MODEL OF LEGAL APPROACH TO PANDEMIC DISEASE CONTROL IN INDONESIA

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ABSTRACT

Objective: The research intends to offer a prescription or model for a legal strategy that balances the objectives of health and human welfare to limit disease pandemics in the future.

Method: The legal approach model was created by examining the achievements, failures, and variables affecting the execution of policies in the provinces of East Java and West Sumatra utilizing effective and responsive legislation. The research method used is empirical research with a socio-legal approach to see the effectiveness of law enforcement in society. Data were collected from organized research subjects through interviews and literature studies on COVID-19 control regulations, then analyzed qualitatively.

Results and Conclusion: As a result, policies in the Provinces of East Java and West Sumatra, apart from synergizing with central government policies, also make additional efforts and innovations according to specific local characteristics and involve all elements of the Pentahelix community, as well as regional jargon. The harmonious legal approach model is composed of legal effectiveness based on (1) the substance of the regulations, including clear rules, rewards, and sanctions; (2) the institutional structure of the COVID-19 task force, which was formed down to the micro level, including the addition of law enforcement groups and teams; and (3) legal culture or community compliance forms through communication, law enforcement, the involvement of community leaders, and legal pluralism. Responsive law is a means of public aspirations, namely: (1) mainstreaming people's safety without neglecting economic interests, welfare, or human rights violations; (2) law is state-centered in an emergency context but is limited by human rights and the legal system; (3) the principle of openness to public aspirations and participation; (4) complying with the principle of forward fulfillment; (5) preventing moral hazard, abuse of authority, and corrupt acts taking advantage of crises; 6) active community involvement, involvement of community leaders, and upholding Indonesian values. The implementation of the COVID-19 countermeasures policy in the Provinces of East Java and West Sumatra has succeeded in controlling the transmission of the virus effectively.

Research Implications: The research results can provide valuable input for public policy makers, especially in the development of more effective regulations and policies in controlling pandemic diseases. It can help the Indonesian government to update and strengthen the existing legal framework.

Keywords: pandemic, harmonization, health, welfare, effective law, responsive law.

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MODELO DE ABORDAGEM LEGAL PARA O CONTROLE DE DOENÇAS PANDÊMICAS NA INDONÉSIA

RESUMO

Objetivo: A pesquisa pretende oferecer uma prescrição ou modelo para uma estratégia legal que equilibre os objetivos de saúde e bem-estar humano para limitar pandemias de doenças no futuro.

Método: O modelo de abordagem legal foi criado examinando as realizações, falhas e variáveis que afetam a execução de políticas nas províncias de Java Oriental e Sumatra Ocidental, utilizando legislação eficaz e responsiva. O método de pesquisa utilizado é a pesquisa empírica com uma abordagem sócio-legal para ver a eficácia da aplicação da lei na sociedade. Foram coletados dados de sujeitos de pesquisa organizados por meio de entrevistas e estudos de literatura sobre os regulamentos de controle da Covid-19, depois analisados qualitativamente.

Resultados e Conclusão: Como resultado, as políticas nas Províncias de Java Oriental e Sumatra Ocidental, além de sinergias com as políticas do governo central, também fazem esforços adicionais e inovações de acordo com características locais específicas e envolvem todos os elementos da comunidade Pentahelix, bem como jargão regional. O modelo de abordagem jurídica harmoniosa é composto por eficácia jurídica baseada em (1) a substância dos regulamentos, incluindo regras claras, recompensas e sanções; (2) a estrutura institucional do grupo de trabalho sobre a COVID-19, que foi formado até ao nível micro, incluindo a adição de grupos e equipes de aplicação da lei; e (3) formas de conformidade da cultura jurídica ou da comunidade através da comunicação, da aplicação da lei, do envolvimento de líderes comunitários e do pluralismo jurídico. A lei responsiva é um meio de aspirações públicas, nomeadamente: (1) a integração da segurança das pessoas sem negligenciar interesses econômicos, bem-estar ou violações dos direitos humanos; (2) a lei é centrada no Estado em um contexto de emergência, mas é limitada pelos direitos humanos e pelo sistema legal; (3) o princípio da abertura às aspirações públicas e participação; (4) o cumprimento do princípio da realização antecipada; (5) a prevenção do risco moral, abuso de autoridade e atos corruptos que tiram proveito de crises; 6) o envolvimento ativo da comunidade, o envolvimento de líderes comunitários e a defesa dos valores indonésios. A aplicação da política de contramedidas contra a COVID-19 nas províncias de Java Oriental e Sumatra Ocidental conseguiu controlar a transmissão do vírus de forma eficaz.

Implicações da pesquisa: os resultados da pesquisa podem fornecer informações valiosas para os formuladores de políticas públicas, especialmente no desenvolvimento de regulamentações e políticas mais eficazes no controle de doenças pandêmicas. Pode ajudar o Governo indonésio a atualizar e a reforçar o quadro jurídico existente.

Palavras-chave: pandemia, harmonização, saúde, bem-estar, direito eficaz, direito responsivo

1 INTRODUCTION

The COVID-19 pandemic which was established by the World Health Organization (WHO) on March 11 2020 has made governments from around the world in a state of confusion in preparing the most effective and ideal control strategies.
Indonesia is no exception. Situation the spread of COVID-19 which reaches all regions in Indonesia with an increasing number of cases and deaths and has had a broad impact on the political, economic, social, cultural, defense, and security aspects and welfare of the people in Indonesia. The government responded to the widening impact by enacting Presidential Decree Number 11 of 2020 concerning the Stipulation of a Public Health Emergency for Corona Virus Disease 2019 (COVID-19). This Presidential Decree can be said to be the initial strategic step for the policy to control COVID-19 in Indonesia.

