

The Harmonization of the Central and Local Governments Authority: Handling Public Health Emergencies on Coronavirus Disease 2019

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Abstract : *The global Covid-19 pandemic has made Indonesia do various ways to reduce the spread of covid-19. Through Government Regulation Number 21 of 2020, the Large-Scale Social Restrictions. The aim of this study is to know the relationship pattern of central and local governments in handling public health emergencies and harmonizing any related laws and regulations. This study used juridical normative method with the statutory approach. The study used the Large-Scale Selection of Social Restrictions policy. The findings revealed the central government as the main policy at the regional level, as a party to determine the type of steps that will be taken in handling public health emergency of Covid-19. The selection of Large-Scale Social Restrictions known as PSBB as the main way to suppress the spread of Covid-19 is based on the Local Government flexibility. In other words, the local government can immediately oblige to apply PSBB in their regions to see the progression and to act quickly upon it. Thus, the synergy between central and local governments in handling covid-19 is indispensable. In conclusion, the implementation of PSBB in Banten Province, especially in Tangerang Raya, successfully reduce the number of confirmed cases of Covid-19. However, the delay in the implementation of PSBB in Banten Province makes the spread of covid-19 reach to other areas apart from Tangerang Raya.*

Keywords: *Central and Local Government; Covid-19; Harmonization, Policy.*

Harmonisasi Kewenangan Pemerintah Pusat dan Pemerintah Daerah dalam Penanganan Kedaruratan Kesehatan Masyarakat Corona Virus Disease 2019

Abstrak : Pandemi global Covid-19 telah membuat Indonesia melakukan berbagai macam cara untuk menekan angka penyebaran Covid-19. Melalui Peraturan Pemerintah Nomor 21 Tahun 2020 tentang Pembatasan Sosial Berskala Besar, pemerintah pusat memilih untuk menggunakan. Tujuan penelitian ini untuk melihat bagaimana pola hubungan antara pemerintah pusat dan pemerintah daerah dalam hal penanganan kedaruratan kesehatan masyarakat dan mengharmoniskan peraturan perundang-undangan yang berkaitan dengan hal tersebut. Metode penelitian ini yang digunakan yaitu yuridis normatif dengan pendekatan peraturan perundang-undangan, studi kebijakan yang dikaji adalah Pemilihan Pembatasan Sosial Berskala Besar. Hasil penelitian didapatkan bahwa, Pemerintah Pusat sebagai haluan utama kebijakan di tingkat daerah menjadi pihak yang dapat menentukan langkah apa yang akan diambil dalam penanganan kedaruratan kesehatan masyarakat Covid-19. Pemilihan Pembatasan Sosial Berskala Besar (PSBB) sebagai cara utama sebagai penekan penyebaran Covid-19 didasarkan pada keleluasaan Pemerintah Daerah yang dapat langsung berkewajiban melaksanakan PSBB di daerahnya sehingga bisa melihat perkembangan sekaligus bertindak cepat dan sinergitas antara pemerintah pusat dan pemerintah daerah dalam penanganan Covid-19 sangat diperlukan. Penerapan PSBB di Provinsi Banten terutama di Tangerang Raya dapat menekan angka kasus positif Covid-19, namun keterlambatan untuk membuat keseluruhan wilayah di Provinsi Banten melaksanakan PSBB membuat penyebaran Covid-19 di Provinsi Banten mulai merambah ke daerah-daerah yang lain selain Tangerang Raya.

Kata Kunci: Harmonisasi, Kebijakan; Covid-19; Pemerintahan Pusat dan Daerah

INTRODUCTION

Coronavirus Disease 2019 (known as Covid-19) is a virus or disease outbreak hitting Indonesia since March 2020. The spread of Covid-19 increases quickly. Thus, the World Health Organization

(WHO) designated Covid-19 as a global pandemic. According to the Great Indonesian Dictionary, a pandemic is an epidemic occurring worldwide, covering a large geographical area.

