

Reconstructing Legal Frameworks: Central-Local Government Collaboration during the Pandemic in Indonesia

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ABSTRACT

This research discusses the issue of centralization and decentralization in handling the COVID-19 pandemic, focusing on the Indonesian context. Criticism of decentralization in COVID-19 was conveyed by Smith (2012), who considered it a form of centralization that strengthens narrow interests and threatens the public interest. This research also looks at the implementation of health decentralization in Natuna, which is experiencing severe challenges such as a shortage of medical personnel, lack of timely available funds, and inadequate availability of vaccines and medical materials. In addition, the COVID-19 pandemic has raised challenges in coordinating and managing responses in various countries, with some adopting a centralized approach and others favoring decentralization. This research tries to explore the legal links between the central and regional governments in handling COVID-19 in Indonesia, with a focus on the impact of existing regulations such as Law No. 24 of 2007 concerning Disaster Management, Law No. 23 of 2014 concerning Regional Government, and Law no. 6 of 2018 concerning Health Quarantine regarding cooperation and coordination between the central and regional governments in handling the pandemic. This research is vital because COVID-19 is a global health crisis affecting various social, economic, and political aspects. With a better understanding of the legal relationship between central and regional governments in handling the pandemic, it is hoped that response coordination and effectiveness can be improved, thereby saving lives and reducing adverse social and economic impacts. This research has the advantage of focusing on the legal relationship between the central and regional governments in handling the COVID-19 pandemic in Indonesia and recommendations for reconstructing this legal relationship by referring to the 1945 Constitution. Good collaboration between the central and regional governments is considered vital in handling the COVID-19 pandemic -19 in the future.

INTRODUCTION

During efforts to find appropriate regulatory alternatives in dealing with the Covid-19 pandemic, issues regarding centralization and decentralization have emerged (Aubrecht et al., 2020; García-Avila et al., 2023; Hegele & Schnabel, 2021; Janssen & Van der Voort, 2020; Lv et al., 2022; Navarro & Velasco,

2022). Smith (2012) criticized decentralization, which also occurred in Indonesia. This criticism contains centralization, which makes it separatist and parochial (narrow-minded) (Bush, 1986). Decentralization also strengthens sectional and narrow needs and threatens the general will. The Natuna district government has demonstrated decentralization in Covid-19 (Sambuaga et al., 2023)(Soesilo & Rahman, 2022). President Joko Widodo asked the people on Natuna Island to prioritize their sense of humanity towards the people quarantined on Natuna Island. Health decentralization shows a hostile situation with evidence of non-fulfillment of training and health standards for health workers (Samerkhanova, 2006).

Community health centers are still not running effectively even though they are the people's mainstay in health work; the indications are a lack of medical personnel and substandard medical personnel, inadequate availability of funds on time, and inadequate availability of vaccines/drugs and consumable medical materials. Seeing the danger of Covid-19 and the WHO has designated Covid-19 as a danger to people's health; the government should designate this situation as a health emergency (Fakhruddin et al., 2020)(Liu et al., 2022). Then, in line with the role of each central government in terms of its capacity to involve the Regional Government (then abbreviated to Pemda) in health consideration work carried out in the context of decentralization in Indonesia (Barr et al., 2006; Ha & Kumar, 2021; Hasanuzzaman et al., 2013; M. S. Hidayat et al., 2018; R. Hidayat et al., 2017; Malik et al., 2020; Moenta, 2019; Rudi, 2020; Sutiyo & Maharjan, 2017).

Right now, the world is facing a global pandemic caused by Covid-19. Pandemic This has influenced almost every aspect of human life, including health, economic, social, and political (Clemente-Suárez et al., 2021; Demirbaş et al., 2020; McNeely, 2021; V. Mishra et al., 2020; Mofijur et al., 2021; Strong, 2019; Tisdell, 2020). Policy handling the pandemic varies significantly across countries, with some countries implementing an approach of centralization, while others are more push decentralization. It produces some challenges in coordinating and managing responses to the pandemic.

This study will explore the connection law between government central and regional in handling the Covid-19 pandemic in Indonesia. The focus is on how existing regulations, such as Law No. 24 of 2007 concerning Countermeasures Disaster, Law No. 23 of 2014 concerning Regional Government, and Law No. 6 of 2018 concerning Health Quarantine, affect cooperation and coordination between government central and regional in handling pandemics (Djamali, 2012; Gadjong, 2007; Santoso, 2013).

