

Constitutional Obligations of Indonesian Government during Covid-19 Pandemic: A Critical Appraisal

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Abstract

The research aims to evaluate the Indonesian government's constitutional obligations and responses to protect citizens from coronavirus. The research is normative legal research using a statute, case, and comparative approach. The research findings reveal that first, the 1945 Constitution and Indonesian Human Rights Act state that the government has a responsibility to protect citizens' human rights. Also, Health Quarantine Act, Health Act, Disaster Management Act, and Outbreaks of Infectious Diseases Act mention that the government has responsibility for any health efforts carried out during the Covid-19 Pandemic. Second, the government's policies, such as arranging the Covid-19 Task Force and performing Large-Scale Social Restrictions, were late, and lack of coordination between central and local governments. Third, the government's obstacles in handling the Covid-19 Pandemic are the policy not being implemented effectively and adequately, ignorance and slow responses from the beginning, and low level of community awareness and individual discipline. The research recommends that, in the future, the government shall immediately take some prevention efforts and implement a strict lockdown policy for regions that have reached a particular infection level. The community also has to build their awareness and discipline to help the government deal with the COVID-19. Therefore, the spread of COVID-19 can be appropriately anticipated and controlled.

Keywords: constitutional obligations; covid-19 pandemic; Indonesian government

1. Introduction

The first Covid-19 case in the world was detected in China, Wuhan, by the end of 2019. (Shim et al., 2020) A few weeks after it was first known to spread in Wuhan, the Covid-19 Pandemic quickly spread, and the topic of Covid-19 began to discuss in various media throughout the world. The World Health Organization (WHO) and the governments in each country tried their best to reduce transmission rates. The governments worldwide were also carrying out multiple efforts to prevent the spread of the Covid-19 Pandemic. Until now, the reach of the Covid-19 Pandemic has expanded to more than 200 countries, (Chakraborty & Maaity, 2020, p. 728) including Indonesia.

In Indonesia, the Covid-19 was first detected on March 2, 2020. Between its first case in Wuhan and Indonesia, the Indonesian government has almost three months to prepare facilities for preventing and treating the Covid-19 Pandemic. Thus, it turns into one of the obligations of the government. Article 152 of Law No. 36 of 2009 on Health states that "The government is responsible for efforts to prevent, control and eliminate infectious diseases and

their consequences.” It aims to protect communities from contracting diseases, reduce the number of people suffering from illness, disability, and/or death, and reduce the social and economic impact of infectious diseases.

However, the government seemed very relaxed by saying that Covid-19 cases in Indonesia were still zero because Indonesian people have strong immunity and were immune to viruses.(Coconuts Jakarta, 2020) When Covid-19 was detected in Indonesia and increased massively day by day, Indonesia was not ready to face it. There was no particular hospital nor place that can be using as a quarantine place,(Djalante, 2020) no hazmat suit for a healthcare professional to protect themselves when helping an infected person,(Djalante, 2020) and so forth.

Accordingly, the government is obligated to protect the citizens of Indonesia from Covid-19 Pandemic. Besides, the 1945 Constitution of the Republic of Indonesia’s preamble strictly stated that the Republic of Indonesia “shall protect all the people of Indonesia.” Besides, health is the constitutional right of the people, which the 1945 Constitution guarantees. Article 28H paragraph (1) of the Constitution states, “Everyone has the right to enjoy physical and mental prosperity, to own housing, to enjoy a good and healthy environment, and to have the right to obtain medical care.” Consequently, health is automatically being the government’s constitutional obligation. The 1945 Constitution also guarantees in Article 34 paragraph (3), which states, “The state is obliged to provide adequate medical and public service facilities.”

The 1945 Constitution also clearly stated that Indonesia is a state based on the rule of law.(Eddyono, 2016) It means all actions must be finds on the provisions of laws and regulations that existed before the action was carried out, or all actions must be based on the applicable regulations. In responding to the Covid-19 issue, the Indonesian government must use the applicable and relevant regulations to protect its citizens. The policies and regulations regarding the issues of Covid-19 in Indonesia have no legal certainty because it constantly changes rapidly.(Solechan, 2020)

Based on the previous statement, there are two important propositions that must be remembered. First, *salus populi est supreme lex*,(Sinha & Dheeraj, 2013, p. 369) which means the people’s welfare and safety are considered supreme law. Second, *abnormale recht in abnormale situatie*(Sinha & Dheeraj, 2013, p. 339) means that abnormal laws should also be applied in an abnormal situation. So, the research is conducted to assess the Indonesian government’s constitutional obligations and responses to protect their citizens as well as the problem facing by the government due to the Covid-19 Pandemic entitled: **“CONSTITUTIONAL OBLIGATIONS OF INDONESIAN GOVERNMENT DURING COVID-19 PANDEMIC: A CRITICAL APPRAISAL.”**

2. Method

The type of research is normative legal research with a statutory approach and a comparative approach. The statutory approach was made by highlighting the harmony of the policies issued by the Indonesian government due to response to the Covid-19 Pandemic against the Constitution, legislation, regulations, and other existing Indonesian law. The comparative approach was conducted by comparing the Indonesian government’s response to the Covid-19 issues to other country governments, especially Malaysia, South Korea, and Taiwan. Using the qualitative descriptive method, the research uses the law as a foundation

of the norm. It is done through library research with the Constitution, laws, law books, legal journals, websites, and dictionaries.

