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Legal Protection Policy for the People in Handling COVID-19: A Comparison of Indonesia and Australia

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Abstract

In terms on handling COVID-19, the whole world is struggling to provide legal protection for its people, including Indonesia and Australia. Surely, Indonesia and Australia have made efforts to provide protection for their people in the form of legal provisions as a consequence of adhering to the rule of law. Thus, the purpose of this study is to examine how Indonesia and Australia issue policies for legal protection for the people in their efforts to deal with COVID-19. This article uses legal research in an effort to answer juridical problems. The results of the discussion show that Indonesia in its efforts to deal with COVID-19 issued a policy of budget refocusing, Large-Scale Social Restrictions to the Enforcement of Restrictions on Micro Community Activities. Meanwhile, Australia in an economic effort issued a COVID-19 grant program policy in Eligible States and Territories if it was appropriate and other efforts made by Australia in handling COVID-19, namely locking in areas where new cases identified. The research was conducted solely for the purpose of producing a substantive picture of the impact of COVID-19 so as to be able to produce policies that do not contradict the existing situation.
***Keywords**: COVID-19, legal protection, policy, Indonesia, Australia.*

A. PENDAHULUAN

In accelerating the handling of COVID-19, lockdown effective in reducing spread and mortality, but has a negative effect in the form of economic and social instability of the country (Puspita et al., 2021). Indonesia issued several regulations including

Government Regulation in Lieu of Law of the Republic of Indonesia No. 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Corona Virus Disease (COVID-19) Pandemic and/or In the Context Facing Threats That Endanger the National Economy and/or Financial System Stability (hereinafter referred to as Perpu No. 1 of 2020) which later became Law No. 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law of the Republic of Indonesia No. 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Corona Virus Disease (COVID-19) Pandemic and/or In Facing Threats That Endanger the National Economy and/or Financial System Stability into Law, Government Regulation of the Republic of Indonesia Number 21 of 2020 concerning Large-Scale Social Restrictions in the framework of Handling of Corona Virus Disease 2019 (COVID-19) (hereinafter referred to as PP No. 21 of 2020), Presidential Regulation No. 54 of 2020 concerning Changes in Posture and Details of the State Revenue and Expenditure Budget for Fiscal Year 2020 (hereinafter referred to as Presidential Decree No. 54 of 2020), Presidential Decree of the Republic of Indonesia No. 11 of 2020 concerning Determination of the Corona Virus Disease 2020 (COVID-19) Public Health Emergency (hereinafter referred to as Presidential Decree No. 11 of 2020) and the last is related to the implementation of restrictions on community activities. In Australia alone there are at least 50 regulations related to COVID-19 (Federal Register of Legislation, 2020). Regulations made by Australia include the addition of the Priority Migration Skilled Occupation List (PMSOL) to 22 professions bringing the total to 41 professions (MP, 2021), the SME Recovery Loan Scheme (Government, 2021), postponement of payment of rent on assets of Self-Managed Superannuation Funds (SMSF) (Legislation, 2020c), postponement of wage increases and benefits for government employees (Legislation,

2020b), energy sector assistance by the Australian Energy Regulator (AER) for households and small businesses. The curiously thing is that some time recently before the new cases at the end of January 2021, Australia can carry out a typical life amid the pandemic for 10 months. It is become enthralling to study about how to protect the people within the handling of COVID-19.

There are several previous studies related to this research. First, a study by Matthew J. Beck and David A. Hensher with the title *Australia 6 months after COVID-19 restrictions-part 1: Changes to travel activity and attitude to measures* (Beck & Hensher, 2021) which conducts a review of ongoing policies in Australia by conducting a national survey. The study found that Australia's success in tackling COVID-19 was influenced by its geographic position and support at the State, federal and business levels. The similarity with this research is in conducting policy studies in the effort to prevent COVID-19 in the transportation sector. The difference between this research and the research above lies in the study of legal protection policies in terms of economic, social, and information technology as well as the comparison of the two countries, Indonesia and Australia. Second, research by Matthew J. Beck and David A. Hensher with the title *Insight into the impact of COVID-19 on household travel and activities in Australia-The early days under restrictions* (Beck & Hensher, 2020). The research mapped the pattern of activity in work, work from home, aviation, and shopping which concluded that every policy must consider the impact between the relationship between workers and superiors because some policies cannot be carried out through the work from home system, then habituation to the work from home system is assessed can have a significant impact in reducing traffic, climate problems, hence the budget could be redirected for health services and their supporting structures. The difference between Beck and Hensher

