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Fear-Based Law Enforcement (A Study of the COVID 19 Pandemic in Indonesia)

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Abstract

The COVID-19 pandemic cast a shadow of apprehension over every country, including Indonesia, where the infectious disease took a firm hold. President Joko Widodo declared a public health emergency in Indonesia in late March 2020. The Indonesian authorities initially downplayed the severity of the disease, resulting in a delayed response to the pandemic and the implementation of health-related quarantine measures two to three months after the virus's emergence in the country. This paper employs a qualitative normative approach to examine the enforcement of fear-based laws in Indonesia. The findings reveal that Indonesia has four fundamental laws pertaining to emergencies, which are invoked when specific state conditions persist. Among these four laws, the most pertinent ones for managing the legal aspects of COVID-19 are the second and fourth laws: Law number 24/2007 concerning disaster management and Law 6/2018 related to health quarantine. This study provides valuable insights for legal experts in Indonesia by delving into the four key emergency laws in the country. Additionally, it contributes theoretically to the expanding literature on the enforcement of fear-based and emergency laws in Indonesia. The study also addresses its limitations and offers suggestions for future research.

Keywords: Emergency Laws, Fear Based Laws, Pandemic, Indonesia, Covid-19

Introduction

The pandemic presented significant challenges for law enforcement agencies in handling and mitigating the pandemic's impact. Regular law enforcement procedures underwent modifications and adaptations to effectively address the situation. It is recognized that during times of crisis, law enforcement agencies bear the responsibility for containing the spread of the virus and safeguarding the well-being of the community. Additionally, in collaboration with government regulatory bodies, they are tasked with maintaining public order. The relevant stakeholders, such as the Disease Control and Prevention department, worked in conjunction with law

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enforcement agencies to encourage the adoption of strategic measures (Jennings & Perez, 2020). While implementing stringent measures, challenges faced by law enforcement agencies, including communication difficulties, managing public restrictions, monitoring service patterns, and resource management, garnered attention from scholars and academic institutions for further investigation. Globally, governments in different regions adopted varied strategies to manage the public during the pandemic. In developing countries, police departments often became involved in service provision and shared protocols with law enforcement (Molldrem, Hussain, & McClelland, 2021).

Collaboration is undertaken to implement the fear-based law enforcement plan. The engagement of police departments in public health reflects the penalties and fines related to the violation of legal codes and regulations established by law enforcement agencies.

In the Asian region, law enforcement agencies alone were insufficient to manage the crisis. Consequently, legal and government bodies became actively involved, establishing a robust foundation for public conduct through law enforcement (Gleason & Baizakova, 2020). Following WHO guidelines, the Indonesian government implemented novel strategies infused with psychological factors. It revamped the law enforcement system into a criminal law system with stringent actions against citizens who violate the law. However, it also encountered challenges, as the law enforcement process was overshadowed by the public slogan "Salu Populi Suprema Lex Esto" (Syahputra & Marbun, 2021). The outcomes, driven by the law, constitution, legal system, police department, and public officials, collectively aim to execute fear-based law enforcement. This approach transcends written provisions to maintain order and uphold the rule of law in the country (Azhari, 2012).

The legal landscape during the pandemic prompted a closer examination of people's psychology and measures to enable them to cope with the situation. Penalties were established for non-compliance with laws and regulations. Recent studies (Sibley et al., 2020; Wilder-Smith & Freedman, 2020) have explored various facets of law enforcement programs aimed at addressing public psychology to effectively manage the situation. Emphasis is placed on national security measures, non-traditional security concerns, and state affairs affecting the performance of both government and non-government entities involved in this process (Alam et al., 2021). Previous research has also shown that law enforcement programs significantly impact the well-being of Indonesian citizens (Sundawa, Logayah, & Hardiyanti, 2021). From a societal perspective, researchers have discussed the effectiveness of various law enforcement methods and strategies in different regional contexts. In the Indonesian context, the limited existing literature on these matters underscores the need for investigating these issues in Indonesian regions from multiple perspectives. Thus, this research encompasses an analysis of law enforcement measures in conjunction with public psychology and the governmental initiatives undertaken by Indonesian authorities.

The objective of this study is to investigate the enforcement of fear-based laws in response to the COVID-19 pandemic in Indonesia. The researcher has employed a juridical normative research approach for data collection and analysis. Given the Indonesian government's adaptations in policies and measures to effectively manage

the situation, this research aims to assess various aspects of law enforcement programs in Indonesia that address public psychology in response to the crisis. Additionally, it examines the legal measures and actions taken by governmental and non-governmental entities to provide a comprehensive overview of the law enforcement landscape during the pandemic in Indonesia.