The beginning of its spread in early 2020, the world was shocked by severe infections incidence with unknown causes. This was begun with a report from China to WHO. 44 patients found to suffer from acute pneumonia in Wuhan City, Hubei Province, China at the end of 2019. The initial suspicion of the spread of Covid-19 is coming from a wet market selling fish, sea animals and all other animals. On January 10, 2020, the cause was identified and the genetic code was obtained, namely the new corona virus.¹ The declaration of Covid-19 as a global pandemic is not happening without a reason. Starting from the beginning of April 2020, 201 (two hundred and one) countries have reported Covid-19 cases happening in their countries, with a total number of 854,608 (eight hundred fifty-four thousand six hundred eight) cases. In Indonesia, specifically, there are 1,528 (one thousand five hundred and twenty eight) confirmed cases, starting from the initial of covid-19 pandemic detected in early March 2020 in Indonesia. The rapid spread of the Covid-19 pandemic is supported by its fairly easy pattern of transmission. It can be transmitted through droplets once an infected person coughing, sneezing, or talking. Due to its easy transmission, many countries begun to limit the movement of their citizens. This is to prevent an increase in confirmed cases of Covid-19 in their countries. Indonesia has its own legal rules governing the anticipation steps the country can take in overcoming a health emergency or disease outbreak, such as Covid-19 case. Law Number 6 of 2018 on Health Quarantine (known as the Health Quarantine Law) is one of the legal bases used for preventing the spread of the Covid-19 pandemic. Referring to the Health Quarantine Law, it is mentioned that as a part of the world community, Specifically Indonesia commits to make efforts preventing public health emergencies troubling the world. This is stated in international regulations on the health sector. Meanwhile, in its implementation, Indonesia must respect the values of human rights.

The Health Quarantine Law is made on the main basis to protect the public from disease and/or health risk factors, including the potential of creating public health emergencies. A public health emergency is an extraordinary public health case characterized by the spread of infectious diseases and/or cases caused by nuclear radiation, biological pollution, chemical contamination, bioterrorism, and food causing health hazards that has the potential to spread across regions or across countries.² The central government through Presidential Decree No.11 of 2020 on the Determination of the Public Health Emergency of Corona Virus Disease 2019 (Covid-19), has determined Covid-19 as an epidemic causing a public health emergency and must be taken seriously. To prevent the spread of massive transmission of the Covid-19 pandemic, the Health Quarantine Law provides a solution for the state to implement health quarantine. Health quarantine refers to an effort of preventing the spread of the diseases and/or public health risk factors causing a public health emergency. In the Law of Health Quarantine, here are several risk mitigation actions of the public health emergencies in the region. For instance, health quarantine at the point of entry and health quarantine in the region.

One type of health quarantine in areas selected by the central government, dealing with public health emergencies of Covid-19 is Large-Scale Social Restrictions (PSBB). This is regulated in Government Regulation Number 21 of 2020, the Large-Scale Social Restrictions in the Acceleration of Corona Virus Disease 2019 (Covid-19) management. The selection of PSBB as the government's step in dealing with the Covid-19 pandemic has several problems. PSBB serves as one of the alternative options of health quarantine in existing areas such as home quarantine, regional quarantine, and hospital quarantine. The implementation of health quarantine, PSBB, applies within the region or district and its under the decision of the central government, the Minister of Health. The strategy

¹ Diah Handayani, Penyakit Virus Corona, Jurnal Respirologi Indonesia Volume 40, Nomor 2, April 2020, page. 120.

² See Article 1 Number 2 of the Health Quarantine Law.

chosen by the government includes social distancing within 1-2 meters in a crowd area. This is now known as PSBB. This strategy is considered to be more effective in anticipating the increasingly aggressive spread of Covid-19.³ The state's efforts in the midst of protecting all its people from this happening public health emergencies, the central government cannot rule out the coordination and harmonization of policies with local governments. The limits authority extension from the central government and local governments must be emphasized. This is to determine the responsibility between the two once a public health emergency situation Covid-19 arise. Thus, different steps and policies between two parties can be avoided. If such differences apply, there will be confusion at the community level. This is because no clarity applies on the legal basis of policies taken by the local government in response to the emergency of public health conditions of Covid-19.

