Research Article

The Dynamics of Government Fiscal Policy Post COVID-19 Pandemic in Indonesia (Legal Analysis of Government Regulation instead of Law Number 1 Year 2020)

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ABSTRACT

The COVID-19 pandemic had a significant impact on various countries, including Indonesia, in particular on the securing of the state budget and state financial stability in anticipation of the systemic and comprehensive impact of the pandemic. This deviation is not in line with the Indonesian constitution, welfare state principles, and even regulations based on the principles of good legislation. This article will examine three aspects of the problem: firstly, the formation of Government Regulation Number 1 of 2020 (Perppu) concerning State Financial Policy and Stability under COVID-19 countermeasures by the formation mechanism; secondly, the constitutionality issue in the drafting of Perppu; and thirdly, the legal issue of Article 27 on the immunity of officials who carry out financial policies. This paper employs a combination of normative legal research methods, including a statutory approach, a legal conceptual approach, a legal fact approach, and a relevant case law approach. The result of the research is that Perppu is a policy in an emergency period that contains a policy of relaxation of the implementation of the APBN is constitutional. The form of deviation that appears from Perppu is that this Perppu implements financial relaxation or sets state financial policies without involving the DPR. This has been constitutionally confirmed by Article 12 of the 1945 Constitution that the government and the DPR must determine state financial policies together. Although the constitutionality of Perppu in terms of fiscal policy is not in question, the provisions of Article 27 of Perppu that are unconstitutional can be cancelled by the Constitutional Court. The legality of Perppu relating to immunity must be implemented by prioritising the principle of good faith in carrying out the duties and functions of each state financial stakeholder during the emergency period.

Keywords: Regulation; Fiscal Policy; COVID-19 Pandemic; Indonesia

A. INTRODUCTION

The COVID-19 pandemic has caused global disruption and has had an impact on various fields of life (Astariyani, Setyari, & Hermanto, 2020), especially regarding national resilience in various aspects (Alam et al, 2021). To overcome the economic impact of the COVID-19 Pandemic era (Olivia, Gibson, & Nasrudin, 2020), the Indonesian President, Joko Widodo, stipulated the Perppu 1/2020 on 31 March 2020 (Rajagukguk, & Najib, 2021). In its development, the regulation was adopted by the House of Representatives into Law No. 2 of 2020 concerning the Determination of Perppu 1/2020 (Indrawati, Satriawan, & Abdurohman, 2024).

The backgrounds of the adoption of Law No. 2 of 2020, in the Consideration, are summarised as follows:

Firstly, the spread of the novel coronavirus (COVID-19) has been observed to increase in frequency, resulting in casualties and material losses that have had a significant impact on social, economic and community welfare (Hakim, Rismayanti & Moenta, 2023).

Secondly, the consequences of the COVID-19 pandemic have resulted in a decline in national economic growth, a reduction in state revenues, and an increase in state spending and financing (Permanasari et al, 2022). Consequently, the government must implement various measures to safeguard both public health and the national economy. These measures should focus on allocating resources towards healthcare, social safety nets, and economic recovery, including initiatives for the business sector and affected communities (Sugandi, 2022).

Thirdly, the consequences of the COVID-19 pandemic have also had an impact on the deterioration of the financial system, as indicated by the decline in various domestic economic activities. To mitigate this, the Government and the Financial System Stability Committee (KSSK) must take joint action to maintain financial sector stability. Fourthly, the aforementioned conditions have been fulfilled by the stipulated parameters, namely the necessity to resolve legal issues expeditiously by the law, the inadequacy of the existing legal framework to prevent a legal vacuum, and the inability to overcome the aforementioned vacuum by enacting laws conventionally. Consequently, the President is authorised to enact a Government Regulation instead of a Law (Atmaja et al, 2022).

Fifth, to address the imminent threat to the national economy and financial system stability, the stipulation of government regulations instead of law must be converted into law.

