

# Application of the Principle of Public Interest in Policy Making for the Covid-19 Pandemic in Indonesia

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**Abstract.** Principle of public interest stated explicitly in the fourth paragraph of the Undang-Undang Dasar Negara Republik Indonesia (UUD 1945), is that the Indonesian government guarantees the safety of all its people. All policies taken by the government must base by the UUD 1945, especially policies on case Covid-19. Considering to pandemic issued of Covid-19, The government coercive policies that is Presidential Regulation Number 14 of 2021 Concerning Vaccine Procumbent and Vaccination Implementation in the Context of Overcoming the Covid-19 Pandemic. Research's will analysis how Government takes a policy for reducing the spread of the Covid-19 within principle of public interest. Primary, secondary, and tertiary legal material will used on this normative research. Results of the study are every policy taken by the government in reducing the spread of the Covid-19 always indicates pros and cons, but in deciding this the government still relies on the principle of public interest in order to protect the entire community. Regulation that accommodates of the negatively affected by policy which stated dealing with the spread of the Covid-19 must establish by government, with reference to the urgent priority scale in the community.

**Keywords:** Principle of Public Interest; Covid-19; Regulation

## 1 Introduction

Undang-Undang Dasar 1945 (UUD 1945) as a Constitution of Indonesia, on Article 1 Paragraph 3 said, Indonesia is a state of law, the purpose of this state of law is that no one is above the law and the law is in power. The administration of government power must be based on law, not an order from the head of state. The state and other institutions in any action must be based on law and can be legally accounted for. Government is supported by principal Rule Of Law on Power to run the government, and aims to maintain legal order.

In making and implementing the law, in the UUD 1945 there are legal principles which include:

- a. The principle of democracy, related to Article 27 paragraph (1) of the UUD 1945 that state, all citizen has a equality in law and government with no exceptions. In this context, principle of the equality before the law is reflection. Thus, for the Indonesian people, the principle of democracy is based on law, as long as that stated Indonesia is a democratic legal state.
- b. The principle of fairness and equity, this principle is an ideological which characterizes the entire national legal system so that reflection of "social Justice for All Indonesian People."

Principles of efficiency with environment insight, sustainability, independence, and justice be a base of Economic Democracy principle, and also maintaining the unity and balance of the national economy. Thus, the legal task for the Indonesian people is to create justice, both procedural justice and substantive justice.

- c. The principle of legal awareness, interpreted by both citizens and authorities, law enforcers must be able to understand, obey the law and appreciate the law. With the principle of legal awareness, the law can work efficiently or effectively to achieve the goals of justice, legal certainty and benefit (doelmatigheid).
- d. The principle of self-confidence, which is interpreted by this principle in the development of Indonesian national law, must be based on the values, principles, and norms that live in the Indonesian people who share "the source of all sources of state law" as the spirit of Pancasila. Principle of the national law underlie basic ideas and provide direction for legal-ethical values for rules, regulations, principles and institutions that develop into a national legal system which is a legal order which includes written law and unwritten law. The National Legal System adheres to the principles that underlie state and social life based on the view of life, the legal ideals (rechtside) of Pancasila as material sources in harmony with the view of fulling for all Indonesian people with needs of social and justice that equal.
- e. UUD 1945 as a constitution of Republic Indonesia contained legal principle of *salus populi suprema lex esto*, especially on fourth paragraph, that is "After that, in order to form an Indonesian state government that protects the entire Indonesian nation and all of Indonesia's bloodshed, the independence of the Indonesian nationality is drawn up in a law. -The Constitution of the State of Indonesia, which was formed in a state structure of the Republic of Indonesia which is sovereign by the people based on... " That is a sacred alenia, which is Indonesia goal on the establishment of the country. The highest law for this country is to protecting of the entire homeland and nation of Indonesia. So UUD 1945 said the purpose of protecting the entire bloodshed and nations.

Because the base of the formation of regulations in Indonesia is Law No. 1.5 of 20.19 Amendments to Law No. 12 of 2011, so all policies or regulation were made by government, president, and legislation are conduct that law. Law No. 1.5 of 20.19 Amendments to Law No. 12 of 2011 conduct the fundamental things that is a hierarchy principle. On Article Number 7 said, "Undang-Undang Dasar Negara Republik Indonesia 1945 is the based for all regulation or policy that will make in Indonesia."

So that in every formation of regulations, the relevant government absolutely must follow the existing hierarchy. Formation of regulations to deal with the Covid-19 pandemic instead, in that regulation government or legislation must look to this principle so before the regulation about Covid-19 dispute, must have consider with hierarchic principle.