The determination of health quarantine is the central government's responsibility. This is confirmed by the law of Health Quarantine, stating the central government is responsible for organizing Health Quarantine and can also involve the participation local governments on it. Therefore, the authority of local governments in setting social restrictions (lockdown) policies is different to the central government. they will receive special attention on its legitimacy in handling the Covid-19 disease outbreak.⁴ One example of the authority disharmony between the central and local governments, can be seen in a situation where the regional government has first implemented a policy to reduce the spread of Covid-19 by implementing the social distancing without referring to the rule states in the law of Health Quarantine. For example, Tegal and the Special Capital Region of Jakarta which have taken the first step to limit the spread of Covid-19 considered not having a clear legal basis. This is because the President through the central government can prevent the efforts made by the region with the reason that the authority in dealing with public health emergencies is under the control of the central government. The relationship between the central and local governments does not really show the synergy result between the two. A more sticking trend is they are waiting for each other and shifting each other the responsibility for handling the Covid-19 pandemic. Thus, what was done by the regions in this case did not have strong legal force. This is because there was no harmonization between the central government and the local governments. Finally, this made the community question the restrictions imposed by their regions. Accordingly, the researchers formulated the following research question: How is the authority harmonization between the central and local governments in handling public health emergency on Corona Virus Disease 2019 regarding the implementation of large-scale social restrictions?. This study aims to examine the harmonization of authority between the central and local governments as a step to improve the relationship between the two.

RESEARCH METHODS

The study employed juridical normative method.⁵ Juridical normative method places the law as a norm system building. The norm system refers to the principles, norms, rules of legislation, court decisions, agreements and doctrines (teachings).⁶

³ Rezky Panji Perdana Martua Hasibuan & Anisa Ashari, Optimasi Peran Negara Menghadapi Pandemi Corona Virus Disease 2019 Dalam Perspektif Hukum Tata Negara Darurat SALAM; Jurnal Sosial & Budaya Syar-I FSH UIN Syarif Hidayatullah Jakarta Vol. 7 No. 7 (2020), Page., 581-594 DOI: 10.15408/Sjsbs.V7i7.15379. page, 584.

⁴ Raines Wadi, Konstitusionalitas Pemerintah Daerah Dalam Menetapkan Kebijakan Lockdown Pada Penanganan Covid-19, SALAM; Jurnal Sosial & Budaya Syar-I FSH UIN Syarif Hidayatullah Jakarta Vol. 7 No. 7 (2020), Page. 613-624, DOI: 10.15408/Sjsbs.V7i5.15319. page, 615.

⁵ Penelitian hukum normatif adalah penelitian hukum kepastakaan. See Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)*, PT. RajaGrafindo Persada, Jakarta, 2007, page 23. See Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum dan Jurimetri*, Ghalia Indonesia, Jakarta, 1990, page 9.

This study concerns on the issue of the harmonization between the central and local governments the implementation of large-scale social restrictions to handle public health emergency on Corona Virus Disease 2019. This research further sees to what extent the role of central and local governments has divided and to know how far the implementation of health quarantine applies by the central and local governments. The setting of this study was conducted in Tangerang City and the Regional Secretariat of Banten Province. The data collection technique used in this study was literature study. The researchers used juridical normative approach by studying or analyzing secondary data, It consisted of primary legal materials (the 1945 Constitution of the Republic of Indonesia, the law of Health Quarantine, PP PSBB, and other related regulations), secondary, and tertiary legal materials. These materials were arranged systematically. Then studied and compared to draw conclusions in relation to the problem under study. The collected legal materials were then analyzed using juridical normative analysis emphasized on the deductive method as the main reference, and the inductive method as a supporting work procedure. Normative analysis mainly used library materials as research sources.⁷