The scope of Law No. 2 of 2020 encompasses several areas, including state financial policy. This policy is comprised of several parts, including budgeting and financing, regional finance policies, taxation policies, the implementation of the national economic recovery programme, the implementation of state financial policies, and reporting. Subsequently, the Financial System Stability Policy encompasses financial system stability policies, the implementation of financial and policy measures by the Indonesian Central Bank, the implementation of financial and policy measures by deposit insurance institutions, the implementation of financial and policy measures by the Otoritas Jasa Keuangan (abbreviated as OJK), and the implementation of financial and policy measures by the Government. The government fiscal policy referred to in this article is specifically limited in the context of the narrow definition of government finances, which is aimed at the policy of government budgeting, which includes aspects of government revenue and expenditure, including tax administration, monetary management, management of segregated government assets and government rights to collect non-tax revenues, all of which are

related to the achievement of government objectives to be addressed in the context of government finances. In this regard, the consequences of the COVID-19 pandemic, which prompted the need for extraordinary measures by the government, have been taken in various countries, such as Turkey, which used the torba yasa approach (legislation based on omnibus legislation) to draft the COVID-19 Countermeasures Law targeting the economic and state financial sectors, covering various fundamental aspects of Turkish finance. Likewise, Indonesia, as the study of this article, uses the pattern of emergency law in Perppu 1/2020, which broadly regulates state financial fundamentals in the specificity of COVID-19. The problems that arise in Perppu 1/2020 are then further examined in the study section of this article.

The problem in this research proposal requires a theoretical basis for regulation. The regulatory theories used in supporting the problem analysis are (1) Hans Kelsen's hierarchical norm theory, and (2) McDougal and Laswell's contextual law theory.

Kelsen explained that legal norms are a hierarchical system of norms (*stufenbau*), namely a tier of norms that are structured with different levels of generality (Kelsen, 1941). There is a set of higher-level norms, namely regulation at the level of the constitution, which then derivate into legislation and lower laws and customary law (Paulson, 2000). As such, there are also lower-level norms, such as the law of contract and individual court decisions that create individual norms. The process of regulating human behaviour through the imposition of sanctions therefore flows downwards from higher to lower levels, making norms increasingly concrete and individualised until they are at their most concrete and individualised and enforced by humans (Paulson, 2017). This system is dynamic, characterised by the creation of new norms that are logically elaborated from higher norms that order the creation of new norms below them as the implementation of the higher norms/which give orders to establish norms of implementation/elaboration. This norm in itself is different from morality which tends to be static. Kelsen put the requirement of "consistency" for every norm in the legal norm system. Conflict of orders in regulation is not justified so as not to cause a clash between norms that are valid at the same time (Kelsen, 1991).

Diantha (2016) mentioned three possible problems of legal norms in legislation, namely: (1) internal and external conflicts of legal norms. The Internal conflict of legal norms is the inconsistency of one norm with other norms in one regulation. External legal conflicts, for example, norm inconsistencies between lower norms and higher norms (conflicten van normen); (2) unclear formulation of norms, which results in multi-interpretation, vague norms (vague van normen); (3) norm vacuum (leemten van normen),

namely existing regulations that have not regulated the events that are happening.

MacDougal and Laswell state that law is essentially a continuous authoritative process that ends in the form of law or regulation (Laswell, & McDougal, 1943). Law or in its concrete form legislation or regulation is a further process of the public policy process. Laws and regulations are basically the frame of policy. Fair regulation must pay attention to, by, and articulate the needs of the context (van Kraay, 1988). Needs are problem-solving schemes faced by society that must be answered through policy as legal material and the context of regulation is the target community of regulation.

