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## ANALYSIS OF GOVERNOR'S REGULATION CONCERNING THE IMPLEMENTATION OF LARGE-SCALE SOCIAL RESTRICTIONS IN HANDLING COVID-19

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### ABSTRACT

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*The purpose of the issuance of this Government Regulation concerning Large-Scale Social Restrictions is to ensure that the Regional Government does not take individual steps, so that with the existence of this Government Regulation, steps handling of Covid 19 can be in line with the Central Government. For this reason, the author is interested in conducting research with the aim of finding out whether Pergub Number 88/2020 is the implementing regulation of the legislation. This study uses a normative juridical approach. In conducting the research, the writer uses the library research method to review a statutory regulation, which can be obtained from a literature research by using primary, secondary, and tersier legal materials. Based on the discussion of this research, it is concluded that the Governor's Regulation Number 88 of 2020 concerning the Implementation of Large-Scale Social Restrictions (PSBB) in Handling Corona Virus Disease 2019 (Covid-19) which was issued first before the regional regulations that were formed later needed to be updated in substance into a Regional Regulation and issued back to the new Governor Regulation. This step is taken to ensure the synchronization of the national legal system by means of*

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*vertical synchronization and horizontal synchronization. In Government Regulation No. 38 of 2007 which is a derivative of Law no. 32 of 2004 regulates the division of government affairs between the Government, Province, and Regency/City.*

**KEYWORDS**

Governor's Regulation, Large-Scale Social Restrictions, Covid-19



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## INTRODUCTION

At present, the world is being hit by a virus outbreak, so with this, the World Health Organization (WHO) has designated Corona Virus Disease 2019 or Covid-19 as a pandemic threat (Organization, 2020). This pandemic is happening in various countries, especially in Indonesia. With this pandemic, it has a very bad impact on the lives of all mankind (Caraka et al., 2020).

The definition of a pandemic according to the Big Indonesian Dictionary (KBBI) is an epidemic that spreads simultaneously everywhere or covers a wide geographical area (Herawati, 2021). The first time this case was discovered was in Wuhan, China before it spread to almost all over the world. The spread of Covid-19 is very fast and no one can predict when the Covid-19 Pandemic will end (Kraemer et al., 2020). The case of Covid-19, which is a global pandemic, clearly raises concerns from various circles, especially the public (Morrison, Jurak, & Starc, 2020). People's concerns are increasingly felt by seeing a fairly rapid spike in cases, and seeing the lack of readiness of several elements that are vital enough to "fight" the corona virus (Arner et al., 2020).

Seeing the level of distribution is so high that it requires the government to immediately take strategic steps. By establishing anticipatory policies to overcome the impact of COVID-19. On March 31, 2020, President Jokowi held a Press Conference, with the aim of announcing to the public the policies he had chosen to address COVID-19 as a global pandemic that the Indonesian people are currently facing. At the press conference, President Jokowi issued a statement that the Large-Scale Social Restriction (PSBB) policy was the chosen policy in response to a Health Emergency (Ristyawati, 2020).

Law Number 6 of 2018 concerning Health Quarantine is the legal basis for this anticipatory policy. Definition of Large-Scale Social Restrictions are restrictions on certain activities of residents in an area suspected of being infected with Corona Virus Disease 2019 (COVID-19) in such a way as to prevent the possible spread of Corona Virus Disease 2019 (COVID-19) (Ivanka, 2020). During the Press Conference, President Jokowi also emphasized that Regional Governments should not implement their own policies in their territories that are not in accordance with the protocols of the Central Government (Wadjo, 2021). Regional governments and private parties must comply with the PSBB determined by the central government, if they do not comply with or hinder the implementation of the PSBB, they can be subject to criminal sanctions (Anggriawan, 2020).

