

HUMAN RIGHTS PROTECTION ANALYSIS IN IN A BIG SCALE SOCIAL IMPLEMENTATION

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Abstract

Every human being in this world has rights and obligations that must be carried out. For human rights itself has a fundamental meaning. It is in the position of humans as social beings that human rights issues become very complex. Many people clash with one another, one group with another group. Every human being has rights and freedoms. In group life this right is taken or delegated to the group for the arrangement of living together. In its development, abstract community groups need to be elaborated in a more concrete concept, so that they have legal force in their implementation. Since the first patient of COVID-19 in Indonesia was announced by President Jokowi on March 2nd, 2020, the national media coverage of this outbreak seemed never to recede. Various elements of the community also did not escape commenting on the steps taken by the Government in the midst of this emergency, especially when the President chose to impose Large-Scale Social Restrictions from March 31st, through Government Regulation No. 21 Year 2020. However, what exactly is the impact of Covid-19 on human rights. This study becomes interesting to see how people's rights in dealing with the impact of Covid-19.

Keyword: Protection, Human Rights, Social Application, Large Scale

INTRODUCTION

The twentieth century saw both some of history's worst violations of human rights and also some of the most spectacular international advances in their protection¹⁻². However, efforts in upholding and protecting human rights themselves are not as easy as turning the palm of the hand. As a state of law, Indonesia guarantees human rights protection in Republic of Indonesia Law Number 39 Year 1999. The contents of the Act emphasize that human rights are a set of rights inherent in the nature and existence of humans as God's creatures and are His gifts, which must be respected, upheld and protected by the state, law, government, and everyone for the sake of honor and protection of human dignity. The declaration itself did not create new rights, but 'reaffirms rights that are instrumental to the defence of human rights'³. In addition, the establishment of the National Commission of Human Rights in Indonesia is also one proof of the seriousness of the government in ensuring the establishment of supremacy. The National Commission of Human Rights here functions as an institution to uphold human rights protection in Indonesia. On the other hand, Indonesia was also elected as a member of the UN Human Rights Council for the period 2020-2022. This condition should strengthen human rights enforcement in Indonesia⁴.

Workers in various sectors, including laborers were one of the groups most affected during the Covid-19 epidemic. The latest Amnesty International Indonesia latest news shows that at least wage cuts and layoffs by companies affected by Covid-19 were the most striking effects during

the pandemic this goes. Likewise, the impact on human rights in Indonesia shows that the negative impact of this pandemic is felt most by labor-intensive sector workers. Physical Distancing and Work From Home policies, apparently raises new problems because not all workers have this privilege. They are also threatened with wage deductions and leave allowance by companies if they are not present at work. Current data from the Ministry of Manpower as of April 20th, 2020 revealed that 2,084,593 workers from more than 100,000 companies had been severely affected by Covid-19. From that number, around 1.5 million of them were from the formal sector while the rest were contributed by informal sector. During this epidemic, the Government must be able to guarantee access to social security for workers who lost income during the Covid-19 pandemic so that they can survive properly. The assistance must include access to food, health services, housing, clean water and sanitation, to enable them to comply with large-scale social restrictions policies⁵.

The impact of Covid-19 also affected informal workers, workers with daily wages and low-wage workers, because most of these workers were not protected by the social security system. Data from the Indonesian Institute of Sciences in 2019, 57 percent of Indonesia's population works in the informal sector, and most of these informal workers are not protected by the state social security system. The competent government must ensure that companies comply with international human rights standards if indeed termination of employment is forced. Loss of income due to layoffs must be protected by Government assistance in accordance with existing criteria in the right to social security. Because, Human rights are now part of the vocabulary of international politics, there is recognition that respect for human rights can help a country's social and economic development⁶.

With the development of human rights and anti-discrimination law, courts have increasingly been called upon to protect public⁷. Workers from all sectors both formal and informal have the same right to be able to work from home and for those who cannot work from home, the Government must issue practical and effective guidelines for workers and companies to ensure they provide the necessary equipment and facilities for protecting workers from transmitting the Covid-19. On April 1st, 2020, President Joko Widodo has signed a government regulations on State Financial Policy and Financial System Stability, which was decided by the government to increase spending and budget financing to deal with the impact of Covid-19, amounting to 405, 1 trillion rupiahs.