The formation of Perppu 1/2020, which was then further supported by the Indonesian House of Representatives to become Law Number 2 of 2020, resulted in significant challenges about fundamental aspects of state finances. This was even though it was carried out as part of the constitutional emergency law by the government to anticipate and address the potential consequences of the COVID-19 pandemic on the financial sector. Governments must take extraordinary measures to prevent the systemic impact of the COVID-19 pandemic on the financial sector. In this instance, the Indonesian government is required to implement a series of exceptional policies and measures to ensure the stability of its national economy and financial system. These policies should encompass a relaxation of various aspects related to the implementation of the State Budget (APBN). The policy's primary focus lies in the domains of health spending, social safety net expenditures, and economic recovery, as well as the strengthening of the authority of financial sector entities through the provision of a legal framework and taxation measures. Additionally, the policy encompasses the reallocation and refocusing of the state's financial resources. The budget must be widened to accommodate the deficit, tax relief or incentives must be provided, and national economic recovery programmes must be implemented. These include state equity participation and the placement of government investment with guarantee schemes. Finally, stability policies must be enacted to prevent fundamental macroeconomic and financial system problems. These policies must be designed to strengthen the KSSK, BI, OJK, and banking. Firstly, this Perppu has the potential to restore the President's absolute power in the formation of laws and regulations, as outlined in Article 12, through the stipulation of the State Budget in a Perpres. Secondly, Article 27 of Perppu No. 1/2020, which previously provided for constitutional oversight by the DPR and the authority of judicial institutions to hear cases related to irregularities committed by public officials in handling the COVID-19 pandemic, has been revoked. This has been done by granting immunity. Thirdly, Article 28 of Perppu No. 1/2020 abolishes the DPR's involvement in the formulation of the State Budget and the issuance

of Presidential Regulation 54/2020, which outlines the amendments to the 2020 State Budget. Fourthly, it is acknowledged that policy implementers are allowed to state the postulation of financial instability without the presence of benchmarks. This is due to the absence of criteria about the Financial System Stability for Handling the Coronavirus Disease 2019 (COVID-19) Pandemic or even in the context of threats that endanger the national economy and/or the stability of the financial system. Based on these issues, this article is needed as a comprehensive analysis related to the state financial policy, which needs to be prepared with a pattern of legislation that meets material and formal procedural aspects and does not conflict with the Constitution in terms of its legality to achieve state goals, including the existence of the state in emergency conditions.

Firstly, Arsil et al (2022) argued that the experience of the Indonesian Parliament, which was unable to formulate legislative products, was due to the strong political influence of parties supporting the government and was complicated by political compromises that allowed policies for handling COVID-19 that tended to be undemocratic.

Secondly, Hermanto (2023) argued that the policy of dealing with COVID-19 also indicates the failure of legislation and the inability to realise the quality of legislation, which tends to be pursued quantitatively without paying attention to qualitative aspects in the formation of sustainable legislation. Third, Kurniawan's study (2021) questions the existence of Perppu 1/2020, which is one part of the COVID-19 countermeasure policy, but the spotlight is limited to the political context of budgeting, namely budget posture and changes in the state budget, as well as the unclear health policy posture referred to in Perppu 1/2020 about the emergence of immunity. Fourth, Firdaus, & Erliyana's research (2021) questions the context of granting discretion and how discretionary supervision in the implementation of Perppu 1/2020 is limited to the validity of discretion with a legal basis that triggers legal uncertainty and problematic in the field of state finances and national economic policy. Fifth, Mahardika's study (2020) highlights the uncertainty arising from Perppu 1/2020 and the need for a definite policy in terms of state finances which has implications for the benefit and running of the Indonesian state's goal agenda for tackling COVID-19.

The five articles in question demonstrate that the legislative process is unable to address problems that require legislative instruments, even in emergency conditions such as the COVID-19 pandemic. This finding indicates a lack of alternative solutions or a comprehensive yet simple legislative pattern to accommodate the various needs that exist, particularly in the context of state policy in emergencies, including state financial emergencies.

In light of the shortcomings identified in the preceding studies, this article is specifically

designed to examine the necessity of state financial policies in the context of legal certainty and legal utility in addressing the challenges posed by the COVID-19 pandemic in Indonesia. By employing a regulatory framework and legislative process, the lawmaking process can effectively address material and procedural issues, thereby facilitating problem-solving.

