

ANALYSIS OF THE LARGE SCALE SOCIAL RESTRICTIONS IMPACT ON HUMAN RIGHTS

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ANALYSIS OF THE LARGE SCALE SOCIAL RESTRICTIONS IMPACT ON HUMAN RIGHTS

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ABSTRACT

Indonesia is one of the countries affected by the Covid-19 pandemic, the government adopted a policy of enacting Large Scale Social Restrictions (LSSR) since March 31st through Government Regulation No. 21 of 2020. What exactly is the impact of Covid-19 on human rights? This question becomes interesting to study, where at the time the Large-Scale Social Restrictions came into force, a lot was related to the fulfillment of human rights that must be considered by the government. It is expected that in the implementation of the LSSR the government will pay attention to, respect and promote human rights, the values and principles of the rule of law and democracy in every policy issued and implemented in the handling of the Covid-19 pandemic. international ratified by the government. The House of Representatives and independent institutions such as national human rights commission must also carry out their oversight functions actively. The function of parliament and independent state institutions becomes important when there are restrictions on human rights, to ensure there is no abuse by the government.

Because the opportunity for human rights violations committed by the government in limiting of large scale social is quite open. The government must not use a repressive and anti-criticism approach in handling Covid-19, must place Covid-19 handling as a public health emergency problem, and all problems are resolved with a health and medical approach, support for appropriate and effective social safety nets is needed. accessed by the public as well as providing appropriate information, providing support and protection for all available medical personnel, giving priority to supporting health facilities both for hospitals and the community in combating Covid-19 without discrimination.

The purpose of this study is to analyze the impact caused by the adoption of Large Scale Social Restrictions on Human Rights.

Key word: impact, restrictions, social, human rights, human

1. INTRODUCTION

Enforcement of Large Scale Social Restrictions since March 31st through Government Regulation No. 21 of 2020. Taken by the government after the first patient 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. However, what exactly is the impact of the implementation of this Large-Scale Social Restrictions (LSSR) on human rights? [1]

In a crisis situation, human rights can indeed be limited. However, the limitation must use the conditions determined by international human rights law, including declaring an emergency if necessary. It is precisely the absence of response when the first outbreak in Indonesia, or the absence of an effective response is a violation of human rights precisely the right of the social economy and its own culture. Democracy is the system most likely to guarantee human rights, but not all democracies are genuine. Its authenticity will be tested in times of crisis like this. Is it from and for the people or from the people and for the elite. Unclear policies regarding non-essential or less essential public gatherings and the lack of an essential definition, the absence of social security for casual workers and small businesses that need to quarantine and so that they are able to bear the impact of social distancing violates human rights, signifying the quality of democracy we are not qualified and also undermine public trust.

Though this trust is very essential especially when resources are limited. Iran is an example of small resources and no public trust. In Indonesia, what finally happened was to take over the stage and throw a mistake between the Central Government and the Regional Government.

Human rights and democracy can also be interpreted as the result of human struggle to defend and achieve human dignity, because to date only the conception of human rights and democracy has proven to be the most recognizing and guaranteeing the dignity of humanity. The state here is democratically obliged to issue all laws and other legal instruments so that the implementation of human rights can be upheld democratically in accordance with applicable regulations. In a democratic society, civil rights and freedoms are respected and upheld. However the need for individual and social freedom must be met. Individual freedom refers to the ability of humans as individuals to determine for themselves what to do in this life.