3. Discussion and Analysis

3.1. The Constitutional Obligations of Indonesian Government based on Constitution and Laws

Theoretically, there is no specific theory of the constitutional obligation of government. Besides, some doctrines discuss it. Constitutional obligations of government can be interpreted by constitutional interpreters such as the supreme court or constitutional court (Seidman, 2012, p. 158) even though its interpreters are not bound as constitutional meaning. The Constitution is an old document that is governing and structuring a state. Therefore, the government shall be bound by Oath or Affirmation to support the Constitution. (Greene, 2013)

In the 1945 Constitution of the Republic of Indonesia, the government takes an oath according to their respective religions. (Republic of Indonesia, 1945, pt. 9) "In the Name of God, I swear to fulfill the obligations of the President of the Republic of Indonesia (the Vice President of the Republic of Indonesia) to the best of my ability and as justly as possible, to strictly hold the Constitution and to enforce all the laws and regulations there, under consistently and devote myself to the Country and the Nation." Also, those oaths bind the government to the duties and limits placed on them in the Constitution. In other words, through the oath, the government accepts the Constitution's rules, which include duties and powers with limits on both. (Re, 2016) Therefore, it caused a constitutional obligation for the government, non-voluntarily.

Meanwhile, in existing Indonesian law, the term of constitutional obligations is not found. There are also constitutional rights in addition to constitutional obligations because constitutional obligations and constitutional rights are closely related issues. (Purnamasari, 2017) The term of constitutional rights appears in Law No. 24 of 2003 on the Constitutional Court with the definition "Constitutional rights are the rights regulated in the 1945 Constitution of the Republic of Indonesia."

In that way, the definition of constitutional obligations can be interpreted as the obligations regulated in the 1945 Constitution. (Indonesian Constitutional, 2012) However, its definition is not as narrow as the obligations and rights, which are only listed in the 1945 Constitution since the number of obligations and rights are many, and not all of them can be included in it. Therefore, the obligations and rights listed on existing Indonesian law, as long as following the 1945 Constitution, are constitutional obligations and constitutional rights. In other words, the constitutional rights of citizens and the constitutional obligations of the government are two things that cannot be separated because the constitutional rights of citizens can also be seen as reciprocal of the constitutional obligations of the government. (Siahaan, 2017) Therefore, every citizens' constitutional right stated in the 1945 Constitution and other existing Indonesian laws contains the government's constitutional obligations.

In the situation of the Covid-19 Pandemic, the issue of citizens' protection become crucial due to a significant increment of Covid-19 positive cases (World Health Organization, 2020a) in Indonesia. Therefore, the research analyses some provisions about the constitutional obligations of the Indonesian government in protecting its citizens from Covid-19. Constitutionally, the government is obliged to provide adequate health services. The public

has the right to receive protection as an inherent right, so everyone's protection and health insurance must be on the front line. As mentioned in the 1945 Constitution in Article 28I paragraph (4), protection, promotion, maintenance, and realization of human rights are the state's responsibility, especially the government. The same statement also states in Article 8 of Law No. 39 of 1999 on Human Rights that the primary responsibility for protecting, promoting, maintaining, and realizing human rights lies with the government.

The government is an essential entity in fulfilling, respecting, and protecting the rights of citizens. (Chirwa, 2004) Generally, plan, regulate, organize, develop, and supervise are can be seen as supporting elements if the government about to fulfill, respect, and protect the citizens' rights. It is suitable to Article 14 of Law No. 36 of 2009 on Health, which stated that the government is responsible for planning, regulating, organizing, developing, and supervising the implementation of health efforts that are evenly distributed and affordable to the community.

Besides, Law No. 24 of 2007 on Disaster Management in Article 6 also affirms that the government is responsible for carrying out disaster management. The responsibility includes protecting community activities from the impact of disasters, ensuring the fulfillment of affected people's rights by disasters fairly and following minimum service standards, and recovery from the impact of the disaster.