Efforts to deal with the COVID-19 Public Health Emergency by statutory regulations through the implementation of health quarantines both at the entrance to the country and in the region (Telaumbanua, 2020). Implementation of quarantine through in-depth studies, the government adopted a policy to implement Large-Scale Social Restrictions (PSBB). The principle of this Large-Scale Social Restriction action is to suppress the spread of COVID-19 so that it does not spread further, based on epidemiological considerations, resource support, technical operations, political, economic, socio-cultural, defense, and security considerations. In the spirit of controlling disease and recovering the national economy, the form of the PSBB in 2021 will then be modified with the term PPKM or Imposition of Restrictions on Community Activities.

Government policy products related to economic recovery during the COVID-19 pandemic include (1) Law Number 2 of 2020 concerning the Stipulation of Government Regulation in lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 Corona Virus Disease Pandemic (Covid-19) and/or in the context of dealing with threats that endanger the national economy and/or financial system stability to become laws; (2) Government Regulation in Lieu of Law No. 1 of 2020 concerning State Financial Policies and Financial System Stability for Handling the 2019 Corona Virus Disease (COVID-19) Pandemic and/or in the Context of Facing Threats that Endanger the National Economy and/or Financial System Stability (Perppu No. 1/2020), (2) Presidential Instruction Number 4 of 2020 concerning refocusing activities, budget reallocation and procurement of goods and services in the context of accelerating the handling of Corona Virus Disease 2019 (COVID-19); (3) Financial Services Authority Regulation Number 48/POJK.03/2020 Regarding Amendments to Financial Services Authority Regulation Number 11/POJK.03/2020 Concerning National Economic Stimulus as a Countercyclical Policy on the Impact of the Spread of Coronavirus Disease 2019, (4) Financial Services

In implementing policies optimally, the government needs to act on its initiative in resolving complex problems that require fast handling when regulations have not yet been established by the competent authority. This includes dealing with natural disasters or epidemics of infectious diseases. In state administrative law, free authority is given in the form of a policy or discretion known as freies ermessen (Effendy, 2018). The use of Ermessen fries is limited if it does not conflict with the applicable legal system (positive law rules) and is only intended for the public interest (Ridwan & Sudrajat, 2020).

East Java Province was once an area with a massive increase and spread of COVID-19 cases in the period May – June 2020, even the city of Surabaya was dark red due to the high number of new cases, recording more than 1025 cases on May 29, 2020. An increase in cases was recorded again in January 2021. Efforts to implement Micro-Scale PPKM, discipline in health protocols, and justice operations were boosted, and the number of cases showed a decrease. On February 22, 2021, leaving one red zone area. East Java no longer has a red zone on February 24, 2021 (Hirawan, 2020).

At the time when the COVID-19 emergency was repealed in May 2023, the potential for new variants to emerge and the threat of other disease outbreaks remain to require vigilance, preparedness, and resilience in health systems. Including previous pandemic management and prevention policies as lessons learned from similar health emergencies that may arise in the future. The future is still open to the possibility of the emergence of new disease outbreaks which require readiness in efforts to formulate legal
policies in general in preventing social disorder. Policies to control pandemics, health emergencies, and health crises in the future need to prioritize the balance between health interests and ensuring welfare and fulfillment of human rights, especially in economic and socio-cultural terms.

The effectiveness of policy implementation, efforts to harmonize and balance pandemic control policies with public welfare or policies that are responsive to public welfare goals, as well as legal approaches to controlling disease outbreaks in the future reflecting on efforts to tackle the COVID-19 pandemic attracted researchers to compile a dissertation entitled "Models Legal Approaches to Disease Pandemic Control in Indonesia (Study of Efforts to Harmonize Health and Welfare Policies in East Java and West Sumatra Provinces)".

2 LITERATURE REVIEW

2.1 LEGAL APPROACH MODEL

The legal approach model is a framework or approach used in analyzing legal problems or in solving certain legal problems. Peter Mahmud Marzuki emphasized that there are five approaches in legal research, namely the statute approach, case approach, historical approach, comparative approach, and conceptual approach. Meanwhile, Johny Ibrahim added two more types of approaches, namely the analytical approach and the philosophical approach (Aditya, 2019). The legal approach model in pandemic disease control is a framework used to design, implement, and evaluate legal actions needed to overcome the spread of mass infectious diseases.

2.2 PANDEMIC DISEASE CONTROL

The COVID-19 pandemic is a global pandemic caused by the SARS-CoV-2 virus. The pandemic was first identified in Wuhan, China, in late 2019 and soon spread around the world. The COVID-19 pandemic is characterized by the rapid and widespread spread of this virus, which causes respiratory infections in humans (Mona, 2020). The pandemic has had a significant impact on public health, healthcare systems, economies and global lifestyles. The COVID-19 pandemic, in addition to creating public health concerns, has also changed the global dynamics of waste generation (Massuga et al., 2022). Prevention and control efforts include lockdowns, movement restrictions, wearing masks, social
distancing, and massive vaccination programs. The World Health Organization (WHO) officially called the outbreak a pandemic in March 2020 (Purandina, 2020).

3 RESEARCH METHODS

The research method used is research empirical with a sociolegal approach to see the effectiveness of law enforcement in society and law responsive to the aspirations and interests of society. Empirical legal research analyzes and examines the operation of law in society, both legal effectiveness, compliance with the law, the role of legal institutions or institutions in law enforcement, implementation of the rule of law, the influence of the rule of law on certain social problems or vice versa (Salim & Nurbani, 2017). This research is prescriptive. Researchers try to explain the existing variables to produce explanatory and prescriptive. The research was conducted in East Java and West Sumatra Provinces. Data was collected from organized research subjects through organized interviews and literature studies on COVID-19 control regulations. Sampling in this study was carried out purposively, namely sampling by taking subjects based on a specific purpose (Sugono, 2003). In proving and answering questions that are the reference of researchers, the data analysis technique used is qualitative.