Although Law No. 2 of 2020 emphasises financial policy in the COVID-19 Pandemic era, there are legal issues that can be studied:

First, is the formation of Perppu 1/2020 by the formation mechanism?

Second, is Perppu 1/2020 which amends the APBN and APBD carried out without the involvement of the Indonesia House of Representatives in its formation fulfil legality?

Third, what about the provisions of Article 27 Perppu 1/2020 related to the immunity of officials who carry out financial policies?

B. RESEARCH METHODOLOGY

The methodology employed in this study is informed by normative juridical research methods (Hutchinson, & Duncan, 2012), which are further supported by the statutory approach, legal conceptual approach and legal fact approach. The study utilises a range of sources, including primary, secondary and tertiary legal materials, to gain insights into the subject matter. The article is a prescriptive analysis of the sources of legal material, which were identified via a literature review and subjected to analysis using interpretation and legal systematisation techniques.

C. RESULTS AND DISCUSSION

1. Mechanism for the Formation of Perppu 1/2020

The formation of Perppu is the President's power in the legislative field. C.F. Strong states that executive power based on constitutions generally exercises 5 types of power (Ebenstein, 1950), namely: diplomatic power (relations with other countries); power in the field of state administration, in this case including the task of carrying out laws and administration; power in the military field; powers that include criteria for judicial power; and power in the formation of laws and regulations (legislative power) (Strong, 1963).

In this context, international developments in the past few decades show a world that is dynamic and moving in a series of problematic complexities within and between each country in the world (Arifin, 2022a). This has become a reality with a consensus practice that the state exists to ensure the lives of the people, including the welfare of the country's nation (Astariyani et al, 2022), through the realization of social justice as a philosophical basis for the development (Hermanto, 2018) of new thinking in state studies in the form of the presence of the concept of the welfare state (Setiyono, & Chalmers, 2018). especially in the last few decades of the 20th century in almost all European countries, North America and Australasia (Australia and Asia) with

government priorities concerned with social justice both in the context of equality of opportunity, balanced distribution of welfare (Jensen, Wenzelburger, & Zohlnhofer, 2019), and the obligation of the state to play an active role (bold print author) ensures the welfare of its people (Setiyono, 2019), especially to maintain economic acceleration (Astariyani et al, 2023) along with progress in "provides a framework for the integration of environmental and development strategies" (Shi et al, 2019).

The dimensions of the Indonesian legal state in this case reflect the material legal state, the government's actions are not only based on written law (Yusa et al, 2021), namely the law, but also unwritten law. In this case, the government acts on the principle of opportunity. The government is given discretion by the principle of discretionary power or freies ermessen in administering government to realize state goals (Butt, & Murharjanti, 2022). The point is that the concept of a material legal state does not eliminate the elements contained in the concept of a formal legal state (Arifin, 2022b).

Article 22, paragraph (1) of the 1945 Constitution stipulates that in the event of a compelling urgency, the President has the right to enact government regulations instead of laws. However, while the formation of Perppu is the authority of the President, the Constitution provides a limitation in the event of a compelling urgency. The Constitutional Court Decision Number 138/PUU-VII/2009 stipulates three conditions that must be met for the President to enact a Perppu. These conditions are as follows:

1. There is an urgent need to resolve legal issues quickly based on the law.
2. The required law does not yet exist, or there is a law but it is inadequate.
3. The legal vacuum cannot be overcome by making laws in the usual procedure because it will take a long time, while the urgent situation needs certainty to be resolved.

With the Constitutional Court's decision, the formation of Perppu does not merely give great discretion to the President to formulate it in his own exclusive way without paying attention to the real conditions in determining "compelling urgency". This is because the Constitutional Court Decision also provides space for the DPR, including the public, to evaluate through the limitations of a compelling urgency to make a Perppu.