In fact, since the beginning of the COVID-19 case appearing in Wuhan, China, the Central Government in Indonesia has not declared anything to the general public (Asyary & Veruswati, 2020). However, when viewed from regional leaders, it turns out

that they are more alert in dealing with this COVID-19 case (Han et al., 2020). This makes it visible that there is a lack of coordination between the Central Government and Regional Governments in terms of making policies, even policies issued by the central government and local governments often overlap (Ma et al., 2014). In the midst of concerns about the COVID-19 case, what the public needs is the government to be able to provide protection to its citizens according to the mandate of the 1945 Constitution of the Republic of Indonesia, one of which is the policy in responding to COVID-19 (Setyagama, 2020).

Then after the determination of the World Health Organization (WHO) against the Corona Virus Disease 2019 (COVID-19) outbreak as a global pandemic, the DKI Jakarta Provincial Government has made various prevention efforts including the Governor's Regulation (Pergub) (Purba, Suwanda, Adi, & Wijaya, 2021).

With the issuance of several Governor Regulations, it is clear that the Regional Government is more alert in dealing with the COVID-19 pandemic than the Central Government. From this, the Central Government seems a bit slow in dealing with situations like this, because 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 (PP PSBB) on March 31, 2020. Covid-19 positive patients are increasing.

In fact, the Governor's Regulation is an implementing regulation. When viewed from Law Number 12 of 2011 concerning the Establishment of Legislation, it is contained in Article 8 paragraphs (1) and (2) which confirms that regulations that are not included in the hierarchy of laws and regulations Article 7 are still recognized for their existence and have legal force. binding if it is based on the delegation of the regulations above or formed under its authority. Thus, with this new Governor's Regulation can be issued if it gets provisions from the regulations above.

The purpose of the issuance of this Government Regulation concerning Large-Scale Social Restrictions is to ensure that the Regional Government does not take individual steps, so that with the existence of this Government Regulation, steps handling of Covid 19 can be in line with the Central Government.

Basically, the Government Regulation on Large-Scale Social Restrictions aims to regulate school and work holidays, restrictions on religious activities, and restrictions on activities in public places. However, several local governments have done this. One of them is carried out by the regional governments of Papua, Bali, and Tegal which closed access to and from those areas.

The application of Governor Regulation Number 88 of 2020 concerning the Implementation of Large-Scale Social Restrictions (PSBB) in Handling Corona Virus Disease 2019 (Covid-19) in DKI Jakarta Province has taken effect and has become the legal basis for its implementation. But in fact, the issuance of the provisions of the Governor's Regulation which is an implementing regulation has been issued before the provisions of the regulations governing it, and in terms of authority, is this regulation a delegation of authority given by the central government to the regions.

For this reason, the author is interested in conducting research with the aim of finding out whether Pergub Number 88/2020 is the implementing regulation of the legislation. In addition, is the Governor's Regulation Number 88 of 2020 a delegation of authority from the central government to the regions.

## **RESEARCH METHOD**

This study uses a normative juridical approach. In conducting the research, the writer uses the library research method to review a statutory regulation, which can be obtained from a literature research by using primary, secondary, and tertiary legal materials. Literature research is carried out by searching for and reviewing library materials based on their binding strength consisting of: Primary legal materials, namely all regulatory documents that are binding and determined by the competent authority, namely in the form of statutory regulations. Secondary legal materials, namely all documents that are information or the results of studies on the effectiveness of the Governor's Regulation such as legal seminars, magazines, scientific papers related to the effectiveness of the Governor's Regulation Number 32/2020 and several sources from internet sites related to the above issues. Tertiary legal materials, namely all documents that contain concepts that support primary and secondary legal materials, such as dictionaries, encyclopedias, indexes, articles, or manuals, reference materials. In terms of data processing, the results of the existing data are processed using a qualitative analysis approach.

## **RESULT AND DISCUSSION**

### **A. The substance of the Governor's Regulation Number 88 of 2020 in terms of the technique for the formation of laws and regulations**

#### **1. The Position and Function of Governor Regulations in the Establishment of Legislation in Indonesia**

The source of delegation's authority in laws and regulations gives birth to products of legislation which are often referred to as Implementing Regulations. Implementing Regulations are regulations that function as implementing laws or what is referred to as "delegated legislations" as "subordinate legislations". Referred to as "delegated legislations" because the authority to determine it comes from the delegated authority of the law by legislatures.