4 RESULTS AND DISCUSSION

4.1 IMPLEMENTATION OF THE COVID-19 RESPONSE POLICY IN EAST JAVA PROVINCE

4.1.1 Conditions of Spread of COVID-19 in East Java Province

According to Galleli et al cited (Zampier et all, 2022) the spread of the COVID-19 virus has caused negative impacts such as: "high mortality rates, rising unemployment, trade closures, and declining growth forecasts," consequences that will last for a long period of time" which could negatively impact the achievement of all SDG-related targets, which are considered as "opportunities for organizations to thrive, as they provide economic, social, and environmental benefits." The pursuit and implementation of SDGs is therefore more important now than before COVID-19, given how SDGs can restore quality of life by improving health and water conditions, for example.

East Java Province along with seven other provinces in Indonesia is the priority province for handling COVID-19 from mid-2020 to early 2021 then. At that time, East Java was the province with the highest number of COVID-19 cases. Data for July 28,
2020, COVID-19 cases in East Java reached 20,182 cases, more than in other provinces. While DKI Jakarta is in second place with the most cases with 19,592. Successively South Sulawesi had 8,991 cases, Central Java 8,622 cases, West Java 6,084 cases, South Kalimantan 5,689 cases, Papua 2,945 cases, and North Sumatra 3,439 cases. East Java Province in the May-June 2020 period experienced a massive increase and spread of COVID-19. All regencies/cities in East Java are in the red zone or high-risk zone. Historically, active cases in East Java have reached 8,638 on 9-15 July 2020 (Kumparan, 2020).

Control is carried out by collaborating with various parties in a cross-sectoral manner, increasing 3M and 3T, as well as increasing justice operations and enforcing health protocols. Control efforts in East Java involving various parties showed a significant reduction in cases in the October 2020 period. In the period October 15-21 2020, there were 1,907 new cases. The decline in high-risk areas has also occurred, marked by the fact that there are no more Regencies/Cities that are included in the red zone category. Twenty-eight districts/cities are declared in the medium or orange risk category, while ten others are in the low or yellow risk zone (East Java Provincial Government, 2021).

The success in reducing various epidemiological indicators, health services, and public health surveillance in East Java received appreciation from the COVID-19 Handling Task Force and the Head of State. In October, weekly cases in East Java fell by 8%, from 2182 cases to 2008 cases. And the cure rate reached 88.53%. The President asked other regions to follow the example of East Java and South Sulawesi, including in efforts to massively disseminate health protocol discipline and increase the 3 T’s (test, tracing, and treatment).

East Java Province implemented four (4) main strategies for handling COVID-19, namely promotive and preventive for the community, strengthening testing targeting suspects and health workers who meet the criteria as close contacts, tracing suspects, probable and confirmation, and treatment, as well as boosting vaccination. All processes are confirmed to be supported by adequate logistics.
4.1.2 Policy Adoption on the Institutional Structure for Handling COVID-19 in East Java

The structure for handling COVID-19 in East Java adopted Presidential Decree Number 9 of 2020 concerning Amendments to Presidential Decree Number 7 of 2020 concerning the Task Force for the Acceleration of Handling COVID-19 which was issued on March 20, 2020. Determination of the structure for handling COVID-19 in East Java through the Decree of the Governor of East Java Number 188/153/KPTS/013/2020 concerning Amendments to the Decree of the Governor of East Java Number 188/107/KPTS/013/2020 concerning the Task Force for the Acceleration of Handling Corona Virus Disease (COVID-19). The Governor's Decree was issued on April 3, 2020, replacing the previous governor's decision issued on March 17, 2020. This change follows changes in the structure of the National Task Force for the Acceleration of Handling COVID-19 which has changed. Presidential Decree Number 9 of 2020 concerning Amendments to Presidential Decree Number 7 of 2020 concerning the Task Force for the Acceleration of Handling Corona Virus Disease 2019 (COVID-19). The issuance of this Governor's Decree was only two weeks after the issuance of the Presidential Decree.

Composition of Membership and Job Description of the Task Force for the Acceleration of Handling of COVID-19 in East Java Province, chaired by the Governor of East Java.

4.1.3 Adoption of Policy Substance for COVID-19 Response in East Java

Adoption of the policy for handling Corona Virus Disease 2019 (COVID-19) in East Java with the issuance of two (2) regulations, namely (1) Regional Regulation of East Java Province Number 2 of 2020 concerning Amendments to Regional Regulation of East Java Province Number 1 of 2019 concerning Implementation Peace, Public Order, and Community Protection; and (2) Governor of East Java Regulation Number 3 of 2022 concerning Amendments to Governor of East Java Regulation Number 53 of 2020 concerning Implementation of Health Protocols in the Prevention and Control of Corona Virus Disease 2019.

4.1.4 Strategy for Controlling COVID-19 in East Java

The control of the COVID-19 pandemic in East Java, in terms of the operational structure and substance of the regulations, has adapted to health emergencies and quickly adapted regulations from the central government. The Governor of East Java, Khofifah
Indar Parawansa, explained the strategy of the East Java Provincial Government in controlling COVID-19 by forming a promotive-preventive team, tracing team, curative team, vaccination team, and a COVID-19 socio-economic impact team. Division of the team into four clusters to reduce the number of active cases of COVID-19 through changes in community behavior, active detection of suspects, centralized quarantine and isolation, treatment and care in various Emergency Hospitals, and acceleration of distribution and administration of vaccinations at program targets. Apart from also taking steps to reduce the impact of the pandemic, through budget refocusing.

On the preventive promotion side, the Provincial Government of East Java is working with the British Embassy to support behavior change to reduce the number of positive cases, especially related to the 5M health protocol (wearing masks, washing hands, maintaining distance, staying away from crowds, and reducing mobility) and implementing 3T (Testing, Tracing, and Treatment). Treatment in terms of treatment is accelerated through the addition of a COVID-19 Referral Hospital. This effort requires a good approach and the support of adequate infrastructure, health workers, and logistics.