Besides, Law No. 6 of 2018 on Health Quarantine in Article 4 also stated that the central Government and local Government are responsible for protecting public health from diseases and/or public health risk factors that can cause public health emergencies through the implementation of health quarantine. Protecting Indonesian citizens' constitutional rights during the Covid-19 Pandemic can be done in several ways, starting from preventing, treating, and controlling the coronavirus pandemic's spread. (Panchenko & Mikhaleva, 2018) Prevention efforts include creating adequate health conditions, ensuring food and jobs, suitable housing, and a healthy environment. Treatment efforts are carried out by providing optimal health services. Meanwhile, control efforts are implemented by the government to evaluate their adopted actions. The efforts to control also states in Article 10 of Law. No. 4 of 1984 on Outbreaks of Infectious Diseases, the government is responsible for implementing outbreak control efforts. The government's efforts to prevent and deal with the spread of the Covid-19 Pandemic are a form of guarantee provided by the state to citizens for their human rights.

3.2. Analysis of the Response of the Government to Covid-19 Pandemic

The pandemic, which started in Wuhan, Hubei Province, China, (Hasnain et al., 2020) has brought many new challenges to all countries' public health. Indonesia is the fourth most populous country globally and is expected to be severely affected in an extended period. (Marois et al., 2020) In other words, Indonesia is expected to suffer more suffering and live longer than in other countries with smaller populations. The scale of the impact is unprecedented, and research shows that it may take more than ten years for the world to recover socially and economically. (Guterres, 2020) Therefore, one of the research aims is to analyze the responses of the Indonesian government to the Covid-19 issue and the lesson learned from some countries such as Malaysia, South Korea, and Taiwan.

3.2.1. Indonesian Government Response to Covid-19 Pandemic

The first policy made by the Indonesian government in response to Covid-19 was to pass the Indonesian Minister of Health Decree No. HK.01.07/MENKES/104/2020 on the

Determination of Novel Coronavirus Infection (2019-nCoV Infection) as a Disease that can Create the Plague and its Management Efforts on February 4, 2020. Its Minister of Health's Decree considers 2019-nCoV Infection as PHEIC (Public Health Emergency of International Concern). The main points of its Minister of Health's Decree are the government has to enhance the communication, information, and health education to the community; prepare, detect, and respond at the entrance of countries and regions; set up health service facilities; and carry out cross-departmental coordination.

To carry out cross-departmental coordination and the increasing number of positive cases, the Indonesian government established the Covid-19 task force by issuing Presidential Decree No. 7 of 2020 on March 13, 2020. After that, on March 20, 2020, its presidential decree was updated to Presidential Decree No. 9 of 2020. The Covid-19 task force consists of government ministries, agencies, and other government departments such as the Ministry of Health, the Indonesian National Disaster Management Agency, the Indonesian National Police, the Indonesian National Army, etc. The functions of the Covid-19 Task Force are to coordinate inter-agency activities, prevent and mitigate the impact of Covid-19, (Tuwu, 2020) and overcome differences in statements between central and local governments. (Limilia & Pratamawaty, 2020)

As stated above, Covid-19 was considered as PHEIC in the Indonesian Minister of Health No. HK.01.07/MENKES/104/2020. Then, at the end of March 2020, the Indonesian government has also issued Presidential Decree No. 11 of 2020 on the Declaration of National Public Health Emergency Corona Virus Disease 2019 (Covid-19), which binds all relevant authorities' measures to protect public health under existing laws. Before the issuance of Presidential Decree No. 11 of 2020, the emergency status of the Covid-19 Pandemic has been determined by the National Disaster Management Agency (Firmansyah et al., 2020) through Decree No. 9 A of 2020 on the Determination of the Status of Certain Disaster Conditions due to Corona Virus in Indonesia which valid from January 28, 2020, until February 28, 2020. Later, its decree was extended to Disaster Management Agency Decree No. 13 A of 2020 and valid from February 29, 2020, until May 29, 2020. By issuing those policies, is Indonesia declare a state of emergency?

State of emergency provisions is stated on the 1945 Constitution in Article 12 and Article 22. Article 12 states, "The President declares a state of emergency. The conditions and the consequences governing a state of emergency shall be stipulated by law." Article 22 states, "In the compelling event exigency, the President is entitled to stipulate government regulations in lieu of laws." Therefore, according to the 1945 Constitution, two possibilities can be done if the Indonesian government declared a state of emergency in the form of law or government regulation in lieu of law. Meanwhile, Presidential Decree No. 11 of 2020 is none of them.

In other words, the government declares Covid-19 as a public health emergency, not a state of emergency. Although the government did not expressly impose a state of emergency, emergency measures are unofficially carried out (emergency de facto). (Asshiddiqie, 2007) Not declaring a state of emergency means that all actions must be carried out according to legal procedures valid in regular times (ordinary law). (Asshiddiqie, 2007) As a result, if the action is carried out extraordinarily, whereas there is no legal basis for such an act, the extraordinary act is considered a violation of the law.

