Proceeding Book of

THE 1 st INTERNATIONAL CONFERENCE ON HUMAN RIGHTS

Theme: The Protection and Enforcement of Human Rights in the Covid-19 Pandemic Period

12-13th April 2021
Amaris Hotel Pettarani, Makassar
Soulth Sulawesi
INDONESIA

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The Protection and Enforcement of Human Rights in the Covid-19 Pandemic Period

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Proceeding The 1st International Conference on Human Rights

Organized by:

Law Department, Faculty of Sharia and Law
Universitas Islam Negeri Alauddin Makassar

Editor:

Muhammad Ikram Nur Fuady, Tri Suhendra Arbani, Nurfaika Ishak, Hisbullah, Muh. Fajri, Kusnadi Umar, Abdul Syatar, Muh. Rasywan Syarif, Dea Larissa, Siti Nurul Fatimah Tarimana, Suriyadi, Nurul Wakiah, Ilham Laman, M. Chaerul Risal, Bariek Ramdhani Pababbari

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PREFACE

Assalamu'alaikum Warahmatullah Wabarakatuh

Grateful to Allah SWT, all praises are only to Him, the Most Gracious and Merciful. We glorify Him for His blessing in giving us the precious opportunity and moment to gather at this auspicious and memorable event. The 1st International Conference on Human Rights (ICHR) was held from 12-13th April 2021 and participated by the World scholars from various academic backgrounds to share the latest research findings in their studies on Human Rights, particularly in the Covid-19 pandemic period.

Given this opportunity to write on behalf of the Organizing Committee, I would like to thank all distinguished guests, researchers, and academicians from the global countries for realizing: The 1st International Conference on Human Rights (ICHR).

This Conference is an excellent platform to bring together the World scholars in one meeting to share and exchange views and subsequently collaborate in research and publications on the issues centered on Human Rights.

The Organizers, Law Department, Faculty of Sharia and Law, Universitas Islam Negeri Alauddin Makassar has put his efforts together to offer such auspicious program: The 1st International Conference on Human Rights (ICHR). On behalf of the Organizers, I would like to express my utmost gratitude for the support given by distinguished guests, researchers, and academicians from global countries which make this event possible.

We have invited many expert scholars to share their views towards enhancing the academic discourse in issues about Human Rights and more than 44 papers contributed by Asian scholars, of which 16 of them were published in this proceeding. Although in the pandemic situation, we can hold the event online via zoom meeting.

On behalf of the Organizing Committee, I would like to express my gratitude to all honorable guests and participants to The 1st International Conference on Human Rights (ICHR).

Wassalam.

Dr. Muammar Muhammad Bakry, Lc. M.Ag
Dean of Faculty of Shariah and Law
Universitas Islam Negeri Alauddin Makassar

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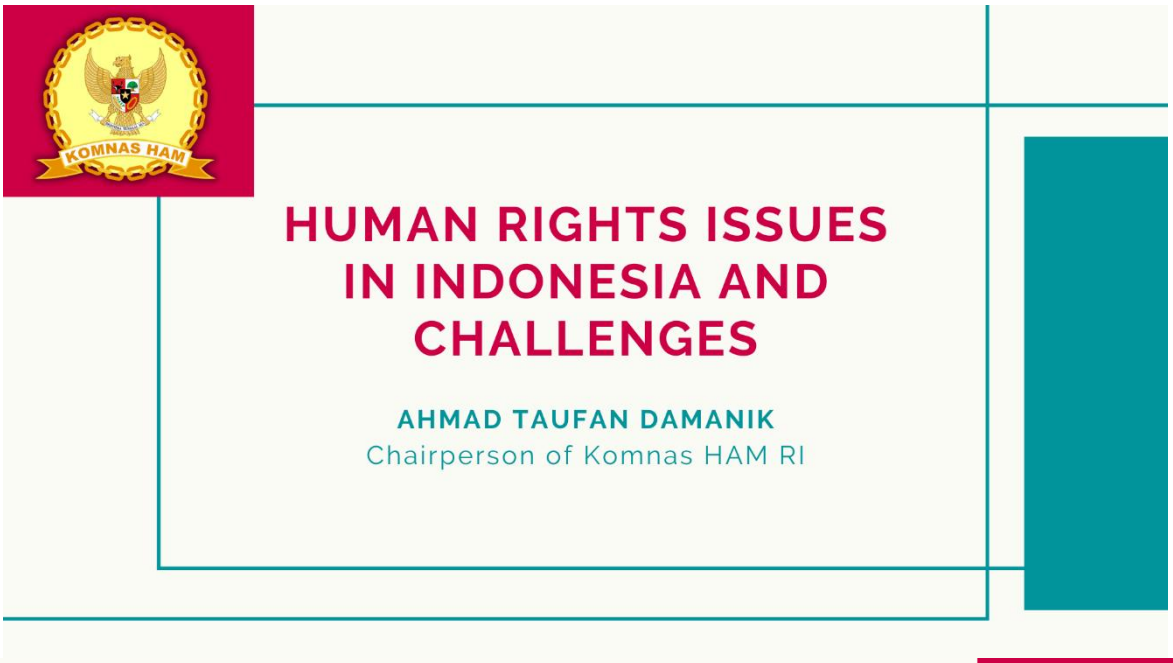
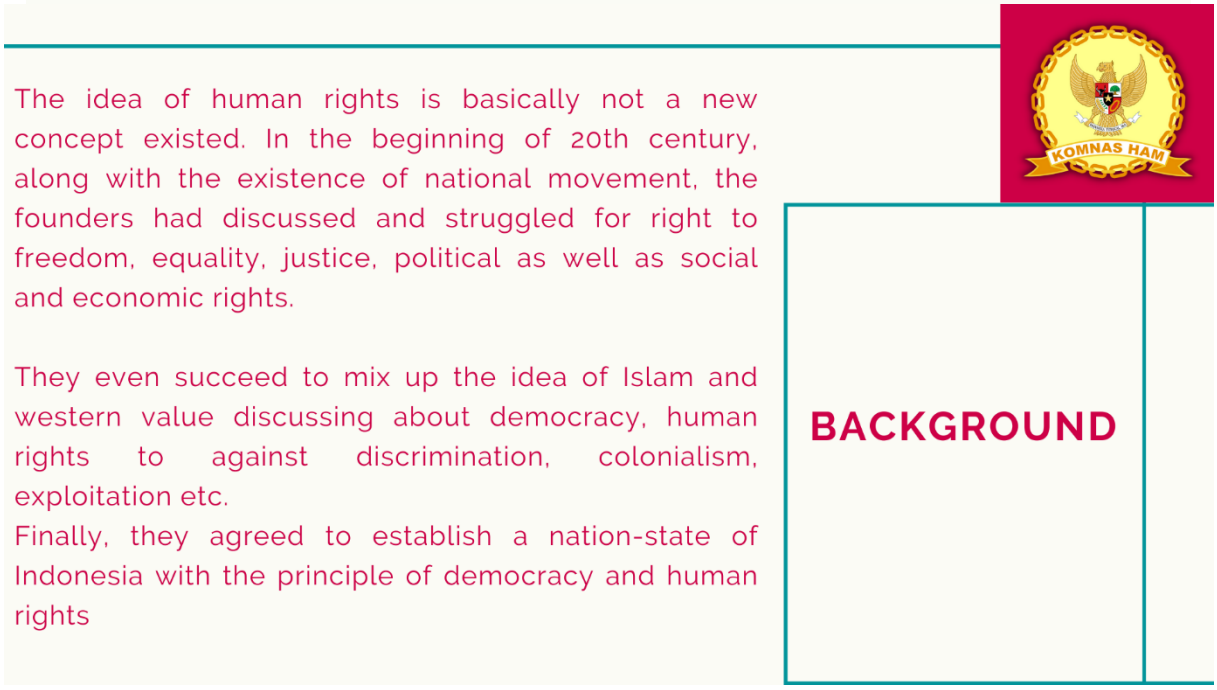
HUMAN RIGHTS ISSUES IN INDONESIA AND CHALLENGES

Dr. Ahmad Taufan Damanik, S.H., M.H.
(Chairperson of Human Rights Commision of Republic Indonesia)
Email: taufan.damanik@komnasham.go.id





After Indonesia independent, the debate of constitutional (UUD 1945, UUD RIS and UUDS 1950) also discussed the modern political thought, modern concept of state and the idea of human rights, some were referring to Universal Declaration of Human Rights and Covenant Civil and political Rights-Covenant of Economic, Social and Cultural Rights.

Proclamation of Independence is meant as commitment to against all human rights violations, respect to the rights of individual freedom related to expression, religion, cultural identity, and other civil and political rights as well as economic rights in concept of equality, non discrimination etc. It is also a commitment for global peace.

But, it is interrupted by internal political-ideological conflict and create a tragedy of 1965 where million people were killed, detained, tortured and facing other violence.

Under the authoritarian-military regime, all democratic processes and the idea of human rights were canceled. Dictator government controlled all aspect of politics, economics, social and culture by using military, bureaucracy, and even social and religious organization. Human rights violations became a widespread phenomenon in Indonesia.

In 1993, government realized the importance of an Independent state commission to deal human rights as the critical partner of the state. It is to respond the international pressure on East Timor issue and other relevant issue on the situation of human rights in Indonesia.

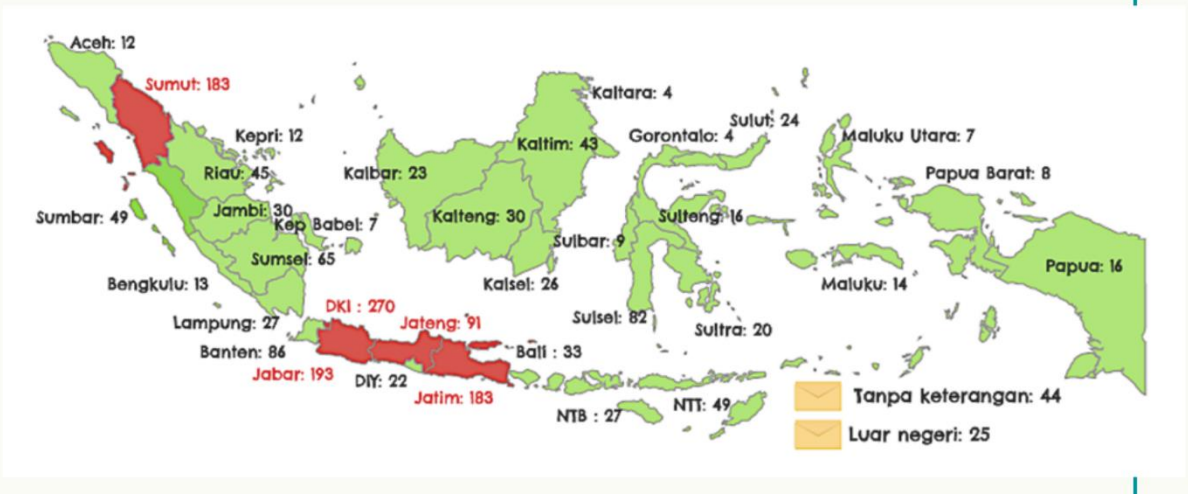
At that time, Komnas HAM was the only institution which becomes center and hope for justice for the community whose rights being violated.

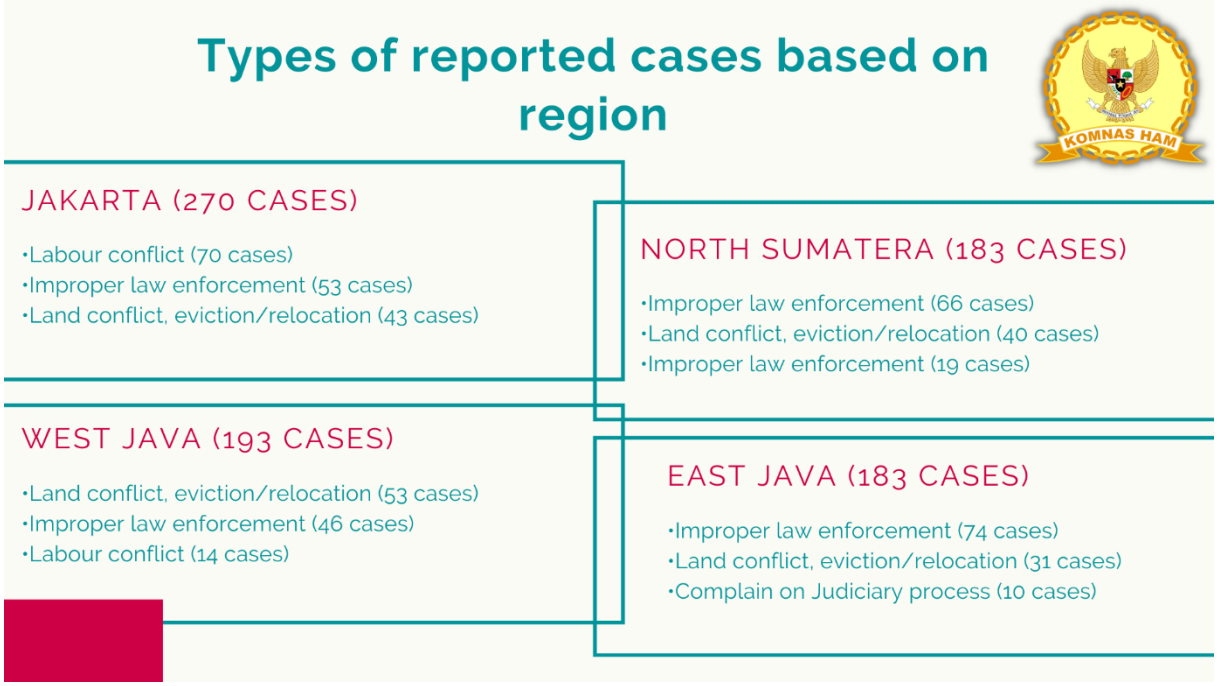
Komnas HAM exists within centralistic government system and Suharto centered power. However, Komnas HAM has been proved itself as an institution capable to carry out mandate to promote and protect human rights.

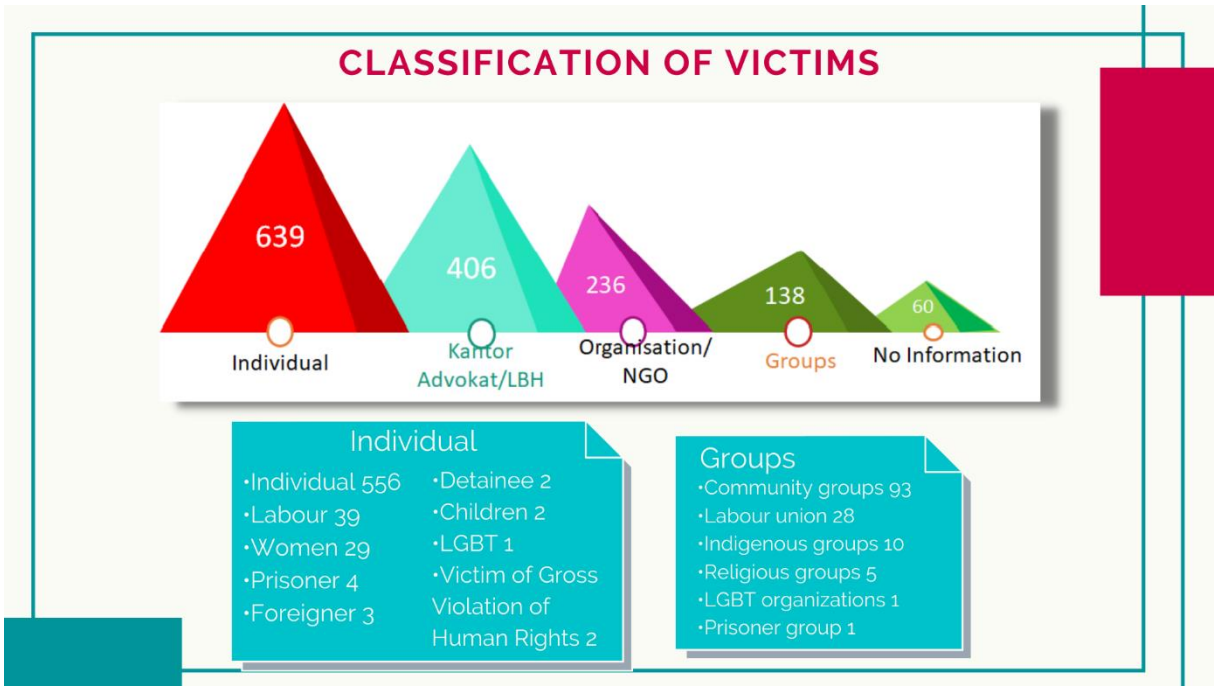
In the era of reformation started on May 21st 1998 when the President Soeharto steeped down from the position he held for 32 years, Komnas HAM enjoys the fresh air and democratic atmosphere that never existed in the era of New Order. After BJ Habibie replaced Soeharto as the president, the Law No 39 year 1999 on Human Rights was issued. With this law Komnas HAM has institutional legality and more firm authority as well as sufficient support both technical and administrative from the Secretary General. The authority of Komnas HAM is also broader with the issued law on Human Rights Trials, which provides Komnas HAM the authority as the investigator for the gross violation of Human Rights.

Distribution of complaint 2020

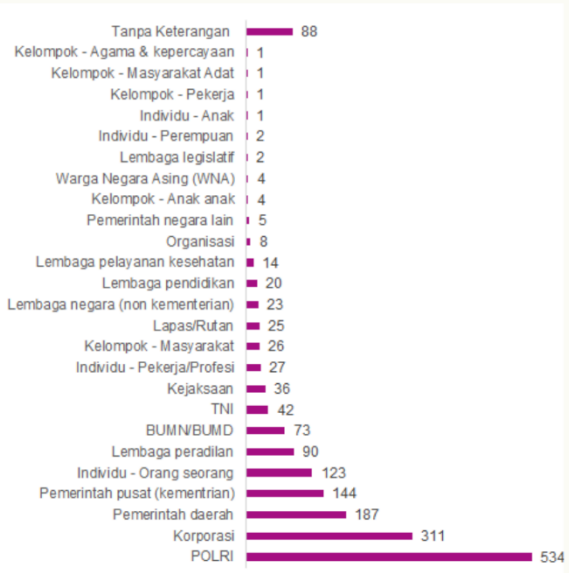
Complaint received: 1.792




Types of reported cases based on region
KOMNAS HAM
JAKARTA (270 CASES)
•Labour conflict (70 cases)
•Improper law enforcement (53 cases)
•Land conflict, eviction/relocation (43 cases)
NORTH SUMATERA (183 CASES)
•Improper law enforcement (66 cases)
•Land conflict, eviction/relocation (40 cases)
•Improper law enforcement (19 cases)
WEST JAVA (193 CASES)
•Land conflict, eviction/relocation (53 cases)
•Improper law enforcement (46 cases)
•Labour conflict (14 cases)
EAST JAVA (183 CASES)
•Improper law enforcement (74 cases)
•Land conflict, eviction/relocation (31 cases)
•Complain on Judiciary process (10 cases)


CLASSIFICATION OF VICTIMS
639
406
236
138
60
Individual
Kantor Advokat/LBH
Organisation/ NGO
Groups
No Information
Individual
•Individual 556
•Labour 39
•Women 29
•Prisoner 4
•Foreigner 3
•Detainee 2
•Children 2
•LGBT 1
•Victim of Gross Violation of Human Rights 2
Groups
•Community groups 93
•Labour union 28
•Indigenous groups 10
•Religious groups 5
•LGBT organizations 1
•Prisoner group 1

CLASSIFICATION OF PERPERTRATOR



Main Reported Cases Based On Perpertrator

01 Police– 534 cases

- Improper law enforcement (417)
- Violences, intimidation & torture(49)

02 Corporation–311 cases

- Land conflict (128)
- Labour issues (114)
- Environment (19)

03 Local gobvernment – 187 cases

- Land conflict (89)
- Government workers (33)
- Government administration (2)

CLASSIFICATION OF RIGHTS

No	Classification of Rights	
1	Right of Welfare	699
2	Accessto Justice	627
3	Right of security	117
4	Right to Life	44
5	Right to involve in government	35
6	Individual Freedom	31
7	Rights of development	23
8	Women Rights	21
9	Child Rights	19
10	Right to have a family	3
11	Right not to be discriminated	1
12	Others	172

Main Reported Cases based on Type of Rights

01 Rights of Welfare – 699 cases
- Land conflict (399)
- Labour conflict (162)
- Administration (60)

02 Access to Justice – 627 cases
- Improper law enforcement (463)
- Abusive decision of judiciary process (89)
- Violence/Torture /Intimidation (23)

03 Right of Security – 117 cases
- Violence/Torture (27)
- Improper law enforcement (13)
- Threat of individual security and settlementl (8)

THE GROSS VIOLATION OF HUMAN RIGHTS

LAW NUMBER 26 YEAR 2000 ON HUMAN RIGHTS COURT GIVES MANDATE TO KOMNAS HAM TO DO PRO JUSTICIA INVESTIGATION OF THE GROSS VIOLATION OF HUMAN RIGHTS. FROM 15 CASES THAT HAVE BEEN SUBMITTED BY KOMNAS HAM TO GENERAL ATTORNEY, ONLY 3 CASES HAD BEEN BROUGHT TO THE COURT I.E: TIMOR TIMOR 1999, TANJUNG PRIOK 1984, DAN ABEPURA 2000. ALL ACCUSED PERPETRATORS DECIDED NOT GUILTY BY JUDGES.

12 CASES OF GROSS VIOLATION OF HUMAN RIGHTS THOSE ARE NOT BROUGHT TO THE COURT

No.	Cases
1	Tragedy 1965-1966
2	Mysterious Killing 1982-1985
3	Talangsari Case 1989
4	Trisakti, Semanggi I dan II (1998-1999)
5	May Riot 1998
6	Forced Disappearance of Activist 1997-1998
7	Wasior (2001) Wamena 2003
8	Killing of Dukun Santet 1998
9	Simpang KKA Aceh 1999
10	Jambu Keupok Aceh 2003
11	Rumah Geudong 1989-1998
12	Paniai Papua 2014

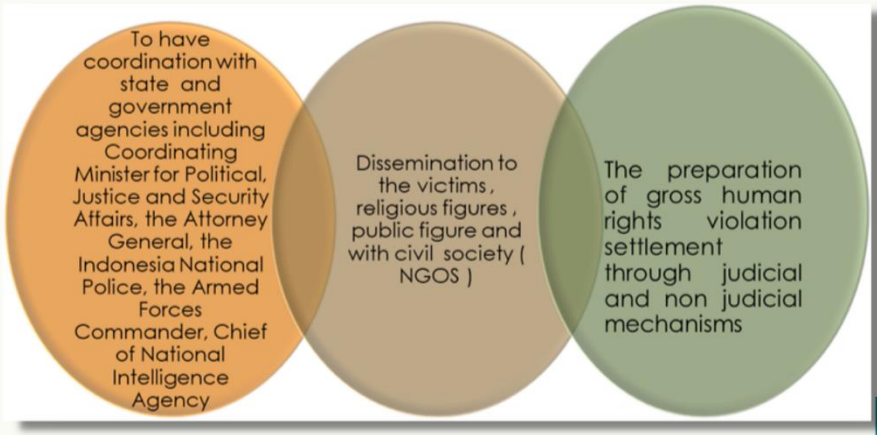
OBSTACLES

01 Political Will from Government/General Attorney

02 Non Judicial mechanism as alternative has not formed yet

03 President commitment to solve the problems

The Settlement of Past Gross Human Rights Violation



AGRARIAN CONFLICT

- Structural Agrarian conflicts which are rooted on politics and agrarian policies created concentration of ownership, control, usage, and land and natural resources exploitation on one side, and the other side, more people lost their rights or access to land,natural resources, living space.
- Therefore, as social phenomena, the agrarian conflict which commonly occurs is the sign of need to reform the current agrarian structure, because the agrarian conflict occurred is the reaction of the community towards the injustice of land controlled regime within the community



•Structural agrarian conflict is a long dispute about claim over a piece of land, natural resources, and community properties between the community and giant corporation of infrastructures, production, extraction and conservation; and the disputing parties make direct and indirect attempt to eliminate other's claim. The agrarian conflict meant here occurs as the result of permission/right providing by the public officials, including the Ministers of Forestry, Energy and Mineral Natural Resources, the Head of BPN (National Land Agency), Governor, and Bupati, who included land, natural resources, and community properties into projects/concession of giant corporation of infrastructure, production, extraction and even conservation.