research and this research lies in the object of this research study which is broadly generalized to policies of various sectors, does not focus deeply on the transportation sector, and uses a comparative approach between Indonesia and Australia. Third, research by Sacha Alanoca, et. al., with the title *Digital contact tracing against COVID-19: a governance framework to build trust* (Alanoca et al., 2021), the research conducted a study of policies to handle COVID-19 through information technology from various countries such as Taiwan, South Korea, Singapore, Kuwait, Norway and several other countries which has a contact tracing application. The conclusion of the study is that many applications from various countries experience privacy problems in their application to the public so that their acceptance and ability to overcome these problems requires the role of the government in increasing public awareness and public trust in contact tracing applications. The role of technology in research is also discussed in this study, but the comparison lies not in the in-depth technical focus of the application but on Indonesian and Australian legal protection policies during the COVID-19.

B. RESEARCH METHODS

This article is legal research(Tinambunan et al., 2022) conducted discover arrangements to lawful issues that emerge, to be specific to deliver on what ought to be on the issues raised. In this legal research, it was carried out to answer legal issues regarding the Protection Policy for the People in Handling COVID-19. In order to answer these legal issues, legal arguments are used in this legal research. In this legal research, the approaches used are the statutory approach, the conceptual approach, and the comparative approach. In this study, the thing being compared is related to the Protection Policy for the People in Handling COVID-19 Indonesia and Australia

C. RESULT AND DISCUSSION

Legal Protection for the People in the Amid of Handling COVID-19

1. Indonesia

The legal protection provided for the Indonesian people in the face of the COVID-19 pandemic is an implementation of the principle of legal recognition and protection which is essentially based on the values contained in Pancasila and the constitution. In an effort to protect the law for the people, the government has made efforts in handling COVID-19, namely, first, the refocusing of the budget in the context of accelerating the handling of COVID-19. In Article 12 paragraph (2) of Perpu No. 1 of 2020 stated that "Changes in the posture and/or details of the State Revenue and Expenditure Budget (APBN) in the context of implementing state financial policies and measures as referred to in Article 2 to Article 11 are regulated by or based on a Presidential Regulation." Based on this, the government issued Presidential Decree No. 54 of 2020 concerning Changes in Posture and Details of the State Revenue and Expenditure Budget for Fiscal Year 2020 which was promulgated on April 3, 2020 is a form of *bestuurhandelingen* to tackle COVID-19. Eric A. Posner and Adrian Vermule stated that “The Constitution should be relaxed or suspended during an emergency”. This perspective is known as accommodation theory. During an emergency, it is important that power is concentrated. Both explained that power should move up from the states to the federal government, and, within the federal government, from the legislature and the judiciary to the executive. In addition, constitutional rights must be relaxed so that the executive can act quickly to deal with threats. There is no reason to think that the constitutional rights and powers appropriate to an emergency are the same as those that apply during normal times. Both emphasized that the reason for relaxing constitutional norms during emergencies is that

the risks inherent in expansive executive power—the misuse of the power for political gain—are justified by the national security benefits. This view is in line with the principle of *normale rechts voor normale tijd, en abnormale rechts voor abnormale tijd*. (Normal law for normal time, and abnormal law for abnormal time) (Rizaldi, 2020). However, in dealing with the COVID-19 pandemic, one must look deeper, especially with regard to the principle expressed by Cicero, namely *salus populi suprema lex esto* which means that the safety of the people is the highest law for a country (Ubwarin & Corputty, 2020) and the principle popularized by the Italian philosopher Santo Romano in the early 20th century, namely *Necessitas non habet legem* means that an emergency situation does not recognize the law and According to Aristotle, an emergency is a prime mover, an emergency does not need to look for a legal basis, because from the beginning an emergency has a legal character so that an emergency has made its own law (Wardani & Fakih, 2018). Therefore, the government's limit in issuing policies is to bring welfare and contentment to as many people as possible (Saepullah, 2020).