RESULTS AND DISCUSSION

The implementation of local government is realization of the Constitution of the Republic of Indonesia (UUD 1945), aiming to make the local governments become part of the Indonesian government system. This is seen as an effort to regulate the relationship between the central government and local governments. This is stated in Article 18 of the 1945 Constitution, mentioning the government is an agency led by the President as the Head of Government and the highest state of government administrator with its parts consisting of the Central Government, Provincial Governments, Regency and City Governments.⁸

The declaration of Indonesia as a unitary state in the form of a republic has led to logical consequences, beginning with the state government serves as the central government. In addition, some of the local governments formed based on statutory provisions. Sovereignty resides only in the central government (absolutism). Policies made and implemented by the regions are an integral part of national policies.⁹ In a unitary state, the responsibility for governmental tasks is under the Central Government. However, as the Indonesian government system adheres to the principle of a decentralized unitary state, some tasks are managed independently. Thus, it creates a reciprocal relationship such as the relationship of authority, finance, supervision, and between government organizations units.¹⁰ The principle of the Unitary State, the highest power to all State affairs is hold by the central government. It is without any delegation of authority to local governments. In other words, the government affairs are not divided between the central government and local governments. Thus, the State affairs within the Unitary State remain a unity and the highest authority in the State is the central government.¹¹

⁶ Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, Pustaka Pelajar, Yogyakarta, 2010. Page 34.

⁷ Amiruddin dan Zainal Asikin, *Pengantar Metode Penelitian Hukum*, PT. RajaGrafindo Persada, Jakarta, 2006, page 118.

⁸ I Dewa Gede Atmaja, dikutip oleh Mifta Farid, Antikowati, Rosita Indrayati, *Kewenangan Pemerintah Daerah dan Partisipasi Masyarakat dalam Pengelolaan Potensi Daerah*, e-Journal Lentera Hukum, Vol. 4, No. 2, 2017.

⁹ Chadijah, Siti. *Harmonisasi Kewenangan Penanganan Pandemi Covid-19 Antara Pemerintah Pusat Dan Daerah*. Kertha Semaya : Journal Ilmu Hukum, [S.l.], v. 8, n. 6, p. 858-866, june 2020. ISSN 2303-0569. Available at: <<https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/60854>>. Date accessed: 07 oct. 2020.

¹⁰ Ni'matul Huda, *Perkembangan Hukum Tata Negara Perdebatan dan Gagasan Penyempurnaan*, Yogyakarta, FH UII Press, 2014. Page. 411.

¹¹ Andryan, *Harmonisasi Pemerintah Pusat Dengan Daerah Sebagai Efektifitas Sistem Pemerintahan*, Jurnal Legislasi Indonesia Vol 16 No. 4 - December 2019 : 419-432.

Based on the result of the study, it is found several types of health quarantine used as an alternative effort to deal with health emergency of Covid-19 as shown in the Table 1:

**Table 1. Types of Health Quarantine
(Law number 6 of 2018 on Health Quarantine)**

No	Types	Sub-Types
1.	Health quarantine at a point of entry	a. Supervision at the port 1) Ship arrivals 2) Ship departures b. Supervision at the airport 1) Aircraft arrivals 2) Aircraft departures c. Supervision at National Post-Border 1) Ground vehicle arrivals 2) Ground vehicle departures d. Supervision of Crew, Personnel, and Passengers e. Supervision of Goods
2	Health quarantine in the region	a. Home Quarantine b. Regional Quarantine c. Hospital Quarantine d. Large-Scale Social Restrictions

As shown in Table 1, the law actually provides several options on the steps that can be taken by the Central and Local Governments once a public health emergency rises such as the Covid-19 pandemic. The alternative to choose Large-Scale Social Restrictions in the handling public health emergencies, the covid-19, is based on various considerations done medically and seeing its effectiveness. As the pattern spreads very quickly, the urgency to handle this matter at the regional level is highly prioritized, considering the possibility of rapid spread of Covid-19 to areas.