In light of the Constitutional Court's ruling, the assessment of Perppu 1/2020 by the three stipulated conditions can be described as follows:

Firstly, the urgent necessity to address the consequences of the COVID-19 pandemic, which has resulted in a significant increase in casualties and a considerable amount of material losses in the social, economic and welfare aspects of society, must be acknowledged. The relaxation of fiscal policies aimed at stabilising the national economy and financial system, particularly through increased spending on healthcare, social safety nets, and economic recovery, as well as

strengthening the authority of various financial sector institutions, represents a second key aspect of the Perppu 1/2020 evaluation. The absence of a legal basis for the government to implement a policy of relaxation of the implementation of the APBN, including the rationalisation of the APBD, is evident. Third, urgent circumstances need to be resolved without the necessity of making a law. The social, economic, health and public welfare impacts that have arisen as a consequence of the COVID-19 pandemic must be addressed without delay by the government if the national economy and financial stability are to be safeguarded. To achieve this, the policy of relaxing the implementation of the APBN requires prompt action in preparing a legal basis without the necessity of enacting a new APBN Law, which would entail longer procedures. The formation of Perppu represents a means by which the government, in this case, the President, may take action to override the legislative process, which requires time and procedures that can hinder legal certainty (Chiru, 2024) and the importance of legal instruments in resolving problems during emergencies. However, the more fundamental issue of the Indonesian Parliament is still far from ensuring a democratic law-making process amidst the pandemic (Wasti, Sati, & Fatmawati, 2022). Furthermore, the DPR's limited oversight of the government's efforts to combat the pandemic is compounded by the country's political tradition of avoiding confrontation with the executive, influenced by the long period of authoritarian rule. Additionally, the majority of DPR members are members of the government alliance (Arifin, 2022c).

Based on the material requirements of the formation of Perppu 1/2020 by the President, it can be said that it is appropriate and constitutional (Yusa, 2022). Meanwhile, formally Perppu 1/2020 has followed the procedures in Law 12/2011. Juridically, with the existence of Perppu 1/2020, the policy can be implemented even before it is approved by the DPR because it sees its urgent nature to resolve a legal issue. This is also in line with the opinion of the Constitutional Court in Constitutional Court Decision No. 138/PUU-VII/2009, which states that the issuance of a Perppu is the creation of legal norms, as new legal norms will have the capacity to affect legal status, legal relations, and their consequences. Because all policies implemented by the provisions of the Perppu are deemed to be valid, regardless of whether or not the DPR has approved it or the Constitutional Court has cancelled it, it can be concluded that the Perppu can create new legal consequences.

2. The Legality of Perppu 1/2020 on Amending the APBN Without Involving the DPR

One of the key aspects of Perppu 1/2020 is the amendment to Article 20A of the Indonesian Constitution without the involvement of the DPR. Indeed, Article 20A of the Indonesian Constitution explicitly outlines the legislative, budgetary and supervisory functions of the House of

Representatives, which is consistent with the legislative, budgetary and supervisory functions assigned to it under the 2003 State Finance Law. Subsequently, Article 27, paragraphs 3 and 4 of Law Number 17/2003 on State Finance stipulate that by developments and/or changes in circumstances, adjustments to the APBN are to be discussed jointly by the People's Representative Council (DPR) and the Central Government under several specified circumstances. These include developments in the macroeconomic environment that deviate from the assumptions made in the APBN, shifts in expenditure between organisational units, activities and types of expenditure, and the utilisation of the previous year's excess budget balance to finance the current year's budget, among others. In the event of an emergency, the government is permitted to continue to incur expenditures for which no budgetary provision has been made. This expenditure must be reported and accounted for, and any necessary amendments to the APBN and Budget Realisation Report must be made once this expenditure is incurred.

The construction of Article 27(4) of the Law on State Finance makes it evident that the DPR must be considered when implementing policy changes to the APBN. This provision is based on Article 20A, paragraph (1), of the Indonesian Constitution regarding the budgetary function of the DPR. Therefore, the starting point is through Article 20A, paragraph (1), of the 1945 Constitution. Without the DPR's involvement in implementing the relaxation policy on the implementation of the APBN in Perppu 1/2020, it does not mean that Perppu 1/2020 is unconstitutional.