### **Formulation of the problem**

Considering of the preface of this research, this study will discuss the urgency of the application of the Principle of the Public Interest in policymaking to control spreads of Covid-19 pandemic by Indonesian Government.

## **2 Research Methods**

Research will use normative legal as a method. In this study, several approaches were used to, conceptual approach and the statutory approach. The legislative approach is carried out by reviewing the regulations regarding the handling of COVID-19, which have been issued by the government. The conceptual approach used some concept that related with cases of those study which is the concept of applying the principle of public interest in the formation of policies related for handling the spread of Covid-19 at Indonesia. Primary legal materials, secondary legal materials and tertiary legal materials, be a sources legal materials consist of this research.

### 3 Results and Discussion

The Policies That Have Been Taken By The Government In Overcoming The Covid-19 Pandemic Based On The *Salus Populi Lex Esto* Principle.

Caused The island of Java has a first place where Covid-19 appearance on 2020, the government immediately took policies, including:

1. Government Regulation in Lieu of Law Number 1 of 2020 concerning Financial Policy and Financial System Stability for Handling the Covid-19 Pandemic and/or in the context of dealing with threats that endanger the National economy and/or Financial System Stability (hereinafter referred to as Perppu No. 1/2020).
2. Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions in order to accelerate the handling of Covid-19 (hereinafter referred to as PP No. 21/2020).
3. Presidential Decree Number 11 of 2020 concerning the Determination of the Covid-19 Public Health Emergency (hereinafter referred to as Presidential Decree No. 11/2020).
4. Instruction of the Minister of Home Affairs Number 13 of 2022 concerning the Implementation of Restrictions on Community Activities at Level 4, Level 3, and Level 2 Corona Virus Disease 2019 in the Java and Bali Regions
5. Instruction of the Minister of Home Affairs Number 14 of 2022 concerning the Enforcement of Restrictions on Community Activities at Level 3, Level 2, and Level 1 and Optimizing the Command Post for Handling Corona Virus Disease 2019 at the Village and Sub-District Levels to Control the Spread of Corona Virus Disease 2019 in the Sumatra, Nusa Tenggara Region, Kalimantan, Sulawesi, Maluku and Papua
6. Circular of the Ministry of Health of the Republic of Indonesia Directorate General of Diseases Prevention and Control Number. Sr.02.06/I/ 1180 /2022

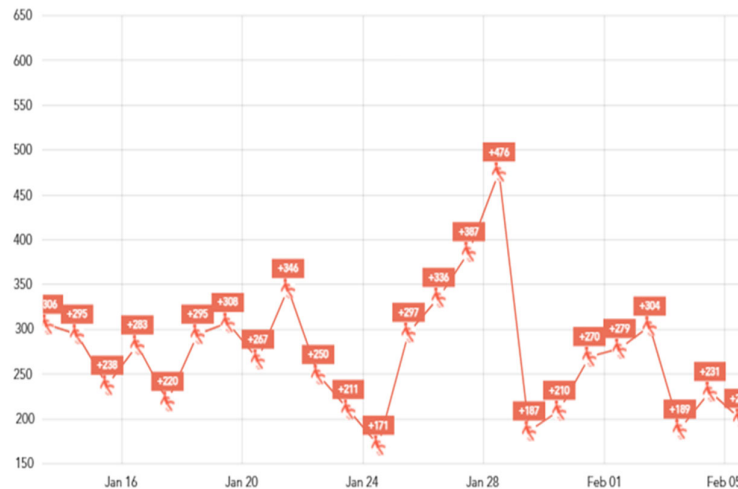
Then in overcoming the affected economic problems, the government also issued policy packages which include:

1. Regulation of the Minister of Finance of the Republic of Indonesia Number 23/Pmk.03/2020 concerning Tax Incentives for Taxpayers Affected by the Corona Virus Outbreak;
2. Regulation of the Financial Services Authority of the Republic of Indonesia Number 11 /Pojk.03/2020 Concerning National Economic Stimulus as a Countercyclical Policy Impact of the Spread of Corona Virus Disease 2019
3. Instruction of the President of the Republic of Indonesia Number 4 of 2020 concerning Refocusing of Activities, Budget Reallocation, and Procurement of Goods and Services in the Context of Accelerating Handling of Corona Virus Disease 2019 (Covid-19);
4. Policies as a form of assistance to the community such as reducing electricity costs, reducing credit, and pouring out a budget of Rp. 405.1 trillion to meet needs amid the Covid-19 outbreak through the 2020 State Budget (APBN).

