based on laws or the constitution. The exercise of authority can only be carried out in a manner determined by law. The powers exercised by governing bodies must be given in clear and unquestioned language because no authority is in doubt, and the granting of powers is subject to strict interpretation.

According to F.A.M. Stroink quoted by Philipus M. Hadjon, that in the concept of public law, authority is related to power, authority consists of at least three components, namely:

1. Influence: the intention is to use authority to control the behavior of legal subjects.

⁹ Jimly Asshiddiqie. *Konstitusi Ekonomi*. Jakarta: Buku Kompas, 2010.

2. Legal basis: it means that the authority must always be able to designate a legal basis.
3. Legal conformity: implies the existence of special standards for certain types of authority, government authority does not only include the authority to make government decisions (besluit), but also all authorities in order to carry out their duties

The effect of the authority referred to in Article 8 paragraph (2) of law number 12 of 2011 concerning the Formation of Legislation on the type of statutory regulations is that all actions carried out by state institutions must rely on legal authority, either due to attribution, delegation and mandate. Based on this authority, the government can carry out tasks that originate from its authority to form statutory regulations.¹⁰ Meanwhile, by H.D. van Wijk who gives definitions to each of these methods, viz:

1. Attribution is the granting of government authority by legislators to government organs;
2. Delegation is the delegation of government authority from one organ to another government organ; and
3. The mandate occurs when a government organ permits its authority to be exercised by another organ on its behalf.

Basically, the authority of the government, according to Prajudi Atmosudirdjo¹¹, can be translated into 2 (two) meanings, namely as the right to carry out a government affair and as the right to be able to actually influence decisions taken by other government agencies.

2.2. Central and Regional Authorities in Indonesian Laws and Regulations

The State of Indonesia is a state based on law (rechtstaat) not based on power alone (machtstaat). A government based on a constitutional system is not absolute.

¹⁰ Muhammad Ihsan Maulana. *Implikasi Kewenangan Lembaga Dalam Pembentukan Peraturan Perundang-Undangan Terhadap Jenis, Fungsi Dan Hierarki Peraturan Perundang-Undangan Yang Dibentuknya*. Malang: Universitas PGRI Kanjuruhan Malang, 2018.

¹¹ Prajudi Atmosudirdjo. *Hukum Administrasi Negara*. Jakarta: Ghalia Indonesia, 1981.

Based on this, it is the policy of the central government to hand over some of its affairs to become regional authority through statutory regulations¹².

The relationship between the central government and local governments has four important dimensions to examine, including the relationship of authority, institutional, financial and supervision. First, the distribution of authority to carry out government affairs will greatly affect the extent to which the central government and regional governments have the authority to carry out government affairs, because the territory of the central government includes regional governments. For this reason, in this case the object to be managed is the same, but the authority is different. Second, this division of authority has implications for financial relations, between the central government and regional governments. Third, the implications for institutional relations between the center and the regions require health regarding the amount of institutions needed to carry out the tasks that are their respective affairs. Fourth, the supervisory relationship is a consequence that arises from the granting of authority, in order to maintain the integrity of the unitary state¹³

Central and Regional Government Authorities in Law No. 23 of 2014 concerning Regional Government. According to the Regional Government Law, there are 3 things that form the basis for the exercise of authority, namely:

1. Decentralization is the transfer of Government Affairs by the Central Government to autonomous regions based on the Autonomy Principle
2. Deconcentration is the delegation of a portion of Government Affairs which is under the authority of the Central Government to governors as representatives of the Central Government, to vertical agencies in certain areas, and/or to governors and regents/mayors as persons in charge of general government affairs
3. Co-Administration is an assignment from the Central Government to an autonomous region to carry out some Government Affairs which are the authority of the Central Government or from a provincial Regional Government to a district/city Region to carry out some Government Affairs which are the authority of a provincial Region.

¹² Abdul Rauf Alauddin Said. "Pembagian kewenangan pemerintah pusat-pemerintah daerah dalam otonomi seluas-luasnya menurut UUD 1945." *Fiat Justisia: Jurnal Ilmu Hukum* 9, no. 4 (2015).