- There are several laws and policies which legitimizing state discrimination and violence. The ineffective role of the law enforcement apparatus resulted to the growing of vigilante groups.
- There is a need to develop strategic program which lead to prevent any violence based on socio-cultural pluralism. It is important to support law enforcement institutions to become more responsive and effective to prevent and resolve any conflict occurred.

- There is a progress of the recent decision of the Constitutional Court No. 97/PUU-XIV/2016 which affirmed the rights of devotees of faiths outside the country's officially recognized religions. The government obligated to implement the Constitutional Court including revision some of relevant regulations.
- Those problems and challenges required new and comprehensive approaches which may result to enabling environment for a more harmonious society both at local, regional and national levels.

PREVENTION OF VIOLENCE EXTRIMISM

- Komnas HAM recognize serious challenges, particularly after series of actions with violence extremism and intolerance perspectives toward racial, ethnic and religion minorities
- Komnas HAM identified several laws and policies which legitimizing state discrimination and violence. The ineffective role of the law enforcement apparatus resulted to the growing of vigilante groups.
- Komnas HAM identified the impact of the problem to human rights condition, the need to understand the cause of the problem and the need to develop strategic program which lead to prevent any violence based on socio-cultural pluralism.
- Komnas HAM realize the important to support law enforcement institutions to become more responsive and effective to prevent and resolve any conflict occurred.

PAPUA ISSUES

Various forms of injustice in the field of civil and political rights are still felt by the populations of the Province of Papua and West Papua. Economic, social and cultural imbalances, as well as repression of civil and political rights, both past and present, demand the immediate restoration of rights for the people of Papua and reparation for rights violated in the past.

__Special Autonomous Status of Papua Province and West Papua Province designed to address some of the basic issues. The Special Autonomous Status equip with additional state budget to help the local government in addressing some of the problems.

__However, right to education and right to health remain major issues. The death of seventy Papuan in Asmat District within the last four months due to malnutrition and measles outbreak shows the poor health condition in some of the remote areas in Papua.

Violence and Human Rights Abuses in Papua

- Until now, violations and human rights abuses still happened in Papua. It is caused by discriminative policies of central government.Continuous Armed conflict has always victimized civilian including womenand children. Victims and families tried hardly to receive justice through judicial and non-judicial mechanisms, but always failed. It brings the issue to the international attention.
- The creation of National Law 21/2001 on Special Autonomy for Papua also consider the establishment of Provincial Human Rights Commission and The Commission of Truth and Reconciliation in Papua. This regulation has not yet achieved the economic development and the solution for human rights abuses as well as a peace in Papua.
- Until now, there is no commitment of government to bring those cases to the court by establishing human rights court and Commission of Truth and Reconciliation as mandated by National Law 21/2001

PROTECTION AND ENFORCEMENT OF HUMAN RIGHTS IN COVID-19 PANDEMIC FROM AUSTRALIA PERSPECTIVE

Prof. Dr. H. Nadirsyah Hosen, LL.M., M.A. (Hons), Ph.D.
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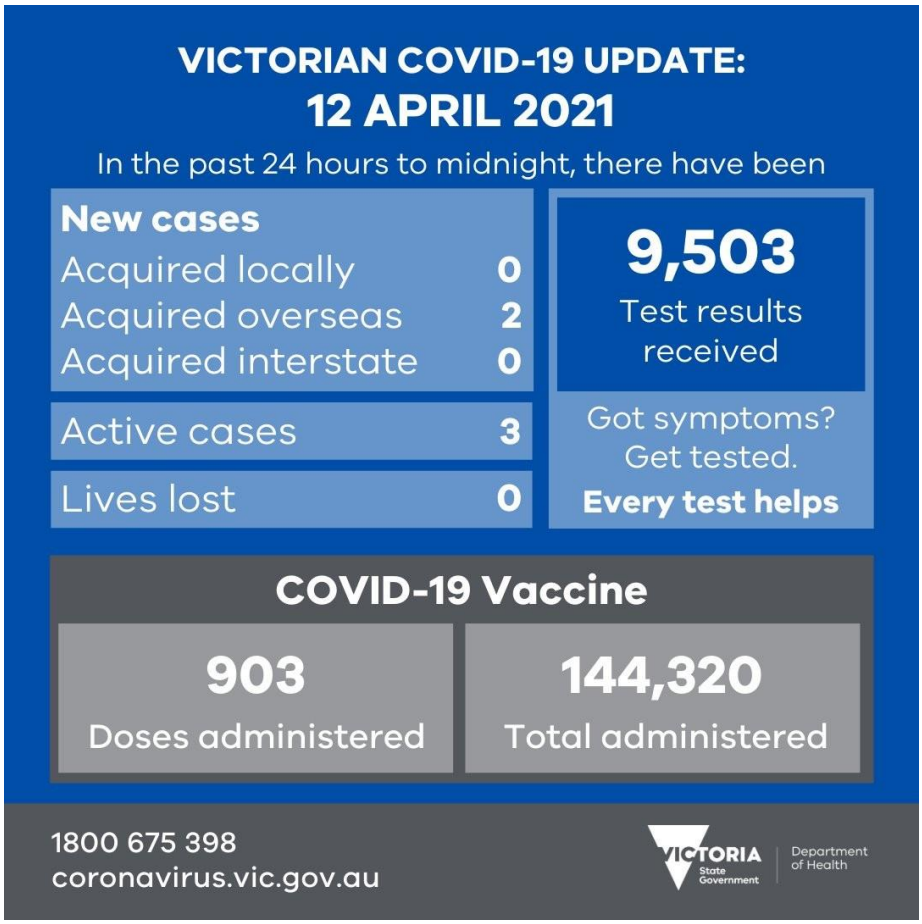
Email: nadirsyah.hosen@monash.edu

Current status in Melbourne (12 April 2021)



- Australia is a federation of six states which, together with two self- governing territories, have their own constitutions, parliaments, governments and laws.
- States are: New South Wales, Victoria, Queensland, South Australia, Tasmania, and Western Australia
- Victoria, Queensland and the Australian Capital Territory have Human Rights Acts that require the governments in those places to act consistently with human rights and to fully consider human rights in law, policy and practice. No such law exists at the federal level or in other states and territories.
- Australia is one of the only liberal democracies in the world that does not have its own Human Rights Act or Bill of Rights.

Why Human Rights Matter?

- Measures taken by the Australian Commonwealth, state and territory governments in relation to COVID-19 have raised a number of rights issues.
- Human rights matter in the context of COVID19 because they impose an obligation upon governments to respect, protect and fulfill the rights to life and health of every person in the community without discrimination, and to do so in a way that does not unreasonably or unjustifiably interfere with other human rights
- 3 issues: freedom of movement, the right to privacy, and the right to work.

Freedom of Movement

- Restrictions have been implemented within states and territories (for example by requiring residents to stay at home, subject only to specified exceptions), and more broadly (notably through the closure of several state borders).

The Right Privacy

- The pandemic is also leading to greater state control and scrutiny over the private lives of its citizens through the use of latest digital surveillance technologies.
- When it comes to balancing measures that could help track and contain the virus and safeguard privacy of individuals, where is the line?

The Right to Work

- As the United Nations committee that oversees implementation of this international right states *"The right to work is essential for realising other human rights and forms an inseparable and inherent part of human dignity. Every individual has the right to be able to work, allowing him/her to live in dignity. The right to work contributes at the same time to the survival of the individual and to that of his/her family, and insofar as work is freely chosen or accepted, to his/her development and recognition within the community."*

Can the Limitations of Human Rights be Justified?

- To be justified, the limitation must satisfy certain limitations principles, as follows:
  - Legality
  - Necessity
  - Legitimate Purpose
  - Proportionate
  - Non-discrimination

A Case Law

- On 5 April 2020, Western Australia imposed border restrictions in response to COVID-19. Clive Palmer and Mineralogy Pty Ltd have launched proceedings in the High Court arguing their invalidity under s 92 of the *Constitution:*
- "... trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free."
- The case gives rise to difficult but important questions of proportionality in respect of both the freedom of interstate trade and commerce and the freedom of interstate intercourse.

The Court Decision

- The High Court rejected Mr Palmer challenged. According to the Court, Section 92 of the Constitution was concerned with freedom from unjustified burdens of a discriminatory kind. The Court accepted that s 67 did impose a burden on interstate intercourse. However, by reference to the purpose of the provisions and the statutory constraints on the declaration of a state of emergency and the making of directions, the Court found that the burden was justified and the provisions, at least in their application to an emergency constituted by a hazard in the nature of a plague or epidemic, did not infringe the constitutional limitation in s 92.

MAQASID SHARIAH IN HUMAN RIGHTS PERPSECTIVE

Dr. Muammar Muhammad Bakry, Lc., M.Ag
(Associate Professor, Universitas Islam Negeri Alauddin Makassar)
Email: muammar.bakry@uin-alauddin.ac.id

To the honorable speakers and also to all the participants who I am proud of.

As the dean, I would like to welcome the speakers and participants in the International Conference organized by the Faculty of Sharia and Law, UIN Alauddin Makassar.

As the Dean, I really appreciate this activity. This activity carries the theme of human rights in all aspect of life. I feel that this theme needs to be continuously discussed by academics, community leaders and all parties. The aim is to find the main value in matters that are fundamental to human life. This theme becomes increasingly important when referring to our different backgrounds as humans, such as differences in religion, culture, customs and others. Through this discussion, we are able to find common ground on universal values that are accepted by all human beings.

For example, in the teachings of Islam, there is a concept known as maqasid syariah. The concept is a rule for Muslims to keep the five main things. Among them is the obligation to maintain religion, soul, mind, dignity and property. The obligation to maintain these five things, as well as an effort to maintain basic human rights in life.

Allah swt. explains in the Qur'an that there is no compulsion in religion, including choosing a particular religion. In the Koran, we are prohibited from insulting other people's God: *walaa tasubbu llazina yaduna*… If a person insults someone because of his religion, then there must be no harmony in the life between religious communities.

On the other hand, as humans we have the right to live, so it is obligatory for us as humans to protect it. Therefore, it is haram for someone to sacrifice a person's life. Allah states in the Qur'an, *man qatala nafsan bighairi nafsin fakaannnama qatalannasa jamian*…

Islam strongly condemns the act of sacrificing the lives of others. Therefore, Islam affirms Qishash as a sanction for killing. The regulation aims as a preventive measure against the crime of murder. Likewise, the commandment related to maintain human intellect. In this context, everyone has the right to have the widest possible access to sources of knowledge. The government is obliged to prepare facilities and infrastructure for its citizens in order to obtain a proper education. Humans must ensure common sense as a means of control in their lives. Thus, it is obligatory for humans to protect it by avoiding drugs or alcohol.

The fourth point of the maqasid of Syariah is to maintain human dignity. Human beings are privileged beings from God. Allah said, walaqad karramnaa bani adama wahamalnahum fil barri wal bahri… God doesn't declare that we glorify Moslem, but God glorifies all of Adam's children and grandchildren without exception. It is also found in the last speech of the Prophet when hujjatul wada ', that your dignity is maintained until you face your Lord. Respect others, if you want to be honored.

The last point of the maqashid shariah is safeguarding wealth. Everyone has the right to own property. This includes human rights guaranteed in religion. Thus, people who damage and interfere with the ownership of others, according to our religion will be given a strong sanction. Islam recommends that property must be obtained by lawful means, not by manipulating.

Lastly, I hope that we will get lot of benefits from this International Conference. Besides getting information and knowledge related to our discussion theme, I hope it will be the beginning of our friendship, with the aim to build better relations among us and in particular the relationship between institutions. Thank you very much for your attention. Before I close my opening greetings, Let's open the International Conference today by saying "basmalah"

Salamaki, Assalamu alaikum wr. wb.

WOMEN AND CHILD RIGHTS IN COVID-19 PANDEMIC

Dr. Meghan Campbell, LL.M
(Associate Professor, Birmingham University)
Email: m.campbell.1@bham.ac.uk

Developing a Body of Human Rights Law

Three years after the United Nations was founded, at the end of World War II, the UN General Assembly adopted the Universal Declaration of Human Rights. Drafted as 'a common standard of achievement for all peoples and nations', the Declaration spelled out, for the first time, the basic civil, political, economic, social and cultural rights that all human beings should enjoy. Moreover, it declared that respect for human rights and human dignity "is the foundation of freedom, justice and peace in the world." The Universal Declaration of Human Rights laid the foundation for international human rights law and recognized that all human beings deserve equal treatment and respect. Together with the International Covenant on Civil and Political Rights and its two Optional Protocols and the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, it forms the so-called International Bill of Rights. A number of other human rights treaties have also been drawn up, covering issues ranging from the prevention of genocide and the elimination of torture and racial discrimination to the protection of migrant workers and their families and persons with disabilities. Among them are the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). These covenants and conventions are legally binding for States that are party to them

Why Women's Human Rights

uman rights are universal. They apply equally to men and women, girls and boys. Women, for example, are entitled to the same rights to life, education and political participation as men. However, in practice, these rights are violated every day in multiple ways – in virtually every country in the world. Gender equality and women's rights are key elements in the Universal Declaration of Human Rights. Yet it was later recognized that certain rights are specific to women, or need to be emphasized in the case of women. These rights are outlined in subsequent international and regional instruments, the most important of which is the Convention on the Elimination of All Forms of Discrimination against Women. CEDAW was adopted in 1979 and entered into force two years later. It defines the right of women to be free from all forms of discrimination and sets out core principles to protect this right. It also establishes an agenda for national action to end discrimination and provides the basis for achieving equality between men and women. It does so by affirming women's equal access to – and equal opportunities in – political and public life as well as education, health and employment. CEDAW is the only human rights treaty that affirms the reproductive rights of women. By February 2010, CEDAW had been ratified by 186 States – more than most other international treaties. The Optional Protocol to CEDAW, which entered into force in December 2000, lays out procedures for individual complaints on alleged violations of the Convention by States parties. It also establishes a procedure that allows the Committee that monitors implementation of the Convention to conduct inquiries into serious and systematic abuses of women's human rights in countries. By February 2010, the Protocol had been ratified by 99 States.

How the Women's Human Rights Movement Evolved

The women's human rights movement evolved, in part, because of limitations in the UN human rights system – a system that dated back to 1945 and focused primarily on curtailing powers of the State. The emphasis at the time was on civil and political rights rather than social, economic and cultural rights, which are central to women's everyday lives. Such gaps became evident in the 'development decades' of the 1960s and 1970s. During this time, for example, positive advances were made in agriculture and food production. However, they failed to acknowledge that, in most parts of the world, women were the primary producers of food. New technologies were developed, but women were often excluded from access and training. Furthermore, land reforms were initiated, but failed to recognize that women were often restricted from owning land. As a result, women were displaced from many of their traditional roles and disempowered. Later development efforts emphasized employment and income-generation for women and recognized the importance of the informal sector and women's critical role in it.

THE REALITY OF PROTECTING AND ENFORCING HUMAN RIGHTS IN THE WORLD AND IN INDONESIA DURING THE COVID-19 PERIOD

Dr. Syamsuddin Radjab, S.H., M.H.
(Associate Professor, Universitas Islam Negeri Alauddin Makassar)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01
The Covid-19 in The World-Indonesia
Explaining the emergence, distribution and pattern that spread throughout the world and Indonesia
02
Dimension of Human Rights
Understand the aspects of human rights and the responsibility of the state in respecting, protecting, fulfilling in the midst of the Covid-19 pandemic
03
Legal Mapping & Handling
Government Regulation and Handling Covid-19
04
Protecting & Enforcing HR's: Indonesian Context
Protection of human rights and their fulfillment by the state in a national health emergency (Disease Outbreak)


01-The Covid-19 in The World - Indonesia
Spread in The World to Indonesia

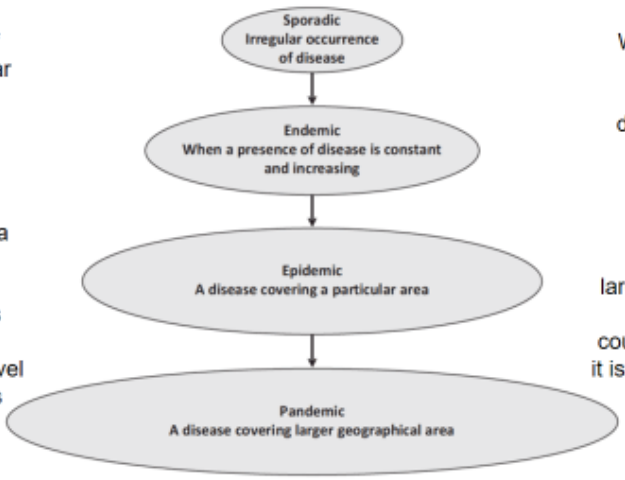

HUMAN
EVERY
HAS
RIGHTS

Stages of The Disease

COVID-19

Sporadic
When the occurrence of the disease is not regular and is infrequent, it is termed as sporadic.

Endemic
When the disease's presence is constant in a particular geographical area, it is known as endemic. Endemic turns into a hyperendemic situation when a high level of disease occurrence is observed.



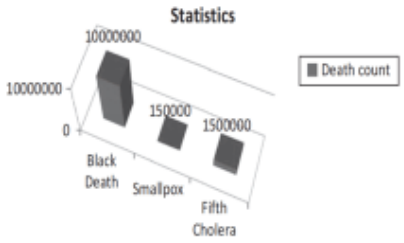
Epidemic
When there is a sudden rise in the number of patients by the same disease and a particular area, it is termed an epidemic.

Pandemic
When epidemics affect larger geographical areas (including multiple countries and continents), it is known as a pandemic.

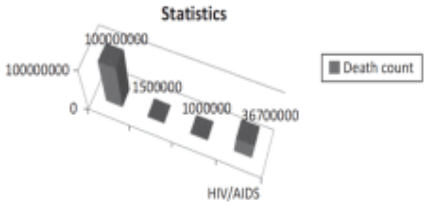
Source: Gitanjali Rahul Shinde, etc. (2021), "Data Analytics for Pandemics: A COVID-19 Case Study", Pp. 3-4.