Table 1: Budgets address the impact of Covid-19

No	Priority	Description	Score (Trillions of rupiah)
1.	Health	Medical personnel incentives and health care spending	75
2.	Social Protection	Social Safety Net	110
3.	Support for Industry	Taxes, Import Duties, People's Business Credit	70.1
4.	Economic Recovery	National Economic Recovery Program	150
Total of Additional Expenditures and Budget Financing			405.1

Source: Data processed from Yossy Girsang, 2020

If you look deeper from the assessment conducted by the Minister of Finance together with Financial Sector Stability Committee it was also mentioned that household consumption which was originally based on the assumption of 2020 State Budget at 5.0% fell to 3.22% in the heavy scenario and became only 1.6% with very heavy scenarios. As an illustration, there are currently 7 million Indonesian citizens who are still unemployed, and the 5% economic growth is equivalent to creating jobs for 2 million to 2.5 million Indonesian citizens. This shows that legal institutions, in particular the independence of the judiciary, are very important in protecting human rights⁸.

It means that by a severe scenario where the economy only grows 2.3% it will only open employment for 920 thousand to 1.2 million citizens. And with a very heavy scenario that is minus 0.4% the economy will mean that people will lose about 160 thousand to 200 thousand people compared to 2019, not including the informal sector that works to earn daily income⁹. Although the results of the assessment conducted by the Financial Sector Stability Committee look so frightening, Sri Mulyani emphasized that this assumption would be a benchmark so as not to let the worst or very severe scenario occur. That is why the government is trying to issue some policies and stimulus to reduce the impact of the Covid-19 pandemic outbreak¹⁰.

LITERATURE REVIEW

Basic Concepts of Human Rights

The courts now have a mandate to remedy breaches of human rights by public authorities, to read and give effect to legislation robustly to comply with human rights¹¹. The notion of Human Rights stems from Thomas Aquinas' natural law theory. He distinguishes law into four things, namely:

- a. *lex aeterna* (the law of the ratio of God that cannot be captured by the human senses).
- b. *lex divina* (the law of the ratio of God that can be captured by the human senses).
- c. *lex naturalis* (natural law, which is the incarnation of *lex aeterna* into human ratios).
- d. *lex positivist* (application of *lex naturalis* in human life in the world).

According to Hugo De Groot or Grotius, the source of law is a benchmark to distinguish human traits from other creatures, that is, by the ability of reason it has. While natural law is a law that appears as natural man through his intellect, but God gives power and binds him¹². Grotius made the basis for restrictions on the laws made by humans. The limitation is done by the formation of a pillar of natural law, namely: all the principles of the *kupunya* and you have. Belonging to others must be taken care of; the principle of loyalty to promises; the principle of compensation and the principle of the need for punishment for violating natural law. Thus the law will be obeyed because the law will provide justice in accordance with its portion.

In subsequent developments, John Locke in his book "The Second Treatise of Civil Government and a Letter Concerning Toleration" Locke put forward the idea that all individuals are given inherent rights to life, freedom and ownership, which are their own and not can be revoked by the state¹³. The Nazi Holocaust was one of the grave violations of human rights which had not yet been declared. And during World War II as a gross violation of humanity during its historical period. Davidson said that the movement to revive natural rights with the design of the instrument. Evolution of Thought and History of Development of International Human Rights about human rights¹⁴. The same thing was stated¹⁵ that human rights are rights owned by every human being attached to or inherent in him because he is a human being. This right is the most fundamental right (fundamental) so that humans can develop in accordance with their dignity. Law Number 39 Year 1999 concerning Human Rights states that human rights are basic rights that are inherently

inherent in human beings, are universal and lasting, therefore they must be protected, respected, maintained, and must not be ignored, reduced, or seized by anyone.