With this freedom, someone can take the initiative to take the best steps to develop themselves and their national society. By social freedom is meant as a space for the exercise of individual freedom. Strict restrictions imposed by government or military institutions on the lives of citizens can damage individual freedom. [2] But freedom still has limits. A person's freedom will be limited by the freedom of others. Therefore they must realize and respect the rights of others who are supported by a high level of intellectual, moral and social awareness within themselves in order to maintain and build a democratic society. [3]

Related to the form of good human rights restrictions in the Covid-19 pandemic period must be in accordance with international human rights standards and especially also the policy of mitigating the economic, social and cultural rights of social distancing to vulnerable people. Policies that can be carried out and are under Operational Control, maximize the operation of private hospitals with good facilities for the Corona case, cover or freeze debt installments and rent houses for certain social classes, expand Rapid tests, mobilize the National Police and Indonesia National Army to ensure the public stands up with a distance of 1 meter between each other and delivering food for vulnerable people who must quarantine themselves, mass tests followed by strict quarantine policy, and so forth. And of course the lattice is how to limit human rights according to international standards, so as not to be excessive. [4]

The government needs to restore public trust that has been eroded since the beginning. Without government assertiveness and comprehensive policies that unite the central government and regional governments, we will lose a lot in this crisis, maybe even the hard won democracy we have now. The Ministry of Manpower gave a statement that the impact of the Covid-19 pandemic caused 2 million workers in Indonesia to be laid off and laid off. From this number, the Ministry of Manpower stated that East Java had the highest number of layoffs, at 59,270 people. That number has been going on long before the Large Scale Social Restrictions policy was implemented in Surabaya, Sidoarjo and Gresik. Through East Java Governor Regulation No. 18 of 2020 concerning LSSR, East Java Governor, Khofifah Indar Parawansa stated that the three cities are designated as red zone areas which are obliged to implement LSSR. In addition to ensuring a large impact on the industrial sector, the government does not pay enough attention to the impact of the LSSR for workers who are prone to layoffs and the lack of job security. All regulations that eliminate the right to work such as the LSSR should be made based on a right-based approach. If not, then it is tantamount to harming human rights, lest the government neglect labor rights and the attitude of companies that often use the pretext of Covid-19 to lay off employees. [5]

The company should be transparent and accountable. Is the company really losing money from the pandemic? What is the loss? LSSR is a policy from the center that overrides negotiations on the fate of workers. This can be seen in several circulations regarding protection of workers, but the content does not even favor workers. The company instead later obtained the authority to cut salaries and lay off workers. Policies on health protocols during work are also minimal. The government prohibits traders from selling, the police regulates markets, workers are also laid off. But the government does not provide life guarantees for them. Then if they can't work, what do they want to eat? That's the same as injuring Human Rights. Basically, several articles in laws and other regulation products regulate community rights during disaster management. Article 4 (3) of Government Regulation No. 21 of 2020 is said to be interpreted as the basis of the policy for determining large-scale social restrictions to ensure and provide guarantees for meeting the basic needs of the community. That needs to be done even though the phrase used is paying attention.

2. THEORITICAL REVIEW

2.1. Opinions on Human Rights

Here are some opinions about human rights, although there are differences but basically have the same principles: [6]

1. Thomas Jefferson

Human Rights are human freedoms that are not granted by the State. This freedom comes from God Almighty and is attached to human existence as individuals. While the State is present to protect the implementation of human rights. [7]

2. Mariam Budiardjo

Human Rights are the rights that are owned by humans and have been obtained together with his birth and presence in social life. This right is in human beings regardless of nation, race, religion, class, gender, because it is fundamental and universal. Basic human rights that all people must have the opportunity to develop in accordance with their talents and ideals. [8]

3. Universal Declaration of Human Right

In this declaration stated Human Rights are natural obtained by every human being because of God's gift, and can not be separated from human nature. Therefore every human being has the right to obtain a decent life, freedom, salvation and personal happiness. (What is Democracy magazine, 20)

4. Philosophers of the Aufklärung era of the 17-18th century

Human rights are natural rights of God's gifts which are owned by all human beings and cannot be revoked either by the community or by the government.

5. People's Consultative Assembly – Republic of Indonesia Decree Number XVII / MPR / 1998. That human rights are basic rights inherent in human beings that are natural, universal and eternal as a gift from God Almighty that functions to ensure the survival, independence, development of human beings and society and cannot be disturbed and ignored by anyone.