Method

The primary objective of this study is to assess the application of fear-based law enforcement measures in Indonesia. During the pandemic, legal and law enforcement institutions adapted their approaches to suit the prevailing conditions and formulated strategies accordingly. This study aims to examine the various legal aspects and psychological factors that contributed to the effective implementation of the government's plan for managing the critical Covid-19 situation. To achieve this research objective, the researcher has employed a qualitative research approach, which offers a comprehensive perspective for investigating the issue from multiple dimensions. The researcher has consistently used qualitative research methods throughout the study. The positivist research philosophy is favoured due to its emphasis on the examination of knowledge through objective observation and measurement (Alharahsheh & Pius, 2020). The inductive research technique was employed to cultivate a theoretical and conceptual understanding of legal matters associated with law enforcement in crisis situations. Given the research area's nature, the normative juridical approach was adopted. This approach is well-suited for the present study as it considers the application of law and regulations in real-world contexts. Additionally, it offers a framework for analyzing legal factors and issues in various public situations. Both secondary and primary data were sourced from reputable and pertinent sources. Primary data was obtained from journals, books, and records, while secondary sources encompassed legal documents, reports, and crisis-related legal frameworks in Indonesia. Online databases such as Wiley Online, West Law, and JSTOR were accessed to procure relevant data. The content analysis approach was employed to quantify, analyze, and derive findings from the data.

Literature Review

Amidst the global prevalence of Covid-19, individuals grappled with apprehension regarding how to manage the pandemic. Various health-related rules and measures were formulated to curb the rapid transmission of this infectious disease from person to person. In the United States of America, the response and handling of Covid-19 evolved over time, with different amendments introduced to address the disease's progression. At the height of the pandemic, many states and local governments in the USA declared a state of emergency, granting authorities additional powers to effectively respond to the crisis (Campolieti, 2022). Globally, social distancing and gathering restrictions were enforced as localities and states in different countries regarded it as their duty to safeguard their citizens' health, leading to strict adherence to gathering size limitations to ensure a safe environment.

Similarly to the United States, Germany has also implemented various measures to curb the rapid spread of the pandemic. The country has a key legal framework known as the "Infection Protection Act" for effectively managing infectious diseases like

Covid (Nienhaus & Hod, 2020; Schumacher et al., 2017). This legal framework provides the basis for various measures aimed at potential virus control. Under Germany's Infection Protection Act, orders related to isolation or quarantine, mandatory testing, contact tracing, and other health-related measures are enforced for the German public (Dostal, 2020).

China, too, has enacted different legal measures to prevent and control the spread of diseases like Covid-19. The primary legal framework in China for responding to Public Health Emergencies (PHE), including Covid, encompasses laws concerning the prevention and treatment of infectious diseases, as well as the "Emergency Response Law" (Qi & Hu, 2020). This legal foundation ensures the enforcement of quarantine measures and related actions.

In early 2020, during the peak of the pandemic in Wuhan, China, the country implemented strict lockdown measures to restrict the movement of individuals between locations. Several Chinese cities and regions introduced "health code systems" integrated into smartphone applications for the purpose of assessing individuals' health status and determining their eligibility for travel. These assessments took into account factors such as recent travel history and the results of Covid-19 tests (Sun & Wang, 2022).

China also initiated a Covid-19 vaccination campaign, developing its own vaccines, including Sinovac and Sinopharm, which were distributed both domestically and internationally with the aim of safeguarding public health (Wang et al., 2020). Additionally, China implemented a campaign known as "masks and personal protective equipment" (PPE) in various contexts to reduce or control the transmission of the virus among the population. In February 2020, Japan enacted the "Revised Special Measure Law Regarding the Novel Coronavirus Disease," which established a legal framework for the government's response to the Coronavirus in Japan (Tsuji, 2022). This law enabled the implementation of various measures, including quarantine protocols, business restrictions, limitations on gatherings, and the declaration of a state of emergency by Japanese governmental authorities. In response to the increasing prevalence of Covid-19, Japan also introduced a system for testing and contact tracing to identify and isolate cases of Covid. To ensure effective enforcement of these laws and regulations in Japan and to control the spread of Covid, penalties were imposed in cases of rule violations (Karako et al., 2021; Tanaka et al., 2021).