¹³ Yusdianto. Hubungan Kewenangan Pusat dan Daerah Menurut UU Nomor 23 Tahun 2014 tentang Pemerintahan Daerah. *Padjajaran Jurnal Ilmu Hukum* 2, no 3 (2015): 497.

In the Regional Government Law, the policy is more towards centralization because the relationship between central and regional authorities is not in accordance with the 1945 Constitution. The provisions in Article 5 of the Law on Regional Government mean that the President holds power in the administration of government, including the administration of governance in the regions, through the principles of decentralization, deconcentration and co-administration. From this meaning, it shows that the President as the holder of authority has the authority to regulate regional government, not to regulate regional government. This provision has become an important feature of the direction of local government policies whose pendulum has begun to be drawn to the central government. Even though Article 18 paragraph (7) of the 1945 Constitution emphasizes that the composition and procedures for administering regional government are regulated by law.

Central and Regional Government Authorities in Law No. 6 of 2018 Concerning Health Quarantine. The Health Quarantine Law regulates the authority of the central and regional governments in dealing with health emergencies, in this case it has been regulated in Article 4 which states that the Central and Regional Governments are responsible for protecting public health, public health from diseases and/or Public Health Risk Factors that have the potential to cause an emergency. Public Health through the implementation of Health Quarantine". The authority of the Central Government is reaffirmed in Article 10 namely:

1. The Central Government establishes and revokes a Public Health Emergency.
2. The Central Government determines and revokes the determination of Entrance Gates and/or areas in the country Affected by Public Health Emergencies.
3. Before establishing a Public Health Emergency, the Central Government first determines the type of disease and risk factors that can cause a Public Health Emergency.

4. Further provisions regarding the procedures for determining and revoking as referred to in paragraph (1) and paragraph (2) shall be regulated in a Government Regulation¹⁴

In the division of authority between the central and regional governments in the Regional Government Law, Articles 11 and 12 state that one of the obligatory regional authority matters is related to health. So that it can be interpreted that the regions have the right to manage health affairs, starting from determining health compliance standards, supervision, to handling public health. This is emphasized in the annex to the Regional Government Law, namely “Division of Government Affairs in the Health Sector”. Which includes the role of health management by the regions, including the provision of health workers and health facilities. So that in handling Covid-19 the Regional Government can determine attitudes or steps to tackle the spread of a disease outbreak.¹⁵ However, the management of central and regional relations became “fuzzy and unclear”, when Indonesia faced a situation known as a Public Health Emergency.

This health emergency condition arises due to the spread of Covid-19 which is spread throughout Indonesia. The rapid and massive spread of the virus has forced a number of regions to take preventive measures. There are various forms of prevention. There are regions that adopt a policy of closing access to and from the city for four months, confirming that their area is an Extraordinary Event (KLB), and closing flight routes and sea routes.¹⁶

The government’s delay in handling Covid-19 is one of the factors causing the widespread spread of Covid-19 in Indonesia. Before positive cases were found in Indonesia, the President issued four instructions as a step to anticipate the impact of Covid-19 on the economy, namely by increasing domestic conference activities, MICE (meeting, incentive, convention, and exhibition) to increase tourism promotion to tourists who canceled visiting China, Korea, and Japan, as well as preparing 72 billion to pay influencers in promoting Indonesia as a tourist

¹⁴ Siti Chadijah, Asip Suyadi, and Tohadi Tohadi. “Tarik menarik kewenangan pemerintah pusat dan pemerintah daerah dalam penanganan pandemi COVID-19.” *Rechtsregel: Jurnal Ilmu Hukum* 3, no. 2 (2020): 226-236.

¹⁵ Raines Wadi. “Konstitusionalitas Pemerintah Daerah dalam Menetapkan Kebijakan Lockdown pada Penanganan Covid-19.” *SALAM: Jurnal Sosial Dan Budaya Syar-I* 7, no. 5 (2020): 613-624.