2.2. History of Human Rights in Indonesia

The struggle in upholding human rights in Indonesia began since the colonialism. This struggle is not merely a struggle against expelling invaders, but also a struggle to uphold Human Rights. During the Dutch colonial period, Indonesian society was divided

into three social strata. The differentiation of classes in this society has broad implications. There is discrimination in all fields of economic, political, social, educational and legal life. The three social strata are: European society as the first class, the East Timorese community (China, Indian India) as the second class and the Irlander community as the third class society. This human treatment based on discrimination is contrary to human dignity and dignity as God's equal creature. Such conditions encourage warrior figures to take up arms. The milestones of the struggle for human rights are as follows:

- a. It marked the National Awakening on May 20, 1908
- b. The Emergence of Youth Oaths on October 28, 1928
- c. With the reading of the Proclamation of Independence on August 17, 1945; which is the culmination of the struggle of the Indonesian people to abolish colonialism and the enactment of the 1945 Constitution, which contained recognition of human rights.
- d. Then the Federation Republic of Indonesia Constitution and the 1950 Constitution that implicitly included the concept of Human Rights.
- e. In 1993 a Human Rights Commission was formed based on Presidential Decree Number 50 of 1993.
- f. In 1998 Human Rights made progress by being included in the Broad Guidelines of the State Policy.

2.3. Various Human Rights Enforcement Efforts in Indonesia

Objectively, the protection and enforcement of human rights between one country and another is the same, but subjectively, the implementation is not the same, meaning that there is an equal nature of what should be protected and regulated, but at the same time there are differences in the perception of Human Rights between countries one with another [9]. This difference is caused by the ideological, political, economic, socio-cultural background and the differing national interests of each country.

In Indonesia we can see the bias between the New Order era and the Reformation era. During the reform era, the struggle for the enforcement and protection of human rights is more hopeful. Several attempts made by the government, social organizations and NGOs have shown progress compared to the New Order era, although the results are still far from expected. Various efforts in the protection and enforcement of human rights have begun to be pioneered and deserve to get appreciated. The enforcement and protection of human rights in Indonesia used to be so chaotic and even considered to be very heavy in the history of the Indonesian nation's journey when compared to current developments would be very much different [10]. Protection of Human Rights can be manifested in various forms including: a) Studying together and discussing in understanding Human Rights; b) Learn the rules about Human Rights; c) study the role of human rights institutions; d) Understand and implement Human Rights in their respective environments so that the community becomes orderly, peaceful and prosperous to; e) Respect the rights of others; f) Comply with applicable regulations; g) Prevent anti-pluralism actions; h) Encourage law enforcement officials to act fairly.

In the Arrangement of Human Rights in the constitution provides a very strong guarantee because changes and or deletions of one article in the constitution in Indonesian constitution undergo a very heavy and long process through amendments

and referendums. While its weakness is because the constitution only contains rules that are still global such as the provisions on Human Rights that are contained in the provisions of the 1945 Constitution of the Republic of Indonesia which are still global in nature. Protection of Human Rights through the establishment of human rights instruments and institutions. Various matters relating to efforts to prevent and protect human rights are carried out by individuals, communities and the state. The state has the duty to protect each of its citizens including their human rights as stipulated in the Preamble to the 1945 Constitution, which in essence is: a) Protecting all Indonesian people and all spilled Indonesian blood; b) Promote general welfare; c) Educating the life of the nation; d) Participate in carrying out world order based on freedom, eternal peace and social justice. [11]

In the 1945 Constitution amended to regulate human rights in articles 28 a through 28 j, then the Indonesian people through their representatives in the People's Consultative Assembly in the context of upholding and protecting human rights have ratified Decree Number XVII / MPR / 1998 on Human Rights. Furthermore, to protect and uphold Human Rights, the government has also ratified Law Number 39 of 1999 concerning Human Rights and Law Number 26 of 2000 concerning Human Rights Courts. [12]