Past Pandemic Statistics - History

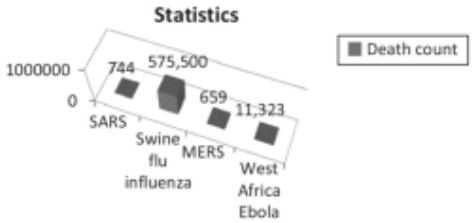
COVID-19



(a) Statistics from the early 1300s to the late 1800s



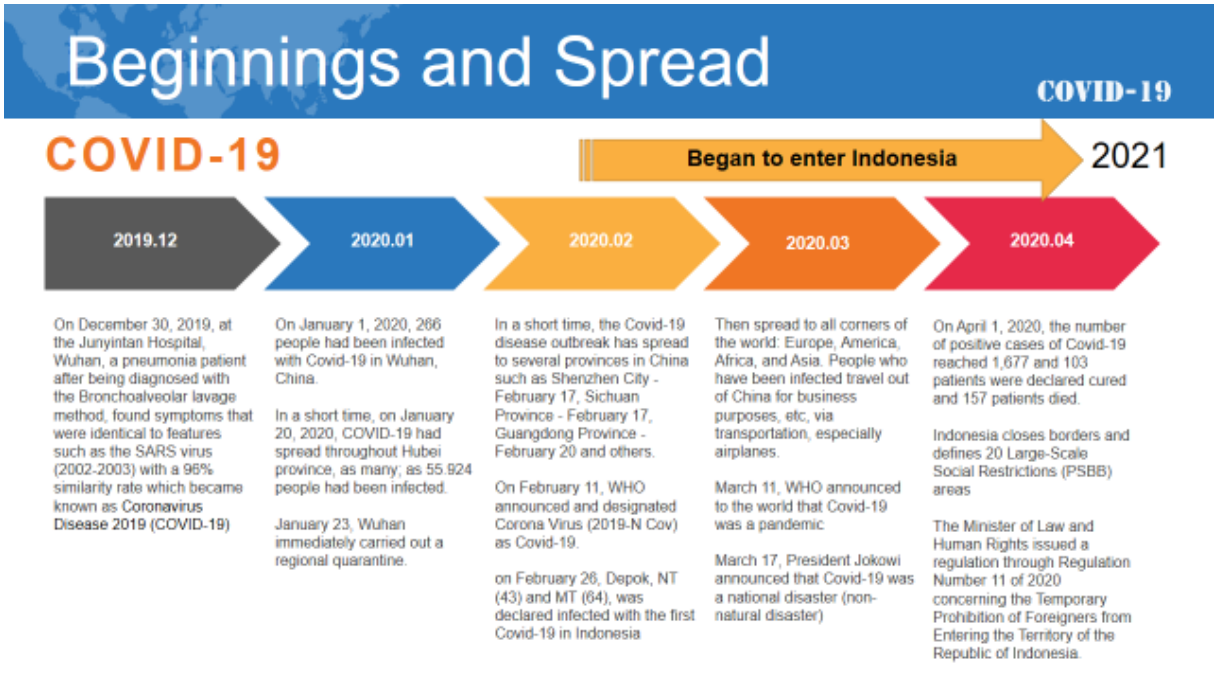
(b) Statistics from the 1900s

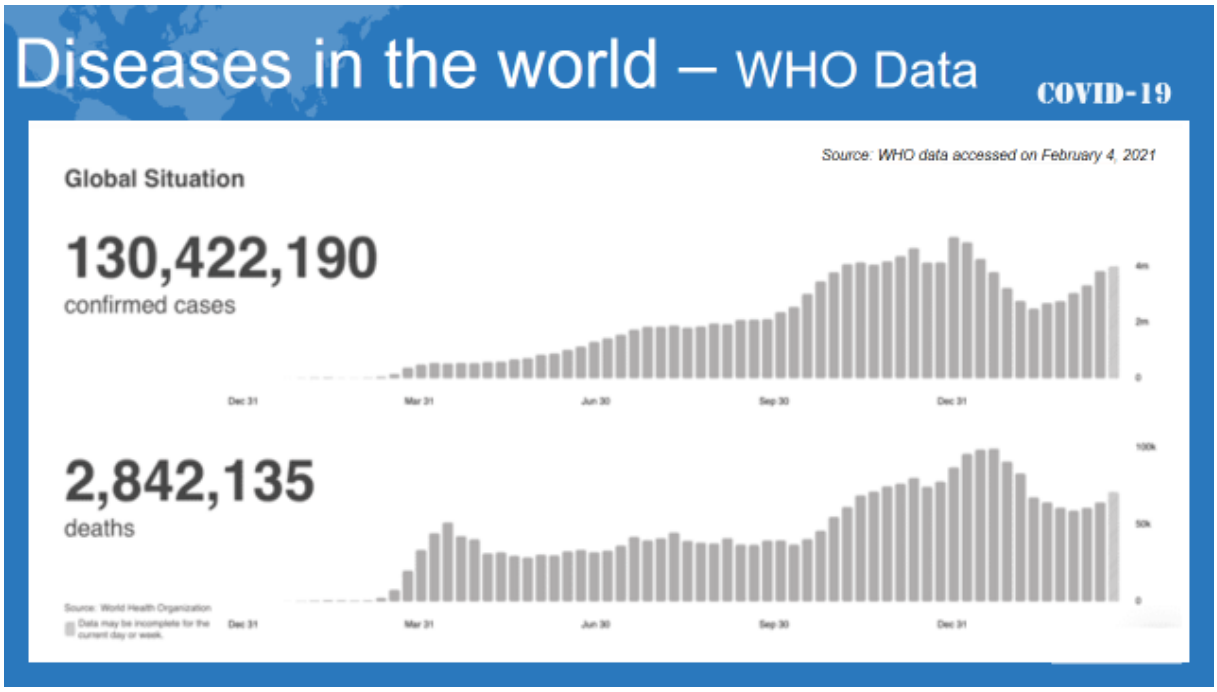


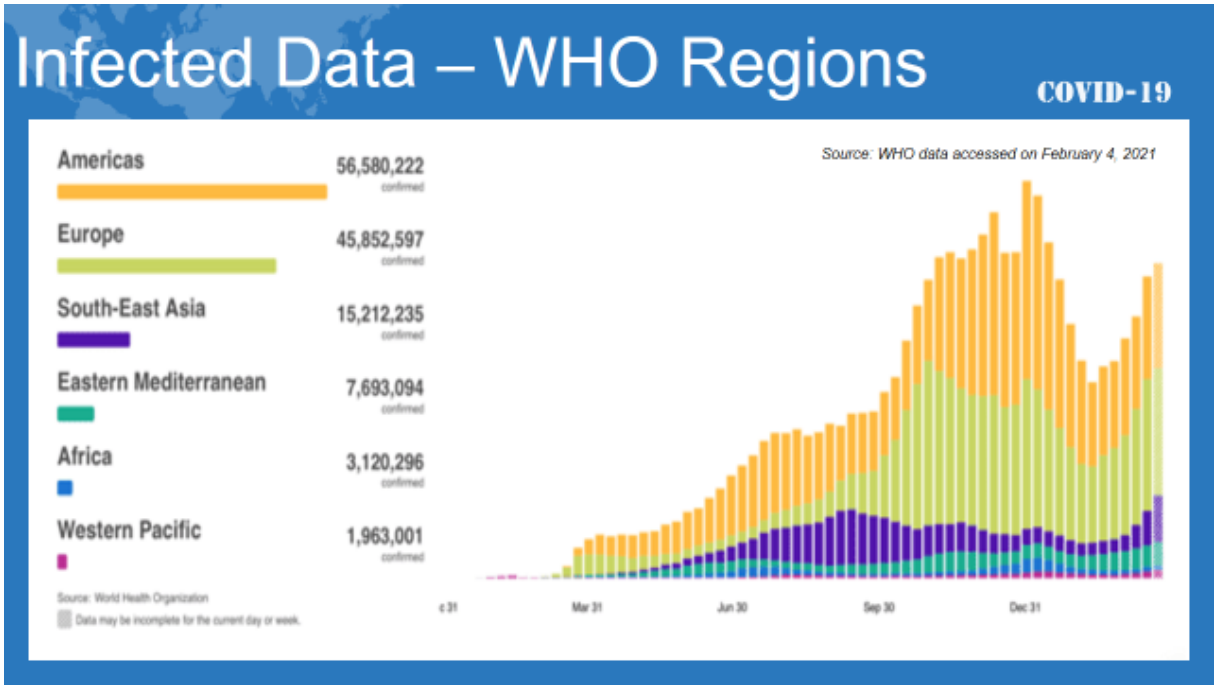
(c) Statistics from the 2000s

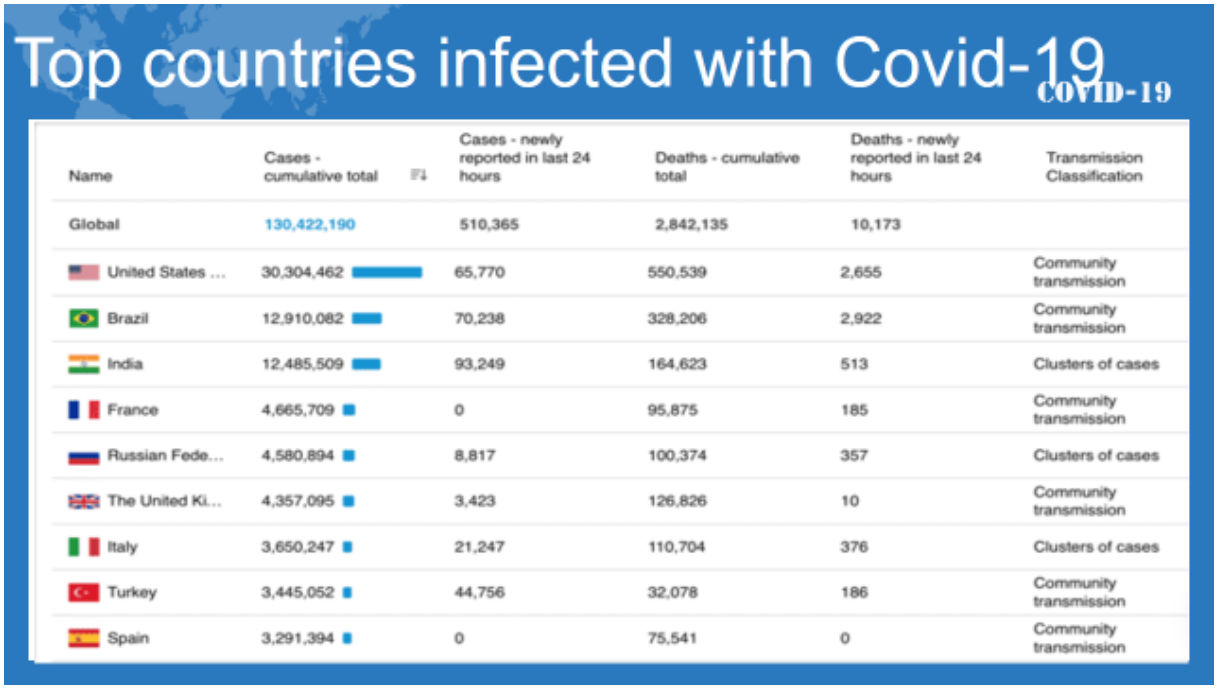
Source: Gitanjali Rahul Shinde, etc. (2021), "Data Analytics for Pandemics: A COVID-19 Case Study", Pp. 3-4.


Diseases in the world and in Indonesia
COVID-19
SEJARAH PENDEMI DI DUNIA
Black Death
The Black Death abad 14 (1347-1351) akibat bakteri urin tikus membunuh (70-100)t orang) sepertiga hingga dua pertiga populasi Eropa, terjadi di Eropa dan Asia Tengah.
Spanish Flu
Spanish Flu (1917) atau sekarang Influenza/Flu bermula di Eropa, lalu dibawa prajurit perang dunia ke Amerika, membunuh sekitar 50 Juta orang
Covid-19
Pandemi Ocid-19 Merupakan serangan terluas Dalam sejarah umat manusia yang bermula di wuhan china pada september 2019 dan telah menyebar di 221 negara
SEJARAH WABAH PENYAKIT DI INDONESIA
Kolera
Kolera juga sempat mewabah dan diperkirakan masuk ke wilayah Pulau Jawa pada tahun 1800an melalui hubungan dagang.
Malaria
Malaria mewabah di Batavia sejak 1733. Hingga tahun 1900-an, malaria masih menjadi ancaman kesehatan masyarakat.
Source: Worldometer, 9 February, 2021

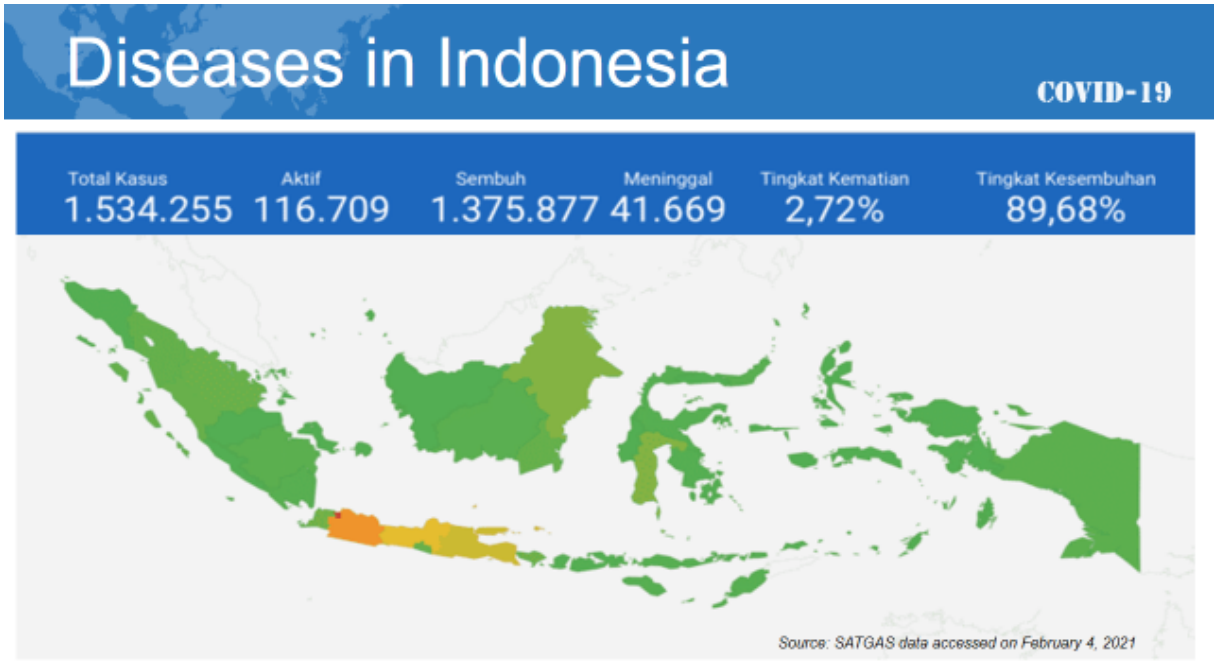

Beginnings and Spread
COVID-19
COVID-19
Began to enter Indonesia
2021
2019.12
2020.01
2020.02
2020.03
2020.04
On December 30, 2019, at the Junyintan Hospital, Wuhan, a pneumonia patient after being diagnosed with the Bronchoalveolar lavage method, found symptoms that were identical to features such as the SARS virus (2002-2003) with a 96% similarity rate which became known as Coronavirus Disease 2019 (COVID-19)
On January 1, 2020, 266 people had been infected with Covid-19 in Wuhan, China.
In a short time, on January 20, 2020, COVID-19 had spread throughout Hubei province, as many; as 55.924 people had been infected.
January 23, Wuhan immediately carried out a regional quarantine.
In a short time, the Covid-19 disease outbreak has spread to several provinces in China such as Shenzhen City - February 17, Sichuan Province - February 17, Guangdong Province - February 20 and others.
On February 11, WHO announced and designated Corona Virus (2019-N Cov) as Covid-19.
on February 26, Depok, NT (43) and MT (64), was declared infected with the first Covid-19 in Indonesia
Then spread to all corners of the world: Europe, America, Africa, and Asia. People who have been infected travel out of China for business purposes, etc, via transportation, especially airplanes.
March 11, WHO announced to the world that Covid-19 was a pandemic
March 17, President Jokowi announced that Covid-19 was a national disaster (non-natural disaster)
On April 1, 2020, the number of positive cases of Covid-19 reached 1,677 and 103 patients were declared cured and 157 patients died.
Indonesia closes borders and defines 20 Large-Scale Social Restrictions (PSBB) areas
The Minister of Law and Human Rights issued a regulation through Regulation Number 11 of 2020 concerning the Temporary Prohibition of Foreigners from Entering the Territory of the Republic of Indonesia.


Diseases in the world – WHO Data
COVID-19
Source: WHO data accessed on February 4, 2021
Global Situation
130,422,190
confirmed cases
2,842,135
deaths
Source: World Health Organization
Data may be incomplete for the current day or week.
Dec 31
Mar 31
Jun 30
Sep 30
Dec 31

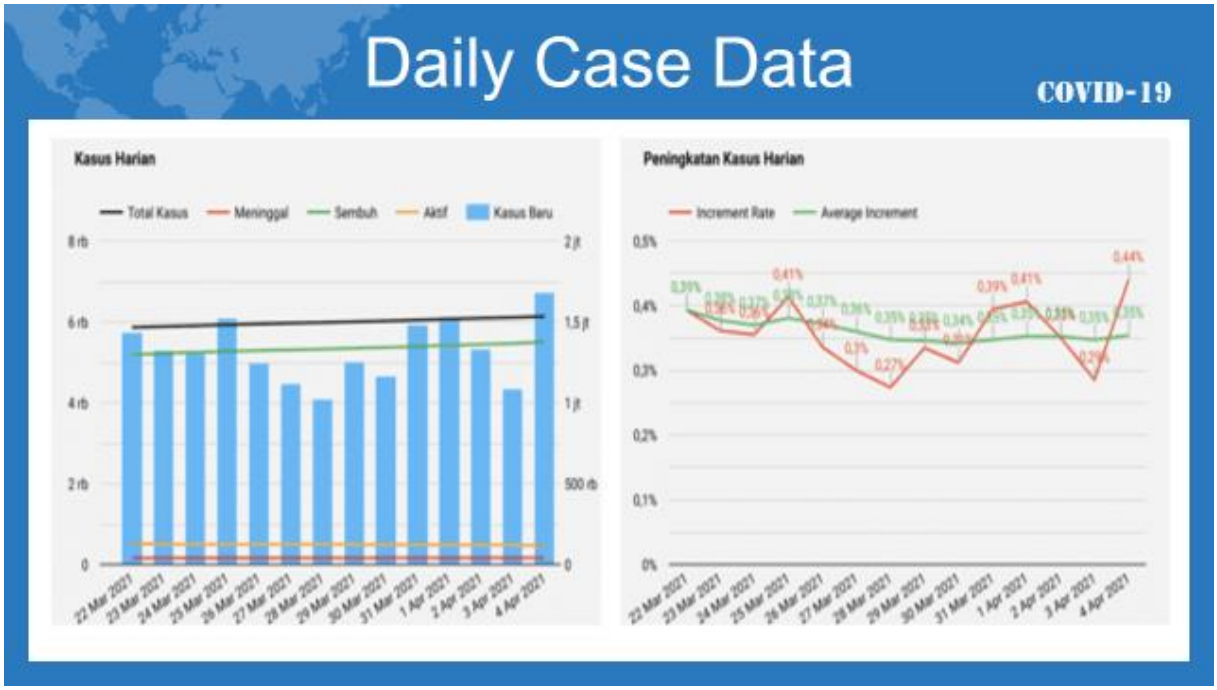

Infected Data – WHO Regions
COVID-19
Source: WHO data accessed on February 4, 2021
Americas
56,580,222
confirmed
Europe
45,852,597
confirmed
South-East Asia
15,212,235
confirmed
Eastern Mediterranean
7,693,094
confirmed
Africa
3,120,296
confirmed
Western Pacific
1,963,001
confirmed
Source: World Health Organization
Data may be incomplete for the current day or week.
Mar 31
Jun 30
Sep 30
Dec 31

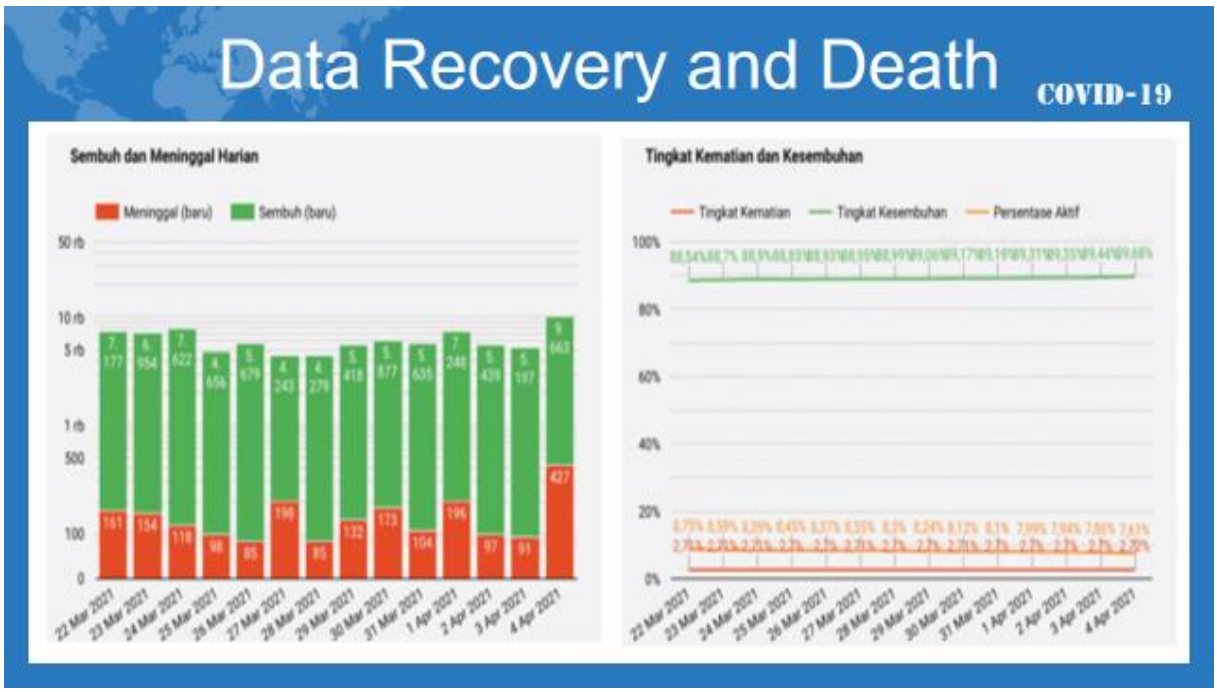


Name	Cases - cumulative total	Cases - newly reported in last 24 hours	Deaths - cumulative total	Deaths - newly reported in last 24 hours	Transmission Classification
Global	130,422,190	510,365	2,842,135	10,173	
United States ...	30,304,462	65,770	550,539	2,655	Community transmission
Brazil	12,910,082	70,238	328,206	2,922	Community transmission
India	12,485,509	93,249	164,623	513	Clusters of cases
France	4,665,709	0	95,875	185	Community transmission
Russian Fede...	4,580,894	8,817	100,374	357	Clusters of cases
The United Ki...	4,357,095	3,423	126,826	10	Community transmission
Italy	3,650,247	21,247	110,704	376	Clusters of cases
Turkey	3,445,052	44,756	32,078	186	Community transmission
Spain	3,291,394	0	75,541	0	Community transmission


Diseases in Indonesia
COVID-19
Total Kasus
1.534.255
Aktif
116.709
Sembuh
1.375.877
Meninggal
41.669
Tingkat Kematian
2,72%
Tingkat Kesembuhan
89,68%
Source: SATGAS data accessed on February 4, 2021


The Covid-19 Situation in Indonesia
COVID-19
SITUASI COVID-19 DI INDONESIA
Update 4 April 2021 Pukul 12.00 WIB
JUMLAH TERPAPAR COVID-19
3,359
116.709
KASUS AKTIF
36.490
SPESIMEN
62.290
SUSPEK
6.731
1.534.255
KONFIRMASI
9.663
1.375.877
SEMBUH
427
41.669
MENINGGAL
DATA VAKSINASI COVID-19
95.760
8.629.182
VAKSINASI KE-1
40.349.049
TARGET SASARAN VAKSINASI
62.532
4.014.401
VAKSINASI KE-2


Daily Case Data
COVID-19
Kasus Harian
Total Kasus
Meninggal
Sembuh
Aktif
Kasus Baru
Peningkatan Kasus Harian
Increment Rate
Average Increment


Data Recovery and Death
COVID-19
Sembuh dan Meninggal Harian
Meninggal (baru)
Sembuh (baru)
Tingkat Kematian dan Kesembuhan
Tingkat Kematian
Tingkat Kesembuhan
Persentase Aktif

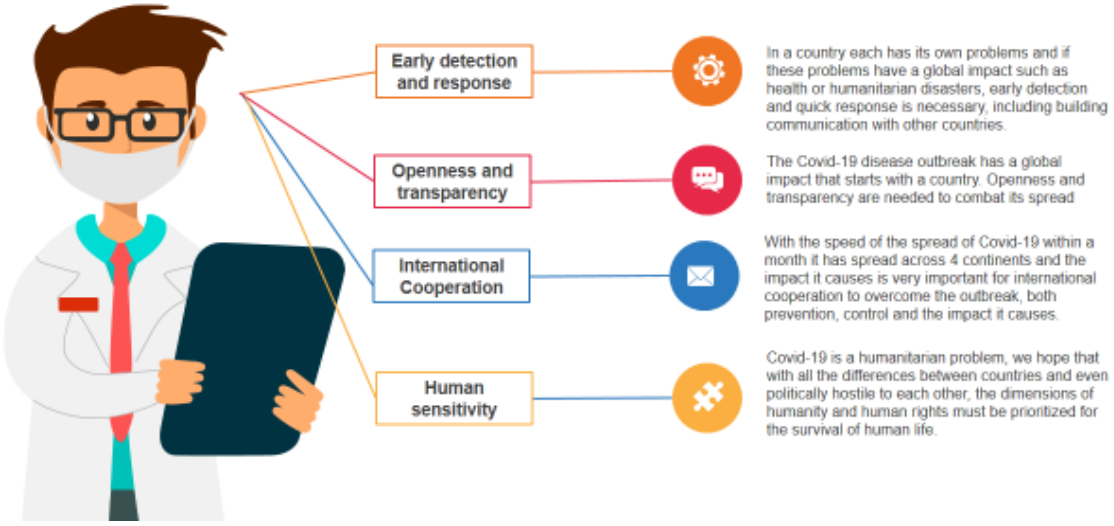
Highest Data on Covid-19 - Province

COVID-19

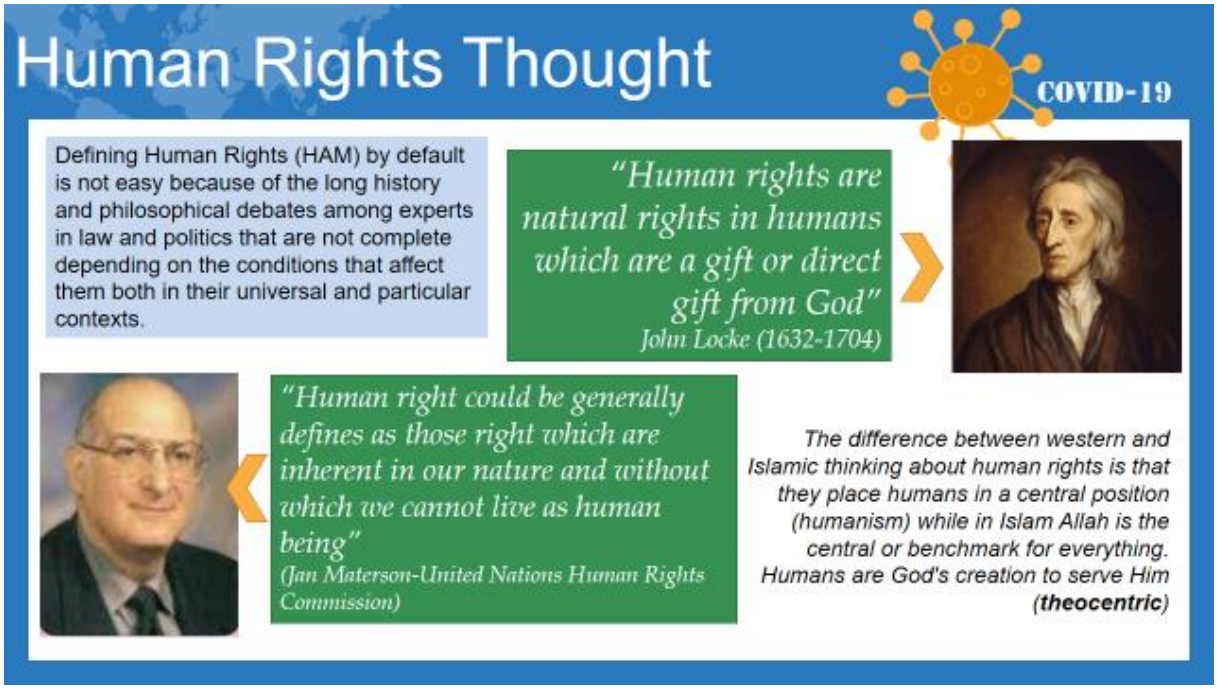
Provinsi	Total Kasus	Total Sembuh	Total Meninggal	Kasus Aktif
DKI Jakarta	386.466	373.487	6.364	6.615
Jawa Barat	252.545	224.396	3.244	24.905
Jawa Tengah	170.188	127.749	7.328	35.111
Jawa Timur	140.552	128.593	10.014	1.945
Kalimantan Timur	64.407	59.827	1.522	3.058
Sulawesi Selatan	59.844	58.099	910	835
Banten	43.925	42.038	1.166	721
Bali	40.421	37.704	1.158	1.559
Riau	35.487	33.050	871	1.566
Daerah Istimewa Yogya...	34.143	28.365	826	4.952
Sumatera Barat	32.155	30.192	691	1.272
Kalimantan Selatan	28.871	24.999	847	3.025
Sumatera Utara	27.621	24.323	919	2.379
Papua	19.692	10.431	203	9.058
Sumatera Selatan	18.015	15.723	856	1.436
Kalimantan Tengah	17.589	14.325	396	2.868
Sulawesi Utara	15.386	12.494	501	2.391
Lampung	14.206	12.902	770	534
Nusa Tenggara Timur	12.642	10.563	345	1.734
Sulawesi Tengah	11.303	10.241	299	763
Kalimantan Utara	11.275	9.534	175	1.566
Sulawesi Tenggara	10.283	9.635	205	443