Previously, many studies have been done on handling the COVID-19 pandemic in various countries. However, research that discusses explicitly an aspect of the legal connection between government central and regional in the Indonesian context still needs to be completed (Diantha & Sh, 2016). Therefore, research tries to fill in the gap in knowledge by analyzing existing regulations and practices related to fields of the COVID-19 pandemic (Sulistiyawati et al., 2021).

This study is very important because the COVID-19 pandemic is a global health crisis that has never happened before and has been influencing every layer of society. More understanding and good connection law between government central and regional in handling the pandemic can help increase coordination and effective response, saving lives and reducing the impact of detrimental social and economic consequences.

This Novelty research lies in its particular focus on relationships law between government central and regional in the context of handling the Covid-19 pandemic in Indonesia. Study this will give an outlook on How existing regulations _ influence coordination and cooperation between government central and regional in emergency people's health situations.

Implications from the study this can cover changes in policy public related to handling the COVID-19 pandemic in Indonesia, improvements in existing regulations, and improvements in coordination between government central and regional in response to crisis health like this. Additionally, research _ can also be done to contribute to the development of knowledge law in Indonesia in the context of handling emergency people's health.

METHODS

This Methodology study law analyzes the connection law between government central and regional in handling the Covid-19 pandemic in Indonesia. This Study use method studies law normative with approach conceptual and legal positive. Source material primary law covers various constitutions, such as the 1945 Constitution, the Law on Regional Government, Mitigation Law Disasters, Regional Government Law, Health Quarantine Law, and others. Source material law secondary covers journal law, books, encyclopedia law, and relevant dictionaries with topic research (Garner & Black'Law Dictionary, 2019). Collection material law combines technique studies libraries and snowball methods to get more data. Material law is analyzed using the concept and foundation interpretation of law based on theories relevant to law. This study also has novelty with focus on reconstruction connection law between government central and regional in regulations enforcement pandemic as well as use paradigm sociology laws and approaches theory law positive and responsive (Ali & Heryani, 2015).

RESULTS

A. Meaning Legal Relations between Government , Central and Regional Governments in a Unitary State

1. Concept of Indonesia as a Unitary State

The meaning of legal relations between the government, center, and regions in the Unitary State of Indonesia is complex and involves various aspects such as power, finance, supervision, and institutions. Indonesia is a constitutional state that maintains a unique system based on the 1945 Constitution. Regions are divided into cities/districts with regional governments subject to the central government, which, although providing autonomy, still holds primary responsibility. The central government has powers based on the 1945 Constitution.

Changes in the Regional Government Law over the last few years have confused regional governments, so there needs to be further explanation in the text of the 1945 Constitution. The Covid-19 pandemic has also prompted the need to review the relationship between central and regional governments for more effective handling of the situation.

This relationship also gives rise to the concept of centralization and decentralization in government, with Regional Governments having autonomy in determining policies and governance of their regions but with certain limitations imposed by the central government. All of this is an effort to balance state unity and Indonesia's diverse regional interests.

2. Autonomy Concept

Differences in interpretation regarding regional autonomy (Otda) among practitioners and scholars. Several figures, such as Van der Pot, Laica, Soehino, Tresna, and others, have different views on the meaning and scope of regional autonomy. Some support the broadest possible concept of autonomy, while others emphasize the link between autonomy and the unity of the state.

Understanding autonomy is also related to Indonesia's historical, legal, and political aspects. The history of the development of regional autonomy in Indonesia was influenced by various governments and regimes in power, such as the times of Soekarno, Suharto, Habibie, Abdurrahman Wahid, Megawati Soekarnoputri, and Susilo Bambang Yudhoyono. Each period has a different legal basis and views regarding regional autonomy.

In addition, there was a discussion regarding the role of the central and regional governments in the decentralized system. Some views put forward the principle of compensation, where regions have independence in determining their fate, while others emphasize the principle of delegation, which maintains central authority.

Finally, the discussion also covers issues related to the legal basis and innovation in regional government. There are problems related to a lack of legal basis, which often hinders innovation at

the regional level. UU no. 23 of 2014 is considered a positive step in overcoming some of these problems by providing a stronger foundation for regional government.

In conclusion, this discussion covers various aspects of regional autonomy in Indonesia, including differences in views, history, law, politics, and innovation. The importance of finding a balance between regional autonomy and state unity was also emphasized in this discussion.