The state must have a commitment to the protection of human rights defenders and those with opinions¹⁶. Inside of Law Number 39 Year 1999 Article 1 number 1 on Human Rights describes the definition of human rights as a set of rights inherent in the nature and existence of human beings as God's creatures and is a gift that must be respected, upheld and protected by the state, law, government, and everyone for the sake of honor and protection of human dignity. The nature of respect and protection of human rights is to maintain the safety of human existence as a whole through a balanced action, namely the balance between rights and obligations, as well as between individual interests and the public interest¹⁷. This is intended to achieve mutual respect between the rights of each person. In accepting a human right, in that right is accompanied with a burden that is a human obligation to protect and respect the rights of others. The key features of the human rights defender protection regime it derives its 'principles, norms, rules, and decision-making procedures around which¹⁸.

The United Nations (UN) General Assembly's adoption of the 1998 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.5 DUHAM or Universal Declaration of Human Rights proclaimed by the United Nations (UN) on December 10th, 1948 divides human rights into several types, namely personal rights (personal rights), legal rights (protection of legal guarantees), rights subsistence (guarantee of resources to support life) as well as economic, social and cultural rights¹⁷ :

- a. Personal rights, legal rights and civil and political rights, contained in Article 3-21 contains:
(a) The right to life, freedom and personal security; (b) The right to be free from slavery and servitude; (c) The right to be free from torture or cruel, inhuman or degrading treatment or punishment; (d) The right to obtain legal recognition everywhere personally; (e) The right to effective legal forgiveness; (f) The right to be free from arbitrary arrest, detention or disposal; (g) Right to move; (h) Right to asylum; (i) The right to nationality; (j) The right to marry and form a family; (k) Right to own property rights; (l) The right to freedom of thought, conscience and religion; (m) The right to freedom of thought, conscience and religion; (n) Right to freedom of thought and expression; (o) Right to assemble and associate and so on.
- b. Economic, social and cultural rights include: (a) The right to social security; (b) Right to work; (c) The right to the same salary for the same work; (d) The right to join trade unions; (e) The right to rest and leisure; (f) The right to an adequate standard of living in the health and welfare sector; (g) Right to education; (h) The right to participate in the cultural life of the community.

Principles of Human Rights

The implementation of human rights must be based on principles agreed upon by the international community. This is to suppress the occurrence of human rights violations. The principles of human rights in international human rights law are¹⁹ :

- a. The principle of equality

Put all people born free and have equality in human rights. Equality requires equal treatment, where in the same situation must be treated equally, and in different situations treated differently;

b. The principle of discrimination,

That is an important part of the principle of equality. If everyone is equal, then there should be no discriminatory treatment. Discrimination is a gap in the difference in treatment from the treatment that should be equal;

c. Positive obligation to protect certain rights.

The state must not intentionally ignore rights and freedoms and have a positive obligation to actively protect and ensure the fulfillment of those rights and freedoms. The rights in question are human rights, while the freedom in question is anything that becomes permissible treatment without any specific sanctions against it. Rights are divided into rights that can be restricted (derogable rights) as well as rights that cannot be restricted (non-derogable rights)²⁰. The limitation of the rights referred to above can be in the form of restrictions that are used to exercise control, because with it the state is in a state of peace in order to provide higher rights for its citizens. While rights are not restricted, because those rights really cannot be restricted, such as the right to belief and thought. Or rights which if not restricted are not will be indicated to cause violations of rights to other rights.

d. Civil Rights and Citizenship

Human rights are efforts to treat all people according to their dignity. The term equality is vigorously promoted in order to realize this. Equality which indicates that every human being has a portion of each for respect and proper treatment of his life. Treatment according to this dignity which then encourages the avoidance of discriminatory attitudes that discriminate against all people based on gender, social class, religion and ethnicity.

The application of the above principles in the administration of government is intended to reduce discrimination, especially for small groups of people who are not considered by the government. Therefore, in order to avoid violating human rights, the state must uphold the above human rights principles. In order to suppress discriminatory behavior, one alternative that can be applied is the political framework of citizenship²¹, namely the structure and format of politics must be based on the basic rights of citizens, especially the right to speak, gather and organize. The politics of citizenship also fights for other basic rights, including economic, social and cultural rights which emphasize the independence and participation of citizens, so that all forms of discrimination have no place.