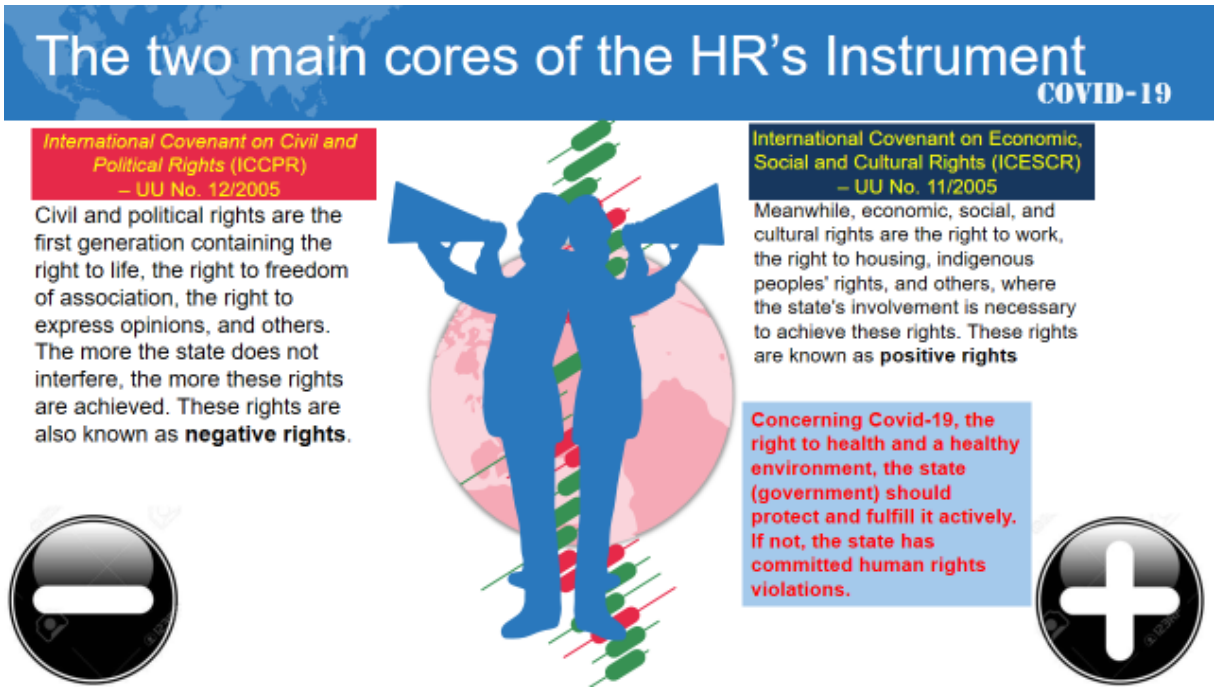
From the description, its shows:

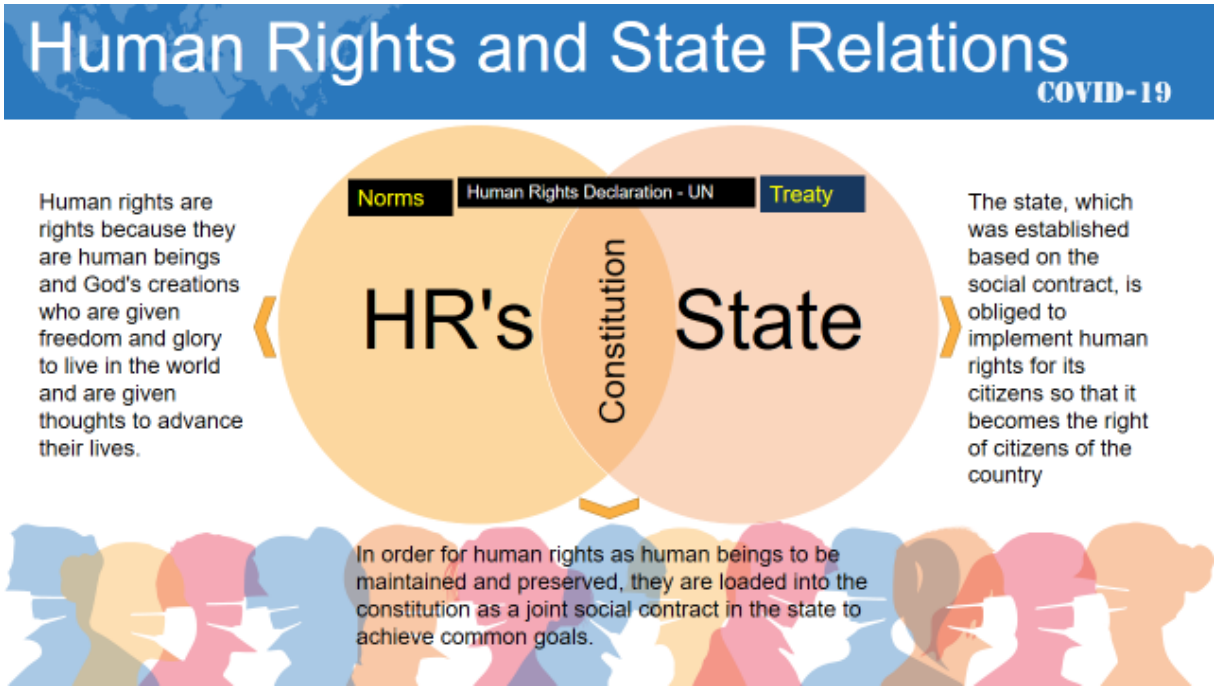
COVID-19

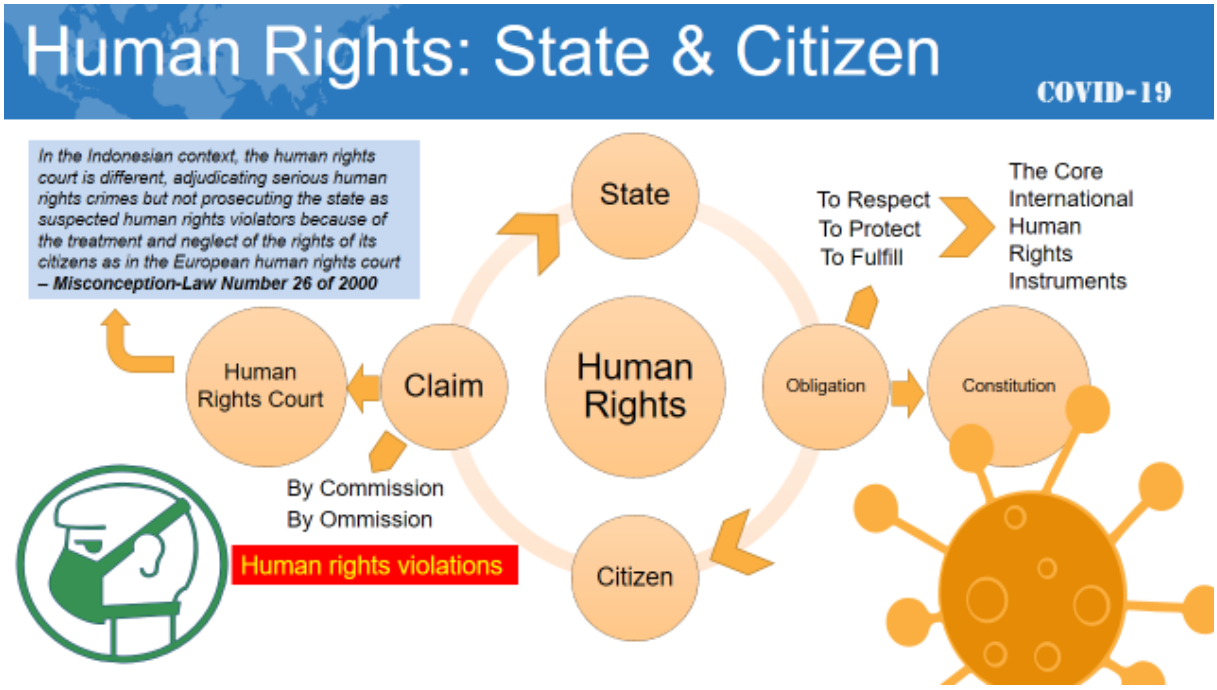


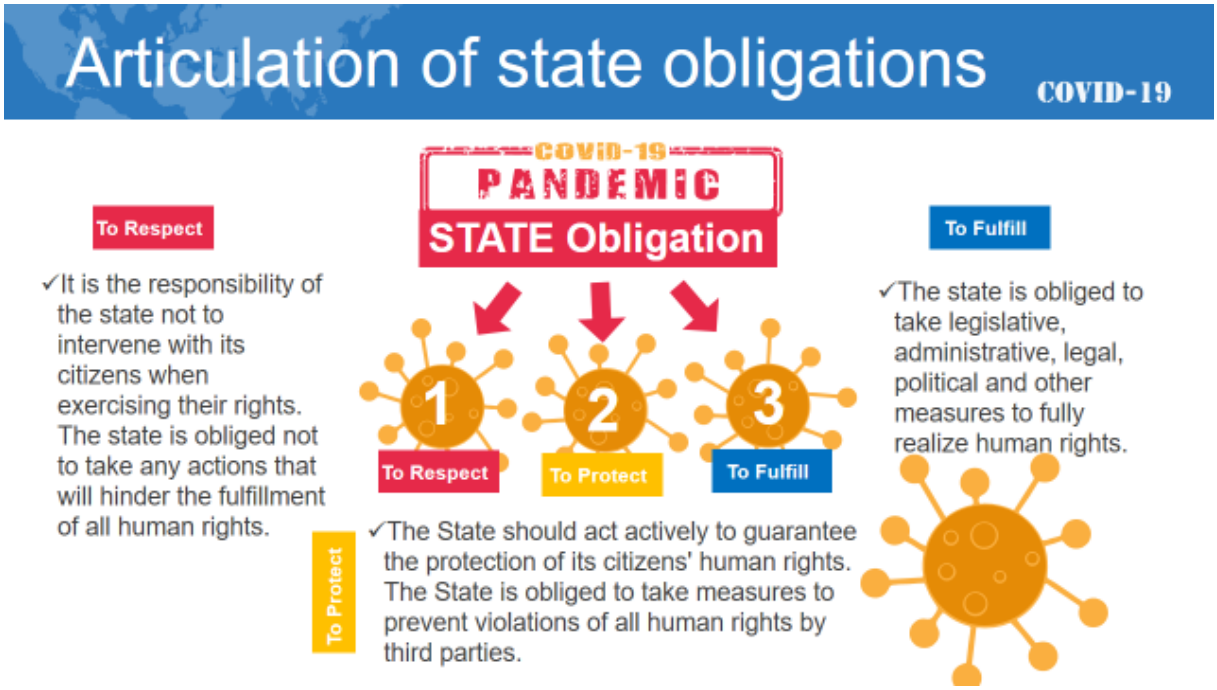

02- Dimension of Human Rights
State Obligations and Human Rights
HUMAN
EVERY
HAS
RIGHTS


Human Rights Thought
COVID-19
Defining Human Rights (HAM) by default is not easy because of the long history and philosophical debates among experts in law and politics that are not complete depending on the conditions that affect them both in their universal and particular contexts.
"Human rights are natural rights in humans which are a gift or direct gift from God"
John Locke (1632-1704)
"Human right could be generally defines as those right which are inherent in our nature and without which we cannot live as human being"
(Jan Materson-United Nations Human Rights Commission)
The difference between western and Islamic thinking about human rights is that they place humans in a central position (humanism) while in Islam Allah is the central or benchmark for everything. Humans are God's creation to serve Him (theocentric)


The two main cores of the HR's Instrument
COVID-19
International Covenant on Civil and Political Rights (ICCPR) – UU No. 12/2005
Civil and political rights are the first generation containing the right to life, the right to freedom of association, the right to express opinions, and others. The more the state does not interfere, the more these rights are achieved. These rights are also known as negative rights.
International Covenant on Economic, Social and Cultural Rights (ICESCR) – UU No. 11/2005
Meanwhile, economic, social, and cultural rights are the right to work, the right to housing, indigenous peoples' rights, and others, where the state's involvement is necessary to achieve these rights. These rights are known as positive rights
Concerning Covid-19, the right to health and a healthy environment, the state (government) should protect and fulfill it actively. If not, the state has committed human rights violations.


Human Rights and State Relations
COVID-19
Human rights are rights because they are human beings and God's creations who are given freedom and glory to live in the world and are given thoughts to advance their lives.
Norms
Human Rights Declaration - UN
Treaty
HR's
Constitution
State
The state, which was established based on the social contract, is obliged to implement human rights for its citizens so that it becomes the right of citizens of the country
In order for human rights as human beings to be maintained and preserved, they are loaded into the constitution as a joint social contract in the state to achieve common goals.


Human Rights: State & Citizen
COVID-19
In the Indonesian context, the human rights court is different, adjudicating serious human rights crimes but not prosecuting the state as suspected human rights violators because of the treatment and neglect of the rights of its citizens as in the European human rights court – Misconception-Law Number 26 of 2000
State
To Respect
To Protect
To Fulfill
The Core International Human Rights Instruments
Human Rights Court
Claim
Human Rights
Obligation
Constitution
By Commission
By Ommission
Human rights violations
Citizen


Articulation of state obligations
COVID-19
COVID-19
PANDEMIC
STATE Obligation
To Respect
✓It is the responsibility of the state not to intervene with its citizens when exercising their rights. The state is obliged not to take any actions that will hinder the fulfillment of all human rights.
To Fulfill
✓The state is obliged to take legislative, administrative, legal, political and other measures to fully realize human rights.
1
2
3
To Respect
To Protect
To Fulfill
To Protect
✓The State should act actively to guarantee the protection of its citizens' human rights. The State is obliged to take measures to prevent violations of all human rights by third parties.

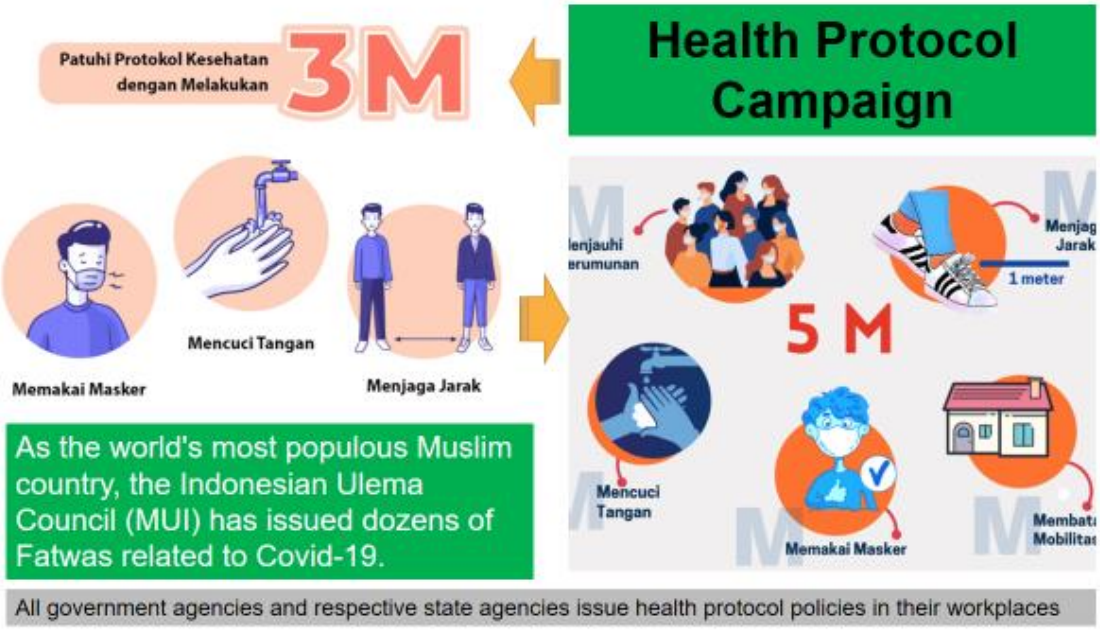

Human rights regulations in Indonesia
COVID-19
1945 Constitution (UUDN RI 1945)
In the 1945 Constitution of the Republic of Indonesia after the amendment contains specifically in chapter XA a separate issue on human rights (Article 28 a - 28 j)
MPR Decree 1998
Decree of the People's Consultative Assembly (MPR) No. XVII / MPR / 1998 on Human Rights
Law Number 39 of 1999
This law specifically regulates human rights whose values and norms are derived from the universal declaration of human rights.
Human Rights For All
TRUST
JUSTICE
LOVE
RULE OF LAW
PEACE
PROSPERITY
DIGNITY
Law Number 26 of 2000
This law also specifically regulates the matter of human rights courts for perpetrators of serious human rights crimes such as crimes against humanity, genocide originating from the Rome Statute
Law Number 27 of 2004
This law is related to the Truth and Reconciliation Commission (KKR) but by the Constitutional Court it was annulled because it was deemed contrary to the constitution.
Presidential Decree Number 50 of 1993
This Presidential Decree (Keppres) is related to the formation of the National Human Rights Commission (Komnas HAM) but its powers, functions and duties are very limited.
PANDEMIC
NOTE:
In terms of legal norms, many national regulations related to human rights have been formed, but the politics of law appear only to meet international human rights instruments' formal standards. There are many weaknesses in the formulation of norms, their implementation, and enforcement due to the power elite's political interests and the influence of military groups, many of whom are suspected of being perpetrators of serious human rights crimes.


03- Legal Mapping and Handling
Government Regulation and Handling Covid-19


HUMAN
EVERY
HAS
RIGHTS


When Covid-19 came to Indonesia
COVID-19
INDONESIA
Malaysia
Japan
Wuhan, China


What is our response?
COVID-19
Ini Daftar 37 Pernyataan Blunder Pemerintah Soal Corona Versi LP3ES
Menteri Kabinet Jokowi-Maruf Diingatkan tak Ulangi 37 Pernyataan Blunder terkait Corona
Bisnis.com
7 Pernyataan Jokowi Terkait Penanganan Terkini Kasus Covid-19 di Indonesia
'COVID does not reach Indonesia, because the licensing is complicated'
"From the results of our modeling, the weather in Indonesia at the equator is hot and the high humidity for COVID-19 is not strong."
Luhut B. Pandjaitan
Coordinating Minister for Maritime Affairs of the Republic of Indonesia
Mohd. Mahfud, MD
Coordinating minister for political, law and security of The Republic of Indonesia
LP3ES Catat Ada 37 Pernyataan Blunder Pemerintah soal Covid-19
"The rich protect the poor so they can live naturally and the poor protect the rich from spreading their disease."
Achmad Yurianto
Spokesperson for SATGAS Covid-19
COVID-19
PANDEMIC



Some examples of fatwas from the Indonesian Ulema Council (MUI) related to COVID-19

MAJELIS ULAMA INDONESIA

ISYAWARAH PARA ULAMA ZU'AMA DAN CENDEKIAWA

No. 51 Menteng Jakarta Pusat 10320 Telp. 021-31902666-3917853, Fa
: http://www.mui.or.id, http://www.mui.tv E-mail : mui.pusat51@g

FATWA
MAJELIS ULAMA INDONESIA
Nomor: 31 Tahun 2020
Tentang
NGGARAAN SHALAT JUM'AT DAN JAMAAH UNTUK MEN(
PENULARAN WABAH COVID-19

PROVISION OF FRIDAY PRAYER AND CONGREGATIONS TO PREVENT THE PREVENTION OF THE COVID-19 PLAGUE

WORSHIP IMPLEMENTATION IN THE SITUATION OF THE COVID-19 PLAGUE

MAJELIS ULAMA INDONESIA

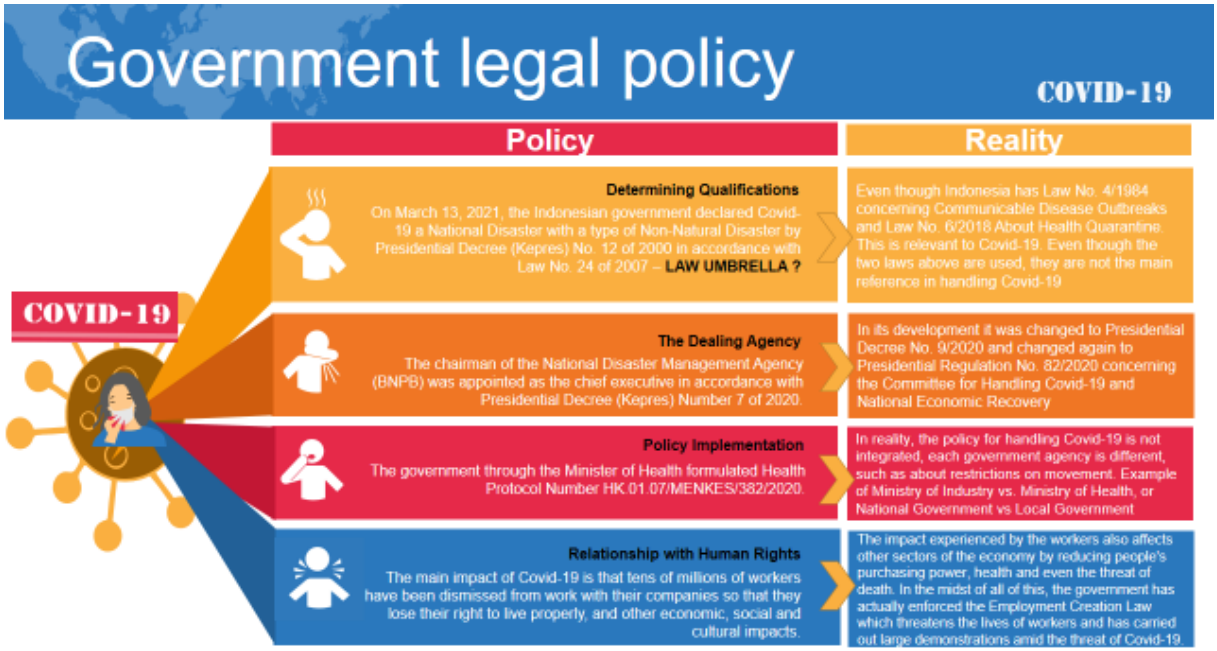
IUSYAWARAH PARA ULAMA ZU'AMA DAN CENDIKIAWA