Then, at the end of March, the government issued a preventive policy to control the virus's spread, namely implementing Large-Scale Social Restrictions (*Pembatasan Sosial*

Berskala Besar or PSBB) to respond to the health of emergency status. Large-scale social restrictions regulate through Government Regulation No. 21 of 2020 on Large-Scale Social Restrictions. (Ivanka, 2020) According to Article 49 of Law No. 6 of 2018 on Health Quarantine, health quarantine officials can take four actions: home quarantine, regional quarantine, hospital quarantine, or large-scale social restrictions to reduce the risk factors in the area in a public health emergency.

The government chooses to implement large-scale social restrictions in cities and provinces rather than regional quarantine. According to Law No. 6 of 2018 on Health Quarantine, regional quarantine is mentioned before large-scale social restrictions, so the status of large-scale social restrictions is lighter than regional quarantine. Regional quarantine is the application of isolation to a specific area to prevent people from entering or leaving the area for specific emergency purposes. Regional quarantine policy is established by a country that experiences an emergency such as war or an outbreak of infectious diseases. This term is widely known due to the Covid-19 Pandemic, which has spread massively in various countries. The term of regional quarantine is almost the same as lockdown – however, the term lockdown is generally used by many countries in the world.

Based on Article 154 of Law No. 36 of 2009 on Health, the government is obliged to announce the areas that are the source of disease transmission to the public. Therefore, the government is obliged to quickly disclose the types and spread of potentially infectious diseases and states which areas are the transmission sources. Also, the government does not dare to take the regional quarantine decision. If the government takes regional quarantine as a decision, the funds to be borne by the state are very large because the state is obliged to bear all citizens' basic needs in the quarantined area, and the risk is the state's economic bankruptcy. The choice to impose large-scale social restrictions is a rational choice because it is only related to dismissing working hours, school hours, places of worship, and community activities that present a crowd to carry out all home activities. However, by choosing the large-scale social restriction option, it seems to conclude that the central government is seen as only making decisions by transferring responsibility to the local government and the Minister of Health.

Since the Covid-19 Pandemic broke out in Wuhan, the Indonesian government's first response through the Minister of Health was to ask the public to pray *istigasah* in facing Covid-19. (Nufus, 2020) Indeed, the government talked more about the economic impact of Covid-19 than talked about how to prevent, control, and eliminate Covid-19. As proof, it can be seen from President Joko Widodo's statement asking his staff to prepare monetary and fiscal instruments to strengthen the country's resilience and competitiveness. (Walakula, 2020)

President Jokowi also emphasized maximizing domestic conference activities, Meeting, Incentive, Convention and Exhibition (MICE), and increasing promotions for tourists looking for alternative destinations due to the cancellation of visits to countries contaminated Covid-19 at that time, such as China, Japan, and Korea. (Tambun, 2020) If many countries closed human traffic during a pandemic, the Indonesian government spent a budget of IDR 103 billion for tourism promotion, (Kompas.com, 2020) IDR 25 billion for developing tourism destinations, and IDR 72 billion for influencers to encourage an increase in tourists to Indonesia at that time.

At the end of March, these monetary and fiscal instruments were enacted in the form of Government Regulation in Lieu of Law No. 1 of 2020 on State Financial Policy and Stability of Financial Systems for the Management of Corona Virus Disease 2019 (Covid-19) and/or

Encounter the Threat to National Economy and/or Stability of Financial Systems. Later, on May 18, 2020, renewed with Law No. 2 of 2020 on Stipulation of Government Regulation in Lieu of Law No. 1 of 2020 on State Financial Policy and Stability of Financial Systems for the Management of Corona Virus Disease 2019 (Covid-19) and/or Encounter the Threat to National Economy and/or Stability of Financial Systems become Law.

Since the issuance of the Government Regulation in Lieu of Law No. 1 of 2020, various responses have been delivered by all levels of society, including legal observers, economic observers, political observers, and public society. (Riyanto, 2020) Some of them gave positive responses because the Government Regulation in Lieu of Law No. 1 of 2020 became a solid basis for the government to recover from national economic instability. However, legal experts and constitutional observers have criticized the Government Regulation's in Lieu of Law No. 1 of 2020, (Wiratraman, 2020) especially against Article 27, which seemed to impunity the Financial System Stability Committee (*Komite Stabilitas Sistem Keuangan* or KSSK).