The following is Table 2. The implementation of Health Quarantine in the Region:

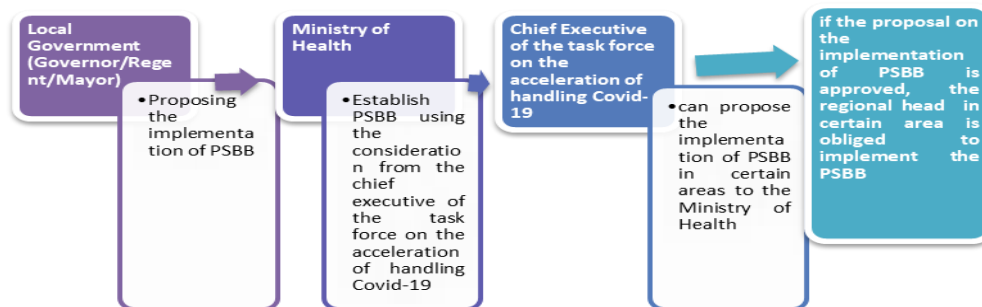
Table 2. The Implementation of Health Quarantine in the Region

No	Types of Health Quarantine in the Region	Authority to Determine	Person in Charge
1.	Home Quarantine	Health Quarantine Officer	Central Government involving Local Government and related parties
2.	Regional Quarantine	Ministry of Health	Central Government involving Local Government and related parties
3.	Hospital Quarantine	Health Quarantine Officer	Central Government and / or Local Government
4.	Large-Scale Social Restrictions	Ministry of Health	Local Government

Based on Table 2, it can be seen that the implementation of Home Quarantine and Hospital Quarantine is done by Health Quarantine Officials. Meanwhile, for Regional Quarantine and PSBB are determined by the Central Government through the Ministry of Health

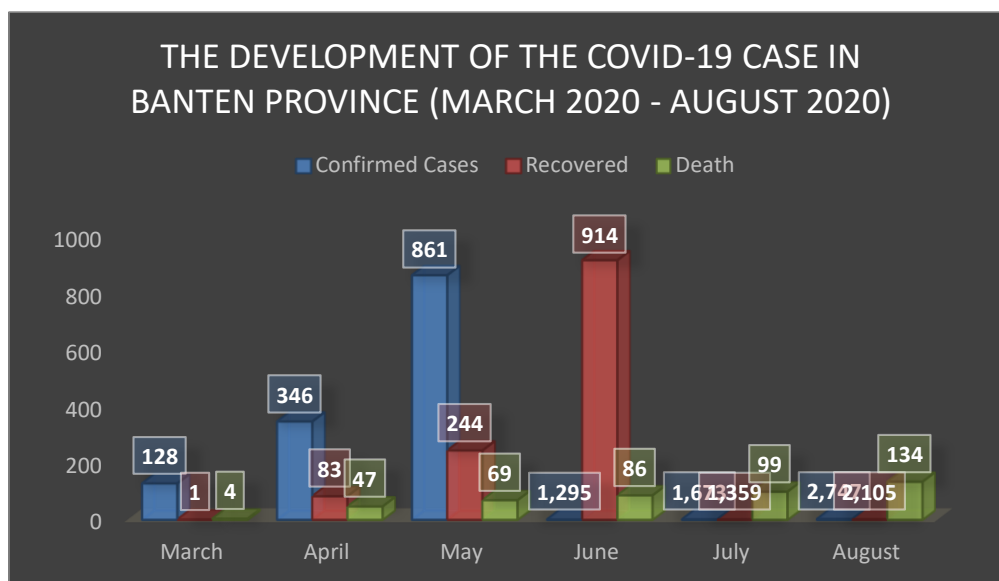
Each types of health quarantine have its own strengths and drawbacks. The selection will be based on the massive impact of a public health emergency on the social life of the community.