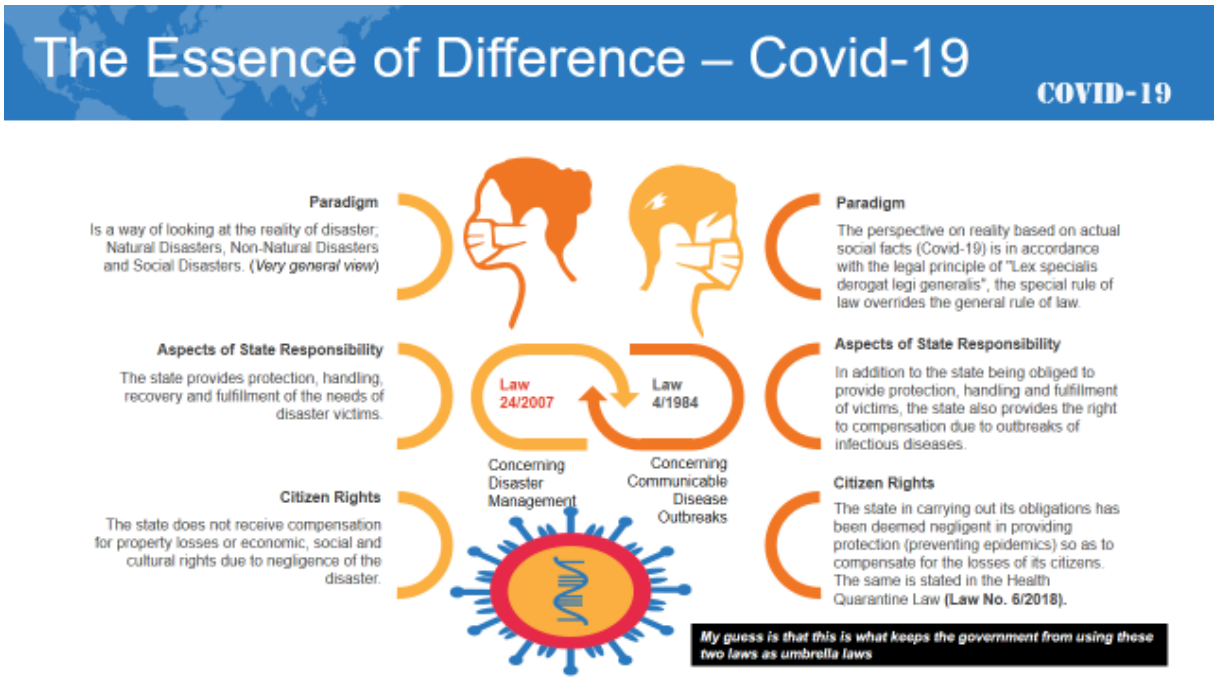
masi No. 51 Menteng Jakarta Pusat 10320 Telp. 31902666 - 3917853,
Website : http//www.mui.or.id E-mail: muipusat@mui.or.id

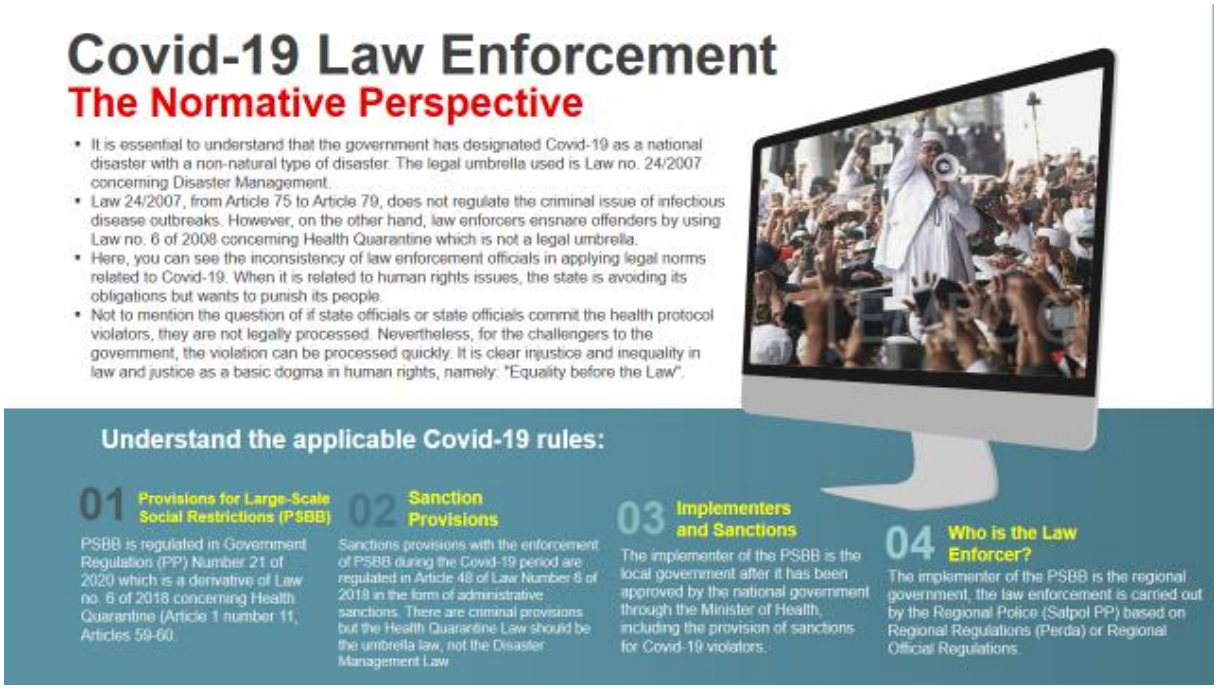
FATWA
MAJELIS ULAMA INDONESIA
Nomor: 14 Tahun 2020
Tentang

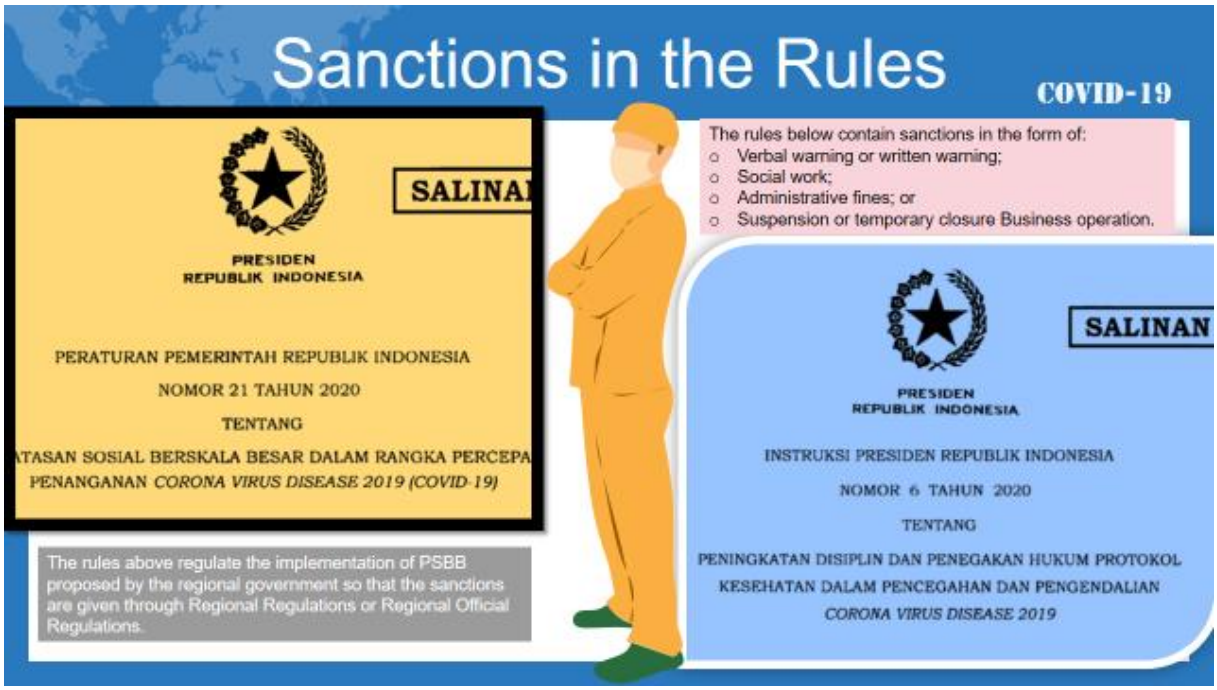
NGGARAN IBADAH DALAM SITUASI TERJADI WABAH (

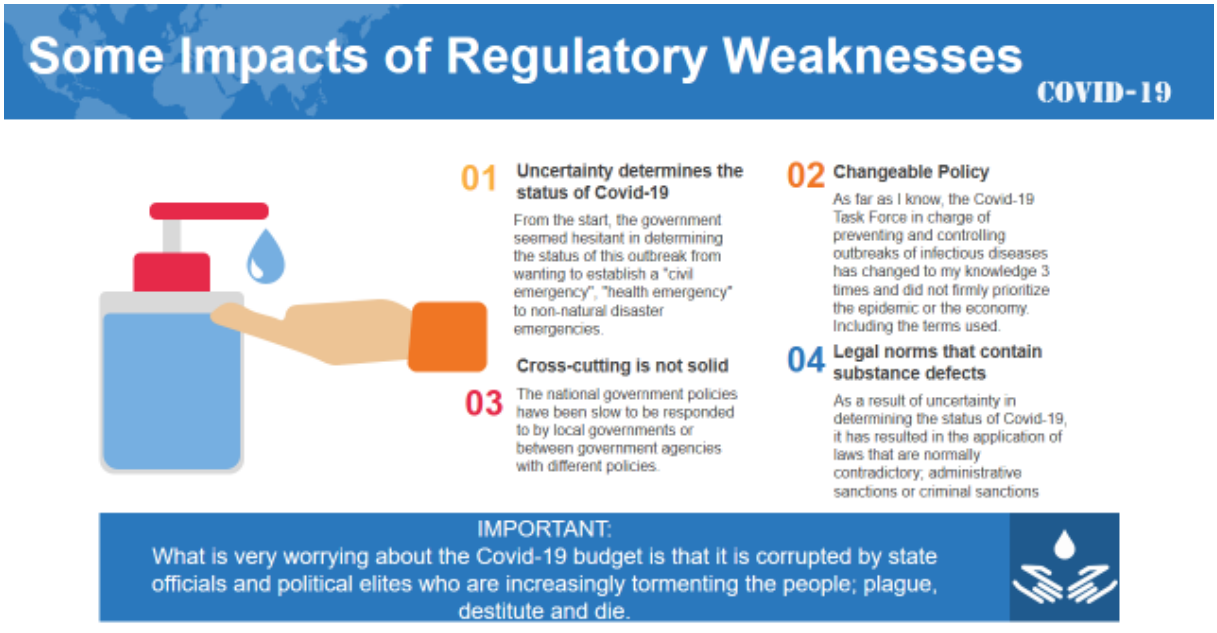

QUARANTINE
Government's Covid-19 handling strategy
Health
Small Business
Social Protection
Education
Government Policy
In preventing and controlling Covid-19, the government has planned various policies, including efforts to prevent and restore the national economy. The government has budgeted more than 400 IDR trillion apart from aid from other countries and loans from international donor agencies. The allocation is aimed at health, social safety nets, tax incentives and stimulus for micro and creative businesses, and credit restructuring for the business community in the context of economic recovery.
Here are 4 strategies for handling Covid-19 in Indonesia:
01 - Use of masks
The campaigning movement uses masks as an obligation in public spaces or outside the home.
02 - Tracing
Contact tracing of positive cases treated by using rapid tests on the closest person, health workers who treat COVID-19 patients, and people in areas where many cases are found;
03 – Education
Conduct education and preparation for self-isolation on some tracing results that show positive test results with symptoms for self-isolation
04 - Hospital isolation
Prepare isolation in hospitals provided by the government because there are clinical signs that need definitive services at the hospital.


Government legal policy
COVID-19
Policy
Reality
COVID-19
Determining Qualifications
On March 13, 2021, the Indonesian government declared Covid-19 a National Disaster with a type of Non-Natural Disaster by Presidential Decree (Kepres) No. 12 of 2000 in accordance with Law No. 24 of 2007 – LAW UMBRELLA ?
Even though Indonesia has Law No. 4/1984 concerning Communicable Disease Outbreaks and Law No. 6/2018 About Health Quarantine. This is relevant to Covid-19. Even though the two laws above are used, they are not the main reference in handling Covid-19
The Dealing Agency
The chairman of the National Disaster Management Agency (BNPB) was appointed as the chief executive in accordance with Presidential Decree (Kepres) Number 7 of 2020.
In its development it was changed to Presidential Decree No. 9/2020 and changed again to Presidential Regulation No. 82/2020 concerning the Committee for Handling Covid-19 and National Economic Recovery
Policy Implementation
The government through the Minister of Health formulated Health Protocol Number HK.01.07/MENKES/382/2020.
In reality, the policy for handling Covid-19 is not integrated, each government agency is different, such as about restrictions on movement. Example of Ministry of Industry vs. Ministry of Health, or National Government vs Local Government
Relationship with Human Rights
The main impact of Covid-19 is that tens of millions of workers have been dismissed from work with their companies so that they lose their right to live properly, and other economic, social and cultural impacts.
The impact experienced by the workers also affects other sectors of the economy by reducing people's purchasing power, health and even the threat of death. In the midst of all of this, the government has actually enforced the Employment Creation Law which threatens the lives of workers and has carried out large demonstrations amid the threat of Covid-19.


The Essence of Difference – Covid-19
COVID-19
Paradigm
Is a way of looking at the reality of disaster; Natural Disasters, Non-Natural Disasters and Social Disasters. (Very general view)
Aspects of State Responsibility
The state provides protection, handling, recovery and fulfillment of the needs of disaster victims.
Citizen Rights
The state does not receive compensation for property losses or economic, social and cultural rights due to negligence of the disaster.
Law 24/2007
Concerning Disaster Management
Law 4/1984
Concerning Communicable Disease Outbreaks
Paradigm
The perspective on reality based on actual social facts (Covid-19) is in accordance with the legal principle of "Lex specialis derogat legi generalis", the special rule of law overrides the general rule of law.
Aspects of State Responsibility
In addition to the state being obliged to provide protection, handling and fulfillment of victims, the state also provides the right to compensation due to outbreaks of infectious diseases.
Citizen Rights
The state in carrying out its obligations has been deemed negligent in providing protection (preventing epidemics) so as to compensate for the losses of its citizens. The same is stated in the Health Quarantine Law (Law No. 6/2018).
My guess is that this is what keeps the government from using these two laws as umbrella laws


Covid-19 Law Enforcement
The Normative Perspective
It is essential to understand that the government has designated Covid-19 as a national disaster with a non-natural type of disaster. The legal umbrella used is Law no. 24/2007 concerning Disaster Management.
Law 24/2007, from Article 75 to Article 79, does not regulate the criminal issue of infectious disease outbreaks. However, on the other hand, law enforcers ensnare offenders by using Law no. 6 of 2008 concerning Health Quarantine which is not a legal umbrella.
Here, you can see the inconsistency of law enforcement officials in applying legal norms related to Covid-19. When it is related to human rights issues, the state is avoiding its obligations but wants to punish its people.
Not to mention the question of if state officials or state officials commit the health protocol violators, they are not legally processed. Nevertheless, for the challengers to the government, the violation can be processed quickly. It is clear injustice and inequality in law and justice as a basic dogma in human rights, namely: "Equality before the Law".
Understand the applicable Covid-19 rules:
01 Provisions for Large-Scale Social Restrictions (PSBB)
PSBB is regulated in Government Regulation (PP) Number 21 of 2020 which is a derivative of Law no. 6 of 2018 concerning Health Quarantine (Article 1 number 11, Articles 59-60).
02 Sanction Provisions
Sanctions provisions with the enforcement of PSBB during the Covid-19 period are regulated in Article 48 of Law Number 6 of 2018 in the form of administrative sanctions. There are criminal provisions but the Health Quarantine Law should be the umbrella law, not the Disaster Management Law.
03 Implementers and Sanctions
The implementer of the PSBB is the local government after it has been approved by the national government through the Minister of Health, including the provision of sanctions for Covid-19 violators.
04 Who is the Law Enforcer?
The implementer of the PSBB is the regional government, the law enforcement is carried out by the Regional Police (Satpol PP) based on Regional Regulations (Perda) or Regional Official Regulations.


Sanctions in the Rules
COVID-19
SALINAN
PRESIDEN
REPUBLIK INDONESIA
PERATURAN PEMERINTAH REPUBLIK INDONESIA
NOMOR 21 TAHUN 2020
TENTANG
ATASAN SOSIAL BERSKALA BESAR DALAM RANGKA PERCEPA
PENANGANAN CORONA VIRUS DISEASE 2019 (COVID-19)
The rules above regulate the implementation of PSBB proposed by the regional government so that the sanctions are given through Regional Regulations or Regional Official Regulations.
The rules below contain sanctions in the form of:
Verbal warning or written warning;
Social work;
Administrative fines; or
Suspension or temporary closure Business operation.
SALINAN
PRESIDEN
REPUBLIK INDONESIA
INSTRUKSI PRESIDEN REPUBLIK INDONESIA
NOMOR 6 TAHUN 2020
TENTANG
PENINGKATAN DISIPLIN DAN PENEGAKAN HUKUM PROTOKOL KESEHATAN DALAM PENCEGAHAN DAN PENGENDALIAN
CORONA VIRUS DISEASE 2019


Some Impacts of Regulatory Weaknesses
COVID-19
01 Uncertainty determines the status of Covid-19
From the start, the government seemed hesitant in determining the status of this outbreak from wanting to establish a "civil emergency", "health emergency" to non-natural disaster emergencies.
02 Changeable Policy
As far as I know, the Covid-19 Task Force in charge of preventing and controlling outbreaks of infectious diseases has changed to my knowledge 3 times and did not firmly prioritize the epidemic or the economy. Including the terms used.
03 Cross-cutting is not solid
The national government policies have been slow to be responded to by local governments or between government agencies with different policies.
04 Legal norms that contain substance defects
As a result of uncertainty in determining the status of Covid-19, it has resulted in the application of laws that are normally contradictory; administrative sanctions or criminal sanctions
IMPORTANT:
What is very worrying about the Covid-19 budget is that it is corrupted by state officials and political elites who are increasingly tormenting the people; plague, destitute and die.


04. Protecting & Enforcing HR's:
Indonesian Context
Protection of human rights and their fulfillment by the state in a national health emergency (Disease Outbreak)
HUMAN
EVERY
HAS
RIGHTS


"Refusing the fulfillment of human rights means challenging humanity itself"
- Nelson Mandela
COVID-19
PANDEMIC
"Good leaders must first become good servants "-
Robert K. Greenleaf


"This is all getting worse, because there were cases that did increase more in the last weeks".
COVID-19
PANDEMIC
"Ini semuanya memburuk semuanya, karena adanya tadi kasus yang memang meningkat lebih banyak di minggu-minggu kemarin".
Presiden Jokowi (30/11/2020)


Government protection measures
COVID-19
The government has made great efforts in addressing the prevention and control of the spread of infectious disease outbreaks (Covid-19). In a health emergency situation (state emergency), all affected countries (169 countries) are overwhelmed to cope with it, some of which have deteriorated both health and economically and even cause domestic political shocks.
Let´s stay at home
Several countries due to Covid-19 experienced political turbulence: the United States, Brazil, Thailand and Albania from health issues, economic deficits to government political instability. On the other hand, several countries have managed to handle Covid-19 well so that they have become examples for other countries such as Taiwan, Singapore and New Zealand which have managed to overcome this outbreak.
President Jokowi's policies in providing protection caused by Covid-19:
Right to Health
Citizen Abroad
Search, identification and health care for citizens who are domiciled abroad are carried out by the respective Indonesian embassies free of charge
Domestic Citizens
The domestic policy is in the form of self-isolation facilities in hundreds of available hospitals as well as hotel use which is borne by the government.
Elderly Medicine
The elderly group is a group susceptible to viruses due to age factors. The data shows that many died so that it must be prioritized to get treatment.
Children and Pregnant Women
Groups of children and pregnant women are also vulnerable to this outbreak, the policy of learning from home and maternal pregnancy care includes protection provided by the state.
Economic Policy
A number of policies in the economic sector were also carried out including: provision of tax incentives, capital, business credit stimulus, and others.
Social Settings
The government did not carry out a lockdown but the restrictions moved to avoid massive social interactions, aimed at preventing disease outbreaks
Economic and social rights

PANDEMIC

Currently, in ASEAN countries, Indonesia is a country infected with the Covid-19 virus and also has the highest death rate. At the world level, it is not included in the 10 affected countries from WHO data which is presented on its website.

However, it gave birth to other side effects that had an impact on the fulfillment of the right to health and economy services (the right to a decent life) due to **the massive corruption** of the health budget that should be enjoyed by citizens (the people).

Corruption by the minister of social affairs and other officials as well as politicians has set a bad precedent in handling disease outbreaks in Indonesia.

Note: In Indonesia, almost all disasters that occur always give birth to new corruptors and are carried out by state officials in collaboration with politicians and businessmen. They should be severely punished according to the Law on Disaster Management in the form of death or life sentences

What about Enforcement ?

COVID-19

Understanding Context

COVID-19 PANDEMIC

This is in the context of human rights, as previously explained.

HR's Protection

Enforcement ? (Legals Norm)

The Context is:

These legal norms may come from human rights which have turned into state obligations because they have promised and become state obligations. Law enforcement (not human rights) is carried out by state apparatus such as the police or prosecutors and / or advocates.

In this context, it is related to the enforcement of written legal norms in a state.

The context is:

The state is obliged to prevent any action that hinders or prevents the achievement of the ICESCR (Law No. 11/2005), including the state (government) may not make policies or regulations that impede this right.

If this context is understood, then what is meant is enforcement of legal norms in terms of providing state protection in the fulfillment of human rights and the formation of government policies to fulfill these human rights (State and Non-State).

Covid-19 Law Enforcement

Some Final Notes:

1. Determination of the status of Covid-19 as a Non-Natural National Disaster is irrelevant to reality since an infectious disease outbreak is under Law Number 4 of 1984 and Law Number 6 of 2018.
2. With the status of "Emergency State," it is necessary to observe and criticize the possibility of the birth of "Constitutional Authoritarian" under the pretext of being an emergency but destroying the order of democratic values and human rights.
3. The application of Article norms that do not refer to the Legal umbrella "Disaster" but uses Articles in the Health Quarantine Law is not the primary reference.
4. It should be understood that the PSBB is the regional government's authority, both in the formation of regional regulations and in imposing sanctions.
5. As part of the rule of law framework and human rights protection, it provides equal treatment before the law and justice in its enforcement and does not attack political opponents or those who disagree.

COVID-19

PARALLEL SESSION

Legal Review Of Climate Change As A Result Of Single-Use Plastic Uses In Indonesia (Makassar City Case Study)

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Abstract

The world faces a serious threat about climate change, due to the widespread use of single-use plastics, especially during the Covid-19 pandemic. The city of Makassar alone has a high average amount of plastic waste production every day. This has an impact on the communities living around the landfills in Antang and coastal areas because they lose their rights to a clean environment. This study aims to determine (1) the implementation of legal rules in single-use plastic waste management in Makassar City, (2) to inventory the obstacles in handling single-use plastic waste in Makassar City. This research is a qualitative descriptive. The research location is in Makassar City. Collecting data using literature review, interviews, observation, and documentation. The results showed, that (1) the implementation of legal rules in single-use waste management in Makassar City is incomplete regulations and lack of consistency from all parties in implementing the rules, (2) the obstacle to handling single-use plastic waste in Makassar City is the lack of awareness various parties in implementing the existing regulations and the lack of supervision by the government to enforce the rules.
Keywords: Climate Change; Plastic Waste; Communities; Rights

1. Introduction

Earth is still the only planet known to support human life to carry out all its activities. Everything on earth goes hand in hand and complements one another. However, humans are sometimes not aware of the existence of other living things, many species of flora and fauna that share the space of life with humans [1].