The rationale for this is provided by Article 12 of the Indonesian Constitution, which states that the President "declares a state of danger". The conditions and consequences of a state of danger are stipulated by law. Article 12 of the 1945 Constitution is open to two distinct interpretations. Firstly, it affirms that the President, as head of state, is authorised to declare a state of danger. In a second instance, it delegates the determination of the conditions and consequences of a state of danger to be determined by law. From a juridical perspective, the conditions and consequences associated with a state of danger are solely regulated by Perppu No. 23 of 1959, concerning the revocation of Law No. 74 of 1957, and the determination of a state of danger. Perppu 23/1959 delineates three tiers of peril: civil emergency (in the event of civil war, riots and natural disasters), military emergency (in the event of armed rebellion), and state of war. Article 12 of the Indonesian Constitution, which delineates the President's authority to declare a state of danger, should be interpreted to imply that this authority persists despite the absence of new legislation stipulating the conditions for declaring a state of danger.

Furthermore, the conditions for declaring a state of emergency in Perppu 23/1959 place

greater emphasis on safeguarding the state from the threat of security disturbances perpetrated by individuals or natural disasters.

In the meantime, the development of the aforementioned legislation has been accompanied by the occurrence of emergencies or dangers due to non-natural disasters, such as infectious disease outbreaks. However, no law states the requirements of the President in determining the non-natural danger. It should be noted that there are similarities between Law No. 24 of 2007 on Disaster Management and Law No. 6 of 2018 on Health Quarantine and Perppu 23/1959. This grants the president considerable discretion in formulating policies to safeguard the public. According to Article 10 paragraph (1) of Law No. 6/2018 on Health Quarantine, the Central Government is responsible for establishing and revoking Public Health Emergencies. In light of this, the President has issued Presidential Decree No. 11 of 2020 regarding the Declaration of the COVID-19 Public Health Emergency. Furthermore, the President has also stipulated Presidential Decree No. 12 of 2020 on the Determination of the Non-Natural Disaster of COVID-19 spread as a National Disaster, based on Article 51 paragraph (1) of Law No. 24 of 2007 on Disaster Management. This article stipulates that the determination of disaster emergency status is carried out by the government by the scale of the disaster. Furthermore, Article 12 of the 1945 Constitution explicitly distinguishes between two substances: the President's authority to declare a state of danger and the delegation of regulation on the conditions of a state of danger. Furthermore, Article 12 of the 1945 Constitution explicitly differentiates between two substances: the authority of the president to declare a state of danger and the delegation of regulations about the conditions of a state of danger. Theoretically, State Emergency Law (*staatnoodrecht*) is divided into 2, namely subjective and objective emergency constitutional law (Sihotang, Pujiyono, & Sa'adah, 2017). In both types, policymaking is both based on protecting human rights or people's safety (Swardhana, & Monteiro, 2023). However, the Subjective emphasizes the state's right in an emergency to violate the law and even the Constitution, through policies without written rules. Meanwhile, Objective emphasizes policies made through written rules.

Policies in the conditions of the COVID-19 Pandemic with the existence of Presidential Decree 11/2020 and Presidential Decree 12/2020 have explained that the country is in a state of emergency so that it affects the character of Constitutional Law in Emergency Situations which is different from normal conditions. On that basis, the adopted policies are focused on the interests and safety of the people, ignoring the currents that hamper rescue efforts even though the procedures are stipulated by law and the Constitution (Hermanto, & Aryani, 2021).

Perppu 1/2020 is not solely derived from Article 22, paragraph (1) of the 1945 Constitution.

Rather, it is also derived from Article 12 of the Indonesian Constitution (Yusa, 2016). In light of this, it is crucial to delineate the characteristics of Perppu (Subawa et al, 2022). These characteristics can be described as follows:

1) The Perppu is enacted in the absence of any threat to the safety of the people. This is exemplified by the Perppu no. 2 of 2020 concerning Regional Elections, among others.
2) The Perppu is enacted in response to a threat to the safety of the people.