Restlessness over the Government Regulation in Lieu of Law No. 1 of 2020 was followed up by submitting a judicial review to the Constitutional Court. (The Constitutional Court of the Republic of Indonesia, 2020) The judicial review action has been taken because Article 27 of the Government Regulation in Lieu of Law No. 1 of 2020 confirms several provisions. (Seksi Informasi Hukum – Ditama Binbangkum, 2020) First, regarding the provisions of state losses. Second, the Financial System Stability Committee cannot be prosecuted criminally or civil. Third, actions or decisions based on the Government Regulation in Lieu of Law No. 1 of 2020 are cannot become an object of the State Administrative Court. In the end, on September 28, 2020, the Constitutional Court issued Decree No. 38/PUU-XVIII/2020, which stated that the withdrawal of the request for judicial review of Law No. 2 of 2020 to the applicants. (Mahkamah Republik Indonesia, 2020)

In addition, the total amount of State Revenue and Expenditure Budget (*Anggaran Pendapatan dan Belanja Negara* or APBN) of Indonesia for Covid-19 Pandemic is IDR 695.2 trillion. (Kementrian Keuangan Republik Indonesia, 2020) From the IDR 695.2 trillion budget for handling the Covid-19 Pandemic, the health sector only received an allocation of IDR 87.55 trillion or 12.56%. It can be concluded that 87.4% of the budget is allocated for social protection and restoration of economic impacts.

3.2.2. Lessons Learned from Other Countries

3.2.2.1. Malaysia

Malaysians are also not prepared to resist the pandemic, mainly because of the simultaneous political crisis and because they are convinced that the virus will not spread quickly in Malaysia. (Yau et al., 2020) On January 25, 2020, Malaysia discovered its first case of Covid-19. (Chong, 2020) The earliest effort by the Malaysian Ministry of Health (MoH) to prevent the spread of Covid-19 was to implement health checks at all entry points. (Elengoe, 2020) Malaysians returning from overseas were screened, identified, and quarantined in a particular quarantine area for Covid-19. The next essential step taken by MoH and the Government to overcome the spread of Covid-19 is to increase the number of hospitals that can treat Covid-19 cases. (Elengoe, 2020)

To strengthen the efforts of MoH to control transmission and mortality, the Movement Control Order (MCO) was implemented (Tang, 2020) to restrict the entry and exit of people in Malaysia. The implementation of MCO will take effect from March 18, 2020, to March 31, 2020. Two weeks after the implementation of the MCO, new cases continued to increase and

occasionally stagnated. Therefore, the MCO was extended from April 1, 2020, to April 28, 2020.(Tang, 2020)

The Malaysian government has imposed six restrictions.(Umair et al., 2020) For example, first, people are prohibited from attending mass gatherings such as religious, sports, social, and cultural events. All places of worship and businesses are temporarily closed. However, people can buy necessities in markets, supermarkets, grocery stores, and convenience stores. Second, after returning from overseas, people must undergo a health check to detect Covid-19 and self-quarantine. Third, tourists are prohibited from entering Malaysia. Fourth, all levels of school institutions are closed. Fifth, public and higher education institutions and skill training institutions nationwide are closed. Last, government and private premises were closed except for essential services (water, electricity, energy, telecommunications, etc.).

Another measure taken by MoH to mitigate the impact of Covid-19 is establishing a special fund called the Covid-19 Fund(MdShah et al., 2020) to raise funds to pass on to patients, especially those who have been financially affected due to the isolation procedure. The fund initially received RM 1 million from the government and the private sector. The government also expressed its gratitude to the health care staff by increasing their monthly allowance from RM 400 to RM 600 per month from April 1, 2020, which will continue until the end of the pandemic.(MdShah et al., 2020)

3.2.2.2. South Korea

South Korea detected its first locally transmitted case of Covid-19 on January 30, 2020.(Arora et al., 2020) However, this is not the first case in South Korea because the first case in South Korea was imported cases, and the infection was on January 20, 2020, where tourists from China visited South Korea.(Y. J. Park et al., 2020) After the first case was reported, the South Korean Government quickly raised the alert level from blue (level 1) to yellow (level 2).(World Health Organization, 2020b) After that, from January 21, 2020, every tourist is obligated to fill in the health analysis form.(Shim et al., 2020) On January 27, 2020, the risk level of COVID-19 was once again raised to an orange level (level 3).(World Health Organization, 2020b) The South Korean Government has also implemented stricter screening and quarantine procedures for tourists and then implemented stricter quarantine.(Whitelaw et al., 2020)

South Korean government manages Covid-19 through the Korea Centers for Disease Control and Prevention (KCDCP) under the Ministry of Health and Welfare (MOHW).(Oh et al., 2020) In dealing specifically with the spread of the virus, the KCDCP played a role in handling active case investigations and organizing community testing. Each city has established a local disaster and safety response headquarters led by the local government (e.g., Governor, Mayor, etc.) to determine which hospitals can provide services for infectious diseases, Covid-19, and increase the capacity of each hospital can manage. If resources are limited, the central government can support the addition of mattresses, medical staff, medical equipment, etc.(Whitelaw et al., 2020)

