

Fulfillment of Human Rights in Public Services During the Covid-19 Pandemic in Indonesia

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ABSTRACT

Good governance can provide welfare to the community. Therefore, the administration of government in Indonesia should be able to take a serious concern to the principles of good governance as regulated in Article 89 of Act Number 30 of 2014 on Government Administration. One of its principles is to provide good public services where this public service is one of the basic rights of citizens. In the era of the COVID-19 pandemic, many aspects of the lives of citizens need to be served. However, with the existence of government policies such as work from home, Physical Distancing, and Large-Scale Social Restrictions for most of the State Civil servants, this is a big challenge in carrying out good governance in providing public service rights for citizens. The objective of this research is to analyze good governance and its best solutions in providing public service rights in the pandemic era. The research method used in this research is normative juridical, while the type of data used is secondary data. Secondary data consist of primary legal materials such as Law Number 30 of 2014, Law Number 25 of 2009, and Law Number 39 of 1999 and the theory of state welfare by Muchsan which states that the state is required to provide the best and widest possible service to its citizens. The results showed that the number of complaints about public services during the Covid-19 pandemic increased. *First*, the Ombudsman of the Republic of Indonesia Representative of Central Java received 87 reports of public complaints during the Covid-19 pandemic. The distribution of social assistance is the largest type of report. *Second*, in Jakarta, from March to June 25th, 2020, there were 23,466 reports. Most of the topics of complaints were about social assistance, economics matter, and physical distancing. The government has made an effort in responding to public service reports. One of the efforts is that the Ministry of Empowerment of State Apparatus and Bureaucratic Reforms has issued Circular Letter Number 53 of 2020 concerning a special mechanism for managing complaints about Covid-19 and developing rule-based features that allow reports to be automatically followed up by the admin. However, several solutions need to be done and improved, such as the need for innovation in all sectors by building a public service innovation ecosystem which includes awareness, improving capacity and empowerment, and also integrating and managing the process.

Keywords: government, rights, public services, covid-19 pandemic.

1. INTRODUCTION

Human rights are rights inherent in human beings that are natural and fundamental as a gift from God that must be respected, guarded, and protected. Human rights exist and are inherent in every human being, because it is universal, meaning it applies everywhere and for anyone and cannot be taken by anyone.[1]

Formally, the concept of human rights was born on December 10, 1948, when the United Nations proclaimed the Universal Declaration of Human Rights, which contains 30 articles, all of which

describe the rights and obligations of mankind. There are 5 types of human rights according to the Universal Declaration of Human Rights, namely personal rights (the right to guarantee personal needs), legal rights (legal protection rights), civil and political rights, subsistence rights (the right to guarantee the existence of resources to support life), and economic rights. After being recognized internationally, this has also been recognized nationally, namely by establishing human rights instruments to guarantee the protection of human rights.

The Universal Declaration of Human Rights (1948) is a statement from all mankind regarding human rights. Although in its history there have been many debates in its formation, finally the declaration was accepted by the UN General Assembly on December 10, 1948. The definition of human rights meant here is human rights in the universal sense of human rights which are considered applicable to all nations. Starting from the basic understanding, namely the rights that are given directly by God or also known as basic natural rights. Even though the definition of human rights already has a concrete formula, it still brings up problems that violate the main points in the definition of human rights itself. The UN through independent organizations often still imposes a definition of human rights that applies to all nations. Meanwhile, every nation is formed and formed from situations and past histories that are different from other nations.

The concept of human rights has a broad spectrum. On the one hand, there is liberalist thought which is based on individualism. On the other, there is a growing rejection of human rights and freedom on socialist thinking which emphasizes the common interests of the state. The human rights adhered to by Indonesia are derived from Pancasila as the philosophy of the nation and state. Conceptually the human rights contained in Pancasila accommodate human aspects as individual beings and social creatures. Recognition of human rights is principally reflected in the second principle (Pancasila). Then in the Indonesian Constitution Article 1 Paragraph (3) explicitly states that the State of Indonesia is a constitutional state. Protection of Human Rights (HAM) for every citizen is a form of the rule of law (the rule of law). One of the characteristics of the rule of law is the guarantee of protection of human rights by the state to citizens. This is written in the constitution of the Indonesian state, namely in Article 28I paragraph 5: "To uphold and protect human rights following the principles of a democratic rule of law, the implementation of human rights is guaranteed, regulated, and outlined in statutory regulations".