¹⁶Ariyanto, B. *Op.Cit.*,

destination. The Indonesian government has more economic developmentalist reasoning in dealing with Covid-19. While other countries limit the number of visits, Indonesia actually opens up opportunities for tourists to visit on the grounds of boosting the economy.¹⁷

Indonesian government officials also had time to do something rash with simplistic statements. For example, the claim that Indonesia is the only country that is not infected, or the herbal medicine campaign as an antidote to WHO drugs then warns Indonesia to immediately declare a Covid-19 national emergency through a letter dated March 10 2020 addressed to the President of Indonesia, Joko Widodo. The impact is that the government issued a “know round” legal product. In just one month, 9 legal products related to the handling of the Covid-19 pandemic were issued. These policies are a response to the escalation of problems in terms of public health, social, administration, finance, authority and government bureaucratic politics.¹⁸

Another problem arises related to the party in charge of declaring a public health emergency, whether the central government or regional government. Even though the President has emphasized that the regional government cannot adopt a lockdown policy, it is possible for regional heads to adopt a lockdown policy if the regional head thinks it must be done. If indeed the regional government adopts this policy, it can be carried out based on the Regional Government Law. Health is the authority of the Regions. However, this will be a dilemma because the Center also has authority based on the regional quarantine law.

The Indonesian government is trying to make various kinds of policies to deal with the Covid-19 case, the government takes a policy by considering 2 things, namely the government must look at policies for prevention (substantive) in the spread of Covid-19 and the second is to focus on policies that regulate the economy. The two policies were carried out simultaneously, causing the implementation of these policies to be ineffective. In addition, this policy also makes coordination between the central government and regional governments not well established. The goal to be achieved from this policy is to break the chain of

¹⁷ Zulfa Harirah, and Annas Rizaldi. “Merespon Nalar Kebijakan Negara Dalam Menangani Pandemi Covid 19 Di Indonesia.” *Jurnal Ekonomi Dan Kebijakan Publik Indonesia* 7, no. 1 (2020): 36-53.

¹⁸ Nisa Khoerunisa, and Faisal Fadilla Noorikhshan. “Perbandingan Tata Kelola Penanganan Pandemi Covid 19 di Indonesia dan India.” *Journal of Political Issues* 2, no. 2 (2021): 89-101.

the spread of the virus and economic improvement cannot be achieved, in fact there tends to be a high increase in the spread of Covid-19 in Indonesia. Various government policies to prevent the spread of Covid-19 transmission so that it does not spread widely in society, which have been implemented during the transmission of the COVID-19 outbreak.¹⁹

In its development, the relationship between the center and the regions began to shift towards centralization. So that this causes the local government to not have significant authority so that the task of the Regional Government is as the executor of the policies that have been taken by the Central Government. Health is one of the affairs of concurrent government, that is, matters that are managed jointly so as to make these health affairs overlap. This happened because these matters were not clearly regulated by laws and regulations so that in handling Covid-19 the local government was placed as executor of assistance tasks in the implementation of policies taken by the Central Government. Regional government, because the regional government as the governmental element that is closest to the community has a huge responsibility towards its people. policies made by the central government, but on the other hand, many people carry out protest actions in the regions. So that the credibility of the community began to experience a decline in the policies taken by the government.

The relationship that the government has built between the Center and the Regions in handling the Covid-19 pandemic must also be participatory Bottom Up (policy analysis needs to consider direct interactions between social activists and citizens), not as so far depicted, namely Top Down centralism (putting the main emphasis on the ability of decision makers to produce objective policy goals and control at the implementation stage). This is reflected in the policies set by the government which illustrates that it uses a Top-Down approach.²⁰

From the discussion above, questions will arise about who has the authority to decide or issue policies for handling Covid-19 affairs because in field implementation there is still disharmony regarding policies taken by the central government and regional governments. including public health incidents that are extraordinary in nature, pose a health hazard across regions or countries. Thus, this

¹⁹ Darmin Tuwu. "Kebijakan pemerintah dalam penanganan pandemi Covid-19." *Journal Publicubo* 3, no. 2 (2020): 267-278.