The principle of delegation of rule making power is basically subject to the widely known doctrine or "legal maxim", namely "delegator non potest delegare", which means "a delegate may not sub-delegate his or her power". This means that the official or institution that is given the delegation of authority may no longer delegate the authority to regulate it to another lower institution. However, in practice, sometimes, law-implementing agencies are also authorized by law to delegate more powers to lower institutions. This is referred to as "sub-delegation of legislative power" or "sub-delegation of rule-making power". Usually, to grant a sub-delegation of authority it is required that it must have been determined explicitly or explicitly in the parent law (principle legislation). Only then can a government regulation stipulate that for more technical matters, it can be further regulated by the relevant minister in the form of a ministerial regulation, and so on.

From the explanation above, it can be understood that implementing regulations are regulations that are formed on the basis of delegation or orders from the laws and regulations that are above it to regulate certain things that are expressly or not according to the laws and regulations that delegate them.

Provisions related to the procedure for delegating authority from a higher statutory regulation to a lower statutory regulation have been clearly regulated in Appendix II of Law Number 12 of 2011 concerning the Establishment of Legislation in chapter II of matters specifically letter A regarding the Delegation of Authority guidelines Number 198 to Guideline Number 216.

The provisions in full stipulate the procedures for the delegation of authority, including those relating to the scope of the regulated content and the type of statutory regulations aimed at. In addition, the provision explains that it is not allowed to delegate blanks or not fully explain a delegated regulation governing certain matters.

The provisions regarding the Governor's Regulation are contained in Law Number 32 of 2004 concerning Regional Government in Article 146 paragraphs (1) and (2), respectively, which read:

(1) "In order to implement regional regulations and under the authority of laws and regulations, regional heads shall stipulate regional head regulations and/or regional head decisions".

(2) "Regulations of regional heads and/or regional head decisions as referred to in paragraph (1) are prohibited from contradicting the public interest, regional regulations, and higher statutory regulations".

It can be seen that the formation of a Regional Head Regulation, in this case a Governor Regulation, has the following conditions: First, it is formed on the basis of an order from a Regional Regulation. Second, it must not violate the public interest. Third, it must not conflict with higher laws and regulations. This is the requirement for the formation of a Governor Regulation according to Law Number 32 of 2004 concerning Regional Government.

In fact, there is a Governor's Regulation that was made in the absence of a previously regulated Regional Regulation. For example, Governor Regulation Number 88 of 2020 concerning the Implementation of Large-Scale Social Restrictions in Handling Corona Virus Disease (Covid-19) in DKI Jakarta Province.

Therefore, it can be concluded that the Regulation of the Head of Region in particular, namely the Governor's Regulation, is a type of regulation issued by the Governor on the delegation of a statutory regulation above which regulates certain matters. The position of the governor's regulation as an implementing regulation in terms of the science of legislation, which refers to Article 8 paragraphs (1) and (2) further confirms that regulations that are not included in the hierarchy of legislation in Article 7 are still recognized for their existence and have binding force. If it is based on the delegation of the regulations above it or is formed on the basis of its authority. When the formation of a governor's regulation is not stated in the provisions of the laws and regulations that require that the governor's regulation must or can be formed, the Governor's Regulation has no binding legal force in general. Indirectly, the legality or legal basis for the governor's regulation contained in the provisions of Law Number 12 of 2011 concerning the Establishment of Legislation is also the position or position of the governor's regulation even though its position is not listed in the hierarchy of laws and regulations.