Since the last few decades, environmental problems have caught the attention of experts. In a study conducted by the United Nations Environment Program (UNEP), it concluded that the first rank in environmental problems in the world is climate change [2]. This proves the prediction of previous experts, the problem of climate change is no longer just a discourse. but it has become a real fact, whose intensity is no longer linear from time to time, but from time to time it can be disastrous on an unpredictable scale.

Climate change is a condition due to an increase in the concentration of greenhouse gases (GHG) in the atmosphere, caused by the exhaust gases that sticks to the great atmosfer [3]. In general, there is a difference for the increased grk between industrialized and developing countries. Land use change occurring in massive GHG improvement is a major factor in the majority of developing countries, for developed countries, many emission gase are produced by human activities that use fossil fuels [4].

Based on data released by the Intergovernmental Panel on Climate Change (IPCC), it is stated that climate change is currently happening and is predicted to reach a more severe level if not addressed [5]. The World Meteorological Organization (WMO) report states that 2020 is the year with the warmest temperatures on Earth, even though the Earth is hit by the Covid-19 pandemic which has reduced productivity in the industrial sector [6]. However, other findings state that the amount of waste produced

by the community has increased during the Covid-19 pandemic. One type of waste, namely plastic waste, is a trigger for climate change.

Indonesia, which is an archipelago on the equator with a very diverse landscape, is classified as a country that is very vulnerable to the impacts of climate change. This encourages Indonesia to regularly participate in international agreements on climate change mitigation. The ratification of the United Nations Framework Convention on Climate Change (UNFCCC) to Law Number 6 of 1994 and the ratification of the Kyoto Protocol to Law Number 17 of 2004 and the ratification of the Paris Agreement to Law Number 16 of 2016, proves that Indonesia has a concern for impacts climate change. In addition, the existence of Law Number 32 Year 2009 further enriches the existing regulations in Indonesia in order to deal with environmental and climate problems in particular.

Indonesia is a country that has a thorny problem regarding plastic waste. Jenna R Jambeck's research states that Indonesia is the second largest producer of marine waste in the world [7]. Plastic waste in the oceans causes coral reefs and organisms in the oceans to be unable to absorb carbon dioxide optimally. In comparison, the oceans are able to absorb carbon dioxide and produce 4 times more oxygen than what is done on land. The fall of plastic waste into the ocean is the result of inadequate handling of waste on land.

The poor handling of plastic waste on land creates several problems for human life. In addition to having a major impact on climate change, improper waste handling also affects the community's right to a clean environment, which also implies the potential for land conversion due to the large amount of waste that is not handled. Lack of understanding from all parties is alleged to be the reason for the difficulty in overcoming the problem of plastic waste in Indonesia.

The regulations in Indonesia that limit the use of single-use plastics to reduce the impact of climate change seem unable to stem people's dependence on single-use plastics. The characteristics of plastic that are strong and durable make plastic the main choice for people to support their daily activities. Manufacturers also prefer to use plastic in the packaging of their products. Plastics that take hundreds to thousands of years to decompose have a negative impact on people's lives, especially for those who live in cities that produce a lot of waste every day.

One of the cities that has the largest amount of daily waste production in Indonesia is Makassar City. According to several studies conducted in Makassar City, Antang landfill in Makassar City is currently over capacity since 2020. The fullness of the Antang landfill is caused by the high amount of daily waste production for the people of Makassar City, and Antang landfill which still uses the open dumping method. This greatly affects the quality of life of the people who live around the landfill site. To make matters worse, the waste that enters the Antang landfill is not yet the whole daily waste circulating in Makassar City. According to the Makassar City Environmental Service, there are more than 200 tons of waste that are estimated to have fallen into the waterways in Makassar City, especially during the Covid-19 pandemic. This certainly affects the quality of life of the people of Makassar City who live on the banks of rivers and in coastal areas as well as in the islands. Waste management that was not optimal during the Covid-19 pandemic made people also very vulnerable to contracting the Covid-19 virus.

The open dumping method used at the Antang landfill has a devastating impact on the climate. The generated waste becomes very difficult to sort by type, making it difficult for landfill officers to break down the waste in the landfill. The waste generation also creates an unpleasant odor in the residential area around the Antang landfill. The handling of waste carried out in the wrong way has even caused the Antang landfill to experience a severe fire in mid-2019. Handling like this has ultimately made the air quality in Makassar City decline and has implications for the rate of climate change.

The people of the coastal areas of Makassar City and the Spermonde Islands area also encounter complex problems regarding waste, especially plastic waste. Every time a tidal wave occurs in these areas, the waves that come also carry plastic waste until it reaches residential areas due to the large amount of plastic waste falling into the sea. The problem is getting more complicated for some people in the Spermonde Islands, the lack of facilities to transport the waste from the island makes the island community confused about how to handle waste originating from the archipelago. To solve the problem of plastic waste in island areas, people sometimes throw the waste into the sea. In addition to exacerbating the problem of waste in archipelagic areas, waste disposal in the oceans also hinders coral

reefs and other marine organisms from carrying out photosynthesis so that they are not optimal in absorbing carbon dioxide.

Makassar City currently has special regulations to reduce plastic use. Through the Makassar Mayor's Regulation Number 70 of 2019 about Controlling the Use of Plastic Bags, the Makassar City Government seeks to reduce the use of plastic bags in the community by instructing the public and shopping centers to use bags that are more environmentally friendly. However, the problem of plastic waste that affects people's quality of life is not only caused by plastic bags, but there are other types of plastic that are equally dangerous.

The problem of plastic waste needs to be handled optimally by the Makassar City Government to avoid the bad impacts of climate change in Makassar City and the transmission of the Covid-19 virus and to improve the quality of life of the people of Makassar City. These problems underlie the importance of this research. Therefore, collaboration from all levels of society is needed to prevent Makassar City from the problem of single-use plastic waste and climate change.

2. Method

In analyzing the data, this study used a qualitative descriptive method. Qualitative descriptive method is research that includes data collection activities, in order to answer questions related to phenomena that occur in the field, so that it can answer the core problems of the research. This type of research is empirical normative. Normative-empirical legal research is a combination of normative legal approaches with the addition of empirical elements. The purpose of research with the normative-empirical research method is to see how the implementation of normative law (rules of law) works by looking at the facts that exist in certain legal events that occur in a society. The location of this research is Makassar City. Data collection was carried out using literature review, observation, documentation, and interviews. In conducting interviews, several parties who became participants included: (1) Head of the Division of B3 Waste and Capacity Buildig of Makassar City Environmental Service; (2) President Director of PT. Mall Sampah Indonesia; (3) Executive Director of Yayasan Konservasi Laut Indonesia; dan (4) Project Leader of Zero Waste Indonesia Makassar.

3. Result and Discussion

3.1. Indonesian Law Regulations on Climate Change due to Single-Use Plastics in Makassar City

Climate change is present as a form of phenomenon that has attracted the attention of the international community in the 19th century until today. The impact that is felt does not recognize boundaries and time. Many parties at the international, regional and national levels feel the need for a legal umbrella that provides protection for humans and ecosystems both now and in the future. Especially in this case the increase in GHG emissions as the main component causing climate change. The following describes several international legal arrangements regarding climate change mitigation and single-use plastics that are used both nationally and in Makassar City.

3.1.1. Stockholm Declaration 1972

As an effort to protect the environment from damage, the Stockholm Declaration 1972 contains principles that are closely related to efforts to protect against climate change. Explicitly, principles number 1-7 Stockholm Declaration contain provisions to protect the environment from all damage that may arise.

Although the Stockholm Declaration 1972 is not a binding law, based on the foregoing, every country is encouraged to protect its own environment from all kinds of damage. Protection of the environment will prevent the Earth from the adverse effects of climate change. The Stockholm Declaration has had a considerable influence on Indonesia. All principles contained in the Stockholm Declaration are adopted by Indonesia into national regulations. Principle environment can be seen in GBHN Chapter III letter B paragraph 10 TAP MPR No. IV of 1973. Several laws in Indonesia that adopt the principles of the 1972 Stockholm Declaration are as follows:

3.1.1.1. Law Number 32 of 2009 about Environmental Management and Protection

As one of the countries with a very diverse landscape, Indonesia has a very important role in the sustainability of the world's environment. The consideration of climate change is one of the considerations in the preamble section of Law Number 32 of 2009 about Environmental Management and Protection [8]. In general, climate change has the potential to occur in Indonesia, given the massive activities carried out in Indonesia that can trigger climate change and Indonesia's territory which has many islands and inhabitants.

Implicitly, Law Number 32 Year 2009 confirms that Indonesia is currently experiencing climate change. The provisions on climate change are scattered in several parts and articles of Law Number 32 Year 2009. Regarding climate change, it is emphasized in the general explanation of the UUPPLH which states that Indonesia is currently in a very vulnerable position to climate change.

Based on Article 4 of Law Number 32 Year 2009, environmental protection and management efforts consist of planning, exploiting, controlling, maintaining, supervising and enforcing the environment. One important aspect of this planning is the existence of an Environmental Protection and Management Plan (RPPLH). Regarding climate change, UUPPLH emphasizes that RPPLH must contain climate change adaptation and mitigation plans.

With regard to efforts to control, this Law emphasizes that control is carried out by taking measures in prevention, mitigation and recovery which are the responsibility of the central government and local governments as well as those in charge of businesses and activities. Then the Law explains that control measures are actions to control pollution and / or damage to water, air, sea and ecosystem damage due to climate change.

In implementing the objectives to be achieved regarding climate change mitigation generated by various sectors including solid waste, especially in Makassar City, several other regulations of a technical nature were made by considering Law Number 32 of 2009 in it, including:

a. Government Regulation Number 46 of 2016 about Procedures for Implementing Strategic Environmental Studies;
b. Government Regulation Number 22 of 2021 about the Implementation of Environmental Protection and Management;
c. Presidential Regulation Number 61 of 2011 about National Action Plan for Greenhouse Gas Reduction;
d. Presidential Regulation Number 71 of 2011 about Implementation of the National Greenhouse Gas Inventory;
e. Presidential Regulation Number 35 of 2018 about Acceleration of Construction of Waste Processing Installation into Electric Energy Based on Environmentally Friendly Technology;
f. Presidential Regulation Number 83 of 2018 about Marine Debris Management;
g. Ministerial Regulation of Environmental and Forestry Number 75 of 2019 about Waste Reduction Roadmap by Producers;
h. South Sulawesi Governor Regulation Number 11 of 2020 about Amendments to South Sulawesi Governor Regulation Number 59 of 2012 about Regional Action Plans for Reducing Greenhouse Gas Emissions of South Sulawesi Province;
i. Local Government Regulation of Makassar Number 4 of 2011 about Solid Waste Management; and
j. Makassar Mayor Regulation Number 70 of 2019 about Controlling the Use of Plastic Bags.

3.1.1.2. Law Number 18 of 2008 about Waste Management

The preamble section of Law Number 18 Year 2008 states that improper waste management can have a negative impact on public health and the environment. The environmental damage that occurs will directly affect the rate of climate change [9].

The fact that waste is one of the biggest causes of climate change has made the Government of Indonesia specifically regulate the types of waste and how to handle it so that the bad effects of waste can be minimized. Article 2 of Law No. 18 of 2008 states that waste managed under this law is: (a) household waste; (b) waste in the form of household waste; and (c) specific waste. Based on data from the Makassar City Environmental Agency's waste processing, household waste is the largest contributor

to waste generation in landfill, with organic waste and plastic waste being the main composition of household waste.

Article 4 of Law no. 18 of 2008 states that waste management aims to improve public health and environmental quality as well as make waste a resource. Improving environmental quality will have implications for better air quality and climate.

With regard to waste control efforts, in addition to handling household waste carried out by the community, the Government has established a policy for producers to reduce waste by using materials that can or are easily broken down by natural processes. The policy is in the form of determining the amount and percentage of reduction in the use of materials that cannot or are difficult to decompose by natural processes within a certain period of time.

Several other regulations that make Law Number 18 of 2008 as a reference are as follows:

(a) Presidential Regulation Number 35 of 2018 about Acceleration of Construction of Waste Processing Installation into Electric Energy Based on Environmentally Friendly Technology;
(b) Presidential Regulation Number 83 of 2018 about Marine Debris Management;
(c) Ministerial Regulation of Environmental and Forestry Number 75 of 2019 about Waste Reduction Roadmap by Producers;
(d) Local Government Regulation of Makassar Number 4 of 2011 about Solid Waste Management; and
(e) Makassar Mayor Regulation Number 70 of 2019 about Controlling the Use of Plastic Bags.

3.1.2. United Nations Framework Convention on Climate Change (UNFCCC) 1992

In an effort to avoid the climate change crisis, the United Narions Convention on Climate Change (UNFCCC) 1992 is here as a solution to dealing with crises that can occur at any time. This convention defines that climate change is a modification of the climate that is caused by human activities either directly or indirectly, which changes the composition of the global atmosphere, and the observed variability of the climate over a certain period [10].

This convention contains several important principles in the effort to overcome the climate change crisis. The first principle to be adopted is the principle of Common But Differentiated Responsibilities (CBDR). This principle recognizes the differences in capacities and also contributions between member countries, so that the application of the rules in this convention can protect the environment at present and in the future. The second principle upheld by the UNFCCC says that in this convention, developing countries must pay more attention to developing countries with a greater level of vulnerability than developed countries. The third principle adopted in the UNFCCC is the precautionary principle, this principle explicitly states that it is necessary to take preventive actions in reducing the impact of climate change. In the absence of scientific certainty, especially regarding the causes of climate change, it cannot be used as an excuse to postpone policies that prevent or minimize the causes of climate change. The fourth principle in the UNFCCC clearly states that every country has rights and is obliged to fight for the principles of sustainable development.

Indonesia takes a role in realizing the ideals of the UNFCCC by ratifying this Convention into the National Law. In the preamble part of Law Number 6 of 1994 states that Indonesia has a strategic role in the structure of the world's geographic climate because Indonesia is an equatorial tropical country which has the largest wet tropical forest in the world and is an archipelagic country that has the largest sea in the world. This makes Indonesia have a very strategic position in reducing the impact of climate change because it has a landscape that can function as a large amount of GHG absorber.

This part of the explanation of Law Number 6 of 1994 states that Indonesia has obtained several benefits from the ratification of this convention. The existence of this law further guarantees the implementation of environmentally sound and sustainable development. In addition, the ratification of this convention shows the world that Indonesia cares for and is responsible for global environmental problems, particularly climate change. This law also opens opportunities for Indonesia to collaborate with countries or international organizations in the context of tackling climate change issues together.

Law No. 6/1994 is the law which is the basis for Indonesia in addressing climate change issues. However, the implementation of this law has become less than optimal due to the UNFCCC which did

not specifically regulate the allowable safe temperature limitation and the unequal responsibility given to Annex I and non-Annex I such as Indonesia. Law Number 6 of 1994 becomes the basis for consideration for the Government of Indonesia in the preamble part of Law Number 17 of 2004 about Ratification of the Kyoto Protocol to the United Nations Framework Convention on Climate Change.

3.1.3. Kyoto Protocol 1997

The 1997 Kyoto Protocol is an integral part of the UNFCCC. The 1997 Kyoto Protocol corrects the deficiencies found in the UNFCCC by adding several rules that are technical in nature but still maintain the principles previously contained in the UNFCCC.

The Kyoto Protocol aims to maintain the concentration of GHG in the atmosphere at a level that does not endanger the Earth's climate system. To achieve this goal, the Protocol regulates the implementation of emission reduction by industrialized countries by 5% below the 1990 emission level in the 2008-2012 period through mechanisms, Joint Implementation, Emission Trading, and Clean Development Mechanism [11].

Indonesia has ratified this protocol into Law Number 17 of 2004. The existence of the Kyoto Protocol which was ratified into Law Number 17 of 2004 encourages the Government of Indonesia as an archipelagic country that is vulnerable to the impacts of climate change to formulate environmental policies by carrying out the mitigation and adaptation agenda. The mitigation agenda undertaken by the Government of Indonesia concerns: (a) energy conservation; (b) transportation sector; (c) the industrial sector; (d) application of environmentally friendly technology in the power generation sector; and (e) use of new and renewable energy. Meanwhile, the adaptation agenda in the planned development strategy includes: (a) climate-related disaster risk reduction programs through reforestation programs, reforestation especially in critical forest / land areas; (b) dissemination of climate change information and adaptation information; (c) capacity building to integrate climate change into work plans; (d) adaptation of climate change impacts into work plans; and (e) developing climate change issues into the secondary school and tertiary education curricula.

In implementing programs compiled by the Indonesian Government, the absence of binding sanctions in the Kyoto Protocol for member countries, has made countries neglect to implement the Kyoto Protocol, including Indonesia. Since the Kyoto Protocol was ratified by Indonesia, there has been no visible effort to reduce the concentration of GHG emissions in the atmosphere. The use and handling of single-use plastics without regard to adverse impacts on the climate is continuously being carried out. In addition to causing Indonesia to become one of the largest marine plastic waste producing countries in the world, the implementation of the Kyoto Protocol has not been maximal and has made GHG emissions continue to increase since the approval of the Kyoto Protocol until now. Therefore,

Several national regulations that take into account the Kyoto Protocol are: Presidential Regulation Number 61 of 2011 about the National Action Plan for Reducing Greenhouse Gases, and Presidential Regulation Number 71 of 2011 about Implementation of a National Greenhouse Gas Inventory.

3.1.4. Paris Agreement 2016

Paris Agreement is the agreement projected to replace the Kyoto Protocol. The Paris Agreement emphasizes the widest possible cooperation of all countries in the world, not only focused on developed countries as in the Kyoto Protocol. Countries in the world are required to participate in an effective and appropriate international action in accelerating GHG emission reduction.

In determining emission reduction commitments in the Paris Agreement using the National Contribution method as outlined in the NDC. Where each country formulates its own GHG emission reduction commitment to be achieved in a sustainable manner in accordance with the principle of shared but different responsibility as well as existing capabilities and respective national conditions.

Indonesia fully ratified the Paris Agreement through Law Number 16 of 2016. In the compiled NDC, Indonesia set a total GHG emission reduction target of 2,869 GtCO2e in 2030, with details of an emission reduction target of 29% on its own and 41%. with international assistance. This reduction is based on the Business as Usual (BaU) scenario of emission projections starting in 2010.

In the NDC, there are 5 (five) sector categories that are Indonesia's main focus in efforts to reduce GHG emissions by 29%, namely the forestry sector (17.2%), energy (11%), agriculture (0.32%), industry (0.10%), and waste (0.38). However, the details of GHG emission reduction with international assistance did not meet the target, namely 38% [12].

Indonesia describes the NDC implementation strategy to be carried out in 3 (three) stages, namely: (1) The first stage, namely the preparation of pre-conditions that must be completed before 2020. This stage consists of developing ownership and commitment, capacity building, enabling environment, preparation of a framework. , communication networks, one data GHG policy, formulation of policies, intervention plans and programs, and preparation of NDC implementation guidelines, including evaluation of readiness to enter the 2020-2030 commitment period; (2) The second phase is the implementation of the first commitment period starting from 2020-2030; and (3) The third stage, namely monitoring and evaluation of NDCs during the commitment period, which includes the achievement of targets both in terms of reducing emissions and increasing capacity as well as increasing resilience including international reporting, as well as the achievement of development targets. The Paris Agreement is a reference in South Sulawesi Governor Regulation Number 11 of 2020 about Amendments to South Sulawesi Governor Regulation Number 59 of 2012 about Regional Action Plans for Reducing Greenhouse Gas Emissions in South Sulawesi Province.

Based on the foregoing, it can be seen that Indonesia has implemented several international regulations on climate and the environment into its national regulations, including the law that addresses waste management. However, in Makassar City, there is no regional regulation that discusses waste management by considering the impact on the climate, especially in regulations that specifically discuss the handling of plastic waste. Currently, several areas in Makassar City are categorized as areas that are highly vulnerable to the impacts of climate change. Therefore, in the regulations regarding waste management, especially plastic waste, it is necessary to consider the impact of climate change caused by the waste in it.

3.2. Obstacles to Handling Plastic Waste in Makassar City

As usual metropolitan cities in Indonesia that have the characteristics of a population that tend to be consumptive, Makassar City has a very complicated problem regarding waste caused by the lifestyle of the consumptive community, including plastic waste. In the 2017-2020 timeframe, the average amount of waste production in Makassar City did not experience a significant decline, making Makassar City is the largest waste producer in Eastern Indonesia with a total of 996,71 tons/day in 2020, coupled with unmanaged waste estimated at more than 200 tons/day.

In the last 3 (three) years, the amount of mixed waste managed at Antang landfills has decreased, but plastic waste which is difficult to decompose naturally has increased from year to year. This does not include plastic waste that is not managed and falls into water areas which further exacerbate the problem of single-use plastics in Makassar City. The amount of unmanaged plastic waste is estimated at ± 100 tons/day.

3.2.1. Community Habits

Lack of public knowledge in Makassar City is one of the main obstacles in handling plastic waste. The majority of people don’t fully understand the urgency of reducing the use of single-use plastics in everyday life and the concept of sorting waste. This makes people unable to avoid dependence on single-use plastics.

The habit of people who still throw garbage in any place and do not sort the waste according to its type makes it difficult to handle waste in Makassar City, especially when the garbage is already in the landfill. Based on data from the Makassar City Environmental Service, in 2020, the amount of waste entering the Antang landfill will be 363.800 tons, or ± 997 tons / day. The waste that enters the landfill is mixed waste, causing the current Antang landfill to have an over capacity status due to the difficulty of handling waste that is not sorted by type.

Article 9 paragraph (3) of Law Number 39 Year 1999 about Human Rights which confirms that "everyone has the right to a good and healthy environment". However, the large amount of waste generated by the people of Makassar City and entering the landfill has a bad impact, so that people do

not get a good and healthy environment, especially for the people living around the Antang landfill area. Communities around the Antang landfill area face problems with air quality for most of the year as a result of the garbage that has accumulated in the landfill. The garbage that has accumulated in the Antang landfill, including plastic waste, releases emission gases which reduce air quality in Makassar City, which greatly affects the rate of climate change. In recent years, the people of Makassar City have become more frequently affected by floods, and the area around the Antang landfill area has become one of the areas in Makassar City that has been severely affected by floods. This shows that the people of Makassar City, especially those who live around the Antang landfill area, are having a very severe impact due to climate change generated by the waste.

3.2.2. Landfill that is not Environmentally Friendly

The massive destructive impact received by the people of Makassar City is caused by the type of landfill in Makassar City that is not environmentally friendly. According to the Makassar City Environmental Service, currently Antang landfill is still using the open dumping method, although this method is strongly discouraged by the Ministry of Environment and Forestry. The open dumping method causes the waste that enters the landfill to be very difficult to process and very easy to release emission gases into the air. The use of the open dumping method also requires a very large area of land due to the large amount of waste generated in the landfill. In addition, the open dumping method increases the risk of contracting the Covid-19 virus for officers due to mixed waste being left open. Currently, the Antang landfill occupies an area of 16.8 hectares and requires expansion in order to accommodate the waste generated by the community in the future.

The complexity of handling waste at TPA Antang is due to methods The open dumping used means that officers do not have many options to reduce waste generation at the TPA. Wrong waste handling is often found in TPA Antang, and even caused a severe fire in mid-2019. This has caused air pollution to spread throughout Makassar City and parts of Gowa Regency. The burnt garbage is dominated by organic waste and plastic waste that cannot be processed at the TPA.

3.2.3. The rules that are not optimal

The problem with the amount of waste that enters the TPA makes Makassar City Government need to make regulations in order to handle the amount of waste generated by the community. To overcome the problem of plastic waste which is a scourge in waste processing, currently in Makassar City there is a Regulation of the Mayor of Makassar Number 79 of 2019 about Controlling the Use of Plastic Bags. However, this regulation is considered unable to solve the problem of plastic waste in Makassar City because it only regulates plastic bag regulations, although there are many other types of plastic that are equally dangerous, such as food and beverage containers, plastic straws, styrofoam, and others.