²⁰ Herni Marina. "Inkonsistensi Kebijakan Pemerintah Pusat dalam Penanganan Covid-19 Di Indonesia." *KEMUDI: Jurnal Ilmu Pemerintahan* 5, no. 02 (2021): 215-238.

has fulfilled the elements of a public health emergency so that the provisions that are enforced refer to Law No. 6 of 2018 concerning Health Quarantine and the authority is centered on the Central Government while the Regional Government is the executor and together with the Central government makes efforts to ensure the availability of resources. necessary in implementing health quarantine through efforts including: forming a task force for handling Covid-19, providing health facilities.²¹

The impact of delays in handling Covid-19 is the overlapping of central and regional authorities in policy making. The occurrence of overlapping policies taken by the Central and regional governments has created a lot of inequality that occurs in society because it seems gray and changes, as at the beginning of the pandemic we called it PSBB but recently this policy has changed to Imposing Restrictions on Community Activities (hereinafter referred to as PPKM), Micro PPKM and most recently the Emergency PPKM which began to be implemented in the Provinces of Java and Bali on July 3 2021 to July 20 2021.²²

The application of restrictions on activities in the prevention of as well preventing the spread of COVID-19 has had many serious impacts, especially on small and medium businesses that have been affected by the establishment of an emergency status that limits people's activities. This has resulted in many small and medium business actors who cannot make ends meet and prefer to return to their hometowns. Many employees are laid off and various companies are even threatened with bankruptcy. A total of 114,340 companies have laid off workers and laid off workers with a total of 1,943,916 companies affected, with a percentage of 77% in the formal sector and 23% from the informal sector.

The economic sector slumped which ultimately resulted in the economy entering into a recession in the 3rd quarter of 2020. According to the Big Indonesian Dictionary, a recession is sluggishness, decreased trade, industrial activities, and so on. The increasingly massive spread of Covid-19 has caused fullfilling of hospitals in Indonesia. Many medical personnel have died. According to records reported by the Kompas media, there are 1026 medical personnel who

²¹ Chadijah, S. *Op.Cit.*,

²² Rindi Nuris Velarosdela. *PPKM Darurat di Jakarta Berlaku Mulai 3 Juli, Simak Bedanya dengan PPKM Mikro.* 2021, Available at: <https://megapolitan.kompas.com/read/2021/07/01/13450411/ppkm-darurat-di-jakarta-berlaku-mulai-3-juli-simak-bedanya-dengan-ppkm?nomgid=0&page=all>.

have died since the start of the pandemic until June 26 2021. The gas canisters and full hospitals have caused a sharp increase As of July 20 2021, according to JHU CCSE data, there were 76,200 deaths caused by Covid-19 and as reported by CNN Indonesia had become the country with the highest death cases in the world due to Covid-19 on July 23 2021.

2.3. Comparison of Covid-19 Handling Policies in Civil Law and Common Law countries

The wide spread of Covid-19 throughout the world has made each country adopt different policies. In this case, the author will try to analyze how policies are taken by countries that adhere to the Common Law system and countries that adhere to the Civil Law system.

1. State policies with the Common Law system to deal with the spread of Covid-19

Common law countries or also known as Anglo Saxons, namely focusing on jurisprudence as a basis and adhering to a system of precedents. According to Nurul Qamar, the doctrine of precedent systems substantially implies that the law is bound by a judge's decision to follow and or apply previous court decisions, whether made by himself. or by its predecessors for similar cases.²³ Some examples of countries included in the common law system are America, England and former British colonies (India, Australia, Brunei Darussalam, Singapore), etc. America is one of the countries that experienced a high spike in the spread of Covid-19, therefore the American government took various policies to deal with the more significant spread of Covid-19 quoted from Antara News media that based on the notes of INDEF Researcher Eisha Maghiruha, handling the outbreak was strong coordination between Central and State Government. The American government involves the role of scientists in the medical field based on scientific data and facts. The states are given the authority to adopt their own policies in handling Covid-19 while the Central Government provides the assistance needed, such as sending the national guard and aircraft carriers as hospitals for states that do not have complete health facilities.