The characteristics of Perppu 1/2020 provide the foundation for the subsequent analysis. It is crucial to ensure that the procedures outlined in the Law and the Constitution are not overlooked, as the overarching objective is to safeguard the public.

Participation can be regarded as a consultation procedure for policymakers to engage with the community as a subject, to gain public support for the credibility of policies issued by the government. In light of the aforementioned, it can be posited that the implementation of Perppu 1/2020 serves the purpose of communicating to the government, as the representative and servant of the people, the wishes of the people themselves. By the principle of 'salus populi suprema lex esto' – the safety of the people being the highest law – it becomes clear that ensuring the paramount importance of public safety must remain a paramount concern. Nevertheless, this does not negate the involvement of the Indonesian Parliament, which should be noted. It is important to emphasise that this is not the ultimate goal; rather, the real goal is to provide a broader space for the wider community, particularly civil society groups that have consistently advocated for several policies that can have a meaningful impact on the legislative process, including in emergencies. Consequently, the relaxation of the implementation of the APBN in Perppu 1/2020 represents a constitutional policy, even though it does not involve the Indonesian Parliament nor real public participation in the budget function.

3. Immunity of Officials who Implement Financial Policies

By Article 27 of the Perppu 1/2020, the defining characteristics of a "rechstaat" legal state are the principles of "equality before the law". Consequently, regardless of an individual's status, unlawful actions are to be treated equally under the law (Muhyiddin, & Nugroho, 2021). The principle of equality before the law is enshrined in Articles 27 and 28D of the Indonesian Constitution.

The policy set out in Article 27 of Perppu 1/2020 is discriminatory and unconstitutional. In contrast, Article 28I paragraph (5) of the 1945 Constitution stipulates that the implementation of human rights is guaranteed, regulated and stated in statutory regulations (Hutahayan, 2021). This provision serves as a guide to the substance or content of statutory regulations, which must uphold and protect human rights (Warsono et al, 2023). However, the provisions of Article 27 of

Perppu no. 1/2020 fail to fulfil the material content as ordered by Article 28I paragraph (5) of the 1945 Constitution. Criminal law considers two distinct perspectives when evaluating criminal acts. The objective/physical element, "actus reus," refers to the acts that violate criminal law; it is the objective component of the crime. The subjective/mental element, "mens rea," pertains to the perpetrator's inner attitude when committing a criminal act. Consequently, if the actions of the Government and/or KSSK are based on statutory regulations and there is no malicious intent (mens rea), then the imposition of criminal penalties in the future cannot be carried out. Moreover, this policy is based on clear rules.

Consequently, by the principles of administrative law, the foundation for policy must take into consideration both statutory regulations (in terms of legality) and good governance. As a result, there is no compelling rationale for the imposition of administrative sanctions at a subsequent point in time. This paper examines the dynamics of fiscal policy in the context of immunity for officials implementing financial policies. The implications of Article 2 of Perppu 1/2020, which is perceived to "castrate" the constitutional authority of the DPR-RI about the state budget as stipulated in Article 20A paragraph 1 of the 1945 Constitution, will be considered. Secondly, the matter of Article 27, paragraph 1 of Perppu 1/2020 has been extensively discussed. This article provides immunity from prosecution or legal impunity by stipulating that several officials responsible for fiscal and monetary policy are exempt from civil and criminal liability. In the context of an emergency, it is crucial to acknowledge the role of officials. The KSSK members, the KSSK Secretariat, members of the KSSK Secretariat, and officials or employees of the Ministry of Finance, Bank Indonesia, Financial Services Authority, and other relevant entities must be considered. The aforementioned officials, including those from the Services Authority, The Deposit Insurance Corporation, and others who are directly involved in the implementation of this Government Regulation instead of Law, shall be immune from prosecution in civil or criminal courts, provided that they act in good faith and adhere to the relevant statutory regulations. In this case, implementing the policy that was adopted by the officials, as well as considering the legal risk faced by the officials due to the adoption of the policy during an emergency, immunity or legal impunity is essentially a legal status or situation that renders a person unable to be processed or prosecuted legally. This is by the law as defined by authorised law enforcement.