3. RESEARCH METHOD

In this study using a qualitative descriptive approach, and the type of research used is library (library research), which is collecting data or scientific papers relating to research objects or data collection that is library. And studies carried out to solve a problem critically and deeply on library materials that are relevant to research. According to M. Nazir, literature study is a data collection technique using study studies of books, literature, notes and reports that have to do with the problem you want to solve. [13]

Literature study according to M. Nazir is an important step in research, where after a researcher determines the research topic, then next is to conduct a study related to the theory of the research topic. The researcher must collect as much relevant information from the literature as is related to the sources of the literature which can be obtained from books, journals, magazines, research results and other sources in accordance with the research theme. If you have obtained relevant literature, then it is immediately arranged regularly for use in research. Therefore in the literature study includes general processes such as identifying theories systematically, finding literature and analyzing documents that contain important information related to the research topic.

4. RESULTS AND DISCUSSION

4.1. The impact of the implementation of Large Scale Social Restrictions

The impact of the outbreak of Covid-19 has been felt by all Indonesian people, especially the enormous impact economically. If the Large-Scale Social Restrictions cannot guarantee the basic needs of the community, it is feared that the LSSR policy will not be maximally implemented. In meeting basic needs is one of the main substances that must be considered by the local government and the Minister of Health in determining the status of the LSSR. Of course this is related to health that must be a concern. Based on Government Regulation No. 21 of 2020 concerning Large-Scale

⁴ Social Restrictions, the government does not have to meet the basic needs of the population whose activities are restricted, but only guarantees its availability. But the government must be responsible for guaranteeing availability by the central government or regional government or it can be done together. The central government in dealing with the Covid-19 issue is very serious and has allocated funds of 110 trillion Rupiahs for the Social Safety Net program. [14]

In connection with the handling of the Corona Virus by the Government of Indonesia, the public needs to monitor the fulfillment of the ⁵ obligations of the state in fulfilling, protecting, and respecting human rights, including respecting democratic principles in handling the corona virus. In a health emergency situation which has a huge impact especially on economic and social issues, however, restrictions and actions and policies taken must be proportional, not to sacrifice human rights and democracy protected by the constitution. [15]

In this research study we see that the handling of the Covid-19 pandemic has an impact on human rights conditions. Based on available data, there are a number of steps taken by the state, starting from the executive level to the state apparatus not making human rights as the main basis in formulating policies or taking action in the field. The vulnerability that occurred in the Covid-19 pandemic was used as an excuse to violate human rights and threaten democracy. From the data collected, from several social media, there are several records of human rights violations during the Covid-19 pandemic outbreak, including:

1. Community's right to information

Information that is valid, reliable and must be kept up to date on the pandemic situation and how it is handled must be fulfilled by the government and given to the public without exception. This information is very important because related vaccines that have not been found, the safety of citizens depends on the information conveyed by the government regarding efforts to prevent and control people's behavior. At the beginning of the spread of Covid-19, what the government did was the opposite. The involvement of the State Intelligence Agency conveyed incomplete information, denial and inconsistency to the statements and information of political elites and state officials on the vulnerability and handling of Covid-19 emergencies in Indonesia which in fact exacerbated the crisis and caused uncertainty and uncertainty in handling the crisis.

Unclear information, has given the wrong direction to the community, lowered vigilance resulting in widespread outbreaks and worsened disasters. Some cases that endanger health and ²³ violation of human rights are one of the impacts of inaccurate information rights including disinfectant use procedures, the use of drugs and supplements that are not recommended, and then cause privacy violations to discrimination such as rejection of the funeral of a corpse exposed by Covid-19, all because the information received by the public is not complete and accurate.