RESEARCH METHODS

This study uses a qualitative method with a literature research approach (library research), which is collecting data or scientific papers relating to research objects or collecting data that is library. This study seeks to explore the policies of the Government of Indonesia during the Covid-19 pandemic. The main objective is to produce an in-depth analysis that focuses on certain phenomena²². As Creswell explained that qualitative research is:

"Qualitative research is an inquiry process of understanding based on distinct methodological traditions of inquiry that explore a social or human problem. The researcher builds a

complex, holistic picture, analyzes words, reports detailed views of informants, and conducts the study in a natural setting”.

Understanding the explanation above, that qualitative research is a research process to understand based on the tradition of a particular research methodology by investigating social or human problems. The author uses some of the latest material including the latest manuscripts about Covid-19 in the world and Indonesia, the latest data from Covid-19 case analysis, organizational websites (professional, health and government), formal news (online). As well as carrying out analytic interpretations with strict verification, the aim is to see the compatibility between the manuscript and the context of the case that is happening²³.

RESULT AND DISCUSSION

Our struggle for human rights must be grounded in a rejection of the oppression of any stratum of societies²⁴. However, there is sometimes a gap between what defenders do which can lead to ineffective protection and support measures²⁵. Since Covid-19 first patient was discovered in Indonesia and announced by President Jokowi on March 2nd, 2020, the news in several national media about this outbreak seemed never to recede. Various layers of society also commented on the steps taken by the Government in the midst of this emergency, especially when the President imposed Large-Scale Social Restrictions since March 31st through Government Regulation No. 21 Year 2020. What is interesting to discuss is, is there any impact of COVID-19 on human rights. Amnesty International Indonesia notes that at least four human rights have been affected by this global pandemic²⁶. Yet, critical gaps in knowledge and understanding remain²⁷.

Rights for Health

The right to a healthy environment began at the 1972 UN Conference on the Human Rights (principle 1 of the Stockholm Declaration)²⁸. Health workers are at the forefront in handling Covid-19, as we all know that our health workers lack personal protective equipment (PPE) and are forced to modify raincoats, plastic rubbish and various other materials to protect themselves when they assume. That condition means the right to their health is being threatened. The slow process of distributing PPE (personal protection equipment) in various areas potentially puts health workers at risk. Amnesty noted that there were at least 46 doctors and nurses who had died either from exposure to COVID-19 or fatigue due to long working hours. In addition, at the national level, several other medical workers have also been infected with the virus, including around 150 people in Jakarta²⁹.

Other findings state that the Government of Indonesia has not been transparent in releasing information related to the number of health workers infected with COVID-19, and in regard to the hospital where they work. This situation actually hinders the fulfillment of the right to health and the right to information as mandated by the International Covenant on Civil and Political Rights (ICCPR), which has also been ratified by Indonesia. According to article 12 (2) letter d of the International Covenant on Economic, Social and Cultural Rights (International Covenant on Economic, Social and Cultural Rights (ICESCR) and Paragraph 12 (b) General Comment Number 14 concerning Article 12 of ICESCR, which has been ratified Indonesia through Law No. 11 Year 2005, the state must strive to improve all aspects of environmental and industrial health, prevention, treatment and control of all infectious diseases, endemic, other diseases related to work, as well as the creation of conditions that will guarantee all services and attention. The right to health is also guaranteed in Article 4 of Law No. 36 Year 2009 concerning Health (Health Law) and

Article 9 (3) of Law No. 39 Year 1999 concerning Human Rights. In addition to health workers, another group that is also threatened by the right to health in the midst of this outbreak is a vulnerable group.

According to Article 55 of Law No. 24 Year 2007 concerning Disaster Management, vulnerable groups include elderly people; baby; toddler; children; pregnant or breastfeeding mothers and people with disabilities. They all must be given special protection. The government itself has tried to fulfill human rights in the health sector, this is in accordance with the explanation of the Coordinating Ministry for Economic Affairs, details of the use of the Budget as in Table 1, The first priority for health is 75 trillion rupiahs, especially for medical personnel incentives and handling expenditure health. The second priority for the social safety net will be expanded by 110 trillion rupiahs. The third priority is support to the industry valued at 70.1 trillion rupiahs (taxes, import duties). The fourth priority is budget financing support for the national economic recovery program of 150 trillion rupiahs.