The officials concerned are assured of immunity, but this is contingent upon their adherence to certain conditions. To obtain legal immunity, fiscal or monetary affairs officials must apply the principle of good faith in their main tasks and functions as outlined in Perppu 1/2020. In addition, they must perform their primary duties and functions by the pertinent statutory

provisions. Statutory regulations are established to limit the exercise of authority, thus ensuring that it is neither exercised arbitrarily nor abusively. However, the stipulations of Article 27 of Perppu 1/2020 give rise to concerns that they may facilitate the pursuit of personal gain by individuals in the formulation of financial policies in the future. These include corrupt legislative drafting processes, the political dominance of the oligarchy and the political power command of party leaders, which result in undemocratic and partial or pseudo-legislation. In recent years, the obstacles include the minimal power of the opposition bloc caused by minority factions and the lack of turning points or demand points to ensure the sustainability and balance of democracy. Therefore, the lack of democratic and political values is a serious obstacle that affects the need for parliamentary reorganisation and reform. Parliamentary reforms face serious problems caused by political factors, especially any interest that leads to wider opportunities to strengthen oligarchy and illiberal processes.

The corrupt legislative process demonstrated by these annulments after the Constitutional Court review reflects a failure of parliamentary reform in Indonesia, particularly in the deliberation of a good legislative drafting process. The passage COVID-19 countermeasures Law indicate the failure of legislative reform. This is due to the DPR's efforts to increase the number of laws passed by ignoring the process and producing poor-quality laws that do not meet constitutional requirements. In this context, it can be argued that Law No. 2 of 2020 is one of the problematic laws in question, in that cases that prioritise political values override the legal aspect, with the result that the authority of the President is dominant and that of Parliament/DPR is reduced. This can be observed in the Constitutional Court decisions 37/PUU-XVIII-2020 and 47/PUU-XVIII-2020, which granted the panel judges' request to undertake a material review of the handling of the COVID-19 law. This resulted in the law being declared unconstitutional in its entirety on the grounds of material unconstitutionality, with the phrase "not state finance" (Art. 27, paragraph 1, the phrase "is not the subject of the action that can be brought before the State Administrative Court" (Art. 27, paragraph 3) is to be considered. Article 29 concerns a time limit for implementing the special policy for the recovery from the coronavirus (COVID-19) pandemic within two-years.

D. CONCLUSION

From a legal standpoint, Perppu 1/2020, which contains the policy of relaxing the implementation of the APBN, is constitutional. This is because it is a form of effort to save people's lives and the country's economy. Consequently, the characteristics of Perppu 1/2020 cannot be equated with the characteristics

of other Perppu that were not made to save the lives of citizens.

A distinguishing feature of Perppu 1/2020 is that it introduces a financial relaxation programme without the involvement of the DPR. The constitutional justification for this action can be found in Article 12 of the 1945 Constitution which permits the state to act in the event of an emergency.

Although the conditions for a dangerous situation have only been stipulated through Perppu 23/1959, this does not negate the President's constitutional right as head of state to determine other dangerous situations outside of Perppu 23/1959. Such situations could include non-natural disasters such as infectious disease outbreaks, which are currently occurring. Furthermore, there is already a Presidential Decree in place.

Although the constitutionality of Perppu 1/2020 regarding financial policy is beyond dispute, the provisions of Article 27 of Perppu 1/2020, which are contrary to the constitution, may be annulled by the Constitutional Court. Nevertheless, the immunity granted in Article 27, paragraph 1 of Perppu 1/2020 is contingent upon the two conditions that they must apply the principles of good faith in performing their principal duties and functions, as outlined in Perppu 1/2020, and that they should carry out these duties and functions by the pertinent legislative provisions.

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