Indonesia as a member of the United Nations has a moral and legal responsibility to uphold and implement the Universal Declaration of Human Rights established by the United Nations, as well as various other international instruments regarding human rights that have been accepted by the Republic of Indonesia. Indonesia already has a law that protects human rights, namely in Law Number

39 of 1999 concerning Human Rights. Article 1 explains that the meaning of human rights is: "Human rights are a set of rights inherent in the nature and existence of humans as the Almighty God and are His gifts that must be respected, upheld and protected by the state, law, and government. , and everyone for the honor and protection of human dignity. " The types of human rights regulated in this law consist of 1) the right to life (article 9), 2) the right to have a family and continue offspring (article 10), 3) the right to self-development (article 11), 4) right to justice (article 17), 5) right to personal freedom (article 20), 6) right to security (article 28), 7) right to welfare (article 36), 8) right to participate in government (article 43), 9) women's rights (article 45), 10) children's rights (article 52).

One of the ways to fulfill or guarantee human rights is through the implementation of good public services. The implementation of public services is regulated in Law Number 25 of 2009 concerning Public Services. Article 1 explains the meaning of public service, namely: "Public service is an activity or series of activities in the framework of fulfilling service needs following statutory regulations for every citizen and resident for goods, services, and/or administrative services provided by public service providers". Citizens have the right to get quality public services from the state (bureaucracy). Citizens also have the right to receive protection for their rights, to be heard by their voice, and at the same time to respect their values and preferences. Then, citizens have the right to judge, reject and sue anyone who is politically responsible for the provision of public services.[2] The objectives of the law on public services are: a. the realization of clear boundaries and relationships regarding the rights, responsibilities, obligations, and authorities of all parties related to the provision of public services; b. the realization of a proper public service delivery system according to the general principles of good governance and corporations; c. fulfillment of public service delivery per statutory regulations; and d. the realization of protection and legal certainty for the community in administering public services (article 3).

The era of the COVID-19 pandemic has created an increasing need for the community to protect. . Coronavirus or severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) is a virus that attacks the respiratory system. This caused the Indonesian government to take several actions in breaking the chain of the spread of the virus. Various policies

have been implemented by the central and regional government since early March 2020, such as limiting social interactions (social distancing), working from home for most of the State Civil Apparatus (ASN), eliminating worship activities, asking people to stay at home, and reducing economic activities outside homes. The restriction of public services has also been implemented by the government since mid-March 2020, such as dismissing school activities by asking students to study at home and then appealing to employees to perform Work From Home (WFH). Until the end of March 2020, the government policies are not only social distancing but also Physical Distancing, and as well as the Large-Scale Social Restrictions (PSBB). The policies have good intentions, but the impact of the policies has high risks. Many public service providers have limited services, initiated online services, and even eliminated temporary services.[3]

The policies above are governed by the Government Regulation (PP) No. 21 of 2020 concerning Large-Scale Social Restrictions (PSBB) in the Context of Accelerating Handling of Covid-19 (State Gazette of the Republic of Indonesia 2020 No. 91, Supplement to the State Gazette of the Republic of Indonesia Number 6487). The Government Regulation stipulates that Large-Scale Social Restrictions are restrictions on certain activities of residents in an area suspected of being infected with Covid-19 to prevent its possible spread. It is also regulated by the Minister of Health Regulation No. 9 of 2020 concerning PSBB Guidelines for the Acceleration of Handling Covid-19. It is a continuation of the Government Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019. The policy has good intentions but also has a negative impact. Data showed that the number of complaints about public services during the Covid-19 pandemic increased. *First*, the Ombudsman of the Republic of Indonesia Representative of Central Java received 87 reports of public complaints during the Covid-19 pandemic. The distribution of social assistance is the largest type of report. *Second*, in Jakarta, from March to June 25th, 2020, there were 23,466 reports. Most of the topics of complaints were about social assistance, economics matter, and physical distancing.[4] Based on this background, the purpose of this study is: *first*, to analyze good governance in providing public service rights in the pandemic era, *second*, to analyze

the best solutions in good governance in providing public service rights in the pandemic era.

2. RESEARCH METHODS

This study uses a normative juridical research method. The type of data used is the secondary data which consists of:

a. Primary Legal Materials

Primary legal materials have binding power, which can be in the form of basic norms (Pancasila), basic regulations, namely the 1945 Constitution, Law No. 39 of 1999 concerning Human Rights, Law No. 25 of 2009 concerning Public Services, the Government Regulations (PP) No. 21 of 2020 concerning Large-Scale Social Restrictions (PSBB), and the Decree of the Minister of State Apparatus Empowerment No. 63 / KEP / M.PAN / 7/2003 concerning General Guidelines for the Implementation of Public Services.

b. Secondary Legal Materials

Secondary legal materials are the materials that are closely related to the primary legal materials. They are used to analyze and understand the primary legal materials, for example drafts of laws and regulations, scientific works of scholars, research results, journals and so on. In this regard, the study uses books, legal journals, legal papers, and legal articles relevant to the primary legal materials.

c. Tertiary Legal Materials

Tertiary legal materials are the materials that provide guidance and explanations for the primary and secondary legal materials. Some examples of such materials are dictionaries, encyclopedias, cumulative indexes, and soon.[5]

This study particularly uses a Legal Dictionary and *Kamus Besar Bahasa Indonesia* (Big Indonesian Dictionary).