Similarly, the Malaysian government actively engaged in efforts to control the spread of infectious diseases such as the coronavirus. According to the "Prevention and Control of Infectious Diseases Act 1988 (Act Number 342)," the primary legal framework for managing and controlling infectious diseases like Covid is governed by this act (Ramli & Nordin, 2013). This act empowers the government authorities to quarantine individuals, issue control orders, and implement effective precautionary measures to control the spread of this infectious disease. Similarly, in Malaysia, the Movement Control Order (MCO) was also implemented in response to the pandemic (Nadzir et al., 2020). Under the MCO in Malaysia, restrictions were imposed on movement, social activities, and business operations, with varying levels of severity

depending on the outbreak's intensity (Tamin & Mohamad, 2020). All these measures, observed in different countries with varying degrees of significance and severity, aimed at mitigating the impact of the infectious Covid on their respective populations. Legal and governing frameworks in these countries were adapted, refining isolation and quarantine measures to effectively control the rapid transmission of Covid.

Findings

When the COVID-19 pandemic began to manifest in Indonesia, the country's regulatory authorities exhibited a pronounced tendency towards self-denial. Following January 2020, the Indonesian government consistently refuted the presence of the coronavirus threat. Consequently, a period of 2.5 months elapsed before a realization dawned upon them, prompting a belated and effective response to curtail the spread of the virus. This denial of the coronavirus phenomenon was inherently tied to an attitude of 'anti-scientism,' which staunchly rejected the undeniable reality that the virus was rapidly and persistently infiltrating the populace. Even though no confirmed COVID-19 cases had been officially reported during this time, Indonesia's regulatory and governmental entities remained unable to discern the concealed prevalence of the virus, resulting in what can be aptly described as 'false negative' outcomes in previously infected cases. The scientific community, feeling marginalized and excluded from the decision-making process, contended that the proclamations asserting Indonesia's COVID-19-free status lacked a solid scientific foundation (Olivia, Gibson, & Nasrudin, 2020; Wiratraman, 2020).

According to "Professor Jeremy Rossman", the distinguished founder and president of research-aid networks, the challenge posed by the COVID-19 pandemic in Indonesia was exacerbated by the conspicuous absence of credible scientific information, factual data, or empirical insights

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According to the Article 12 of the constitution 1945, "The president states a state of emergency. The terms and conditions of the danger situation are set out in the Law". There are various ad definitions and descriptions of emergency power (Eddyono, 2016)(Eddyono, 2016). The emergency powers represent the principal prerogatives that may be invoked by a president or government during exceptional circumstances, encompassing terrorist attacks, armed conflicts, or various threats to the state, industrial accidents, environmental catastrophes, pandemics, or other grave challenges capable of imperilling individual lives (Khakee, 2009). In accordance with Williamson et al. (2022), it is advocated that these powers and authorities should not solely be invoked in extraordinary circumstances but should instead be exercised to the extent necessitated by the prevailing situation. Nations adhering to democratic principles and upholding the rule of law encounter various challenges when addressing public emergencies. This stems from the fact that constitutionally guaranteed rights within a democratic framework can impede the expeditious response of authorities during emergencies. The utilization of emergency powers by a government aligns with its administrative prerogatives to swiftly counter public emergencies, thereby safeguarding national security and order through the

temporary suspension of 'ordinary legal systems' (Satriawan, Elven, & Lailam, 2023).

Drawing upon the artificial dichotomy between exceptions and norms, the concept of a state of emergency is formulated, employing a bifurcated approach to reconcile the interests of individual rights with societal goals and objectives. Consequently, the term "state of emergency" serves as a legitimizing label through which governmental authorities are afforded immediate sanction to curtail human rights (Hermanto, Ms, & Japar, 2022). A critical point for consideration in this context is the authorization, within the legal and normative framework of any given state, for either partial or complete suspension of rights through the invocation of emergency powers. Consequently, the expansion of governmental authority entails a temporary limitation on individual freedoms. Within the legal framework of Indonesia, emergency situations are delineated by distinct prerequisites and norms. The provision of "Law 6/1946" which were included in the "staat van oorlog en beleg" (SOB Dutch) were the rules established before independence by Dutch in Indonesia (Lassa, 2013). The "Law 74/1957" repealed the aforementioned law and was subsequently replaced and modified by "Law 23/1959," which remains in force to this day. After the enactment of reforms, the "Law 24/2007" and the "Law 7/2012" ensured the provision of norms related to the circumstances and conditions of danger (Sulistiawati, 2020; Wiratraman, 2020).