One of the exciting things about South Korea is the government has implemented policies that did not fully implement lockdown measures like some countries did but succeeded in reducing the number of infections and deaths.(Dighe et al., 2020) All people who come to Korea must be quarantined for 14 days. The South Korean Government has not imposed an entry ban except for people who come from areas that are significantly affected in China, for example, Hubei.(Kang & Kim, 2020) Individuals who have been in contact with

Covid-19-positive patients are also prohibited from leaving South Korea within 14 days of isolation, even if they do not show symptoms of Covid-19.(Han et al., 2020) The South Korean Government has also implemented the Enhanced Social Distancing Campaign, which has impacted the closure of worship places, religious sites, fitness facilities, and entertainment venues.(Dighe et al., 2020) Owners or businessmen who violate the regulations will be punished by KRW 3 million (IDR 38,3 million) and pay for hospitalized treatment if someone gets Covid-19 while visiting their places.(Dighe et al., 2020)

In addition to the social distancing campaign, the government has also launched a campaign to require the use of masks to prevent the spread of the virus.(Agustino & Wicaksana, 2020) The distribution of masks is carried out in workplaces with many foreign workers, especially construction sites.(J. Park & Chung, 2020) Besides, the government has also restricted the export of masks to ensure that all South Korean people can use masks.(Feng et al., 2020) There is a mask distribution policy that restricts the purchase of masks in pharmacies, and everyone can buy at least two masks a week.(Feng et al., 2020)

3.2.2.3. Taiwan

Taiwan detected its first COVID-19 case on January 21, 2020, and local transmission was detected on January 28, 2020.(Cheng et al., 2020) However, the Government of Taiwan has taken many measures to prevent the spread of the coronavirus long before the case has been reported. Since December 31, 2019, the Government of Taiwan has implemented temperature and health checks on aircraft passengers.(Liu et al., 2020) The Taiwan government has also activated the Central Epidemic Command Center (CECC) to integrate resources and lead inter-agency coordination to deal with the coronavirus's spread.(Su et al., 2019)

To limit the spread of the coronavirus, the Taiwan government has done such following things:(Mubah & Anabarja, 2020)

- 1) Stop exporting all masks (January 24, 2020)
- 2) It is forbidden for cruise ships to stop at Taiwan ports, and a system of buying masks by name is implemented (February 6, 2020);
- 3) Launch the online ordering system to make it easier for people to shop (March 12, 2020);
- 4) Restrict international travel, both from Taiwan or to Taiwan, and people are strongly recommending not to go to all overseas destinations (March 21, 2020);
- 5) All flights transiting through Taiwan are prohibited (April 24, 2020);

Then, to monitor the spread of Covid-19, the Taiwan government implemented various surveillance and detection systems.(Wang et al., 2020) Major airports and ports in Taiwan have Infrared Thermal Imaging Scans (ITIS) to identify potential visitors as carriers of the coronavirus. Besides, the individuals who were entering Taiwan must be quarantined in their residences for 14 days. Violation of quarantine regulations will result in a fine of up to NT\$ 1 million (IDR 540 million).(Hong, 2020)

During the quarantine or isolation period, the monitored person's location will continue to be monitored through cellular signals from their mobile phones (digital fences).(Wang et al., 2020) When an individual is too far away from home, the notification system will automatically activate. Then, officials will call to inquire about their position. Taiwan's government is working with five telecommunications companies to build the

system. In some cases, if the monitored individual walks out of the house without their mobile phone, Taiwan authorities will use the M-Police¹ system to detect the individual.

In terms of budget allocation, the Taiwan government has allocated NT\$ 19.6 billion (IDR 10.6 trillion) to provide medical services related to Covid-19.(Lin, 2020) These funds are used to meet various medical needs, such as costs related to the process of checking and isolating patients and purchasing other medical facilities needed to deal with the pandemic. The Ministry of Health and Welfare also allocated about NT\$ 16.9 billion (IDR 9.2 trillion) to provide compensation to medical staff and support medical research related to Covid-19. Not only the medical sector but other economic sectors have also received subsidies from the Taiwan government. The Ministry of Economic Affairs approved a special fund budget of NT\$ 16 billion (IDR 8.7 trillion) to provide loans to small and medium enterprises, and NT\$ 2 billion (IDR 1.1 trillion) of funds have also been allocated to stimulate the various industrial sectors that have been hit hardest by the epidemic. On the other hand, the Ministry of Transport also budgeted NT\$ 16.85 billion (IDR 9.15) to compensate the aviation industry and assist workers in the tourism industry.