In simple terms, the position of the governor's regulation as an implementing regulation in the formation of legislation is contained in Article 8 paragraphs (1) and (2), which is not included in the hierarchy but its existence is still recognized and can be binding as statutory regulations in general are listed in the hierarchy. As long as its manufacture is based on an order from a higher statutory regulation or is formed on the basis of a clear authority. The position of the Governor's Regulation itself is as a Legislation which is confirmed in the provisions of Article 8 paragraphs (1) and (2) of Law Number 12 of 2011 concerning the Establishment of Legislation.

While the function of the Governor's Regulation is as an implementing regulation of the legislation above. Because basically implementing regulations function to regulate provisions that cannot be regulated in higher laws and regulations (Asshiddiqie, 2005).

In line with this, as has been stated by Jimly Asshiddiqie, the delegation of rule-

making power to further regulate the law to ministers or ministerial-level officials is limited only to the regulation of legal norms of a technical-administrative nature. Meanwhile, legal norms containing further regulation regarding the substance of rights and obligations are not delegated, let alone sub-delegated.

The material or substance of the Governor's Regulation which has now been upgraded to Regional Regulation Number 2 of 2020 concerning the Handling of Corona Virus Disease 2019, this has been changed for the following reasons and considerations:

- a) Whereas the Corona Virus Disease 2019 pandemic which caused an emergency condition had an impact on aspects of public health, socio-economics and public services in the Special Capital Region of Jakarta;
- b) that the Provincial Government of the Special Capital City Region of Jakarta has the responsibility to provide health protection for the community from the spread of Corona Virus Disease 2019, but on the other hand the administration of government affairs must continue to run in order to immediately carry out social protection and regional economic recovery as a result of the Corona Virus Disease pandemic. 2019 which has disrupted various aspects of the life of the people of Jakarta;
- c) that the provisions of laws and regulations regarding the handling of Corona Virus Disease 2019 in the Province of the Special Capital Region of Jakarta cannot yet be used as a strong and comprehensive legal basis to strengthen efforts and increase the effectiveness of public health protection, social protection, economic recovery and law enforcement to overcome the Corona pandemic Virus Disease 2019.

## **B. Relationship between Central and Regional Government Authorities in the Enforcement of Large-Scale Social Restrictions (PSBB) based on Legislation**

### **1. Division of Central and Regional Government Affairs**

Indonesia as a unitary state with a system of government consisting of central government units and sub-national government units, namely provinces, districts and/or cities. Sovereignty attached to the Indonesian nation and state is not divided among the regional government units. Therefore, regional government units do not have the authority to formulate constitutions and laws and develop their own government organizations. The existence of regional government units is dependent on (dependent) and under (sub-ordinate) the Central Government.

Delegation of government affairs in the context of a unitary state is basically in the hands of the center, as explained by Mawhood that local government must be understood as a semi-independent organization. Local governments have some freedom to act without central approval, but their status is unable to establish relations with outside countries. The power of local rulers and their existence is only to follow up on a central national decision and can be canceled according to a central decision. That is why, in the context of a unitary state, the regions have a close relationship with the center and always carry out coordination.

Referring to the previous explanation, the basic principles of the division of government affairs in a unitary state are as follows: First, government affairs basically belong to the center. Regions are given the right and obligation to manage and administer some of the government affairs delegated to them. In other words, there is a process of handing over government affairs from the Center to the Regions. Second, between the Center and the Regions there is still a line of command and a hierarchical relationship. Regions are subordinate to the Center, but the Center does not intervene and dictate to the Regions in various matters. Third, under certain conditions when the region is unable to provide good services to the community to carry out the delegated government affairs, the



government affairs transferred to the regions can be withdrawn by the center as the owner of the government affairs.

The State of Indonesia adheres to the principle of decentralization in the administration of local government. According to Maddick as quoted by Bhenyamin Hossein, decentralization is a legal conferring of powers to discharge specified or residual function upon formally constituted local authorities. However, the powers and functions (government affairs) that are delegated are limited in the powers and functions of the government.