3. Draft Legal Relations between the Central Government and the Regions

The relationship between central and regional governments in the legal context in Indonesia. The law here regulates the relationship between individuals and the government, emphasizing the concepts of authority, obligations, and rights.

Law regulates relationships between individuals, and this cannot be separated from the activities of all individuals. It can be concluded that law is a relationship between two legal subjects involving the obligations and rights of both parties.

Indonesia is a legal state with a legal basis in the form of a constitution (UU), which shows that the government does not have an absolute nature by the constitution. The central and regional governments have obligations and authorities related to government management, which must be under the law.

Authority in this context refers to the government's ability to carry out specific legal actions. This authority can be divided into several dimensions, including legitimacy and legitimacy.

The separation of authority between central and regional governments is essential in the context of regional autonomy. This can be seen in the separation of duties and responsibilities between the center and regions in managing government. This separation of authority can be regulated in the highest regional laws and regulations.

Several central teachings regulate the separation of authority in government work, including formal, material, and actual housekeeping teachings. Each teaching has a different view of how the separation of authority should be carried out.

This separation of authority aims to balance economic demands and the need for unity in managing government. Decentralization is essential to this separation of authority because it accommodates the diversity of community needs.

Models of the relationship between central and regional governments can be divided into several types: relative autonomy, agency, and interaction. The interaction model is the one that emphasizes the mutual dependence between the central and regional governments in managing government.

The term "regional household" reflects the freedom and independence of regional governments in managing their affairs. However, this separation of authority is also related to broader autonomy and regulations established by the central government.

In this research, the concept of "regional household" in the context of regional autonomy is also discussed, and there are three different types of regional household systems: formal, material, and authentic. Each has a different approach to separating authority between the center and the regions.

It is essential to understand that the separation of authority between central and regional governments is an integral part of the government system in Indonesia and is very influential in managing government effectively and efficiently.

4. Concept of Public Regulation: Rational Decisions Making Process

The meaning of regulations in the relationship between government and society is as a means of communication that allows the unification of opinions and knowledge. However, the regulatory process is often complicated and complex due to the various theories that surround it. Several theories, such as Systems Theory, Elite Theory, and Group Theory, provide different perspectives on how public regulation is formed. Systems Theory sees it as the result of a political system that includes organizational responses to people's needs. Elite Theory highlights the role of government

elites in determining regulations, often prioritizing their preferences over the needs of the general public. Meanwhile, Group Theory considers regulation as the result of the struggle of various interest groups.

Apart from that, there are several problems related to public regulation, such as problems in systems, opportunities, capacity, communication, interests, processes, and ideology. Conflicts often arise due to differences in understanding and views regarding regulations and competition between different interests. This conflict can become an obstacle to reaching an agreement on public regulations.

It is important to note that effective public regulation requires compromise and agreement among all parties involved. However, this can be challenging if individual or group egoism hinders the process. Resolving conflicts and reaching agreements in public regulations are essential steps to ensure that the interests of all parties can be accommodated. Therefore, a deep understanding of regulatory theories and wisely handling conflicts is essential in complex public regulations.

5. Concept of Legal Certainty

Legal certainty is a legal principle that guarantees the existence of explicit norms and can be used as a guide by society in regulations. The aim is to avoid public misinterpretation of the law. Legal certainty also has an essential role in creating justice, ensuring that the law applies indiscriminately to anyone and allowing individuals to predict the consequences of their actions.

Legal certainty is also closely related to the principle of truth, where the applicable law must be under existing reality and facts. Laws must be clear, consistent, and not influenced by subjective situations. This helps avoid norm conflicts, distortions, and conflicts between legal rules.

Legal certainty can be defined as a situation where there are clear legal rules implemented consistently by the government, obeyed by citizens, applied somewhat by judges, and can be implemented concretely. This creates a harmonious relationship between state and society, ensures a consistent understanding of the legal system, and leads to the actualization of positive law.

In addition, several theories are related to the purpose of law, including protection theory, ethical theory, and utility theory. These theories underline the importance of legal certainty in achieving various legal goals, such as justice, prosperity, and peace.

In creating legal certainty, it is crucial to fulfill internal requirements, such as consistency of legal norms, clarity of the hierarchy of authority of law-forming institutions, and clear concepts. This ensures that the rule of law has a strong foundation and can be implemented well by society.