The following picture shows of the flow of PSBB implementation proposal in the regions:



Picture 1. Flow of PSBB implementation Proposal in the Regions

Researchers collected data on the development of the Covid-19 case in Banten Province within March 2020 - August 2020. This aims to find out how the Regional Government of Banten Province optimize the implementation of PSBB. In this case is reducing the spread of Covid-19. The following is a Diagram of the Development of Covid-19 Cases in Banten Province:



source: Banten Provincial Health Office / Infocorona.bantenprov.go.id

Gambar 2. The Development of the Covid-19 Case in Banten Province

As shown on the above-mentioned Figure 2, it can be seen that the growth rate on the spread of Covid-19 in Banten Province keeps increasing every time. This can be used as an evaluation material related to additional ways of handling the happening public health emergency of Covid-19

The following is the data obtained by the researchers when conducting the interviews, the table on the efforts of refocusing the Regional Budget and Expenditure (APBD) of Banten Province to accelerate the handling of covid-19:¹²

¹² Interview with Mr. Maman Suratman (Secretary of the Banten Province Political and National Unity Agency) and Mrs. Tita Ruhayat (Head of the Section for the Secretary of the Banten Province Political and National Unity Agency).

Table 3. The efforts of Refocusing the Regional Budget and Expenditure

No	APBD Refocusing	APBD Refocusing Allocation
1	APBD Refocusing 1	Strengthening the procurement of Personal Protective Equipment (PPE) and supporting equipment for medical personnel.
2	APBD Refocusing 2	Strengthening incentives for medical personnel
3	APBD Refocusing 3	<ul style="list-style-type: none"> • Strengthening the economic life (economic empowerment) • Providing IDR of 500,000 / month to 4 months for affected poor communities (based on data from Provincial and Regency / City Social Services) • Activities of regional agencies / organizations in Banten Province which are not in line with the principle of strengthening health discipline are eliminated • Salaries of State Civil Servants around Banten Province are cut by 50% of their performance allowance.

The following is the table of PSBB Enforcement in Tangerang Raya

Table 4. PSBB Enforcement in Tangerang Raya

No	The Implementation of PSBB	Waktu Pemberlakuan (2020)
1	First Stage	April 18 th – May 3 rd
2	Second Stage	May 3 rd – May 17 th
3	Third Stage	May 17 th – May 31 st
4	Fourth Stage	June 1 st – June 14 th
5	Fifth Stage	June 15 th – June 28 th
6	Sixth Stage	July 13 th – July 26 th
7	Seventh Stage	July 26 th – August 8 th
8	Eighth Stage	August 10 th – August 25 th

Table 4 shows the implementation of PSBB by the Provincial Government of Banten, especially in the Tangerang Raya area (Tangerang Regency, Tangerang City, and South Tangerang). The data above is temporary data because the stages of the implementation of the PSBB in Tangerang Raya will continue to increase as long as the threat of Covid-19 remains.

The table of legal products of laws and regulations made by the Central Government and Banten Province during overcoming the Covid-19:

Tabel 5. The legislation made by by the Central Government and Banten Province during overcoming the Covid-19

No	Banten Provincial Governmen	Central Government
1	Banten Governor Regulation Number 29 of 2020 on the Guidelines of Large-Scale Social Restrictions in controlling Covid-19 in Tangerang District, Tangerang City, and South Tangerang.	Law Number 2 of 2020 on the Stipulation of Perppu Number 1 of 2020 concerning State Policy and Financial System Stability for handling Covid-19.
2	Governor Regulation on the Implementation of Discipline and Law Enforcement of Health Protocols as Efforts to Prevent and Control Covid-19.	Government Regulation Number 21 of 2020 on the Large-Scale Social Restrictions to Accelerate the control of Covid-19.
3		Presidential Instruction Number 6 of 2020 on the improvement of Discipline and Law Enforcement of Health Protocols in the Prevention and Control of Covid-19.