3. FINDINGS AND DISCUSSION

A. Research Findings

Based on data from the Ombudsman of the Republic of Indonesia, the reports of incoming complaints are those regarding social aid (*bansos*) provided during the Covid-19 pandemic, totalling to 72 percent or 278

complaints, related to financial problems as much as 23 percent or 89,2 percent or 8 complaints related to transportation and health service problems, then 1 percent related to security or 4 complaints. Meanwhile, based on the location of the complaint, it is as follows:

Table 1. Location of Complaints 2020

No	Lokasi	Jumlah Aduan	Persentase
1	DKI Jakarta	47 complaints	12%
2	West Sumatra	44 complaints	11,37%
3	Banten	34 complaints	8,79%
4	South Sulawesi	26 complaints	6,72%
5	West Java	24 complaints	6,20%
6	Daerah Istimewa Yogyakarta	23 complaints	5,94%
7	East Java	22 complaints	5,68%
8	Central Java	21 complaints	5,43%

Source: Ombudsman Republic of Indonesia

There are several types of complaints related to public services in the pandemic era, namely as follows:

Table 2. Types of Public Service Complaints in the Era of the COVID-19 Pandemic 2020

No	Types of Complaints	Information
1	Policy on social assistance	<ul style="list-style-type: none"> a. The number of social assistance recipients was not clear, which resulted in the aid not being distributed properly. b. Some people do not receive social assistance because they do not have KTP / KK c. The community is asked for a reward by the officer in the registration process for being selected as beneficiaries. d. Unclear procedures and requirements for receiving assistance e. The social assistance was distributed incorrectly because it was found that people were affected by the Covid-19 outbreak but were not registered as beneficiaries.
2	Financial	<ul style="list-style-type: none"> a. Information related to the credit relaxation policy intended by the public is not clear. b. The procedures and mechanisms for applying for credit restructuring for some eligible people have not been implemented
3	Health Services	<ul style="list-style-type: none"> a. Lack of information about the differences in the classification of Covid-19 patients.

		b. Lack of information about isolation sites.
4	Security	<p>a. No maximum control over the crowd of people who gather in the Large-Scale Social Restriction zone (PSBB)</p> <p>b. The process of detaining suspects who are positive for Covid-19 is unclear.</p>

Source: Ombudsman Republic of Indonesia

B. Discussion

1. Good Governance in Providing Public Service Rights in the Pandemic Era

The word Public comes from the Greek "Publica" which means the crowd or the whole people, in English, it is called the term "Public" to refer to various meanings, including "General". Walter Lippmann (In his book *Public Philosophy*), explains that the word Public, relating to the Public Interest, can be considered as what many people choose if they see it clearly, think it rationally and act with regard not only to their interests but the interests of others as well. According to the Menpan No. KEP / 25 / M.PAN / 2/2004 concerning General Guidelines for Preparation of Community Satisfaction Index for Service Units of Government Agencies are all Service Activities carried out by Public Service Providers as an Effort to Meet the Needs of Service Recipients as well as in the framework of statutory provisions.[6] According to Sinambela (In Masdar et al., 2009: 42) public service is any activity carried out by the government to citizen who have every profitable activity in a unit and offer satisfaction even though the results are not tied to a physical product.[7]

Good service is an evidence of the welfare state. This is in line with the results of research conducted by Siddiqui who has researched public services conducted by the Government of Brunei Darussalam. The results show that maximum and innovative public services will create a good image for the country. In addition to imaging, it will

also accelerate the rate of economic growth in society. This happens because maximum public services will simplify and accelerate the fulfillment of the need for administrative services. If the fulfillment of needs can be done optimally, economically it can be stated that the welfare of the community will also be fulfilled.[8]

Indonesia already has a set of laws in providing good public services to fulfill the human rights of its citizens. Regulations related to public services are stipulated in Law Number 25 of 2009 concerning public services. The implementation of this public service must also be based on the principles of public service as regulated in article 4 of Law Number 25 of 2009 concerning Public Services, namely "the principle of public interest, legal certainty, equality of rights, the balance of rights and obligations, professionalism, participation, equality of treatment/non-discrimination, openness, accountability, facilities and special treatment for vulnerable groups, timeliness, speed, convenience, and affordability".