In every policy taken by the government, there are things that become problems in society, ranging from the increasing unemployment rate, to the weakening of purchasing power in the community which in turn weakens the business segment in society. Of course, these have become predictions measured by the government, but these regulations and policies are still being adopted because as a country, on paragraph number 4 UUD 1945 said, Indonesia has the responsibility to protect all of Indonesia's bloodshed.

Furthermore, the foundation of the fourth paragraph of UUD 1945 is contained the legal principle of *salus populi suprema lex esto*. Particularly on phrase of the article is, "Furthermore than that, to form an Indonesian state government that protects the entire Indonesian nation and all of Indonesia's bloodshed ... The Constitution of the State of Indonesia, which was formed in a state structure of the Republic of Indonesia which is sovereign by the people based on..." this phrase come to be a purpose of Republic Of Indonesia on the establishment things. For a main purpose, Indonesia has a country must protection of the entire homeland and nation, that stated in constitution. That is why the preamble of UUD 1945 as a constitution state about purpose to protecting the entire bloodshed a nation is. This is also the basis for saying that Indonesia is a country that carries the concept of a welfare state.

Principle of *Salus Populi Suprema Lex Esto* as a basic reason for taking these policies is to protect the safety of the lives of the Indonesian people, furthermore as a nature of Indonesia as a country that adopted concept of a welfare state. When pandemic occurred, the number of deaths caused by Covid-19 became a real problem. As data obtained about the spread of the Covid-19 virus trend on the government's official website which monitors was found on June 28, there were more than 476 deaths.



The high death rate that occurs is a pressure for the state through the relevant government to immediately issue policy packages, the majority of which are aimed at implementing social restrictions and reducing crowd activities in the community. Of course, this is related to the risk of decreasing business turnover, which in particular requires crowds. The decline in the community's economy has an impact on the high crime rate that occurs in the community. crime in Indonesia increased that during the pandemic, that data from crime statistics recorded by the National Police, in the 19th and 20th weeks there was an increase of 7.04 percent. The Head of the National Police Public Relations Division, Kombes Pol Ahmad Ramadhan, explained that

in the 19th week of the pandemic there were 3,481 cases, then in the 20th week, 245 cases rose to 3,726 crimes. In addition to the increasing crime rate.

In the principle of public interest, apart from issuing these policy packages, the Government must also issue regulations that support adverse impacts on society. This is stated in the Regulation of the Minister of Health of the Republic of Indonesia 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) (hereinafter abbreviated as PMK RI No. 9 of 2020), namely:

1. Article 9 Paragraph (2), that stated, regional readiness must guarantee of the availability of the peoples basic living needs, ability to keep social safety nets, and budget, before take policy about Large Scale Restriction to reducing spreads of Covid-19. ”
2. Article 13 Paragraph (7) states that, in all of the place has ban by Government, have a exception that is, market, supermarket, shop, minimarket, and also place of sale medical equipment and medicines, therefor food needs, essential stuff, basic needs, gas and energy, fuel oil, and other place it context if fulfilling health service, and then palace it serve of sport activity.

In PMK RI No. 9 of 2020 also emphasized that before local governments take steps to implement PSBB, they must pay attention to the availability of logistics and other basic needs, the availability of health facilities, health workers, and health supplies including medicines and medical devices. So that in the regulatory package that has been decided by the government, the principle of public interest has been taken into account, where prior to implementation a strategic or mitigation plan has been formed regarding the negative impacts that will be caused.

## **4 Conclusion**

The policy it stated by government for against spread of Covid-19 such as social restrictions proven to breakdown the number of Covid-19 spreads, in fact there have been negative impacts such as increasing unemployment and crime in the community. However, on the other hand, the government is based on the *Salus Populi Lex Esto* principle and also contained in UUD 1945 specially the fourth paragraph of the Preamble where public safety which the main value, making the government still have to take this decisive step. Mitigation of these negative impacts is also deployed by the government, such as logistical planning and social assistance for the community whose procurement is prioritized by refocusing funds, so that it is clear that public safety is the main thing.

### **Suggestion**

Regarding the public interest, the government must carry out strict supervision, especially from the refocusing of funds carried out for the fulfillment of logistics and social assistance for the basic needs of the community. So, it is necessary to form a regulation that accommodates the formation of a separate task force to oversee the flow of funds prepared by the government to accommodate main needs citizen.

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