The laws and regulations issued by the central government during the health emergency of Covid-19 are not without problems. The negligence of the central government in describing the

further regulation of health quarantine when the public health emergency rises. For example, Covid-19 is also a problem that should be anticipated. The result on The delay in accommodating the types of health quarantine in areas done by the central government stipulated in the Health Quarantine Act, creates confusion for local governments. This happens because there is no clearer mechanism for health quarantine. As is known, the Health Quarantine Law has been made since 2018. This indicates that it was made before the public health emergency of Covid-19 occurred. However, it was not formed along with the implementing regulations. An implementing regulation explaining about PSBB was only made when the government plan to use PSBB to control Covid-19. In the end, the slow bureaucratic road in responding to a problem has resulted in the effectiveness of controlling Covid-19. This also resulted in the difficulty of suppressing the confirmed number of Covid-19 in Indonesia and the death rate due to Covid-19.¹³ The effort to find the ideal format in the relationship of the center and the local government in the concept of a unitary state is not an easy problem to solve. This is because it is part of an ongoing process on the journey of the Indonesian nation. One aspect influences the pattern of relations between the central government and local governments is the organizational structure of local governments, specifically in a decentralized unitary state.¹⁴

CONCLUSION

Based on the results of the research, it is concluded the relationship between the central government and local governments in handling the Covid-19 pandemic lies in both authorities. The central government is the party responsible to determine the steps used to stop the spread of Covid-19. Meanwhile, the local government is the party implementing central government policies according to the concept of a unitary state. In handling public health emergency of Covid-19, there are some ways as stipulated in Law Number 6 of 2018 on Health Quarantine. The Central Government serves as the main policy direction at the regional level and the party to determine the steps to take in dealing with the public health emergency of Covid-19. The selection of Large-Scale Social Restrictions (PSBB) as the main way to suppress the spread of Covid-19 is based on the local Government flexibility which are immediately obliged to implement the PSBB in their regions. Thus, so they can see its developments and act upon it quickly.

SUGGESTION

The researchers suggest the central government to be more alert in dealing with situations such as the pandemics. All related regulations to prevent the spread of Covid-19 should have been prepared in advance. In addition, The Local governments will find it easier to take action if they are given special authority regarding this problem. Thus, they can act upon it quickly. The implementation of the PSBB in Banten Province in a capital buffer area such as Tangerang Raya has minimized the possibility on the increase of confirmed cases of Covid-19. However, the possibility of minimizing the confirmed cases can actually be optimized if the implementation of PSBB in Banten Province done in all its territorial areas along with the implementation of the first PSBB in Tangerang Raya.

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¹⁴ Wijayanti, Septi Nur, Hubungan Antara Pusat dan Daerah Dalam Negara Kesatuan republik Indonesia Berdasarkan Undang-Undang Nomor 23 Tahun 2014, Media Hukum, Vol.23 No.2, 2016, page. 195.

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Laws and regulations

the 1945 Constitution of the Republic of Indonesia

Law Number 2 of 2020 on the Stipulation of Perppu Number 1 of 2020 concerning State Policy and Financial System Stability for handling Covid-19.

Government Regulation Number 21 of 2020 on the Large-Scale Social Restrictions in the Acceleration of Handling Covid-19.

Presidential Decree Number 11 of 2020 on the declaration of the Public Health Emergency for Corona Virus Disease 2019 (Covid-19)

Presidential Instruction Number 6 of 2020 on the Improvement of Discipline and Law Enforcement of Health Protocols in the Prevention and Control of Covid-19.

Banten Governor Regulation Number 29 of 2020 on the Guidelines of Large-Scale Social Restrictions in Handling Covid-19 in Tangerang District, Tangerang City, and South Tangerang