The Indonesian government, apart from previously described, also carries out disaster mitigation based on the Health Information System (SIK). Through the collaboration of SOEs with the Ministry of Communication and Information of the Republic of Indonesia, the government has produced a tracing, tracking, warning, and fencing application in the handling of COVID-19, the regulation of which is regulated in the Decree of the Minister of Communication and Information of the Republic of Indonesia No. 171 of 2020 concerning the Determination of Protected Care Applications in the Context of Surveillance Implementation Health Handling Corona Virus Disease 2019 (COVID-19). "We are drowning in information but starved for knowledge." This expression seems appropriate if there is no initiation by the Ministry of SOEs and

Communications and Information Technology in collecting contact data for COVID-19 patients. Existing data will become knowledge if the data is managed so that results are obtained as a means of consideration for policy making in the future. Like many other applications, the effectiveness of which algorithms depend on the user's database, the PeduliLindungi application has raised concerns and doubts regarding the security of users' personal data. This highlight resulted in several studies related to personal data in the PeduliLindungi application. As of August 4, 2021, the PeduliLindungi application has been downloaded more than 10,000,000 times on the Play Store, and this application was last updated on July 23, 2021. A very large number, but still small compared to the population of Smartphone users in Indonesia. The Aarogya Setu application, for example, in India reached 65 million downloads within 15 days, even though India has 5 times the population of Indonesia. However, from these data it can be said that public interest in the PeduliLindungi application is very low (Sholeh et al., 2020)

Image. 1

PeduliLindungi Application

Source: Minister of Communication and Information

2. Australia

As in Indonesia, Australia also has economic recovery efforts in a legal instrument, namely the Income Tax Assessment (Eligible State and Territory COVID-19 Economic Recovery Grant Programs) Declaration 2020 (Legislation, 2020a). This instrument is the

Declaration on Income Tax Assessment (State COVID-19 Economic Recovery Grant Program and Eligible Territories) 2020. COVID-19 grant programs in Eligible States and Territories are declared as eligible programs if they are compliant under sections 59-97 (3) of the Act, each item from the following table represents the grant program of The State or Territory specified in the item is an eligible program for the purposes of paragraphs 59-97(1)(b) of the Act. This means that in Australia there are clear instruments that are used in efforts to recover the economy. These economic recovery grants are set out more clearly in Section 2—The COVID-19 grant program for small businesses in Eligible States and Territories no. 5 declared as a program that meets the requirements, the contents of which are columns or tables that show an eligibility for the requirements to be declared a participant in the grant program.

Another effort made by Australia in dealing with COVID-19 is implementing a lockdown in March 2020. The Australian government through Prime Minister, Scott Morrison announced the closure of his country in an effort to deal with COVID-19. Australia implemented a ban on entry for foreigners and the decision was made after consultation with the national security committee. At the time of the lockdown, the Australian population did not leave the house in terms of needs based on the results of the Interview with Ms. Y (Indonesian citizen living in Australia) said that "not all Australians get assistance, for the rich people will be subject to a very large salary cut by the government of IDR 70,000,000 (approximately 40% tax deduction) to be cross-subsidized for residents who are less fortunate." This is one of the economic recovery efforts that can be seen from the Treasury Laws Amendment (A Tax Plan for the COVID-19 Economic Recovery) Act 2020. In April 2020 until before the occurrence of new cases at the end of January 2021, Australia issued a National COVID-19 Emergency (Public

Holiday Travel Condition) Derestriction Notice 2020. This policy aims to remove restrictions on certain travel conditions during heavy vehicle travel during the COVID-19 Emergency. The restrictions relate to travel on state-controlled roads during holidays, such as Easter and Christmas, and at certain other times. This travel time restriction usually serves to reduce heavy vehicle traffic during peak holiday times. This Notice suspends certain travel conditions in certain permits and Sheet Notices made under the National Heavy Vehicle Law (HVNL) due to reduced access to roads by the general public during the COVID-19 Emergency, meaning approximately 10 months Australian Residents are living a normal life with no new cases.