In addition, the Makassar City Government has also implemented the Paid Plastic Bag regulations in shopping centers. This is a positive step taken by the Makassar City Government in an effort to reduce the use of plastic bags. However, the price is Rp. The Rp. 200,- (two hundred rupiah) set for each plastic bag does not have a significant impact on the efforts made, because it is considered too cheap. As a comparison, in 2020 plastic waste in Makassar City has increased by 294 tonnes / day compared to 2019 which was only 258 tonnes / day. Shopping centers regulated in Perwali Number 79 of 2019 do not yet have a plastic bag replacement material that is strong and cheap, so they still use plastic bags. This shows that the existing regulations in Makassar City regarding single-use plastic control are not comprehensive regulations that can reach the root of the problem. The existing regulations are not implemented maximally by all parties, both government and society.

3.2.4. Education of Plastic Waste Producers

The weak implementation of regulations on single-use plastic control in Makassar City is due to the lack of information received by the public about the dangers that plastic can pose to the environment. Zero Waste Indonesia revealed that the people of Makassar City did not get maximum assistance in order to understand the urgency of handling plastic waste properly and correctly. The socializations carried out by the government were not accompanied by ongoing assistance.

The amount of inaccurate information circulating in the community also hinders the control of plastic use in Makassar City. Mall Sampah reveals that people sometimes get the wrong idea in using substitute materials for plastic products that are often used. People and business people often use materials that are more dangerous to the environment to replace the use of plastic, for example using paper cups that have thin plastic on the inside to replace plastic cups. The use of less environmentally friendly substitutes makes it more difficult to handle plastic waste in Makassar City. Several types of waste that could have been recycled became of no economic value and were difficult to process due to the difficulty of separating the thin plastic from the surface of the waste [13].

Globaly, the provision of waste sorting facilities in Makassar City is not accompanied by adequate education to the community. According to the Makassar City Environmental Service, the lack of education to the community is due to the problem of lack of budget to provide sustainable assistance to the community. Therefore, the participation of the community such as non-governmental organizations is expected to be able to assist the government in providing education to the community.

3.2.5. Lack of Facilities in Archipelago Areas

Plastic waste creates a very complicated problem for the environment. Apart from the mainland areas of the City of Makassar, water areas also get bad effects from these plastics. Based on a report by the World Bank and the Coordinating Ministry for Maritime Affairs, at least 9 (nine) waterways in Makassar City are filled with plastic waste. The fall of plastic waste in these water areas is caused by inadequate handling of waste on land. Plastic waste originating from waterways has exacerbated the condition of plastic waste in the oceans. The problem of plastic waste in the oceans is increasingly complicated by the lack of facilities for processing and / or transporting waste originating from the Spermonde Islands area of Makassar. Yayasan Konservasi Laut Indonesia argues that many consignments of waste, which are dominated by plastic from the mainland of Makassar City, are found in archipelago areas as a result of being carried by the ocean currents. This waste adds to the amount of waste originating from the community or visitors to the island. It is often found on several islands in the Spermonde Area where the people have implemented waste sorting by type, but they do not have affordable facilities to transport the segregated waste to be processed in the mainland of Makassar City. As a result, the sorted waste is burned and often thrown back into the sea so that their island is not filled with trash. The existence of plastic waste in the oceans ultimately prevents marine organisms from obtaining sunlight to absorb CO2. The not optimal absorption of CO2 will further accelerate the rate of climate change which will eventually drown the islands due to rising sea levels.

The lack of waste processing facilities in the Spermonde Islands area was confirmed by the Makassar City Environmental Service. The Spermonde Islands have a Garbage Bank on each of its islands, however, for processing the collected waste, it still has to be taken to a processing facility located in Makassar City. Transportation of the waste also requires a large enough budget so that it cannot be done optimally.

The high cost becomes the obstacle for the City Government to facilitate the transportation of waste from the island community. The limited availability of waste processing facilities makes island communities have few options for dealing with their waste other than burning and dumping it back into the sea. In fact, the people of the Spermonde Islands are one of the areas most vulnerable to being affected by increased sea level due to climate change. Therefore, waste processing facilities need to be provided in greater numbers in a more equitable location.

The various floods and tidal disasters that have occurred are evidence that Makassar City is currently facing a climate change crisis which also threatens people's rights to a good and clean environment. Therefore, careful planning is needed to overcome the plastic waste crisis and the climate change crisis that occurred in Makassar City. Regulations covering the control of all types of plastics, taking into account the rules on climate change mitigation are necessary so that these plastics can be handled appropriately, from the production process to turning them into waste. In addition, to raise public awareness about the dangers of single-use plastics, it requires seriousness from all parties to implement the existing regulations.

4. Conclusion

The concept of rules used in Makassar City to tackle plastic problems that can affect the climate is not yet a regulation that can address the root causes of single-use plastics in Makassar City. The methods used at the Antang landfill greatly affect air quality and accelerate the rate of climate change. International and national regulations on climate change mitigation have not yet become the object of study in local regulations in Makassar City regarding the handling of plastic waste. Equitable distribution of waste processing facilities for all areas in Makassar City and sustainable assistance in the community have not been carried out optimally.

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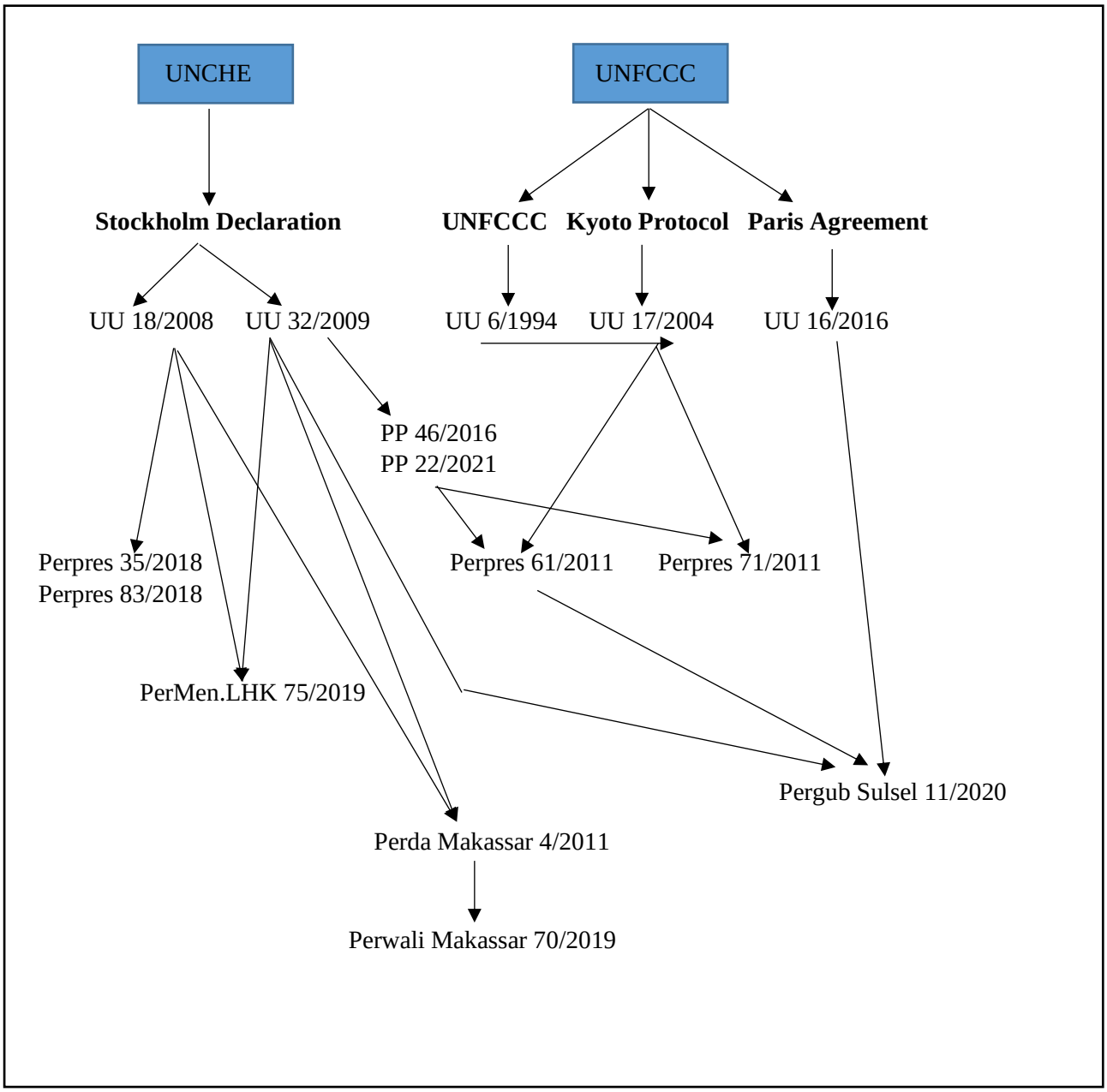
Appendix

Implementation of International Agreements on Environment and Climate in Indonesia



Family and School Strategies in Ensuring the Educational Rights of Children with Special Needs After Covid-19.

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Abstract

Education is a right for all citizens without exception, assured by the law in Indonesia. The right for every person with disabilities to get an education is regulated and assured in the law act number 8 of 2016. United Nations Department Economic and Social Affairs [1] 2012 only 53% of people with disabilities in Indonesia can access formal education. The Covid-19 pandemic worsens this condition. Family and school strategies in ensuring the educational rights of children with special needs after Covid-19 need to be carefully planned. This research was conducted through a literature study. A literature study is a series of activities related to the method of collecting library data, reading, and recording, and processing research materials. The study examined the results of the UNICEF report, Save the Children, and other sources to describe measures for families and schools in ensuring and restoring the educational rights of children with special needs after Covid-19. Active communication between parents and teachers (schools) is the main key to ensuring the educational rights of children with special needs after Covid-19.

Keywords: Children; Educational right; Post-Covid-19; Special needs; Strategy.

1. Introduction

Education is important and central to human life. Educational activities are inter-human activities, by humans and for other humans. Therefore, talking about education means talking about people. Education is generally held to develop all the potentials of humanity in a positive direction. With education, human beings are expected to develop all their potentials, talents, and abilities to the maximum so that it becomes better, cultured, and humane.

Act No. 20 of 2003 on the Indonesian National Education System directly mentioned education as a conscious and planned effort to realize the atmosphere of learning and learning process, so that students actively develop their potential to have religious-spiritual power, self-control, personality, intelligence, nobility, as well as the necessary skills of themselves, the society, nation, and country. In this sense, it is implied that learning should be a forum for learning in a pleasant atmosphere so that the long-term effects, in this case of children's skills, can last for a long term of time.

Education is the right of all citizens without exception guaranteed by the law in Indonesia. The right to education for persons with disabilities is regulated and guaranteed in law number 8 of 2016. But there are still many people with disabilities whose educational rights have not been fulfilled to the maximum. According to a united nations department of economic and social affairs [1] report in 2012, only 53% of people with disabilities in Indonesia can access formal education, and globally only 75% of people with disabilities can access formal education.

Currently, with the Covid-19 pandemic and home learning policies, it adds to the difficulty for children with special needs in accessing education [2]. Teachers, students, and parents are very difficult to adjust to this new learning model. Online learning from home for children with special needs has three main problems [3].

1.1. Routine Loss

Before the pandemic, children with special needs were accustomed to the routines they live in every day. They understand exactly what will happen and what is expected to come. The loss of this routine over a very long period can result in frustration, especially for children who experience obstacles in verbal communication and difficulty in understanding the surrounding environment. Frustration can affect the academic, mental, and emotional development that has been achieved so far.

1.2. Loss of Social Environment

School is a social environment where children interact, learn independently, and develop their non-academic skills. Online learning from home reduces children's chances of developing their social skills. For children with special needs, the school becomes the only place for them to learn the community and get to know the outside world other than home.

1.3. Disconnection of Information

For students with special needs who are currently in the stage of learning nonverbal communication in school such as by using objects, movements, gestures, pictures, and the stage of learning sign language will have difficulty in communicating with family at home. This is because the family does not fully understand how they communicate, while the teacher is quickly able to capture the message to be conveyed. This results in information not being conveyed clearly and properly. Information about children's learning development is not intact, because teachers cannot observe directly and continuously. As a result, not a few learning developments of children with special needs experience setbacks or stagnation.

In addition to the three main obstacles above, children with special needs also have difficulty following the learning process or doing the given tasks. These difficulties arose due to external and internal factors such as economic constraints, unstable internet networks, accessibility to learning media, lack of motivation, difficulty concentrating in learning due to interference from other family members, lack of mentoring, and others [4].

Therefore, the purpose of this study is to find out:1) Home learning and its challenges for the children with special needs;2) Learning from home and its challenges for the parents; 3) home learning and its challenges for the teachers, and 4) strategies for families and schools in ensuring the educational rights of children with special needs post the Covid-19 pandemic.

2. Method

The method that is being used in this research is the literature studies research method. Research on literature or literature studies can be interpreted as a series of activities related to the method of collecting library data, reading, and recording, and processing research materials [5]. There are four main characteristics to consider in literature study research [6]:

a. Researchers do not come face to face with knowledge from the field. Researchers are only dealing directly with text or numerical data.
b. Data obtained is "ready-made" meaning that researchers do not directly experience the field because the researchers are dealing directly with the data source in the library.
c. Data library is a secondary source, in the sense that researchers obtain material or data from the second hand and not the original data from the first data in the field.
d. The condition of library data is not limited by interest and time.

Based on the above, data collection in research is conducted by examining and/or exploring several journals, books, and documents (both printed and electronic) and other data sources and/or information that is considered relevant to research or study.

3. Result and Discussion

After almost a year of learning from home running, surely there are still many shortcomings that increase the concerns of loss of learning process due to the Covid-19 pandemic [7]. Loss in Learning is defined as “any specific or general loss of knowledge and skill or in academic progress, most commonly

due to extended gaps or discontinuities in a student's education" [8]. The following are the challenges of learning from home experienced by children with special needs, parents, and teachers during the pandemic.

3.1. Results

a. Home Learning and Challenges for Children with Special Needs

Lesmana explains some of the obstacles experienced by students with special needs in learning from home [9]:

1) Difficulty concentrating due to inadequate home environment conditions as well as disturbances from other family members.
2) Limited facilities and accessibility such as data package costs and lack of internet network.
3) Children with visual disabilities and hearing disabilities have difficulty understanding the learning materials provided during online home learning.
4) Online learning from home requires students to take photos or videos of learning tasks. For students with visual disabilities, this is difficult without the help of a companion, while the companion cannot always be there because they must work or do other work.
5) The absence of accessibility features in online learning applications such as close captions for people with hearing disabilities and screen readers for people with visual disabilities.
6) Reduced support services that are usually obtained by students with disabilities such as therapy and counseling services.
7) Children with intellectual disabilities have difficulty following the learning process and working on the given tasks. This is because children have an emotional attachment to their teachers that is commonly attained through face-to-face learning.

b. Home Learning and Challenges for Parents.

The challenges faced by parents with children with needs in learning from home are as follows: [10]:

1) For parents with more than one child, they have difficulty meeting supporting facilities such as gadgets or laptops. In practice, the child must learn alternately.
2) During the pandemic, not a few parents experienced reduced working hours or lost jobs. This affects the economy of families to purchase home learning support facilities and services that children usually get before the pandemic.
3) Limited abilities and skills of parents in using the technology used by teachers in teaching from home deter the learning process from home.
4) Dividing the time between doing office work, homework, and accompanying children's learning becomes a challenge.
5) Difficulty in understanding the subjects or instruction given by the teacher becomes an obstacle that often occurs in the field.

c. Home Learning and Challenges for Teachers.

The results of research conducted by Afrianti et al [11] towards teachers who teach children with special needs in east Java are found points that become challenges for teachers during home learning:

1) Student conditions
   Because of their disabilities, some children have difficulties in adapting to learning from home online, and many also have difficulty in understanding the material delivered by the teacher. Some students even desperately need special attention and face-to-face learning. Boredom due to restriction on some activities during the learning process makes students' learning motivation decrease and lack discipline.

2) Mastery of technology
   The ability of teachers in mastering technology is a challenge, that it is often to find teachers during home learning may have only used social media such as WhatsApp to interact with students.

3) Parent/caregiver role
   Support from parents/caregivers is needed in-home learning for children with special needs. But unfortunately, this is still an obstacle found by teachers in the field. The busyness of parents and limited knowledge of the technology used by teachers is a problem that is often found by teachers in the field.
4) Socio-economic Conditions
   The Covid-19 pandemic is affecting people's income and purchasing power, many teachers have complained about having to spend private funds to buy enough internet data packages for online learning because the funds provided by schools are insufficient or forced to buy laptops to support the learning process. These challenges must be faced along with the demands of meeting the needs of their daily lives.

5) Technical Issues
   The difficulty of some teachers in operating existing technology, available technology devices, and internet signal access is a technical problem that teachers often face during home learning.

6) Evaluation Monitoring
   The teacher's efforts in monitoring the development of students become severely hampered because the teacher must change the format of the assessment that is usually done in normal times and the accuracy of the assessment results becomes a challenge.

7) Time constraints
   Limited time in providing the material, explaining the material, and evaluating is a contributing factor to the student's lack of understanding and accuracy of the assessment.

8) Facilities and infrastructure
   The ineffective use of smartphones, laptops and other supporting devices at home becomes a serious thing that hampers the learning process.

9) Curriculum
   A curriculum that is not designed under the aspects of inclusive education and aspects of online education becomes a serious problem faced by teachers.

10) Teacher skills and limitations
    The skill of using sign language for students with hearing barriers as well as creating learning materials that are accessible to students with vision barriers are problems faced by teachers. The demand to be more patient, more creative, and innovative in the assembling of the teaching materials and techniques for children with intellectual barriers becomes a problem.

d. Strategies for families and schools in guaranteeing ABK education rights after the Covid-19 pandemic.

UNICEF [9] in its report Averting a lost COVID-19 generation provides six points that should be of concern to save the younger generation from the impact of the Covid-19 pandemic. There are four out of six points to note:

1) Ensure all children learn, including by closing the digital divide.

Pandemic exposes the real condition of a country, including the condition of its education system. Although Indonesia was initially very optimistic in facing the Industrial 4.0 era, the reality of digital inequality became the main factor of constraints from home learning with online models. The digital divide is defined as the gap between individuals, households, businesses, and geographic areas at different socio-economic levels concerning their opportunities to access information and communication technologies [10]. Save the Children reports that 71% of students with special needs are in desperate need of materials or lesson materials during home learning and 28% of them are unable to access these materials or teaching materials [7]. Therefore, ensuring that all children with special needs can access education to become the country's first duty during or post the Covid-19 pandemic.

2) Assuring access to health and nutrition services and make vaccines affordable and available to every child.

During the pandemic, parents' concerns about their family's health increased. A total of 73% of parents with children with special needs expressed concern [7]. This concern arises with the increasing number of Covid-19 patients coming from the nearby neighborhood and not a few families reporting family members with special needs confirmed positive Covid-19 [7]. They worry about how to take care of themselves as well as the health of their children with special needs. During the pandemic, health services that are usually obtained by children with special needs such as medicines, nutrition, health services, counseling services, and therapeutic services become disrupted not even a little that stops completely at all [11]. As a result, children with special needs have been stagnated in their development and not a few have shown setbacks [8]. When the pandemic has begun to be made aware among the society, then ensuring every child with special needs gain access and getting health services is a priority.

3) Support and protect the mental health of children and young people and bring an end to abuse, gender-based violence, and negligence in childhood.

The Covid-19 crisis is believed by experts to have exacerbated violence, exploitation, and abuse as children are cut off from key support services while at the same time experiencing additional pressure on families experiencing chaos [7]. Children with disabilities and women are believed to be the most vulnerable ones. When the school reopens for face-to-face learning, ensuring children can learn safely and thoroughly is crucial. Schools at least have a responsibility to restore the mental health of children disturbed by the Covid-19 pandemic.

4) Reverse the rise in child poverty and ensure an inclusive recovery for all.

The United Nations Department of Economic and Social Affairs [1] reports globally that individuals with disabilities and their families lived within the poverty line before the pandemic. The economic crisis caused by Covid-19 certainly adds to the severe economic condition of individuals with disabilities and their families. Families with parents with disabilities are among the groups most affected by this economic crisis [7]. They lost their income and ability to buy the daily necessities or services they usually get before the pandemic. By expanding resilient social protection programs for the most vulnerable children and their families, including cash assistance must be included in the government's Covid-19 disaster management program.

Based on the explanation above, the following is a strategy that can be done by parents and schools to guarantee the right to education for children with special needs.

1) Parents

a) Establish intense communication with the school (teacher) to get information updates or school schedules back in the open.
b) Establish intense communication with schools (teachers) about learning development and obstacles experienced by children during the pandemic.
c) Play an active role in finding information on children's learning needs and have flexible expectations for children's progress or development.

d) Provide information about when and how the school will be opened to children. Make sure the information is packaged child-friendly and accessible according to the obstacles that the child has.
e) Conveying positive reasons to go back to school to the children.
f) Make children agents change by teaching health protocols repeatedly such as wearing masks, washing hands with soap in running water, keeping distance, carrying their food supplies, ethics when sneezing or coughing.
g) Provide information that is easy for children to understand the importance of maintaining personal safety.
h) Actively engage and communicate with schools and classroom teachers or special tutors about the preparation of the new school year, accessibility of personal safety equipment such as masks, hand sanitizer, etc.
i) Make sure the kids are always in good health condition before going to school.
j) Teach them how to communicate health conditions (e.g., dizziness, fever) to teachers or parents.
k) Make sure the teacher understands the language of the child's communication used while at home.

2) School

a. Actively coordinate with local government and The Covid-19 task force to ensure face-to-face learning policies can be implemented safely and pay attention to the safety of school residents.
b. Establish active communication with parents about face-to-face school policies and accommodate each child's learning needs.
c. Establish active communication with parents regarding the development, obstacles, and learning needs of students.
d. Ensuring facilities supporting accessible health protocols by children such as clean water, sanitation, and hygiene.
e. Ensuring health services in schools are accessible to school residents and schools have access to local government health services.
f. Ensuring health protocols are run by all civitas in schools.
g. Ensuring the process of returning children to school is inclusive.

3.2. Discussion

3.2.1. Home Learning and Challenges for Children with Special Needs

Learning from home during the pandemic makes children with special needs have difficulties participating in the learning activities. Students with special needs become out of focus in learning, this is due to the unfavorable condition of the home environment and the support of family members who are not maximal.

Learning from home is considered not maximized because of the limitations that exist in each student, such as 1) devices and networks owned by the students, because not all students come from families with adequate economy; 2) the ability of members of the out again to the specificity of the students, so as not to help the student in receiving or baiting the material studied; 3) limitations of special facilities that are not owned by students in their homes, such as for students with hearing and visual disabilities; and 4) students experience psychological distress, during the pandemic the students with special needs are also not maximally getting therapy or counseling services.

Home learning for students with special needs should be planned in a better way. The main source of support for the success of the learning process is the family. Every student with special needs is convinced that they deserve the opportunity to learn even at home. This belief could motivate students to continue to carry out their duties in learning even with existing limitations. This is the most basic support system necessary for students with special needs.

3.2.2. Home Learning and Challenges for Parents.

Learning from home is a new task for parents who may have been handed over from the school. Parents should serve as "teachers" for the child and understand what the child needs according to their specific studies.

Learning from home challenges that parents must face are: 1) creating a schedule for those who have more than one child to use the learning device, and provide a network to maximize child's learning; 2) to consider if parents have economic difficulties with the continuity of children's online learning activities, such as to provide child learning support facilities; 3) must be keen to learn new technical knowledge to support children in the online learning activities at home; 4) arrange a time between work and the task of accompanying children while learning; 5) communicate with the teacher about the subject matter to avoid the difficulties.

Parents are forced to be able to perform a second role as teachers during the pandemic. The role of parents is impactful and can be maximized if it is appropriately prepared. Parents can also make children feel comfortable and accepted even if they have special needs in the learning process.