Then by referring to Maddick's opinion, Bhenyamin Hossein emphasized that there are two elements of the main understanding, namely the formation of autonomous regions and the transfer of power legally to handle certain areas of government, both detailed and formulated in general. Thus, decentralization includes elements of the formation of autonomous regions as well as the transfer of authority or it can be said that the power of autonomous regions is obtained through the formation of autonomous regions and the transfer of authority (including the authority to set policies and the authority to implement policies).

Juridically, the concept of regional autonomy and autonomous regions contains an element of 'authority to regulate and manage'. This authority is the substance of regional autonomy, so it needs to be clarified what is the subject matter of authority covered by regional autonomy. The material in Article 18 of the Second Amendment of the 1945 Constitution and Law Number 32 of 2004 is referred to as Government Affairs. With the implementation of decentralization, there has been a handover of government affairs from the Government to the Autonomous Region, which means that there has been an implicit distribution of authority between the Government and the Autonomous Region.

The term government affairs is used in Article 18 paragraphs (2) and (5) of the II Amendment to the 1945 Constitution. The previous term used was authority which could be interpreted as authority and close to "power" (match), while affairs were more interpreted as functions. the functions of the Government and the Regions can be divided into two categories, namely:

- 1) Government affairs that cannot be decentralized. This group of affairs is seen as important for the integrity of the organization and the Indonesian nation. These government affairs include foreign policy, defense and security, monetary, national fiscal, judicial, and religious. The implementation of government affairs is based on the principle of centralization, deconcentration to government representatives (governors) and vertical agencies in the province as well as assistance tasks to autonomous regions and villages.
- 2) Government affairs that can be decentralized are government affairs outside the government affairs group that cannot be decentralized. These government affairs are decentralized, decentralized, to the governor as a representative of the government, assigned to autonomous regions and villages.

The division of government affairs between the Government, Provinces, and Regencies/Cities is based on the idea that there are always various government affairs which remain fully under the authority of the Government. Government affairs are concerned with ensuring the survival of the nation and the state as a whole. The government affairs in question include foreign policy, defense, security, justice, monetary and national fiscal, and religion.

In Government Regulation No. 38 of 2007 which is a derivative of Law no. 32 of 2004 regulates the division of government affairs between the Government, Province, and Regency/City. In Article 2 paragraph (4) Government Regulation no. 38 of 2007 stated that 31 government affairs were decentralized to the provinces and districts/cities.

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Government affairs that are handed over to the regions are accompanied by sources of funding, transfer of facilities and infrastructure, and staffing. The government affairs include:

- 1) Social
- 2) Environment
- 3) Trade
- 4) Marine and Fisheries
- 5) Forestry
- 6) Education
- 7) Health
- 8) Small and Medium Enterprises
- 9) Manpower and Transmigration
- 10) Agriculture and Plantation
- 11) Mining (Energy and Mineral Resources ESDM)
- 12) Communication
- 13) Investment
- 14) Culture and Tourism
- 15) Population
- 16) Women Empowerment
- 17) Family Planning and Prosperous Family
- 18) Industry
- 19) Public Works
- 20) Spatial Planning
- 21) Youth and Sports
- 22) Communication and Information/Kominfo
- 23) Housing
- 24) Archive
- 25) Land
- 26) National Unity and Politics/Head of Police
- 27) Statistics
- 28) General Administration
- 29) Village Community Empowerment (PMD)
- 30) Staffing
- 31) Library

One form of central government affairs that can be delegated to the regions is health affairs. An example in this case is in matters concerning Large-Scale Social Restrictions (PSBB) in handling Corona Virus Disease (Covid-19), which are delegated authority from the center to the regions to handle health problems in the regions.

The distribution of government affairs to Autonomous Regions has changed, namely from the previous general competence or open and arrangement which detailed the functions of government administration, to the ultra vires doctrine which details government affairs for the government, provinces, districts/cities which will be mapped in detail.