Concerning the emergency situation of pandemic in Indonesia "durarat", when fear-based law enforcement was observed known as danger "bahaya" as a normative term in the legal system of Indonesia (Ekowati, 2022)(Ekowati, 2022). Therefore, the interchangeability of the terms "emergency" and "danger" holds true in this context. In Indonesia, situations of peril related to COVID-19 or any other form of threat are governed by four specific laws:

According to the "Law Number 23/1959" regarding the determination of "state of danger", the conditions including in the state of danger are explained below:

"The Supreme Commander or president of the armed forces has indicated the whole or part of the territory of the Republic of Indonesia to be in jeopardy with the level of civilian emergency or war situation or a military emergency. It also includes state life in jeopardy or in accordance with the special circumstances it appears or it is afraid that there might be symptoms through which the life of a state can be endangered" (Wajdi & Andryan, 2020)

As per "Law Number 24/2007" concerning disaster management, the legislation outlines conditions that define danger as follows:

"The disasters are a series of threatening events which threaten the lives of people due to nature or through non-nature or through human factors resulting in human casualties, environmental damage, loss of the property and psychological affects"(Lasmono, Yusnaldi, & Saragih, 2016)

In accordance with "Law Number 7/2012," the legislation concerning social conflicts also encompasses the aspect of a state in emergency, defining social conflicts in the following terms:

"Social conflict is a physical clash with violence among two or more community groups that exists in a specific time and exerts a significant influence on social insecurity and disintegration that impairs national stability and impedes the "national development" (Wiratraman, 2020)

The fourth law that was enacted in Indonesia during the COVID-19 pandemic pertains to health quarantine. According to the "Law Number 6/2018" of health quarantine, the imposition of emergency in Indonesian law refers to the term of "public health emergency" PHE or "Kedaruratan Kesehatan Masyarakat" (Susanna, 2020; Widjaja, 2020). In this context, PHE are defined as occurrences within the community marked by the outbreak of infectious diseases or incidents resulting from nuclear radiation, chemical or biological contamination, bioterrorism, and food-related health hazards that spread significantly across the nation or specific regions, as outlined in Article 1 Number 2.

In Chapter IV of article 10-14 of the Law, the PHE has been formulated and indicated. According to the article 11:

"For the purpose of maintaining health quarantine in PHE, the general government of Indonesia persistently and adequately based on the significance of effectiveness, threats, resources support, and the operational techniques taking into consideration the sovereignty of state, social, economic, security and cultural"

In Indonesia, during the prevalence of COVID-19, various legislative measures were implemented. During this period, the populace consistently adhered to these laws out of apprehension regarding the rapid spread of the infectious disease. The four aforementioned categories of laws are interconnected in their mandate, focusing on addressing a common type of peril while embodying distinct approaches and concepts. The most relevant and imposed law during Covid-19 pandemic was "Law Number 6 of 2008" and the article 10-14 of the Law related to the public health emergency (Wiratraman, 2020). In contrast to the laws previously examined, Law Number 23/1959 represents the oldest and most frequently utilized legal framework for the invocation of emergency powers in Indonesia. But it is commonly believed that these laws are less adaptive to human rights, enacted previously of the "International Covenant on Civil and Political Rights (ICCPR)". Furthermore, the additional pertinent laws governing the response to COVID-19 are the second and fourth laws, namely: "LAW 24/2007" related to disaster management and Law number 6 of 2018 regarding health quarantine (Qodir et al., 2020). This is due to the fact that the "article 1 of Law Number 3 of 24/2007" indicates the non-natural disasters involving the epidemics. Whereas the "Law 6 of 2018" deals with the conditions and health of the pandemic (Widjaja, 2020). Throughout the pandemic in Indonesia, there was a heightened pressure on civil liberties, which encompassed threats to freedom of expression and press freedom. This included challenges faced by journalists reporting on the news and scientists presenting diverse perspectives on the coronavirus. These constraints were justified by the government on the basis of the emergency situation.

Recommendations

In light of the foregoing discussion, legal experts in Indonesia should consider the following recommendations to amend emergency laws. Adequate knowledge about responding to emergencies is crucial. Strengthening emergency laws, not only in Indonesia but also globally, demands a thoughtful and comprehensive approach. This approach should prioritize a delicate balance between necessary government interventions during crises like the Covid-19 pandemic. Indonesia can focus on these recommendations to protect civil liberties and uphold democratic values in the nation.