In dealing with COVID-19, it is mandatory for citizens to use the CovidSafe or SafeWA application. CovidSafe or SafeWA is a digital COVID-19 contact list for Australia. CovidSafe or SafeWA is Australia's free digital COVID-19 contact registration system. The system developed by the Australian Department of Health (WA Health) is a safe and convenient way for operators and place customers to easily register their presence at the relevant premises. Through a unique venue QR code, CovidSafe or SafeWA supports efficient COVID-19 contact tracing, if required, by providing a digital list of contact details for customers attending the venue. The digital register was developed exclusively for CovidSafe or SafeWA and is provided at no cost to WA or public place operators, as part of the mandatory requirement to maintain contact registers, and is an extra precaution in line with Covid safety principles. This CovidSafe or SafeWA is used by Australian residents before entering a place they visit, such as a shop or restaurant. They are required to scan a barcode with the aim that the government can track the places they have visited. For those who do not have a phone, a form has been provided that must be filled in.

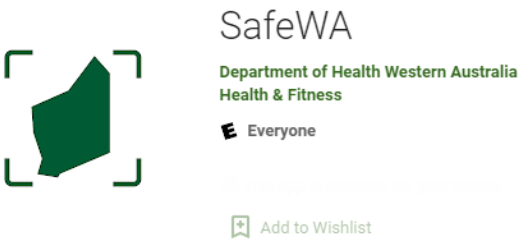
Image. 2

CovidSafe Application

Source: https://www.health.gov.au/resources/apps-and-tools/covidsafe-app

Image. 3

SafeWA Application



Source: https://safewa.health.wa.gov.au/

When there are new cases, the Australian government is very easy to trace. The WHO standard is the number between those who are traced and those who are isolated, the ratio is 1:30, for Australia this standard can be passed because everyone can be tracked where they are and who is there through the SafeWA application developed by the Australian Department of Health. It has proven effective that after 6 days of lockdown the government has issued an easing policy on February 6, 2021.

The Australian Government's policy in dealing with COVID-19 cannot be separated from the role of the community. This can be seen in the Coronavirus (COVID-19) In Australia – Pandemic Health Intelligence Plan issued by the Australian Department of Health which generally stated that public attitudes and perceptions towards current

measures and proposed adjustments to public health measures are critical. The effectiveness of action depends on public acceptance and adherence to advice (Health, 2021). If community acceptance of the action decreases (eg if the community feels that the measures implemented are disproportionate, or there are inequalities across the region), community compliance is likely to decrease. The Australian government will move quickly to identify any changes to compliance. This will be achieved through monitoring public attitudes towards government communications and actions, with a tool (CovidSafe or SafeWA) that will assess how well communities are following guidelines, including transport and traffic movements as well as movement data (Health, 2021).

D. CONCLUSION

Indonesia in its efforts to deal with COVID-19 issued a policy of budget refocusing, large-scale Social Restrictions (PSBB) to the Enforcement of Restrictions on Community Activities (PPKM) and in handling COVID-19 using the PeduliLindungi application. However, the use of this application in the community is still very low. Meanwhile, Australia in an economic effort issued a COVID-19 grant program policy in Eligible States and Territories declared as a qualifying program if it was appropriate and other efforts made by Australia in handling COVID-19 were implementing a lockdown in areas identified as new cases by tracing quickly using the CovidSafe/SafeWA application which can identify the presence of Australian residents wherever they are and with whoever there are. The research was conducted solely for the purpose of producing a substantive picture of the impact of COVID-19 thus to be able to produce policies that do not contradict.

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