4.1.5 Economic Impact Recovery Strategy Due to COVID-19 in East Java

The strategy for handling economic recovery amid COVID-19 in East Java, Governor Khofifah explained, that various programs had been carried out and carried out in synergy with many parties. Starting with Bank Indonesia, OJK, the National Land Agency (BPN), and various other vertical agencies. Handling the control of the COVID-19 approach is carried out starting from the Responsibility Village, the continuous Mask Movement, justice operations, the implementation of PSBB, PPKM, and Micro PPKM until now vaccination. Implementation of the impact recovery program due to COVID-19 through JATIM BANGKIT in the form (Rapitasari, 2021):

a. The food/cash assistance program is provided to families affected by COVID-19 non-DTKS and DTKS who have not received the program according to the district/city proposal. With an assistance amount of Rp. 200,000 per KPM/month which is received for 3 months in 38 districts/cities in East Java with a total budget of Rp. 450 billion.

b. The Family Hope Program is a conditional assistance program or Cash Transfer Condition that is given to families and/or someone poor and vulnerable
registered in the DTKS with an assistance amount of IDR 900,000 to IDR 3 million per year and a target of 1,522,963 KPM.

c. The Family Hope Plus Program aim of increasing the standard of living and welfare for elderly beneficiaries by utilizing social assistance in the form of money that is channeled in a non-cash manner with an assistance amount of Rp. from PKH beneficiary families who have health and/or education components.

d. The Non-Cash Food Assistance Program (BNPT) with social assistance is distributed non-cash to KPM with poor and vulnerable welfare status which is given monthly via electronic money which is then used to buy food that has been determined at e-warung/BNPT agents.

e. Supplement Program with supplemental assistance for people affected by Covid-19 recipients of Non-Cash Food Assistance in urban areas (sub-district areas) with an assistance amount of IDR 100,000 per KPM/month for 3 months.

f. Ministry of Social direct cash assistance with the aim of the Ministry of Social cash assistance program which is given to vulnerable poor people who are in DTKS outside PKM and BNPT recipients with an assistance amount of IDR 600 thousand per month for 3 months.

g. The Social Assistance Program for Art Workers and Guardians of Cultural Sites with the hope of assistance as a form of appreciation for arts workers and cultural site caretakers who are the spearhead of cultural preservation in East Java with a target of 750 artists of IDR 750 thousand per person and 240 caretakers with an honorarium of IDR 500 thousand per person for 12 months.

h. Subsidized Salary/wages Government Assistance Program with the criteria for recipients being an Indonesian citizen, registered as active BPJS participants, having an active bank account, and a wage of under IDR 5 million. The target recipient is 1.7 million

i. The East Java Food Barn Program guarantees staple food stocks at prices below cheap market prices and free shipping and guarantees the availability of staple foods that reach 38 districts/cities.

j. The Jatim Puspa Program with social assistance for productive women to increase socio-economic empowerment in the form of business capital for households in the poor category with an assistance amount of IDR 2.5 million per year and the target of empowering women's businesses is 7997 KPM and the
criteria for beneficiaries are having a female household assistant in productive age with dependents of school-age children.

k. **Anti Poverty Program** (APP) Productive economic business empowerment program with community groups consisting of RTs in the poor category in the form of production facilities and infrastructure in the form of grants with target maps of 17 districts/cities and 6 program implementers including the agriculture service, animal husbandry service, marine and fisheries service, trade service and industry, forestry service, and plantation service.

l. Productive Banpres for Micro Enterprises in collaboration with the proposing parties, namely the Office of Cooperatives and MSMEs, Ministries, cooperatives, banks, and companies registered with the Financial Services Authority, as well as institutions that distribute government credit programs.

m. Social Assistance for stall traders in Islamic boarding schools as a form of economic stimulus provided to the informal sector (warungs affected by Covid-19 around Islamic boarding schools) with an assistance amount of IDR 500,000 per person/month for 3 months and 600 Islamic boarding schools.

n. Direct cash assistance from village funds with an amount of IDR 300,000 to IDR 600,000 for 9 months

o. Capital for Village Owned Enterprises by increasing the village economy through additional capital stimulus for Village Owned Enterprises to restore village tourism with an assistance amount of IDR 50 million per BUMDES with a target of 100 BUMDES according to the district/city proposal and village government with the criteria for BUMDes beneficiaries supporting Villages Smart, Independent, and Prosperous Community Tourism.

p. East Java provincial government support in the recovery of MSMEs through aspects of marketing, business development, and financing through accelerating East Java Province revolving funds, accelerating KUR distribution, and fostering the preparation of financial reports for MSMEs.

q. In the East Java Farmer Loan Program (PKPJ) in which the distribution of credit is given to individual farmers/groups of farmers/cooperatives who have business activities in agriculture, animal husbandry, fisheries, and plantations.

r. East Java Provincial Government Credit Program Revolving Fund.

s. Distribution of People's Business Credit by Province.
t. Credit Restructuring with Bank Jatim and Bank Jatim.

4.1.6 Discipline Enforcement and Implementation of Health Protocols in East Java

The aspects of upholding discipline and complying with health protocols are regulated and implemented by (1) Regional Regulation of East Java Province Number 2 of 2020 concerning Amendments to Regional Regulation of East Java Province Number 1 of 2019 concerning Implementation of Peace, Public Order, and Public Protection; and (2) Governor of East Java Regulation Number 3 of 2022 concerning Amendments to Governor of East Java Regulation Number 53 of 2020 concerning Implementation of Health Protocols in the Prevention and Control of Corona Virus Disease 2019. Satpol PP in implementing administrative sanctions is carried out by standard operating procedures. Implementation of administrative sanctions in coordination with the Provincial COVID-19 Task Force, TNI, Police, related regional apparatus, Regency/City Government; and/or society.

4.2 IMPLEMENTATION OF THE COVID-19 RESPONSE POLICY IN WEST SUMATRA PROVINCE

4.2.1 Structure of the COVID-19 Response in West Sumatra

The structure of the West Sumatra Province COVID-19 Handling Task Force by the Circular Letter of the Minister of Home Affairs has at least one (1) Chair, three (3) Deputy Chairmen, one (1) Secretary, and six (6) fields, namely (1) Data and Information; (2) Public Communications; (3) Behavior Change; (4) Health Handling; (5) Law enforcement and discipline; (6) Volunteers.