The obligation to submit information by the government is regulated in article 154 of Jo. 155 Law No. 36 of 2009 concerning Health which states that the Government periodically determines and announces the types and spread of diseases that have the potential to be contagious and spread, as well as ²⁴ Article 9 paragraph (2) letter d of Law Number 14 of 2008 concerning Information Openness

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to the Public, Article 19 of the Law number 12 of 2005 concerning the International Covenant on Civil and Political Rights, and Article 14 of Law 39.1999 on Human Rights in essence guarantees the right of everyone to seek, obtain, possess, store, process, and convey information. [16]

2. Community rights to health standards

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The number of infected people worldwide has reached more than 121,000 since it was first announced by WHO as a global pandemic on March 11st, 2020. In Indonesia since it was announced by President Jokowi on March 2nd, 2020, for the first time the corona virus became the first case in Indonesia, since then news from several national media about this outbreak has always been a trending topic. Based on Article 154 of Law No. 36 of 2009 concerning Health, the government is obliged to announce areas that are the source of disease transmission to the public. The government is obliged to inform the type and distribution of corona viruses that have the potential to be transmitted and spread and must mention the area where the source of the virus is transmitted.

Health is one of the basic needs of humans, which has become a right and has been guaranteed constitutionally. The constitutional guarantee of the community's right to health has existed since the Constitution of the Federation Republic of Indonesia 1949 in which the State must always strive to earnestly advance public hygiene and health for its people. In the Provisional Constitution of 1950 (it is called UUDS), Article 40 of the RIS Constitution was adopted in Article 42 of the UUDS, which is in line with the 1948 Constitution of the World Health Organization (WHO), also asserting that obtaining the highest level of health is a human right each person. In Article 28H paragraph (1) it is stated that: "Everyone has the right to live in prosperity physically and mentally, to live, and to have a good and healthy environment and to have health services." In this article it is seen that health is no longer seen as a private matter, but a legal right guaranteed by the state. In an effort related to the community's right to health in handling this epidemic, the government has issued several regulations, namely:

- a. Presidential Instruction No. 4 of 2020 concerning refocussing activities, budget reallocation and procurement of goods and services in accelerating the handling of Corona Virus Disease 2019 (COVID-19).
- b. Presidential Decree No. 11 of 2020 concerning Stipulation of the COVID-19 Public Health Emergency
- c. Presidential Decree No. 12 of 2020 regarding the determination of non-natural disasters to spread the Corona Virus Disease 2019 (COVID-19) as a National Disaster.
- d. Government Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions in the framework of Accelerating the Management of Corona Virus Disease (COVID-19), on 31 March 2020.
- e. Presidential Decree No. 7 of 2020 concerning the Task Force for the Acceleration of Corona Virus Disease 2019.
- f. Presidential Decree No. 9 of 2020 concerning Amendment to Presidential Decree No. 7 of 2020 concerning the Task Force for the Acceleration of Corona Virus Disease 2019 (COVID-19).

g. Issuance of regulations in handling the spread of Covid 19 to support the existence of Law Number 24 Year 2007 which stipulates an outbreak as a non-natural disaster managed by potential threats.

h. The government also finally took the option of the Large-Scale Social Restrictions (LSSR) in accordance with Law No. 6 of 2018 on Health Quarantine. [17]

3. The right of society to a fair trial

To date there are around 103 actions taken by the government related to the implementation of Large Scale Social Restrictions. There were a number of arrests made by the authorities, as many as 17 cases occurred arbitrarily, then with 8 cases of insult to government officials and 41 cases of hoaxes. Large Scale Social Restrictions, which relate to restrictions on assembly, must refer to legislation, where the application of Large Scale Social Restrictions in an area must be based on the determination of the Minister of Health based on requests from the Regional Head, so it does not necessarily serve as a tool and interpretation by the security apparatus to carry out the action of dissolution, bearing in mind that from the data in the field many areas have not applied the PSBB status that has been set by the Minister of Health, the security apparatus by carrying out arbitrary dissolution actions. Where this is contrary to the right to freedom of assembly, which is guaranteed by law and can be limited in accordance with legal and human rights standards.