These details can also be called concurrent affairs, which means that there are government affairs whose handling in certain sections or fields can be carried out jointly between the Government and Regional Governments. Thus, for every concurrent affair, there is always a part of the affairs that is under the authority of the Government, there is a part of the affairs that is handed over to the Regency/City. In order to realize a proportional concurrent distribution of authority between the Government, Province, Regency and City, the following criteria are drawn up which include:



- 1) Externality criteria, which are based on the approach in the distribution of government affairs by considering the impacts/consequences caused in the administration of the government affairs. If the impact is local, then the government affairs become the authority of the district/city, if it is regional then it becomes the authority of the province, and if it has a national impact it will be the authority of the Government. The criteria for this approach are based on the extent, magnitude, and range of impacts arising from the implementation of a government affair.
- 2) Accountability criteria, namely an approach in the distribution of government affairs by considering that the level of government that handles a certain part of the affairs is the level of government that is more direct/close to the impact/effect of the affairs being handled so that the accountability of governance to the community is guaranteed. The criteria are based on the extent, magnitude, and range of impacts arising from the implementation of a government affair.
- 3) Efficiency criteria, namely the approach in the distribution of government affairs by considering the availability of resources (personnel, power and equipment) to obtain accuracy, certainty, and speed of results that must be achieved in the administration of the affairs section. If the affairs are more efficient and effective when carried out by the Regency/City than if they are carried out by the Province or the Government, then the matter becomes the affairs of the Regency/City, and so on. The measure of power and effectiveness is seen from the magnitude of the benefits felt by the community and the size of the risks that must be faced. The criteria are based on the comparison of the level of usability and the highest usability that can be obtained.

The three criteria are applied cumulatively as a single unit by considering the compatibility and fairness of the relationship between levels and structures of government. What is meant by harmonious relations is that the management of parts of government affairs carried out by different levels of government, is interconnected (interconnected), interdependent (interdependence), and mutually supportive as a unified system by taking into account the scope of benefits.

The division of government affairs is carried out through the mechanism of submission and or acknowledgment of regional proposals for the part of government affairs that will be regulated and managed. Based on the proposal, the government will first verify before giving recognition to the part of the affairs to be carried out by the Region. Therefore, the parts of affairs that are currently still under the authority of the central government, using the criteria previously mentioned, can be submitted to the regions.

Government affairs under the authority of the Regional Government are classified into two categories, namely “mandatory affairs” and “optional matters”. Mandatory government affairs are government affairs that must be carried out by regional governments related to basic services for the community, such as basic education, health, environment, transportation, population, and so on. Government affairs that are optional are government affairs that are prioritized by local governments to be carried out related to efforts to develop core competencies which are regional characteristics. Government affairs are outside the mandatory and optional affairs which are carried out by the regional government, as long as they become the authority the area concerned must still be managed by the local government concerned. However, given the limited resources and sources of funds owned by the regions, the priority of administering government affairs is focused on obligatory and optional affairs that actually lead to the creation of community welfare that is adapted to the conditions, potentials, and peculiarities of the region concerned.

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Mandatory affairs organized by the provincial government and regency/municipal government are matters related to basic services, which include:

- 1) Education
- 2) Health
- 3) Environment
- 4) Public works
- 5) Spatial planning
- 6) Development planning
- 7) Housing
- 8) Youth and sports
- 9) Investment
- 10) Cooperatives and small and medium enterprises
- 11) Population and civil registration
- 12) Employment
- 13) Food security
- 14) Women's empowerment and child protection
- 15) Family planning and prosperous family
- 16) Communication
- 17) Communication and Informatics
- 18) Land
- 19) National unity and domestic politics
- 20) Regional autonomy, general government, regional financial administration, regional apparatus, staffing, and coding
- 21) Community and village empowerment
- 22) Social
- 23) Culture
- 24) Statistics
- 25) Archives, and
- 26) Library

Choice matters are matters related to the development of leading sectors that have the potential to grow and develop in the area. This choice of affairs actually exists and has the potential to improve the welfare of the community in accordance with the conditions, characteristics, and superior potential of the area concerned. These elective matters include:

- 1) Marine and fisheries
- 2) Agriculture
- 3) Forestry
- 4) Energy and mineral resources
- 5) Tourism
- 6) Industry
- 7) Trade, and
- 8) Transmigration

In carrying out mandatory affairs, local governments must be guided by the minimum service standards set by the Government and implemented in stages. Given the limited capacity of the budget, the determination and implementation of minimum service standards in areas that are mandatory affairs of regional government is carried out in stages by prioritizing priority sub-sectors of mandatory affairs.