The organizational structure is attached to the Circular Letter of the Minister of Home Affairs as shown in Figure 1 below:
In contrast to or in addition to central government regulations, the Provincial Government of West Sumatra to control the spread of COVID-19 issued a Decree of the Governor of West Sumatra Number: 320-347-2020 concerning the Formation of a Joint Team for Control, Supervision and Law Enforcement in the Context of Accelerating Handling of Corona Virus Disease 2019 (COVID-19) in West Sumatra Province on 15 May 2020.

4.2.2 The substance of the COVID-19 Control Policy in West Sumatra

The COVID-19 control policy in West Sumatra, especially in the implementation of New Life Adaptations and health protocols with the issuance of Regional Regulation of West Sumatra Province Number 6 of 2020 Concerning Adaptation of New Habits in the Prevention and Control of Corona Virus Disease 2019. Article 4 of the Regional Regulation explicitly states the purpose of the regulation area, namely for:

a. Protect the public from COVID-19 and/or public health risk factors that have the potential to cause a public health emergency;
b. Protecting the public from the impact of COVID-19;
c. Realizing shared awareness to prevent and control the transmission of COVID-19 in the Regions by involving the active role of the community; and/or
d. Providing legal certainty for the implementation of the Adaptation of New Habits in the Prevention and Control of COVID-19 for local government officials, district/city governments, those in charge of activities/businesses, and the community.
The scope of these 107 regional regulations includes responsibilities, authorities, rights, and obligations; Adaptation of New Habits in the Prevention and Control of COVID-19; community participation; coordination and cooperation in law enforcement, as well as supervision as stated in Article 5.

The local government in implementing the Adaptation of New Habits in the Prevention and Control of COVID-19, hereinafter referred to as IMR, is responsible for protecting public health and safety, protecting against the impact of the COVID-19 pandemic, and taking action to prevent and break the chain of transmission of COVID-19 in the Regions through the involvement of the active role of the community; as well as providing and providing information about the number and spread of COVID-19 outbreaks to the public. Article 7 of the regional government also has the authority to carry out integrated efforts to prevent and control the transmission of COVID-19 in the regions; carry out economic and socio-cultural recovery efforts, and increase knowledge, awareness, and community participation in the implementation of IMR.

4.2.3 Local Wisdom, Participation, and Community Compliance with Health Protocols

Control of COVID-19 in West Sumatra Province is carried out through telling, testing, tracing, isolation, and treatment. Telling is an effort to tell about COVID-19 which is manifested in health promotion using media, information technology, and learning. The trick is to build the image of COVID-19 as a disease that can be cured and is not a disgrace. Other campaigns that are echoed are the 3M Movement and Avoid the 3R. 3M stands for wearing a mask, keeping your distance, and washing your hands. As for Avoid the 3 Rs, namely Closed Spaces, Crowded Crowds, and Close Huddle. The government has also initiated community participation and empowerment as well as cross-sector collaboration through the preparation of Nagari Tageh, COVID-19 Caring Communities, COVID-19 Caring Campuses, and COVID-19 Caring Schools.

4.2.4 Efforts to Restore Economic Impacts Due to the Pandemic in West Sumatra

Issuance of Regional Regulation West Sumatra Provincial Regulation Number 6 of 2020 Concerning Adaptation of New Habits in the Prevention and Control of Corona Virus Disease 2019 explicitly states the purpose of Adapting New Habits (IMR) in the prevention and control of COVID-19 is aimed at protecting the public from health risk
factors the community, the impact of COVID-19, creating shared awareness through active participation, and providing legal certainty for the implementation of IMR for local government officials, those in charge of activities/businesses, and the community.

Adaptation of New Habits in the Prevention and Control of COVID-19 for local government officials, district/city governments, those in charge of activities/businesses, and the community. After exerting all efforts in controlling COVID-19 and which is under control, the government of West Sumatra is trying to restore economic conditions after the pandemic that hit various economic, socio-cultural sectors in West Sumatra. Deputy Governor of West Sumatra, Audy Joinaldy at Insight with Desi Anwar conveyed one of the efforts to restore the economy through the declaration of Visit Beautiful West Sumatra in 2023. This economic recovery program from the tourism sector was announced at the end of 2021. The West Sumatra government in its roadmap makes 2022 the year to recover gradually. Various events are held both big and small events ranging from sports, adventure, and special interest tours, to tourist villages. The Tour de Singkarak which was well known before the pandemic will be held again and the Seven Summit Event, which is a tour of climbing the seven peaks of the mountain, coupled with special interest tours surfing in the Mentawai Islands which are known as the second best waves in the world after Hawaii. This effort goes hand in hand with strengthening the food and agriculture sectors which are the leading sectors of West Sumatra (CNN Indonesia, 2022).

The Governor of West Sumatra in 2020 Irwan Prayitno revealed four keys that West Sumatra was doing in controlling the COVID-19 pandemic and seven indicators to evaluate it. Because of these things, President Joko Widodo considered West Sumatra to be one of the five best provinces in Indonesia in dealing with COVID-19 at the Indonesian Governors’ Meeting, in February 2020.

The measure of controlling ability can be seen from seven indicators. Namely, testing rate, positivity rate, tracking rate, incident rate, recovery rate, death rate, and reproduction rate. The four keys that West Sumatra has carried out in controlling the spread of COVID-19 are testing, tracking, isolation, and treatment.
4.3 EFFECTIVENESS OF IMPLEMENTATION OF COVID-19 RESPONSE POLICIES

4.3.1 Legal Substance of COVID-19 Countermeasures

The formulation of policies for handling COVID-19 in East Java and West Sumatra is a derivative of policies that come from the central government. Legal policies in emergencies are still top-down and instructional. Regulations are prepared with the affirmation that regulations issued by the central government become a reference for the preparation and issuance of derivative regulations that apply in the regions. The aim is to synchronize the steps and one word from the central level to the lowest level in society as stated in point three of the Presidential Decree of the Republic of Indonesia Number 12 of 2020 concerning the Stipulation of Non-Natural Disasters with the Spread of Corona Virus Disease 2019 (COVID-19) as a National Disaster. Included in the issuance of regional regulations, governor regulations, instructions, and circulars. All are issued by those stipulated by the central government and carried out in compliance with the local government in terms of testing, tracing, treatment, and 3T. The existence of regional regulations makes the basis for the task force in carrying out efforts to accelerate the handling of COVID-19. This was disclosed by Dr. Herlin Ferliana in an interview with researchers in September 2022 as follows:

"All regulatory references come from the center. We comply with everything regarding our therapy using the guidelines issued by the Ministry of Health. Although at that time there were many pros and cons. We are still following central regulations. So it also includes command systems. The Governor made the Pergub-Pergub including those issued by the ministry regarding the PPKM colors red, green, and yellow all of that from the center but these were followed up on by decisions made by the Governor technically. The formation of the COVID-19 Task Force (which is operational, pen.) was directly led by the Regional Secretary. Including unexpected financial assistance and others. So with regulations, we dare to take a step." (Interview with Herlin Ferliana, Head of the East Java Provincial Health Office for 2020, September 2022).

The substance of the regulation issued by the government which is directly followed up by the regional government is quite complete in regulating all types of technicalities and can be guided by the regions directly. Herlin Ferliana admitted that at the peak of the pandemic in 2020 he led the response in the health sector as Head of the East Java Provincial Health Office. Herlin admitted that the central policy was very good
and even firm when implementing PPKM and self-isolation, including the alertness and discipline of the Task Force for the Acceleration of Handling COVID-19 in implementation in the field. Herlin believes that regulations from the center are complete and clear, followed by quality leadership in the structure of the task force for the acceleration of handling COVID-19,

4.3.2 Institutional Structure for Handling COVID-19 and Law Enforcement Apparatus During a Pandemic

The institutional structure for handling the COVID-19 pandemic as well as its legal substance synergizes between the center and regions through the establishment of the Task Force for the Acceleration of Handling COVID-19. The command system, operational efforts to accelerate handling, to the reporting process are also tiered from the Regency/City Task Force to the Provincial Task Force and then to the National Task Force. In general, the structure of the COVID-19 response consists of at least one (1) Chair, three (3) Vice Chairs, one (1) Secretary, and six (6) fields, namely (1) Data and Information; (2) Public Communications; (3) Behavior Change; (4) Health Handling; (5) Law enforcement and discipline; (6) Volunteers. The form of addition or one might say innovation in the structure of the task force for accelerating the handling of COVID-19 by East Java Province is by adding task clusters. East Java Governor Khofifah Indar Parawansa formed a vaccination cluster to accelerate herd immunity as well as control COVID-19. The formation of the vaccination cluster completes the four (4) task clusters that were previously formed, namely (1) the Promotive Cluster takes care of problems; (2) the Tracing and Testing Clusters; (3) the Curative Cluster; (4) Socioeconomic Impact Cluster.

The institutional structure or framework for accelerating the handling of COVID-19 down to the smallest unit shows that the handling of the COVID-19 pandemic which has a systemic impact on all aspects of Indonesian people's lives must be carried out across institutions, across roles, across sectors, and programs. Participation and community involvement, which later became known as Pentahelix, involved elements from the central and regional governments, elements from the private sector and the business world, elements from academies and research institutions, the community, and the mass media.
The implementation of PPKM Micro further strengthens the government's desire to ensure community involvement down to the smallest government unit in the village and RT/RW. PPKM Micro is carried out through coordination between all elements involved, starting from the Head of RT/RW, Head of Village/Lurah, Community Protection Unit (Satlinmas), Village Trustee Officer (Babinsa), Bhayangkara Supervisor of Community Security and Order (Bhabinkamtibmas), Civil Service Police Unit Praja (Satpol PP), Family Welfare Empowerment Team (PKK), Integrated Health Planning Family Service Post (Posyandu). Dasawisma, Community Leaders, Religious Leaders, Traditional Leaders, Youth Leaders, Counselors, Facilitators, Health Workers, Youth Organizations and other volunteers.

4.3.3 Awareness, Compliance, and Legal Culture During a Pandemic

Public compliance with the implementation of New Habits and Health Protocols during a pandemic did not come suddenly. Moreover, in practice, people without quotes are forced to limit their activities, activities, and mobilization. The early days of implementation can be the most challenging period in efforts to control COVID-19. The public does not know about COVID-19, or how to prevent, control, and manage it. Especially if someone feels that their economic rights have been violated. The success of implementing the law is that the law has been made and its purpose has been achieved. The purpose of legal norms is to regulate human interests. If legal norms are adhered to and implemented by the community and law enforcement, then the implementation of the law is said to be effective or successful in its implementation. Conversely, failure in implementing the law is that the legal provisions that have been set are not successful in their implementation.

The law does not only function as a binding rule, it is limiting citizens in behaving and acting, especially those concerning aspects of interpersonal life. In every society and interpersonal relationship there are always laws that govern. Jonathan M. Turner states that the rule of law contains at least the basic elements, namely (1) Explicit laws or rules of conduct; (2) Mechanisms for enforcing laws; (3) Mechanism for mediating and adjudicating disputes by-laws; and (4) Mechanism for enacting new or changing old laws (Turner, 1972).

COVID-19 is a disease caused by a previously unknown virus. When it becomes a global pandemic and affects the normal life order of the world community, extensive
communication is needed to increase awareness of controlling it. Knowledge of viruses and risk communication is the first thing that is of concern, including the Government of East Java. Dr. Herlin Ferliana said that COVID-19 is a newly emerging disease that the world of health has no previous learning. On the other hand, information from the media varies widely, information that is half-true and incorrect is mixed, causing information confusion and causing an infodemic. At that time the government was working with the mass media including working with the Ministry of Communication and Informatics, the TNI/POLRI with the media,

The law does not only function as social control but can carry out the function of social engineering (social engineering or instrument of change). The effectiveness of law can be seen from the point of view of its function as social control as well as from the point of view of its function as a tool for making changes (Tjandrasari & Yudhi, 1987). The law can also have a perspective of community emancipation law. In this perspective, law includes legal capacity as a means of accommodating community aspirations, legal culture, legal awareness, law enforcement, and so on (Yunus, 2012).