1. Indonesia's regulatory bodies should conduct a thorough review of emergency laws, identifying and addressing gaps and ambiguities. Legal experts should ensure clear definitions and specific criteria for when these laws apply to various emergency situations.
2. Indonesia should create transparent procedures for declaring a state of emergency, outlining the roles of government branches and ensuring checks and balances. The government must define the circumstances, including public health crises like the Covid-19 pandemic, national security threats, and natural disasters, under which a state of emergency can be declared.
3. Indonesia's emergency laws should undergo revisions to incorporate provisions safeguarding fundamental civil liberties such as freedom of expression, privacy, and assembly. Legal experts must ensure that any restrictions on these freedoms during a crisis are justifiable and subject to judicial review.
4. The outbreak of Covid-19 not only led to the implementation of emergency laws in Indonesia but also instilled fear among the populace due to the rapid spread of the infectious disease. Therefore, it is incumbent upon the governmental and authoritative bodies in Indonesia, in collaboration with legal experts, to enhance public awareness by effectively disseminating information about the situation and communicating the potential consequences if the enforced laws and restrictions are not adhered to properly.
5. The Indonesian government should allocate resources to enhance and upgrade the healthcare system, thereby establishing a robust infrastructure for addressing future health crises. Strengthening the resilience and immunity of Indonesia's healthcare sector will subsequently diminish the necessity for imposing restrictions like lockdowns in the future.

Conclusion

The objective of this research is to examine the application of fear-based or emergency laws within the context of Indonesia. During the Covid-19 pandemic, the Indonesian legal framework and regulatory authorities displayed a delayed response to the emerging crisis. The Covid-19 pandemic was officially acknowledged as present in Indonesia on March 2, 2020. However, the government initially hesitated to take proactive measures against the pandemic. This study has explored the primary emergency laws in Indonesia, designed to address various national crisis situations. The research has identified four key laws pertaining to emergency situations, namely Law Number 23/1959, Law Number 24/2007, Social Conflict Law Number 7/2012, and Law Number 6/2018 concerning health quarantine. The findings of this study reveal that, within the Indonesian context, the most pertinent laws for managing the Covid-19 pandemic are Law Number 24/2007, which addresses disaster management, and Law Number 6/2018, specifically addressing health quarantine. The significance of these two laws in the context of the pandemic stems from Article 1 of Law Number 24/2007, which encompasses non-natural disasters, including epidemics, and Law Number 6/2018, which provides provisions for managing health crises, including pandemics.

Research Implications

• ***Theoretical Implications***

This study holds both theoretical and practical significance. Firstly, it contributes to the growing body of literature on Covid-19-related laws and emergency legislation in Indonesia. Despite the passage of considerable time since the onset of the Covid-19 pandemic, legal experts and research studies continue to focus on the pandemic's negative and substantial impacts in Indonesia. This research specifically examines the application of public health emergency laws during the pandemic in Indonesia, offering valuable theoretical insights.

Moreover, there is a notable scarcity of research that employs the methodology employed in this study to investigate the same topic. This novel approach expands the existing literature by examining fear-based law enforcement in Indonesia through a qualitative research design.

• ***Practical Implications***

The practical implications of this research are significant and warrant consideration. During the COVID-19 pandemic, the enforcement of laws heightened people's fears as they grappled with the unexpected crisis. This study has linked Indonesia's emergency laws to the fear experienced by the population, which drove the implementation of these laws to curb the spread of the infectious disease.

Furthermore, this research underscores the importance of building resilience and immunity within Indonesia's healthcare system. The vulnerability of the population led to a delayed government response, highlighting the need for proactive measures to combat coronavirus effectively.

Based on the study's findings, several recommendations emerge that can enhance Indonesia's healthcare infrastructure. Therefore, policymakers and legal experts in Indonesia can draw insights from this research to strengthen legal frameworks and adjust emergency laws, ensuring that people are well-prepared to respond to such emergency situations without succumbing to fear. .

Limitations and future research Indications

The present study, like many others, has certain limitations. Firstly, its methodological approach has constrained the researcher from accessing valuable insights from legal experts and deriving more comprehensive results. The study adopted a normative juridical approach to investigate emergency laws during crises in Indonesia, specifically focusing on the COVID-19 outbreaks. Given this limitation, future researchers may consider conducting structured interviews with legal experts in Indonesia to evaluate the enforcement of fear-based laws and emergency regulations in the country. Moreover, this study concentrated on Indonesia's response to fear-based law enforcement during the COVID-19 pandemic.

Future researchers could explore emergency laws related to danger or health crises in countries other than Indonesia to analyze the variations and changes in laws and regulations on this topic. Additionally, beyond investigating emergency laws during pandemics, researchers may examine emergency laws pertaining to environmental disasters or other crises, providing an opportunity to explore the implementation of the other three types of emergency laws. This research identified four main categories

of emergency laws, with a particular focus on PHEs. Consequently, the other three categories of emergency laws were not explored in depth. Future researchers could delve into these other three categories of emergency laws within the Indonesian crisis context to yield valuable insights and relevant findings.

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