²³ Nurul Qamar. *Perbandingan Sistem Hukum dan Peradilan Civil Law System dan Common Law System*. Makassar: Pustaka Refleksi, 2010.

The US government also took a mass rapid test policy and stayed at home in affected areas except for leaving the house only to shop for basic necessities to hospitals/pharmacies and essential jobs. Apart from this, people are prohibited from leaving the house, as well as implementing mandatory masks for all people.²⁴

Apart from America, Singapore is a country directly adjacent to Indonesia, and is a destination for China with high mobility every month. Singapore is taking the Covid-19 pandemic seriously. This can be seen from the quick response made. Singapore's Health Minister issued a statement to increase his health alert level after a report from Chinese authorities to WHO about the presence of Covid-19 in Wuhan China. Since that case, Singapore has tried to implement various measures to prevent Covid-19 from entering the country. This alertness has made Singapore a country that has succeeded in controlling the spread of Covid-19. Singapore's success is due to three reasons, namely responsive health disaster mitigation, high government legitimacy, and the existence of social capital in society.²⁵

2. State policy with a Civil Law system to deal with the spread of Covid-19

A country with a Civil Law system is also known as a country with a Continental European system which focuses on laws and regulations, customs and jurisprudence. Some examples of countries that adhere to the Civil Law system are Germany, France and other mainland Europe. Germany is one of the countries that was able to reduce the death rate and transmission of the Covid-19 virus when the first case occurred the German government responded by immediately forming a corona crisis team. The Covid-19 case was first confirmed on January 27 2020 in Bavaria, starting from a business meeting at the office of the Webasto automotive company, Webasto employees at the office held a meeting with two employees from China, one of whom had just visited Shanghai and met his family from Wuhan, which was infected with Covid-19 on January 22, 2020. Quoted from *Republika News*, to prevent the massive spread of Covid-19, Germany implemented a policy of

²⁴Afut Syafril Nursyirwan. *Belajar dari Amerika dan Jerman dalam penanganan COVID-19*. 2020, Available at: <https://www.antaraneews.com/berita/1415431/belajar-dari-amerika-dan-jerman-dalam-penanganan-covid-19>.

²⁵Citra Hennida. "The Success of Handling COVID-19 in Singapore: The Case of the Migrant Worker Cluster and the Economic Recession." *Global Strategis* 14, no. 2 (2020): 241-256.

strengthening infrastructure in the health sector up to regional quarantine (lockdown). Germany as a federal state has a hierarchical mandate from the center to the regions. That is, government policies in the regions and the central government are equally high. However, coordination between the central and regional governments is considered to be very good. They have an evaluation mechanism every two weeks. “After the review there was an announcement made by the government and it was open and clear to show what steps (to be taken) in the future,” there is similarity and consistency in the central government of Berlin and the states²⁶.

Based on the Oxford Martin School report (Our World in Data 2020), the German government implemented four national Covid-19 policy steps, which include prevention, detection, contain and treat; which later became the key to the success of the German Exception. The government appointed the Robert Koch Institute (RKI)—a national health research agency, as the main partner in dealing with the pandemic. On January 16 2020, the RKI began implementing free TTT for all citizens, followed by closing borders on March 16, and implementing national contact restrictions on March 22 2020 (Our World in Data 2020)²⁷.

In its development in 2021, with the Covid-19 outbreak not yet over, the German government has established a new policy as stated in the press release issued officially by the Indonesian Embassy in Berlin, the XIXth update on the development of covid-19 in the federal republic of Germany, the German government on the February 12 2021 is as follows:

Chancellor Angela Merkel on February 10, 2021 has held a virtual meeting with 16 state leaders. This meeting is a follow-up to a similar meeting on January 19, 2021. At this meeting, the German government issued a partial lockdown extension policy until March 7, 2021. During the meeting, the German government implemented the previously implemented lockdown policy, namely implementing all partial lockdown policies that implemented currently, such as closing non-essential stores and only opening restaurants and food shops for delivery and takeaway services

²⁶ Rr Laeny Sulistyawati. *Belajar dari Jerman dalam Tangani Covid-19*. 2020, Available at: <https://republika.co.id/berita/qb5car370/belajar-dari-jerman-dalam-tangani-covid19>.