The determining factor for the effectiveness of the next law is culture. Community culture is defined as the result of work, creativity, and taste based on human initiative in social life. Culture has three manifestations, namely (1) The form of culture as a complex of ideas, notions, values, norms, regulations, and so on; (2) Culture as a complex of behavioral activities towards human beings in society; (3) Culture can be in the form of human-made objects (Tjandrasari & Yudhi, 1987).

Law from the point of view of culture as a system of values. Law influences directly or indirectly in encouraging social change. The way to internalize and influence society with an orderly and planned system is called social engineering or social planning (Soekanto, 2020). This review is the one most widely used by officials to explore sources of power that can be mobilized by using law as the mechanism or what is called the officials perspective of the law.

Public communication is one of the areas that must be included in the structure of the regional COVID-19 Handling Task Force, including the provincial and district/city COVID-19 Handling Task Force, which consists of at least 1 (one) chairperson, 3 (three) deputy chairmen, 1 (one) one) Secretary, and 6 (six) fields, namely: data and information, public communication, behavior change, health management, law enforcement and discipline, and volunteers. This extends to the structure at the sub-district and sub-district
levels, as well as village, hamlet/RW/RT consisting of at least 1 (one) Chairman, 1 (one) treasurer, 1 (one) secretary, and 4 sections, namely: information communication and education, social welfare, health, and law enforcement and discipline.

Risk communication and community empowerment (KRPM) is an important component in increasing public legal awareness and compliance with calls for upholding health protocols in daily life. KRPM can help prevent infodemics, namely the spread of false information/hoaxes, and build public trust in government preparedness and response so that people can receive good information and follow government recommendations. In addition to minimizing misunderstandings and managing issues/hoaxes about current health conditions and risks. KRPM also aims to be able to change the behavior of people's lives.

4.4 MODEL OF POLICY HARMONIZATION AND PUBLIC WELFARE IN INDONESIA DURING THE HEALTH CRISIS

4.4.1 The law during a health crisis adheres to the principle of "Salus populi supreme lex esto" where people's safety is the highest law

Health policies in the framework of saving, preventing, and healing from COVID-19 are a priority, without neglecting economic interests and people's welfare and restrictions on human rights. Phoebe E. Arde-Acquah stated that Salus Populi Suprema Lex Esto is the duty and responsibility of the state for public health, including the health and safety of communities, society, or the human population. In the event of a health crisis in the future, health interests become the mainstay of every policy, but that does not mean negating other interests such as the economy and socio-culture (Arde-Acquah, 2014). The interests of health are as important as efforts to ensure that the health crisis guarantees citizens' rights to a decent life, work, welfare, and freedom from hunger. Both the economy and health are indivisible, interdependent, interrelated, and inalienable human rights. The health emergency due to COVID-19 has also resulted in an economic emergency. Handling COVID-19 from an economic and health perspective must be carried out in harmony and tandem based on human rights. The formulation of policies and their implementation must reflect this harmonization as well. The principle of people's safety as the highest law must be firmly adhered to, so that policies for handling COVID-19 and/or other health crises, both health and economy, mainstream health, and not revoked (inalienable). The health emergency due to COVID-19 has also resulted in
an economic emergency. Handling COVID-19 from an economic and health perspective must be carried out in harmony and tandem based on human rights. The formulation of policies and their implementation must reflect this harmonization as well. The principle of people's safety as the highest law must be firmly adhered to, so that policies for handling COVID-19 and/or other health crises, both health and economy, mainstream health, and not revoked (inalienable). The health emergency due to COVID-19 has also resulted in an economic emergency. Handling COVID-19 from an economic and health perspective must be carried out in harmony and tandem based on human rights. The formulation of policies and their implementation must reflect this harmonization as well. The principle of people's safety as the highest law must be firmly adhered to, so that policies for handling COVID-19 and/or other health crises, both health and economy, mainstream health. The formulation of policies and their implementation must reflect this harmonization as well. The principle of people's safety as the highest law must be firmly adhered to, so that policies for handling COVID-19 and/or other health crises, both health and economy, mainstream health. The formulation of policies and their implementation must reflect this harmonization as well. The principle of people's safety as the highest law must be firmly adhered to, so that policies for handling COVID-19 and/or other health crises, both health and economy, mainstream health. The formulation of policies and their implementation must reflect this harmonization as well. The principle of people's safety as the highest law must be firmly adhered to, so that policies for handling COVID-19 and/or other health crises, both health and economy, mainstream health.

4.4.2 Laws during a crisis can be instructional "State Center" in the context of a State of Emergency but are still limited within the framework of fulfilling human rights