In relation to the Health budget of 75 trillion rupiahs, the details are as follows:

- a. The budget of 65.8 trillion rupiahs is used for health care expenditure, such as:
 - Medical Devices: Personal Protective Equipment (PPE), Rapid test, Reagents
 - Health infrastructure
 - HR support.
- b. Budget of 5.9 trillion rupiahs for incentives: central medical personnel (1.3 trillion rupiahs) and regional medical workers (4.6 trillion rupiahs).
- c. The availability of medical devices, consisting of:
 - For PPE, there are 28 companies that produce PPE with a production capacity of 17,360,000 pcs / month.
 - Gown/Surgical Gown, 5 companies with a production capacity of 508,800 pcs/ month.
- d. Availability with the Pharmaceutical and Fitofarmaka Industries:
 - There are 206 pharmaceutical companies: 4 state-owned enterprises (PT. Kimia Farma Tbk; PT. Indofarma Tbk; PT. Biofarma Tbk; PT. Phapros Tbk), 178 private industries, 24 multinational companies (MNC).
 - National drug needs: 76% have been able to be fulfilled by the domestic pharmaceutical industry, the remaining 24% are patent medicines and high-tech must be imported.
 - There are 8 pharmaceutical industries which are able to produce high doses of vitamin C with a capacity of more than 3 million tablets per month (Kalbe Farma which has the largest capacity of 15 million tablets / month)
 - Natural immune maintenance supplements, there are 16 industries with a total production of 72 million capsules / month.

Even though there are still many shortcomings here and there, the government has tried to fulfill the health rights of both health workers and the people affected by Covid 19.

Rights for Information

The next human right that is affected in the middle of the Covid-19 epidemic is the right to information. In article 19 (2) of the International Covenant on Civil and Political Rights (ICCPR)

and Paragraph 18 General Comment No. 34 with Article 19 of the ICCPR, states are obliged to guarantee the right of everyone to seek and receive information, including information held by public bodies. The state is also obliged to guarantee accessibility to health information in accordance with article 12 (1) ICESCR and Paragraph 12 (b) General Comment No. 14 of Article 12 ICESCR.

Information that can threaten the livelihood of many people, including information related to epidemics and epidemics, must also be announced by public authorities that have the authority, in accordance with article 12 of the Information Commission Regulation No. 1 Year 2010 concerning Public Information Service Standards. This information disclosure is important and needed by the community, especially by health workers who are at the forefront in handling outbreaks. Delay and lack of transparency of information regarding the handling of Covid-19 can endanger health, because the public and health workers are unable to take maximum preventative measures.

In handling a pandemic, valid, reliable and continuously updated information about the pandemic situation and its handling must be fulfilled and given to the public without exception. This is very important because in the absence of vaccines, the safety of citizens depends on information about efforts to prevent and control individual behavior. However, at the beginning of the spread of Covid-19, the government actually did the opposite. The involvement of the State Intelligence Agency through silent operations, the delivery of incomplete information, the denial and inconsistency of statements and information from political elites and state officials on the vulnerability and handling of Covid-19 emergencies in Indonesia actually exacerbated the crisis and created uncertainty, uncertainty in handling the crisis³⁰.

The impression is that the government continues to cover up and monopolize information about the distribution of red areas which makes it difficult for not only the public but also local governments to take effective and adequate preventive measures. The closure of information about the distribution of Covid-19, in fact has given the wrong signal and direction to the public, lowered vigilance that could result in the spread of epidemics and worsen the disaster. Seen in several cases that endanger health and human rights violations that are the impact of not fulfilling the right to information including procedures for using disinfectants, the use of drugs and supplements that are not recommended, violations of privacy to discriminatory practices such as refusal of funeral bodies exposed by Covid-19.