²⁷ Siti Rokhmawati Susanto. “Germany’s Strategy in Handling COVID-19: The Role of National Leadership Strength and The Maximization of Welfare State Continental System Support.” *Global Strategis* 14, no. 2 (2020): 403-420.

3. Conclusion

From the discussion above, it is concluded as follows: regulation of central and regional government authority norms in handling Covid-19. Several regulations relating to handling the Covid-19 Pandemic have positioned the Regional Government to carry out assistance tasks. Even in handling the Covid-19 pandemic, the Regional Government is at the forefront to immediately take policies and handle them quickly because it is the regional governments who know the characteristics of their regions. A number of Government Affairs which are affairs of the government, must be maximized to deal with Covid-19 by giving the authority to carry out strategic steps in efforts to prevent and handle Covid-19. The public's response to policy determines the success of the policy. Regarding handling Covid-19 in Indonesia, state policies with rational reasoning will also be rationally accepted by the public if the government also issues policies to ensure the availability of economic resources for the community.

In handling the Covid-19 Pandemic, coordination between the Central and Regional Governments must synergize and be sustainable to make efforts to provide the necessary resources handling the Covid-19 Pandemic through providing health facilities, organizing education on the dangers of covid-19 to all people by mobilizing figures to participate in dealing with covid-19, providing social safety nets and dealing with economic impacts.

References

- Aslansyah, Muhammad, and Firman Umar. "Studi Ajaran Hans Kelsen Tentang Pure Theory of Law Ditinjau Dari Perspektif Keadilan." *Jurnal Tomalebbi* 1, no. 1 (2014): 63-82.
- Asshiddiqie, Jimly. *Konstitusi Ekonomi*. Jakarta: Buku Kompas, 2010.
- Asshiddiqie, Jimly. *Perihal Undang-Undang*. Jakarta: Raja Grafindo Persada, 2014.
- Atmosudirdjo, Prajudi. *Hukum Administrasi Negara*. Jakarta: Ghalia Indonesia, 1981.
- Chadajah, Siti, Asip Suyadi, and Tohadi Tohadi. "Tarik menarik kewenangan pemerintah pusat dan pemerintah daerah dalam penanganan pandemi COVID-19." *Rechtsregel: Jurnal Ilmu Hukum* 3, no. 2 (2020): 226-236.
- Chadajah, Siti. "Harmonisasi kewenangan penanganan pandemi Covid-19 antara pemerintah pusat dan daerah." *Kertha Semaya: Journal Ilmu Hukum* 8, no. 6 (2020): 858-866.
- Harirah, Zulfa, and Annas Rizaldi. "Merespon Nalar Kebijakan Negara Dalam Menangani Pandemi Covid 19 Di Indonesia." *Jurnal Ekonomi Dan Kebijakan Publik Indonesia* 7, no. 1 (2020): 36-53.
- Hennida, Citra. "The Success of Handling COVID-19 in Singapore: The Case of the Migrant Worker Cluster and the Economic Recession." *Global Strategis* 14, no. 2 (2020): 241-256.
- Ihsanuddin. *Jokowi Umumkan Dua Orang Di Indonesia Positif Corona*. Kompas, 2020, Available at: <https://nasional.kompas.com/read/2020/03/02/11265921/breaking-news-jokowi-umumkan-dua-orang-di-indonesia-positif-corona>.
- Khoerunisa, Nisa, and Faisal Fadilla Noorikhshan. "Perbandingan Tata Kelola Penanganan Pandemi Covid 19 di Indonesia dan India." *Journal of Political Issues* 2, no. 2 (2021): 89-101.
- Mandasari, Zayanti. *Tarik Menarik Penanganan Covid 19*. 2020, Available at: <https://ombudsman.go.id/artikel/r/artikel--tarik-menarik-penanganan-Covid-19>.
- Marina, Herni. "Inkonsistensi Kebijakan Pemerintah Pusat dalam Penanganan Covid-19 Di Indonesia." *KEMUDI: Jurnal Ilmu Pemerintahan* 5, no. 02 (2021): 215-238.
- Maulana, Muhammad Ihsan. *Implikasi Kewenangan Lembaga Dalam Pembentukan Peraturan Perundang-Undangan Terhadap Jenis, Fungsi Dan Hierarki Peraturan Perundang-Undangan Yang Dibentuknya*. Malang: Universitas PGRI Kanjuruhan Malang, 2018.
- Nursyirwan, Afut Syafril. *Belajar dari Amerika dan Jerman dalam penanganan COVID-19*. 2020, Available at: <https://www.antaraneews.com/berita/1415431/belajar-dari-amerika-dan-jerman-dalam-penanganan-covid-19>.
- PSHK. *Tata Kelola Tumpang Tindih Penyebab Penanganan Covid 19 Lambat*. 2020, Available at: <https://pshk.or.id/publikasi/siaran-pers/tata-kelola-tumpang-tindih-penyebab-penanganan-Covid-19-lambat/>.
- Putri, Gloria Setyvani. *WHO resmi sebut virus corona Covid-19 sebagai pandemic global*. Jakarta: Kompas, 2020, Available at: <https://www.kompas.com/sains/read/2020/03/12/083129823/who-resmi-sebut-virus-corona-covid-19-sebagai-pandemi-global?page=all>.
- Qamar, Nurul. *Perbandingan Sistem Hukum dan Peradilan Civil Law System dan Common Law System*. Makassar: Pustaka Refleksi, 2010.
- Said, Abdul Rauf Alauddin. "Pembagian kewenangan pemerintah pusat-pemerintah daerah dalam otonomi seluas-luasnya menurut UUD 1945." *Fiat Justisia: Jurnal Ilmu Hukum* 9, no. 4 (2015).