Based on the countries' experiences, what the Indonesian government can learn are; First, a better plan and coordination of state institutions in the national emergency preparedness framework. It is easier for South Korea and Taiwan because they have experienced infectious viruses before. Even though Malaysia did not experience it before, Malaysia dares to take a lockdown policy even though it has to spend a lot of money. Also, its lockdown policy is effectively proven to suppress the number of positive cases. Second, other countries were quite responsive in dealing with the Covid-19 pandemic since its inception by providing accurate information and data to make the right policies. Third, there are firm and clear policies related to preventing the spread of the coronavirus. Some countries adopt a policy of restricting cross-border activities shortly after the detection of locally transmitted cases. Social restriction and legal sanctions/fines have strengthened the policy. The use of technology is also the key to implementing policies to prevent the spread of the coronavirus.

3.3. Problems Facing the Protection of Citizens during the Pandemic Period

In analyzing the problems faced by the government in handling Covid-19, the research used the legal system theory proposed by Lawrence Friedman. Friedman divided the legal system into three elements, namely, a legal substance, legal structure, and legal culture.(Rodiyah et al., 2019) Friedman argues that legal substance is composed of substantive rules and rules about how institutions should behave.(Friedman, 1969) Meanwhile, in the broader sense, the legal substance is the rules, norms, and patterns of human behavior in the system, including the products produced by people in the legal system and the decisions issued by them, also legal materials regulated by laws and regulations.(Yuliana, 2016)

According to Friedman, the legal structure is the body, the framework, the long-lasting shape of the system, the way courts of police departments are organized, the lines of jurisdiction, the table of organization.(Friedman, 1969) It involves law enforcement agencies, institutions, and personnel (law enforcement officers).(Yuliana, 2016) Last, legal culture is attitude and values related to law and legal system, together with those attitudes and values

¹M-Police is a cloud computing system that contains various databases, such as the identity and characteristics of individuals who are required to carry out quarantine. With this system, the Police of Taiwan will visit crowded places and match the identities of people who gather there with the available database.

affecting behavior related to law and its institutions.(Ginsburg, 2010) In other words, legal culture is values, opinions, attitudes, and beliefs about the law. It might include ideas about law, propensities to litigate, and customs and habits related to law (community behavior).(Ginsburg, 2010) The three elements that affect the success of law enforcement in a society (country) must cooperate to achieve the goal of law enforcement itself, namely justice.

3.3.1. Legal Substance

The policy issued by the government in response to Covid-19 has been in line with the available provisions. For instance, the government declares the status of Covid-19 as a public health emergency by issuing National Disaster Management Agency Decree No. 9 A of 2020, National Disaster Management Agency Decree No. 13 A of 2020, Indonesian Minister of Health Decree No. HK.01.07/MENKES/104/2020, and Presidential Decree No. 11 of 2020. Therefore, the government issued Government Regulation No. 21 of 2020 on Large-Scale Social Restrictions to respond to public health emergency status. According to Law No. 6 of 2018 on Health Quarantine, officials can take four actions to reduce the risk of a public health emergency, and one of them is large-scale social restrictions.

Large-scale social restrictions as the government's step can be carried out through social distancing (later, it is called physical distancing) recommended by the WHO.(Gupta et al., 2020) The government implemented large-scale social restrictions to break the chain of transmission of the coronavirus. However, "the implementation" of its legal substance (large-scale social restrictions policy) is not maximally effective to be implemented. The nature of large-scale social restrictions is only to restrict activities, not to prohibit activities. In other words, it will have provided opportunities for society to carry out daily activities.

Besides, large-scale social restrictions policy tends to be persuasive and not taken seriously by many sectors of society. Therefore, violations against the principle of physical distancing occur everywhere. Consequently, large-scale social restrictions policy must be conducted firmly. Besides, the period of large-scale social restrictions policy is different between one region to another region. It causes ambiguity and confusion.

3.3.2. Legal Structure

The structural components based on Friedman's theory are related to the criminal justice system. Therefore, it includes law enforcement agencies such as police, prosecutors, courts, and correctional institutions – meanwhile, the research focusing the discussion of legal structure on the governmental structure.