Many of the laws and regulations issued during the pandemic are instructional which emphasizes the active aspects of the central and regional governments. Its substance contains commands for the community regarding the dangers of COVID-19 and efforts to deal with them. The legal logic is centered on this country which is reflected in the substance of the laws and regulations which are the implications for the imposition of an emergency law due to an epidemic infectious disease. Regarding the determination of the state's status in a state of emergency, Article 12 of the 1945 Constitution states that "The President determines a state of emergency. The conditions and consequences of a state of danger are determined by law". Article 22 states the 1945 Constitution "In the event of a pressing emergency, the President has the right to issue government regulations instead of laws. "However, the policy of designating COVID-19 as a national disaster
does not use the provisions of articles 12 and 22 of the 1945 Constitution as considerations. The government chooses laws that regulate special emergency conditions such as "Disaster Emergency" in Law Number 24 of 2007 concerning Disaster Management; and "Public Health Emergency" in Law 6 of 2018 Concerning Health Quarantine. Even the Government Regulation instead of Law No. 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 Corona Virus Disease (COVID-19) Pandemic and/or in the Context of Dealing with Threats that Endanger the National Economy and/or Financial System Stability (Perppu No. 1/2020) then with the agreement with the DPR to become Law Number 2 of 2020 concerning changes to Perppu No. 1 Year 2020. Changes to become a Law can be interpreted that this regulation applies permanently not only for a certain period during the COVID-19 disaster emergency. Referring to the policies above, the government is trying to interpret that the COVID-19 crisis is not an emergency caused by security disturbances. The COVID-19 pandemic is considered an ordinary emergency, not an emergency in the sense of a state of emergency. In the absence of activation of Article 12 of the 1945 Constitution, the normal legal regime remains in effect and no deviations from human rights or the constitution are allowed (Prasetio, 2021). the government is trying to interpret the COVID-19 crisis as not an emergency caused by security disturbances. The COVID-19 pandemic is considered an ordinary emergency, not an emergency in the sense of a state of emergency. In the absence of activation of Article 12 of the 1945 Constitution, the normal legal regime remains in effect and no deviations from human rights or the constitution are allowed (Prasetio, 2021). the government is trying to interpret the COVID-19 crisis as not an emergency caused by security disturbances. The COVID-19 pandemic is considered an ordinary emergency, not an emergency in the sense of a state of emergency. In the absence of activation of Article 12 of the 1945 Constitution, the normal legal regime remains in effect and no deviations from human rights or the constitution are allowed (Prasetio, 2021).

4.4.3 The law during a health crisis does not conflict with the applicable legal system and prioritizes general welfare as a state goal in the Constitution (Welfare State)

Public policies are taken by state administration officials to resolve critical issues that arise suddenly and there are no implementing regulations made by competent institutions. The granting of authority or independence to state administration in the state
legal system is known as Freies Ermessen or discretionary power, a term that contains broad obligations and powers. Freies Ermessen is a consequence of a welfare state like Indonesia, which in its constitution states promoting public welfare as a state goal. Within the framework of a rule of law, drafting regulations in the face of an infectious disease pandemic must immediately take actions that are beneficial to the state and people. Even so, the obligations and freedoms of the government are still limited by rules that its use must not conflict with the applicable legal system and is only intended for the public interest. During a health emergency and a pandemic, the government can issue policies that are outlined in various forms, such as beleidslijnen (policy lines), het beleid (policies), voorschriften (regulations), richtlijnen (guidelines), regelingen (guidelines), circulaires (circular letters), resolutions (resolutions), aanschrijvingen (instructions), beleidsnota (policy notes), regulations (Ministerial regulations), beschikking (decisions).

### 4.4.4 Harmonization of laws during a health crisis

Legal harmonization during a health crisis can refer to responsive law which has the principle of openness to public aspirations and participation to achieve social goals (public welfare), as well as accommodate community needs, and accept change in order to achieve justice and public emancipation. Drafted laws must be precise and pragmatic according to need, precise in achieving the goals of drafting laws, and comprehensive.

### 4.4.5 Drafting legislation during a health crisis by looking at the ICESCR offers the principle of progressive realization

The ICESCR is an international human rights instrument that is considered customary international law, through recognition in other conventions and declarations as well as through national law and jurisprudence. The countries of the world are committed to realizing human rights, including the progressive realization (advance fulfillment) of economic, social, and cultural rights of all people through the ratification of several international human rights treaties that regulate socio-economic rights. *Progressive realization* which is interpreted as the fulfillment of economic, social, and cultural rights gradually but must move forward and constantly. Gradual fulfillment of economic, social, and cultural rights is adjusted to the country's economic capacity, so that during a health crisis, such as the COVID-19 pandemic, the state must endeavor to
safeguard health rights and economic rights in harmony, at least preventing the wider spread of the disease and the potential for it to occur. Economy Crisis.

4.4.6 Prevention of potential moral hazard and abuse of authority in the form of corrupt acts taking advantage of emergencies resulting from the health crisis

Increased accountability by government administrators accompanied by control and supervision by elements of state institutions and public oversight to prevent corruption and abuse of authority during health crises.

4.4.7 Active community involvement in the drafting and implementation of laws

Community participation is one of the important elements to succeed in saving health and the economy due to the health crisis. Government policies can only succeed with the awareness and legal compliance of the people. Therefore, the legal policies that are prepared must be able to involve the community in the process, including the involvement of community leaders in the institutional structure, promoting Indonesian values such as cooperation and social solidarity, and redesigning local wisdom.

5 CONCLUSION

The implementation of the COVID-19 countermeasures policy in the Provinces of East Java and West Sumatra has succeeded in controlling the transmission of the virus effectively. The two provinces took strategic steps by forming promotive-preventive, tracing, vaccination, and socio-economic impact control teams. In addition, increasing community participation through the Tangguh Semeru Village program in East Java and various COVID-19 care communities in West Sumatra have also proven successful in fighting the pandemic. However, some several weaknesses and limitations can be used as input for further research. First, constraints in cross-sectoral coordination and weak support from some sectors of society can reduce policy effectiveness. Second, Inaccuracy and speed in responding to regulatory changes also need to be improved to be more responsive in dealing with the ever-changing pandemic situation. Third, it is necessary to pay attention to strengthening the institutions and mentality of the apparatus involved in the response so that the control of COVID-19 can work better. Fourth, there are challenges in achieving adherence to the implementation of health protocols and adapting
to new habits in society, so educational approaches and community empowerment need to be improved.

Responding to the potential for disease pandemics in the future, in addition to strengthening the health system from a policy perspective, a model can be applied legal approach by prioritizing the effectiveness of the legal system, strengthening control institutional structures, increasing adherence to health protocol implementation, and describing responsive law. In facing a health crisis such as the COVID-19 pandemic, it is important to continue to prioritize public safety as the highest law, but still accommodate economic interests and people's welfare in a balanced manner. In drafting legislation, it is necessary to pay attention to openness to public aspirations and participation as well as to accommodate the needs of the community in achieving justice and public emancipation. Drafting of laws must prioritize progressive realization and prevention of potential moral hazard and abuse of authority. Community involvement in the process of drafting and implementing laws,
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