In carrying out government affairs which are under the authority of the Government, the Government may:

- a) Organize yourself;
- b) Delegating part of government affairs to the Head of the Vertical Agency or to the Governor as the representative of the central government in the regions in the context of deconcentration; or
- c) Assign some village government affairs based on the principle of co-administration.

Meanwhile, in carrying out regional government affairs based on the criteria for the division of affairs under their authority, the Provincial Government and Regency/City Government may:

- a) Organize yourself; or
- b) Assign some of the government affairs to the Regency/City government and/or Village Government based on the principle of co-administration; or
- c) Assign and/or hand over some of these government affairs to the village government based on the principle of co-administration.

### **C. Implications of Governor's Regulation Number 88 of 2020 concerning the Implementation of Large-Scale Social Restrictions (PSBB) in Handling Corona Virus Disease 2019 (Covid-19) in DKI Jakarta Province**

Presidential Decree No. 11 of 2020 concerning the Determination of Health Emergency basically stipulates two things, namely: First, that Covid-19 is recognized as a type of disease that causes a Public Health Emergency. And secondly, that this condition creates an obligation to carry out countermeasures in accordance with the provisions of the legislation.

With the stipulation of Community Emergency Conditions, then through the PP, the government then establishes the PSBB policy. In the hierarchy of laws and regulations, PP no. 21 of 2020 was formed based on the norms regulated in Article 60 of Law Number 6 of 2018 concerning Health Quarantine (Health Quarantine Law). Regarding the purpose of PSBB, the General Provisions of the law explain: "Large-Scale Social Restrictions (PSBB) are restrictions on certain activities of residents in an area suspected of being infected with disease and/or contaminated in such a way as to prevent the possibility of spreading disease or contamination".

The PSBB policy is only one option in the context of taking action to mitigate risk factors in the region in a Public Health Emergency situation. Other options are home quarantine, regional quarantine, or hospital quarantine. Which steps are taken by the government must be based on epidemiological considerations, the magnitude of the threat, effectiveness, resource support, operational technical, economic, social, cultural, and security considerations. The official authorized to determine this is the minister who carries out government affairs in the health sector (Minister).

PSBB is part of the Public Health Emergency response which aims to prevent the spread of the disease that is happening between people in a certain area. The implementation of the PSBB coordinates and cooperates with various related parties in accordance with the provisions of the legislation.

Article 59 of the Health Quarantine Law stipulates that PSBB measures at least include: a) Holidays from schools and workplaces; b) Restrictions on religious activities; and/or c) Restrictions on activities in public places or facilities. In addition to the actions regulated in the Law, the PP related to PSBB further stipulates that "with the approval of the Minister who administers affairs in the health sector, the Regional Government may carry out PSBB or impose restrictions on the movement of people and goods for a particular province or district/city. " This arrangement has implications for the centralization of authority in policy making related to PSBB actions. The regional

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government therefore needs the minister's approval in advance to take PSBB steps in the context of preventing Covid-19.

The government in setting PSBB in the form of "holidays from schools and workplaces as well as restrictions on religious activities" must continue to take into account the educational needs, work productivity, and worship of the population. Meanwhile, PSBB in the form of "restriction of activities in public places or facilities" must pay attention to the fulfillment of the basic needs of the population". The implication of this arrangement is that the government will of course be very selective in setting PSBB in certain areas, especially for PSBB in the form of activities in public places or facilities.