In Articles 14 - 15 of the Sipol Covenant in General Comment No. 32 of 2007, that the right to a fair trial includes the treatment of suspects / defendants prior to the trial process, including the right not to be prosecuted without any criminal article being violated (Article 15 of the ICCPR) and the rights of everyone related to legal assistance (General Comment 32/2007 number 10). The government should be consistent in carrying out the provisions of the ICCPR not only legally in Law No. 12 of 2005 concerning the Ratification of the Sipol Covenant, but also in his daily work. In this case the police body itself has various regulations whereby the police are required to uphold human rights and to obey the principles of fair trial. Likewise, the right to a fair criminal legal process based on the applicable law also has the opportunity to be violated again with the discourse of the preparation of the Indonesia National Army to anticipate social unrest due to the Covid-19 virus. The government should prioritize various prevention efforts so that there is no social upheaval in the community by focusing more on guaranteeing the basic needs of people in areas affected by the corona virus.

4. Right to freedom of expression

Freedom of expression is one of the fundamental rights recognized in a democratic rule of law and upholds human rights. During the treatment of corona virus, after the issuance of the Chief of Police's Telegram Letter (ST / 1100 / IV / HUK.7.1.2020), there were 41 cases of arrests of people accused of expressing insults to government officials or spreading hoaxes. And this is a violation of human rights if what is done by the community is a criticism, questioning and expressing complaints against the government about how to deal with the Covid-19 pandemic.

What is conveyed by the public with their expression as citizens to criticize the ways the government in dealing with the corona virus pandemic is legal and protected by law. Freedom of expression for citizens can be limited aspects, but in the limitation must be done carefully, carefully and measurably. Freedom of opinion and expression are crucial aspects that must be protected by the State. This is in accordance with article 19 of the Civil Rights Covenant as its substance has been adopted in article 28E paragraph (3) of the 1945 Constitution and its derivatives in 23 Law Number 39 of 1999 concerning Human Rights.

5. The right to be free from discrimination and stigmatization

The Covid-19 outbreak caused a lot of stigmatization and discrimination in certain groups, one of which was 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 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 rights. [19]

The Corona Virus pandemic is a test for society, government, communities and individuals. Respect for human rights across all lines, including economic, social, cultural and civil and political rights, will be the basis for a successful public health response and recovery from a pandemic. That the Corona Virus should not be used as an excuse for every country to make policies that are repressive and violate human rights. However, this should be an evaluation to revisit the Covid-19 event as a public health issue that impacts on social welfare issues. Moreover, in issuing policies, the state must think deeply about the long-term impact on civil liberties in post-pandemic societies because the real threat is viruses that are not citizens.

CONCLUSION

The government in handling the pandemic corona virus must respect and promote human rights, where the principles of the rule of law and democracy in every policy are implemented in handling the Covid-19 pandemic; reduce and limit human rights must be done by following the provisions of national and international laws that have been ratified by the government.

The House of Representatives and independent institutions such as the National Human Rights Commission must also carry out an active oversight function. This has become very important where in the implementation of large-scale social restrictions there is the potential for violations of human rights against affected communities, therefore the function of parliament and independent state institutions is important to ensure that there is no abuse by the government in the implementation of LSSR.

The government in handling Covid-19 must place the problem in a health emergency for the community; completed through a health and medical approach; social safety net support that is right on target and effective, easy to access; provide precise and accurate information for the community, provide protection and support for all medical personnel who are in the vanguard, as well as give priority to health facilities for hospitals, especially for referral hospitals and for people who want to get health facilities in the fight against Covid-19 . Community rights to health include the right to ensure that the community is safe and healthy, through the Minister

of Health is expected to conduct a mass test program on Covid-19 quickly either randomly or based on tracking positive patients Covid-19 in order to obtain more valid data about the condition of the positive number of Covid-19 in Indonesia. Likewise for law enforcement officials to prioritize persuasive efforts in carrying out their duties and proportionally, and not the use of force in carrying out security in handling government programs in Pandemic of Covid-19 not to take arbitrary actions and based on applicable legal rules.

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