- Sulistiyawati, Rr Laeny. *Belajar dari Jerman dalam Tangani Covid-19*. 2020, Available at: <https://republika.co.id/berita/qb5car370/belajar-dari-jerman-dalam-tangani-covid19>.
- Susanto, Siti Rokhmawati. "Germany's Strategy in Handling COVID-19: The Role of National Leadership Strength and The Maximization of Welfare State Continental System Support." *Global Strategis* 14, no. 2 (2020): 403-420.
- Tuwu, Darmin. "Kebijakan pemerintah dalam penanganan pandemi Covid-19." *Journal Publicubo* 3, no. 2 (2020): 267-278.
- Velarosdela, Rindi Nuris. *PPKM Darurat di Jakarta Berlaku Mulai 3 Juli, Simak Bedanya dengan PPKM Mikro*. 2021, Available at: <https://megapolitan.kompas.com/read/2021/07/01/13450411/ppkm-darurat-di-jakarta-berlaku-mulai-3-juli-simak-bedanya-dengan-ppkm?nomgid=0&page=all>.
- Wadi, Raines. "Konstitusionalitas Pemerintah Daerah dalam Menetapkan Kebijakan Lockdown pada Penanganan Covid-19." *SALAM: Jurnal Sosial Dan Budaya Syar-I* 7, no. 5 (2020): 613-624.
- Wijayanti, Septi Nur. "Hubungan antara pusat dan daerah dalam negara kesatuan Republik Indonesia berdasarkan Undang-Undang Nomor 23 Tahun 2014." *Jurnal Media Hukum* 23, no. 2 (2016): 186-199.
- Yusdianto. Hubungan Kewenangan Pusat dan Daerah Menurut UU Nomor 23 Tahun 2014 tentang Pemerintahan Daerah. *Padjajaran Jurnal Ilmu Hukum* 2, no 3 (2015): 497.