Legal certainty is essential for achieving justice, prosperity, and social order. By having clear and consistent laws, we can create a legal environment that is fair and just for all individuals.

6. Draft Legal Effectiveness

The effectiveness of law is the key to maintaining balance and order in a society. This term describes the extent to which the existing legal and regulatory system achieves its objectives. In a legal context, effectiveness is the primary determinant in maintaining justice, protecting individual rights, and maintaining social order. To measure the effectiveness of the law, we must look at the level of public compliance with the law, the ability of the justice system to resolve disputes fairly and efficiently, and the law's impact on society and the economy. Factors such as clarity of legal regulations, professionalism of law enforcement, and adequate infrastructure also play an essential role in creating high legal effectiveness. The role of law enforcers in carrying out their duties with justice and proportionality dramatically determines the success of the law's effectiveness. Good laws and clear regulations are an essential basis for legal effectiveness, and legal education of the public is also a key component in achieving this goal. Legal effectiveness is the foundation for maintaining peace, justice, and order in a well-functioning society.

7. Draft Legal Protection

Legal effectiveness is a concept related to legal protection in society. Natural law theory, influenced by the thoughts of Aristotle, Plato, and Zeno, considers law to come from God and is closely related to morals. Law is considered a tool for coordinating and integrating the various needs of society and limiting each other's needs.

Salmond's theory of legal protection explains that the purpose of law is to coordinate and integrate the needs of society, especially in terms of individual rights and obligations. The legal protection process includes making legal rules legal provisions, and implementing rules recognized by society.

The opinions of various experts regarding legal protection are included in this concept. They view legal protection as an effort to maintain a balance of societal values and norms, protect individuals from arbitrary government actions, and create order between humans. Legal protection must cover all individuals regardless of their gender or social status.

Besides that, legal protection also includes legal aspects and sanctions provided by the state to ensure compliance with regulations. This includes dispute resolution institutions outside the court, such as the police and prosecutor's office. The main goal of legal protection is to ensure justice, maintain order, and protect human rights. Means of legal protection include preventive and repressive efforts, which include the recognition and protection of human rights.

Pancasila, as the basis of the Indonesian state, emphasizes the importance of equal legal protection for all individuals, which can help achieve a prosperous life. Legal protection is essential in maintaining balance and order in society and safeguarding individual rights and obligations.

8. Meaning of the Concept of Legal Action

Legal action is a crucial stage in implementing legal rules in real life. This involves understanding the values underlying the law and the rules of behavior regulated by the law. Legal action aims to create and maintain peace in society.

Legal action's three main aspects are justice, certainty, and benefits. Justice refers to the fair treatment of individuals, although law is not always synonymous with the concept of justice. Legal certainty emphasizes that the law must be implemented without exception, and individuals must know what is expected. Benefit refers to the expected positive impact of legal action, including maintaining social order.

Legal enforcement involves several stages, including the formulation of legal rules by lawmakers, the application of rules by law enforcers, and the execution of rules by law enforcement officials. These stages together form a legal action process that must be carried out clearly and rationally to achieve the stated goals.

In criminal law, legal action focuses on enforcing criminal rules to prevent crime, achieve justice, and appropriately punish criminals (Adami, 2010). This involves law enforcement officials, from the police to the courts. These stages of legal action form a broken chain between legal values and the resulting punishment.

CONCLUSION

Based on the results of the analysis that has been carried out, it can be concluded that the legal relationship between the central and regional governments in the context of handling the Covid-19 pandemic, as regulated in Law no. 24/2007, Law no. 6/2018, and Law no. 23/2014, unclear. This causes frequent legal conflicts between the central and regional governments, hampering the handling of Covid-19 in Indonesia. Even though regional governments have the right to autonomy in managing their regional affairs, including handling health problems such as Covid-19, the apparent legal construction in the current regulations needs to be clarified in implementing enforcement. Apart from that, legal action against Law No. 6/2018 is also less effective due to various factors such as unclear regulations, lack of understanding by law enforcement officials regarding the substance of the law, and an ignorant legal culture. Therefore, it is necessary to reconstruct the legal relationship between the central and

regional governments by referring to the 1945 Constitution, which prioritizes the principles of partnership and interdependence between the two. Thus, good collaboration between the center and regions will be vital in handling the Covid-19 pandemic in the future.

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