Then, also stipulated in Law Number 30 of 2014 concerning Government Administration, General Principles of Good Governance, hereinafter abbreviated as AUPB, are the principles used as a reference for the use of Authority for Government Officials in issuing Decisions and/or Actions in government administration. Then in article 10 (1) AUPB covers the principles of legal certainty, benefit, impartiality, accuracy, not to abuse authority, openness, public interest, and good service. Then what is meant by "the principle of good service" is the principle that provides services that are on time, clear procedures and costs, following service standards and provisions of laws and regulations.

The service standards referred to in article 10 of Law Number 30 of 2014 concerning Government Administration are explained in more detail in Article 13 of the Government Regulation of the Republic of Indonesia Number 96 of 2012 concerning Implementation of Law Number 25 of 2009

concerning Public Services. If we refer to public service standards and cases of public services found during the COVID-19 pandemic era, there is the following analysis:

Table 3. Analysis Result

No	Types of Complaints	Information	Unfulfilled Human Rights and Principles of good governance
1	Social assistance policy	The distribution of social assistance is not evenly distributed due to technical errors such as unclear procedures for providing social assistance, the existence of fees, the lack of information related to social assistance	Right to welfare (article 36), The principle of public interest, The principle of equality of treatment/non-discrimination
2	Finance	Information related to the credit relaxation policy intended by the public is not clear.	Right to welfare (article 36), The principle of legal certainty and Principle of information

			information disclosure
3	Health Services	Lack of information about the differences in the classification of Covid-19 patients and places of isolation.	Right to a good and healthy environment (article 9), Principle of information disclosure
4	Security	The curbing of the crowd of people who gathered in the PSBB zone was not maximal.	Everyone has the right to be peaceful, secure, peaceful, happy, physically and mentally prosperous (article 9), Participatory principles.

Muchsan's theory of State Welfare states that to create a welfare state, a country must guarantee the implementation of good public services for the community. Based on this theory, the Indonesian state, which has been declared as a welfare state, must strive to provide good public services in fulfilling the human rights of its citizens.

2. The Best Solutions In Providing Public Service Rights In The Pandemic Era.

One of the commitments in the formation of government is the willingness of citizens to obey legal rules, the willingness to support any government policies, while the government is obliged to provide welfare to the community. The implementation of this commitment gives birth to government relations, namely the relationship between the Government and the governed or the community, each of which has a certain position and role. The government plays a role as a service provider for the needs of

the community while the community acts as a recipient of services from the Government.[9]

Service to the community has become the main objective in carrying out public administration. In Indonesia, the implementation of public services has become an increasingly strategic policy issue because the improvement of public services in this country tends to run in place, while the implications as it is known are very broad because it touches all spaces to the public both in economic, social, political, cultural and other life.[10]

Indonesia currently faces a lot of problems related to public services. Public service problems in Indonesia are mostly related to the performance of government officials to provide services to the public that are not following the expectations of society so that this causes dissatisfaction and disappointment for the public as recipients of public services.[11] Innovation is an important thing that must be owned by a public sector service provider organization. Government agencies as service providers are required to have innovations to improve the quality of services to the community.[12]

Based on several facts related to the quality of public services in the era of the COVID-19 pandemic, there are several solutions offered in the implementation of good public services, namely as follows: **first**, the government should be able to prepare people who are specialized in handling, responding to, and following up on all complaints and complaints from the public regarding public services that occurred during the COVID-19 pandemic so that specifically public service issues related to COVID-19 are handled by the same door. **Second**, improving accurate data. Data collection in government must be able to present accurate data so that the social assistance provided is right on target. **Third**, transparency of information. The government is obliged to prepare adequate and open information for the public. **Fourth**, it is necessary to make innovations

in all existing public service sectors. For example, it has been carried out in the licensing sector as regulated in the Government (PP) Number 24 of 2018 concerning Electronic Integrated Business Licensing Services, that business licensing services must be carried out through online single submission (OSS). However, not all sectors have implemented online services. **Fifth**, In this case, it needs to be realized that the implementation of public services is indeed the responsibility of the government but the implementation of this public service can be carried out effectively if it also receives participation/support from the community. This is in line with one of the principles in public service, namely the participatory principle which states that there is a need for participation from the community in the success of public services.

4. CONCLUSION

The Indonesian state is a welfare state. As a welfare state, Indonesia needs to guarantee the fulfillment of human rights. Since the COVID-19 pandemic, many human needs must be met. However, the fact is that since the COVID-19 pandemic, there has been an increasing trend in complaints of public services where people feel that their rights as citizens have not been fulfilled through the provision of existing public services such as in the sectors of providing social, financial, health and security assistance. Therefore, several solutions can be offered, namely: 1) Providing special human resources officials to handle public service complaints, 2) improving quality of data to be more accurate, 3) assuring transparency of information, 4) making innovations in all sectors of public services, 5) actively engaging community participation.

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