In addition, local governments and the private sector must also comply with the PSBB set by the minister. It is even possible for company employees in a certain area to be dismissed if it is stipulated, and it must be obeyed by the company where they work.

Technically, the implementation of PSBB is proposed by the regional head to the minister. The Minister then set the PSBB after taking into account the considerations of the Chief Executive of the Task Force for the Acceleration of Handling Covid-19. In this case, the Chief Executive of the Task Force can also propose to the minister to carry out PSBB in certain areas. If the proposal is accepted, then the regional head in the region is obliged to implement the PSBB.

In addition, with the stipulation of Covid-19 as a type of disease that causes a Public Health Emergency, it also has implications for criminal law enforcement. Anyone who does not comply with or hinders the implementation of the PSBB can be charged with criminal sanctions. This is certainly different from the previous condition, when social distancing was only an order from the authorities that was an appeal.

Article 93 of the Health Quarantine Law states that "Everyone who does not comply with the implementation of the Health Quarantine (including in this case the PSBB) and/or obstructs the implementation of the Health Quarantine causing a Public Health Emergency shall be punished with imprisonment for a maximum of 1 (one) year and/or or a maximum fine of Rp. 100,000,000.00 (one hundred million rupiah)". This also means that the Indonesian National Police (POLRI) institution is obliged to make efforts to prevent criminal acts against such acts.

However, in implementation in the field, POLRI is certainly expected to continue to prioritize steps that are preventive in nature and uphold the values of Human Rights (HAM) in taking action. Incidents in other countries that display violence by law enforcement officers against the community in carrying out control related to the spread of Covid-19 are very concerning and need to be anticipated early on. The National Police Chief is expected to be able to specifically provide direction to his staff regarding procedures for prosecution, investigation, and investigation of criminal cases related to the implementation of Health Quarantine.

The House of Representatives (DPR) can also play a role in providing guarantees for the fulfillment of community rights related to the PSBB policy. As an institution that has a supervisory function, the DPR needs to coordinate with the government so that the rights of the community regarding the fulfillment of basic needs can be guaranteed during the implementation of the PSBB. Likewise, the supervision of the performance of the Indonesian National Police in carrying out action and control of the community in the field in the context of implementing law enforcement against violations of the implementation of health quarantine.

In the latest developments after the issuance of Minister of Health Regulation Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions (PSBB),

DKI Jakarta became the first area to submit a proposal and it was approved by the Minister of Health for the implementation of PSBB. Banten Province has also been designated as a PSBB area. Minister of Health Regulation Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions (PSBB) provides a slight addition to the scope of PSBB implementation. Article 13 paragraph (1) stipulates that the implementation of PSBB in addition to covering school and work holidays, restrictions on religious activities and restrictions on activities in public places or facilities, PSBB can also include restrictions on social and cultural activities, restrictions on transportation modes; and restrictions on other activities specifically related to defense and security aspects.

## CONCLUSION

Based on the discussion of this research, it is concluded that the Governor's Regulation Number 88 of 2020 concerning the Implementation of Large-Scale Social Restrictions (PSBB) in Handling Corona Virus Disease 2019 (Covid-19) which was issued first before the regional regulations that were formed later needed to be updated in substance into a Regional Regulation and issued back to the new Governor Regulation. This step is taken to ensure the synchronization of the national legal system by means of vertical synchronization and horizontal synchronization. In Government Regulation No. 38 of 2007 which is a derivative of Law no. 32 of 2004 regulates the division of government affairs between the Government, Province, and Regency/City. In Article 2 paragraph (4) Government Regulation no. 38 of 2007 stated that 31 government affairs were decentralized to the provinces and districts/cities, one of which was health affairs whose authority could be delegated from the center to the regions. So, it is from this that Governor Regulation Number 88 of 2020 concerning the Implementation of Large-Scale Social Restrictions (PSBB) in Handling Corona Virus Disease 2019 (Covid-19) in DKI Jakarta Province is a delegation of authority given by the Central Government to Regional Governments.

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