The policy adopted by the government in the early stages of handling Covid-19 shows that the policy is slow, ambiguous, unclear in responding to the potential crisis that was happening, as well as readiness to handle it if the crisis occurred. Many government statements believe that Indonesia will not be affected by Covid-19,(Abidah et al., 2020) but its arguments do not have sufficient knowledge and scientific basis. The government is optimistic that the spread of the Covid-19 Pandemic in other countries can become a national economic opportunity. Besides, the Minister of Social Affairs, Juliari Batubara, corrupted the Covid-19 social assistance fund.(Nau, 2020)

Covid-19 is not a plague that suddenly appeared in Indonesia because before Indonesia, and Covid-19 had appeared in many countries. Supposedly, the government can learn from the experience of other countries that have been affected by the Covid-19 Pandemic to find out how to minimize the spread and anticipation of Covid-19. Besides, from the beginning, the government should indicate that Covid-19 will trigger a potential crisis since a

large number of reports on Covid-19 in late 2019 and early 2020.(Singhal, 2020) However, as mentioned above, what happened was overconfidence or ignorance, and therefore the government missed the golden moment to establishing an early detection and prevention system in handling Covid-19 Pandemic.

Many countries have also expressed tension and uncertainty as to what response policies they will adopt. There is no single model and guideline used, so each country carried out a trial and error policy. Many countries have successfully formulated policies to deal with the Covid-19 Pandemic,(Summers et al., 2020) such as Taiwan and New Zealand. However, many countries have also failed to formulate policies to control the Covid-19 Pandemic and have adopted a “wait and see” policy path.(Lei et al., 2020)

3.3.3. Legal Culture

From a legal culture perspective, law products reflect the real life of society. The concept of legal awareness, which is related to the theory of legal culture, conceives the awareness to act following the provisions of the law, so it is a bridge that connects regulations with the legal behavior of community members. Theoretically, a community’s legal culture depends on its members’ legal culture, which is influenced by their educational background, environment, culture, position, and even interests. Therefore, legal culture contains components of values and attitudes that put it within the cultural framework of society, so that it is crucial for the operation of law in society.

In the situation of the Covid-19 Pandemic, the creation of technical policies, decrees, and regulations that refer to health surveillance may consider social, economic, and cultural situations of the community. Accordingly, laws and regulations taken due to handling Covid-19 Pandemic put community involvement as an essential aspect to address the Covid-19 Pandemic, especially large-scale social restrictions policy.

The implementation process of large-scale social restrictions policy is based on individual awareness.(Disantara, 2020) Low awareness of obeying laws/rules in the society can cause a massive spread of Covid-19 and extend the handling period of the Covid-19. Since the consciousness of society was still relatively low, obedience to establish laws was regarded as a mere formative symbol and was not followed by behavior consistent with the rules. The primary step that must be taken is to build public awareness to comply with the large-scale social restrictions policy because the disobedience of society harms the safety of the community itself. Also, the community must be given an education that the current situation encourages the community to become a “frontier” toward the spread of COVID-19. It will build legal awareness that will lead to law obedience for the community.

Tables and Figures are presented center and cited in the manuscript. The figures should be clearly readable and at least have a resolution of 300 DPI (Dots Per Inch) for good printing quality. Table made with the open model (without the vertical lines) as shown below:

4. Conclusion

The conclusions that can be drawn based on the finding and analysis are: First, the government has some constitutional obligations in protecting citizens, which regulated in the 1945 Constitution in Article 28I paragraph (4), Law No. 39 of 1999 on Human Rights in Article 8, Law No. 36 of 2009 on Health in Article 14, Law No. 24 of 2007 on Disaster Management in

Article, Law No. 6 of 2018 on Health Quarantine in Article 4, and Law. No. 4 of 1984 on Outbreaks of Infectious Diseases in Article 10.

Second, the government has conducted some policies such as prepare referral hospitals for Covid-19 patients, do a rapid test for the community, establish a Covid-19 task force, and implement Large-Scale Social Restrictions, although it is late. On its way, there is such poor coordination between the decision taken by the central government and local government. For example, in the early date when the first cases of Covid-19 were detected in Indonesia, the central government issued large-scale social restrictions to be implemented. Simultaneously, some local governments in Indonesia choose to implement a lockdown policy (regional quarantine).

Third, the problems facing the protection of citizens from the Covid-19 Pandemic are, from the legal substance, Large-Scale Social Restrictions as to the government's adopted policy does not implement optimally. At the same time, a large-scale social restriction policy is considered a persuasive policy. Once the policy is violated, it will not be subjected to strict sanctions or punishment. Such a condition makes violations of the physical distancing principle occur everywhere.

In terms of legal structure, the government's responses are considered ignorant and slow since the beginning. It is proven when the government was asking the public to pray *istigasah* in facing Covid-19, claim that Indonesia will not be affected by Covid-19 and its arguments do not have sufficient knowledge and scientific basis, and seen Covid-19 Pandemic as a national economic opportunity.

Also, from legal culture, since the large-scale social restrictions policy is the policy based on individual awareness, while individual awareness of Indonesian citizens is still relatively low, compliance with the law is seen as merely a symbol of formation. There is no rule-based behavior; no matter how good the policy is, an acceptable policy cannot be appropriately implemented and maximally.

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