While the obligation to convey information from a number of regulations such as article 154 Jo. 155 Law No. 36 Year 2009 concerning Health which states that the Government periodically determines and announces the types and spread of diseases that are potentially contagious and spread in a short time, as well as Article 9 paragraph (2) letter d of Law Number 14 Year 2008 concerning Openness of Public Information, Article 19 of the Law Law number 12 Year 2005 concerning the International Covenant on Civil and Political Rights, and Article 14 of Law 39 Year 1999 on Human Rights which in essence is a guarantee of the right of everyone to seek, obtain, possess, store, process, and convey information

Rights for Privacy

The right to privacy also threatens communities affected by the Covid-19 outbreak. In some media reports, corona positive patients feel pressured because of the massive media coverage of

their residence locations delivered by public officials. Not to mention, the impact of the news also affects their immediate environment such as family, friends and neighbors. In fact, Article 17 of the ICCPR and Law No. 14 Year 2008 concerning Public Information Openness have guaranteed information and personal rights. Exceptions to be opened can be given if related to the history, condition of family members, physical and psychological health care of a person. Thus, the open disclosure of the identity of corona sufferers is classified as a violation. The right to be free from discrimination and stigmatization is the right of every citizen. The Covid-19 pandemic produced a wave of stigma and discrimination in certain groups, one of which also happened to health workers. They get a negative stigma from the public as a virus carrier because their daily work carries a high risk of exposure to the virus. This is evident from the events of nurses who were driven out of their homes³¹. Then health workers who were rejected by his neighbors, to the rejection of the funeral of a nurse's body in Semarang³².

The stigmatization was born as a result of inaccurate and partial information dissemination by the government that resulted in the public receiving incomplete information and taking their own wrong attitude. This reiterates the impact of violations of the right to information on other dimensions of privacy rights. The Covid-19 pandemic is a test for the Indonesian nation, society, government, community and individuals. Respect for human rights across the spectrum, including economic, social, cultural, and civil and political rights, will be fundamental to the success of the public health response and recovery from a pandemic. However, Covid-19 Global Pandemic cannot and cannot be a reason for every country to make policies that are repressive and violate human rights. Instead, this is used as an evaluation to revisit the Covid-19 event as a public health issue that impacts on social welfare issues. Especially in issuing policies, it must have a long-term impact on civil liberties in post-pandemic societies after the real threat is viruses not citizens.

Rights for Work

With the implementation of government policy through Government Regulation No. 21 Year 2020 concerning Large-Scale Social Restrictions in the framework of Accelerating Handling of Covid-19 with a policy of keeping social distance (physical-distancing) and working from home (work from home), workers / laborers in the formal to informal sectors, from Home industry workers as well as micro, small and medium enterprises (MSMEs), to casual daily workers and other low-income workers are very vulnerable to the risk of wage cuts, rejection of leave rights, laid off without pay, until termination of employment.

If the company chooses to cut leave for workers who are not included as a way of controlling Covid-19, the Government is obliged to ensure that the company continues to pay workers' wages, in accordance with Paragraph 41 General Comment No. 23 Year 2016 concerning the right to work. Workers experiencing reduced income from illness also have the right to access benefits (cash and non-cash), which includes health, water and sanitation services, and food according to paragraphs 2 and paragraph 59 General Comment No. 19 Year 2007 concerning the Rights for Social Security. In handling emergency conditions whatever the cause and however the resulting impact may not violate the principles of human rights. In the midst of concern, cooperation, solidarity and humanity should be made into a shared spirit. Because, it is necessity of complementing

reactive measures with efforts to build a 'safe and enabling environment' for the defence of human rights³³.

CONCLUSION

The "physical distancing" and "work from home" policies have created new problems related to the spread of false information, freedom of expression, cut wages and dismissals. The government must be careful in taking steps that have human rights implications, including the right to health workers, the right to information, the right to workers and the right to social security. Several online media highlight important aspects relating to workers, workers and other affected groups. It was recorded that at least 53 people have been criminalized because they were accused of spreading fake news, insulting the President and the Government regarding Covid-19. Media plays an important role so that people get accurate information and the steps taken by the Government in responding to Covid-19. Their capacity to operate should not be too limited and journalists as human rights defenders should not be subject to criminal sanctions or sanctions for carrying out legitimate activities, including not having their wages deducted, let alone being dismissed for pandemic reasons without negotiating with trade unions.

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