3.2.3. Home Learning and Challenges for Teachers.

Learning from home conducted by teachers to students with special needs must be carefully prepared. Teachers are required to understand the conditions of special needs students so that students could be at their utmost in participating in online learning activities.

Teachers should pay attention to several things in designing online learning as follows: 1) activities, materials, and assessments made can motivate students to participate in learning activities and tailored to the specific needs of students; 2) teachers can use technology that can be used by students with the assist from parents so that teachers are equipped with technologies that support learning; 3) teachers must establish communication with parents during online learning, this is to avoid obstacles faced by students with special needs; 4) teachers must prepare themselves to do learning from home with tools and networks that support learning, even if the teacher's economic condition is inadequate; and 5) teachers must also assess the development of students with assessments that can be adjusted to the context of learning in the network. Teachers can also involve parents in assessing a child's learning development.

In designing an in-network learning for students with special needs, teachers should pay attention to 1) characteristics and behaviors of students with the specific needs of each student; 2) learning objectives that can be applied in the daily life of the students; 3) authentic assessment with learning objectives; 4) strategies and methods that do not make it difficult to spend in following online learning.

3.2.4. Strategies for families and schools to guarantee the educational rights of children with special needs after the Covid-19 pandemic.

The strategies carried out by families in preparing students with special needs after the pandemic:1) teaching students with special needs about the use and mastery of technology, to prepare students to be able to compete in the face of the industrial era 4.0.; 2) provide therapy services by the specific needs of the students. This is to assist students with special needs to grow into a mature human being.; 3) teach students with special needs to undergo health protocols that start from the family and become a habit, so that when students dive into the field, they already have a habit of undergoing health protocols.; and 4) students can also be taught with life skills to be able to live independently.

While the strategies carried out by the school in ensuring the educational rights of students with special needs after the pandemic are: 1) equip the students with life skills based on their specificity, so that students can live independently wherever they are.; 2) provide a curriculum that helps skilled students in using technology to face the industrial era 4.0. 3) provide opportunities for students with special needs to apply the skills gained in the realm of work.

In the implementation of this strategy, teachers and parents must work together to provide the best learning process in society. This strategy is implemented to also help students with special needs

acquire equal educational opportunity so that adequate education can coexist with people who do not have special needs.

4. Conclusion

During the Covid-19 pandemic, children with special needs are being vulnerable to educational discrimination. Towards restoring or ensuring their educational rights are being fulfilled again throughout or after Covid-19, the cooperation of all parties involved is required, with most importantly the parents and school. Active communication between parents and schools (teachers) is the main key to ensure the educational rights of children with special needs are being fulfilled during or post the pandemic. Parents should be able to perform their roles as communicators, supervisors, and school partners as well.

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Comparative Analysis of Sharia and Conventional Banking Financial Performance Before and When the Covid-19 Pandemic Happened In Indonesia

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Abstract

The purpose of this study is to analyze the comparison of the financial performance of Islamic and conventional banking before and during the Covid-19 pandemic in Indonesia, which is represented by Capital Adquacy Ratio (CAR), Non Performing Loans (NPL), Return on Assets (ROA), Loan to Deposit Ratio (LDR), Operational Costs to Operating Income (BOPO). The research method used is quantitative research methods and uses secondary data, namely the financial statements of Islamic banks and conventional banks. The sample used was 6 samples consisting of 3 samples of Islamic commercial banks and 3 samples of conventional commercial banks with a period of 3 quarters of 2019 before Covid-19 (Q2, Q3, Q4) and a period of 3 quarters of 2020 during Covid-19 (Q1, Q2, Q3) and the acquisition using purposive sampling method. The analysis method used is the Independent Sample T-test technique with the SPSS 20 program and Microsoft Office Excel 2013.The results of this study indicate that before Covid-19 there were significant differences in ROA, LDR, BOPO and there were no significant differences in CAR and NPL. . And when Covid-19 there was a significant difference in ROA and there was no significant difference in CAR, NPL, LDR, and BOPO.

Keywords: Conventional banks; Covid-19; Financial performance; Islamic banks.

1. Introduction

The position of the banking sector has an important role in supporting the implementation of national development, namely in the context of increasing equitable distribution of development and its results, economic growth and national stability towards improving the standard of living of the wider community. However, along with the development of the banking world and also the majority of the Muslim community in Indonesia, there is a need for the Muslim community to obtain financial services based on Islamic Sharia, namely the principle of profit sharing, so that the Dual Banking System or dual banking system emerged within the framework of the official Indonesian Banking Architect (API). adopted and implemented in Indonesia in 1998, namely the conventional banking system and the Islamic banking system. With the existence of these two banking systems in Indonesia, The Islamic banking system and conventional banking synergistically support the broader mobility of public funds to increase financing capacity for sectors of the national economy [1]. Sharia banks are banks whose operations include channeling and collecting funds, giving and giving rewards based on sharia principles, namely profit sharing and buying and selling. Conventional banks are banks whose operations include channeling and collecting funds, giving and giving rewards in the form of interest or other rewards whose percentage is based on funds over a period of time. In the Islamic economy, the banking sector does not recognize interest rate instruments.

Currently, Indonesia is fighting the Corona Virus Desease (Covid-19) pandemic, which is an infectious disease. The Covid-19 transmission has quickly spread throughout the world, including Indonesia. In Indonesia, it was first announced in March 2020, since then the number of positive cases of Covid-19 in Indonesia has been increasing every day. As for the government's efforts to stop the

spread of Covid-19 by making social distancing policies. The difficult conditions in the economic sector during the Covid-19 pandemic required the Indonesian government to take various policies to maintain national economic stability in order to survive. The banking industry, which is the most important role in stimulating the national economy, has an important role as a collector and channel of funds to the public which plays an important role in increasing growth and maintaining stability in economic conditions during the Covid-19 pandemic [2]. This is evidenced by the issuance of the Financial Services Authority Regulation (PJOK) No. 11 / POJK.03 / 2020 concerning Credit / Financing Relaxation for people affected by the Covid-19 pandemic. This regulation aims to maintain financial and banking system stability, because implementing this policy will have an impact on banking performance (Albanjari & Kurniawan, 2020). This is evidenced by the issuance of the Financial Services Authority Regulation (PJOK) No. 11 / POJK.03 / 2020 concerning Credit / Financing Relaxation for people affected by the Covid-19 pandemic. This regulation aims to maintain financial and banking system stability, because implementing this policy will have an impact on banking performance (Albanjari & Kurniawan, 2020). This is evidenced by the issuance of the Financial Services Authority Regulation (PJOK) No. 11 / POJK.03 / 2020 concerning Credit / Financing Relaxation for people affected by the Covid-19 pandemic. This regulation aims to maintain financial and banking system stability, because implementing this policy will have an impact on banking performance [3].

Difficult conditions in the economic field during the Covid-19 pandemic. Banks as lenders of credit to the public are expected to continue to manage and maintain credit distribution in the midst of these conditions, but with the provision of large loans to the public it results in bad credit which has an impact on losses for the bank. Therefore, in order to survive the bank must pay attention to the bank's performance in terms of financial performance, which is a measure of the success achieved by the company for the activities it has carried out [4].

Research on the comparison of the financial performance of conventional commercial banks and Islamic commercial banks during the Covid-19 pandemic is still relatively few and rare because Indonesia is still affected by Covid-19 so that the financial performance of banks is still experiencing shocks and unstable conditions. Previous research shows that the performance of PT. BNI Syariah Tbk has experienced a slowing increase from the time before the Covid-19 Pandemic to the time when the Covid-19 Pandemic occurred [5]. Whereas other previous research comparing the financial performance of conventional BCA banks with BCA Syariah banks during the Covid-19 pandemic shows that there are significant differences in the variables CAR, ROA,

Bank financial performance can be analyzed using financial ratios through financial reports that can be accessed through the website of the Financial Services Authority (OJK) and the websites of each bank. Financial ratios show real banking performance, including intermediation performance in the form of accumulating savings, current accounts, time deposits, and channeling funds to financing [6]. The improved banking performance will be in line with the good health of the bank. Banking performance concerns about profitability. There are two ratios that are usually used to measure a bank's financial performance, namely Return on Assets (ROA) and Return on Equity (ROE). Return on Assets (ROA) as a benchmark for banks in profitability, this is influenced by several factors including internal and external factors. Internal factors include capital risk, liquidity risk, credit risk and operational risk. Based on the above background, this study attempts to analyze bank financial ratios, namely Capital Adequacy Ratio (CAR), Non Performing Loan (NPL) / Non Performing Financing (NPF), Return on Assets (ROA), Loan to Deposit Ratio (LDR) / Financing Deposit Ratio (FDR), and Operating Costs to Operating Income (BOPO) to compare the financial performance of Islamic and conventional banks before and during the Covid-19 pandemic in Indonesia.

2. Method

The method used in this research is the comparative method which looks for comparisons between the financial performance of Islamic banks and conventional banks before and during the timeThe Covid-19 pandemic with the data analysis method used was the independent sample t-test. The research sample was obtained using purposive sampling technique. The research sample in this study consisted of Sharia Commercial Banks, namely BRI Syariah Banks, BNI Syariah Banks, Syariah Mandiri Banks and Conventional Commercial Banks, namely conventional BRI Banks, Conventional BNI Banks, and

Mandiri Banks. In this study, comparing the ratio with decision making based on sig (2-tailed) level of significance based on (alpha = 0.05). This study uses secondary data on quarterly financial reports for the period June, September, December 2019 and March, June, September 2020. This period was chosen with consideration of the time before and when the spread of Covid-19 in Indonesia.

3. Result and Discussion

3.1. Presenting the Results

This study uses an independent sample t-test test between Islamic Banks and Conventional Banks regarding financial performance using the ratio of Capital Adequacy Ratio (CAR), Non Performing Loan (NPL) / Non Performing Financing (NPF), Return on Asset (ROA), Loan to Deposit. Ratio (LDR) / Financing Deposit Ratio (FDR), and Operational Costs to Operational Income (BOPO) in the period before the Covid-19 pandemic from financial reports for the quarter of June, September and December 2019. Comparison results between the financial performance of Islamic Banks and Conventional Banks before Covid-19 can be seen as in table 1 below:

Table 1. Financial Performance of Sharia Banks and Conventional Banks before Covid-19

	Islamic Banks		Conventional Banks	
	Mean	**Std. Deviation**	**Mean**	**Std. Deviation**
CAR	20.3667	5.78191	20.1567	1.27583
NPL / NPF	2.4633	1,78733	0.8767	0.20599
ROA	1.2633	0.85008	2.9433	0.45081
LDR / FDR	84.65	2,76919	94.7133	2.90664
BOPO	86,8333	8,81632	70.13	3.17303

Source: Results of data processing

In table 1 it can be seen that the CAR ratio in Islamic banks has a mean of 20.36% greater than Conventional Banks by 20.15%, this shows that during the period June 2019-December 2019 Islamic Banks had a better CAR than Conventional Banks where the higher the CAR value shows the better performance of Islamic Banks in managing their equity even though Conventional Banks is still in a safe condition because the CAR is above 8% in accordance with BI regulations.

The NPL / NPF ratio of Islamic banks has a mean of 2.46% greater than that of conventional banks, which is 0.87%, this shows that during the June period 2019-December 2019 Conventional Banks have better NPLs than Sharia Banks where the lower the value of NPLs means the better the performance of Conventional Banks in managing their equity, but in Sharia Banks NPL is still in an ideal condition which is still below 10.35% according to with the provisions stipulated by BI.

The ROA ratio shows that the mean of Sharia Banks is 1.26% smaller than Conventional Banks at 2.94% This shows that during the period June 2019-December 2019 Conventional Banks have a better ROA than Islamic Banks where the higher the ROA value, the better the performance of Conventional Banks in managing their equity, but based on BI provisions, Islamic Banks are still in a healthy condition where they are still at standard BI's stipulation is 1.22%.

In Sharia Banks the LDR / FDR ratio has a mean of 84.65% smaller than Conventional Banks of 94.71%, this shows that Islamic Banks have a better LDR value than Conventional Banks in June 2019-December 2019, if you look at BI's provisions that the best standard LDR is less than 94.75% so it can be said that Conventional Banks are in a fairly healthy position.

The ratio of OEOI in Islamic Banks is 86.83% greater than Conventional Banks 70.13 so it can be said that the period of June 2019-December 2019 the performance of Conventional Banks was better than BOPO for Islamic Banks in managing their equity, but based on BI provisions, Islamic Banks are still in a healthy condition where they are still in the standard provisions BI is 93.52%.

Table 2. Independent Samples Test before Covid-19

		Levene's Test for Equality of Variances		t-test for Equality of Means						
		F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	95% Confidence Interval of the Difference	
									Lower	Upper
CAR	Equal variances assumed	6.357	.065	.061	4	.954	.21000	3.41849	-9.28126	9.70126
	Equal variances not assumed			.061	2.194	.956	.21000	3.41849	-13.31836	13.73836
NPL	Equal variances assumed	10.743	.031	1.527	4	.201	1.58667	1.03874	-1.29735	4.47068
	Equal variances not assumed			1.527	2.053	.263	1.58667	1.03874	-2.77368	5.94701
ROA	Equal variances assumed	1.577	.278	-3.024	4	.039	-1.68000	.55554	-3.22242	-.13758
	Equal variances not assumed			-3.024	3.043	.056	-1.68000	.55554	-3.43408	.07408
LDR	Equal variances assumed	.018	.899	-4.342	4	.012	-10.06333	2.31782	-16.49865	-3.62802
	Equal variances not assumed			-4.342	3.991	.012	-10.06333	2.31782	-16.50460	-3.62207
BOPO	Equal variances assumed	3.858	.121	3.088	4	.037	16.70333	5.40973	1.68352	31.72315
	Equal variances not assumed			3.088	2.510	.068	16.70333	5.40973	-2.58191	35.98857

Source: Results of data processing

The hypotheses in this study are:

Ho: There is no difference in the average CAR, NPL / NPF, ROA, LDR / FDR, and BOPO between Islamic Banks and Conventional Banks before Covid-19.

Ha: There are differences in the average CAR, NPL / NPF, ROA, LDR / FDR, and BOPO between Islamic Banks and Conventional Banks before Covid-19.

In table 2 it can be seen that the CAR ratio where F counts 6.357 with a probability of 0.065> 0.05, then Ho is accepted so that it can be said that the two variances are the same, so to compare the two populations using the t-test as the basis used, namely the equal variances assumped where t is calculated for CAR with equal Variances assumped is 0.061 with a probability value of 0.954 where 0.0954> 0.05 then Ho is accepted so that there is no significant difference between the CAR ratio of Islamic Banks and Conventional Banks, this shows that Islamic Banks have the same ability as Conventional Banks in managing risky assets based on available capital before the Covid-19 pandemic.

The NPL ratio can be seen in the table above F counts 10,743 with a probability of 0.031 <0.05, so Ho is rejected so that the two variances are different, then the two populations are compared with the t-test using the basis of equal variances not assumed where the NPL count with equal variances not assumed is 1,527 with a probability value of 0.263> 0.05, so Ho is accepted, this shows that there is no significant difference between the NPL ratio of Sharia Banks and Banks Conventional, so it can be said that Sharia Banks and Conventional Banks in the days before the Covid-19 pandemic had the same ability when dealing with non-performing loans.

F counts for an ROA ratio of 1.577 with a probability of 0.278> 0.05 then Ho is accepted so that it can be said that the two variances are the same, so to compare the two populations using the t-test as the basis used, namely the equal variances assumption, where t counts ROA with the equal variances assumped, namely -3.024 with a probability value of 0.039 where 0.039 <0.05 so that Ho is rejected, this shows that there is a significant difference between the ROA ratio of Islamic Banks and Conventional Banks, this shows that before the Covid-19 pandemic there were differences in managing assets in generating profits between Islamic Banks and Conventional Banks.

The calculated F value of 0.018 for the LDR ratio with a probability of 0.899> 0.05 then Ho is accepted so that it can be said that the two variances are the same, so that to compare the two populations using the t-test as the basis used, namely the equal variances assumpted where t is the LDR with the

equal variances assumped, namely -4,342 with a probability value of 0.012 <0.05 then Ho is rejected, this indicates that there is a significant difference between the LDR ratio of Sharia Banks and Conventional Banks, where Sharia Banks and Conventional Banks before the Covid-19 pandemic had unequal abilities in providing debtor funds through parties. third.

The BOPO ratio can be seen that F is equal to 3.858 with a probability of 0.121> 0.05, then Ho is accepted so that it can be said that the two variances are the same, so that to compare the two populations using the t-test as the basis used, namely the equal variances assumption, where t is calculated for BOPO with the equal variances assumped, namely 3.088 with a probability value of 0.037 < 0.05 then Ho is rejected, this indicates that there is a significant difference between the BOPO ratio of Sharia Banks and Conventional Banks, this shows that before the Covid-19 pandemic the use of operational costs for Islamic Banks and Conventional Banks had different abilities in providing customer facilities and services.

In this study also compares the financial performance of Islamic Banks and Conventional Banks during the Covid-19 pandemic in Indonesia, from the quarterly financial reports of March, June and September 2020. The results of these comparisons can be seen as in table 3 below:

Table 3. Financial Performance of Sharia Banks and Conventional Banks during Covid-19

	Islamic Banks		Conventional Banks	
	Mean	**Std. Deviation**	**Mean**	**Std. Deviation**
CAR	19,2367	2,78038	17.3167	1.11791
NPL / NPF	1,8733	1,00878	0.54	0.08185
ROA	1.66	0.62386	3.1233	0.46361
LDR / FDR	79.3867	11.06488	92.52	2.27119
BOPO	83.1933	6.83074	69.71	5.80307

Source: Results of data processing

In table 3 it can be seen that the CAR ratio in Islamic Banks has a mean of 19.23% greater than Conventional Banks of 17.31%, this shows that during the period March 2020-September 2020 Islamic Banks have a better CAR than Conventional Banks where the higher CAR value shows that the performance of Sharia Banks is getting better in managing their equity even though Conventional Banks are still in a safe condition because the CAR is above 8% in accordance with the regulations set by BI.

The NPL / NPF ratio of Sharia Banks has a mean of 1.87% greater than Conventional Banks, which is 0.54%, this shows that during the period March 2020-September 2020 Conventional Banks have better NPLs than Islamic Banks where the lower the value of NPL means the better Conventional Bank performance in managing equity owned, however, in Islamic Bank NPL is still in an ideal condition which is still below 10.35% in accordance with the provisions set by BI.

The ROA ratio shows that the mean Islamic Bank is 1.66% smaller than Conventional Banks at 3.12%, this shows that during the period March 2020-September 2020 Conventional Banks have a better ROA than Sharia Banks where the higher the ROA value, the better the performance of Conventional Banks in managing their equity, but based on BI provisions, Islamic Banks are still in a healthy condition where BI is still in the standard of 1.22%.

In Sharia Banks the LDR / FDR ratio has a mean of 79.38% smaller than Conventional Banks of 92.52%, this shows that Islamic Banks have a better LDR value than Conventional Banks in March 2020-September 2020, if you look at BI's provisions that the best standard LDR is less than 94.75% so it can be said that Conventional Banks are still in a healthy condition.

The BOPO ratio in Sharia Banks is 83.19% greater than Conventional Banks 69.71 so it can be said that the period March 2020-September 2020 the performance of Conventional Banks is better than BOPO for Sharia Banks in managing their equity, but based on BI provisions, Islamic Banks are still in a healthy condition. which is still at the BI standard stipulation is 93.52%

Table 4. Independent Samples Test during Covid-19

		Levene's Test for Equality of Variances		t-test for Equality of Means						
		F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	95% Confidence Interval of the Difference	
									Lower	Upper
CAR	Equal variances assumed	1.205	.334	1.110	4	.329	1.92000	1.73015	-2.88367	6.72367
	Equal variances not assumed			1.110	2.630	.358	1.92000	1.73015	-4.05109	7.89109
NPL	Equal variances assumed	5.274	.083	2.282	4	.085	1.33333	.58433	-.28903	2.95570
	Equal variances not assumed			2.282	2.026	.148	1.33333	.58433	-1.14979	3.81646
ROA	Equal variances assumed	.244	.647	-3.261	4	.031	-1.46333	.44875	-2.70927	-.21740
	Equal variances not assumed			-3.261	3.693	.035	-1.46333	.44875	-2.75124	-.17543
LDR	Equal variances assumed	8.865	.041	-2.014	4	.114	-13.13333	6.52150	-31.23992	4.97326
	Equal variances not assumed			-2.014	2.168	.172	-13.13333	6.52150	-39.20664	12.93998
BOPO	Equal variances assumed	.006	.941	2.606	4	.060	13.48333	5.17477	-.88412	27.85079
	Equal variances not assumed			2.606	3.898	.061	13.48333	5.17477	-1.03334	28.00001

Source: Results of data processing

The hypotheses in this study are:

Ho: There was no difference in the average CAR, NPL / NPF, ROA, LDR / FDR, and BOPO between Islamic Banks and Conventional Banks at the time of Covid-19.
Ha: There are differences in the average CAR, NPL / NPF, ROA, LDR / FDR, and BOPO between Islamic Banks and Conventional Banks at the time of Covid-19.

On the table 4 it can be seen that the CAR ratio where F counts 1.205 with a probability of 0.334> 0.05 then Ho is accepted so that it can be said that the two variances are the same, so to compare the two populations using the t-test as the basis used, namely the equal variances assumed where t is calculated for the CAR with the equal variances assumed is 1.110 with a probability value of 0.329 where 0.329> 0.05 then Ho is accepted so that there is no significant difference between the CAR ratio of Islamic Banks and Conventional Banks, this shows that Islamic Banks have the same ability as Conventional Banks in managing risky assets based on available capital at the time. the Covid-19 pandemic occurred.

The NPL ratio can be seen in the table above. F count of 5.274 with a probability of 0.083> 0.05 then Ho is accepted so that it can be said that the two variances are the same, so that to compare the two populations using the t-test as the basis used, namely the equal variances assumption where t is calculated for NPL with the equal variances assumed is 2.282 with a probability value 0.085> 0.05 then Ho is accepted, this indicates that there is no significant difference between the NPL ratio of Sharia Banks and Conventional Banks, so it can be said that Sharia Banks and Conventional Banks during the Covid-19 pandemic had the same ability when dealing with non-performing loans.

F count for an ROA ratio of 0.244 with a probability of 0.647> 0.05, then Ho is accepted so that it can be said that the two variances are the same, so that to compare the two populations using the t-test as the basis used, namely the equal variances assumption, where t counts ROA with the assumed equal variances of -3.261 with a probability value of 0.031 where 0.031 <0.05 so that Ho is rejected, this shows that there is a significant difference between the ROA ratio of Sharia Banks and Conventional Banks, this shows that when the Covid-19 pandemic occurred there was a difference in managing assets in generating profits between Islamic Banks and Conventional Banks.

The calculated F value of 8.865 for the LDR ratio with a probability of 0.041 <0.05 then Ho is rejected so that the two variances are different, then the two populations are compared with the t-test using the basis of equal variances not assumed where the NPL count with equal variances not assumed is -2.014 with a probability value of 0.172> 0.05 then Ho is accepted, this shows that there is no significant difference between the LDR ratio of Sharia Banks and Conventional Banks, where Islamic Banks and Conventional Banks at the time of the Covid-19 pandemic had the same ability to provide debtor funds through third parties.

The BOPO ratio can be seen that F is equal to 0.006 with a probability of 0.941> 0.05, then Ho is accepted so that it can be said that the two variances are the same, so that to compare the two populations using the t-test as the basis used, namely the equal variances assumption, where t is calculated for BOPO with the equal variances assumpted, namely 2.606 with a probability value of 0.060> 0.05 then Ho is accepted, this indicates that there is no significant difference between the BOPO ratio of Sharia Banks and Conventional Banks, this shows that during the Covid-19 pandemic the use of operational costs for Islamic Banks and Conventional Banks has the same ability to provide customer facilities and services.

3.2. Create a Discussion

Comparison of the Financial Performance of Islamic Banks and Conventional Banks based on Capital Adequacy Ratio (CAR)

Based on the results of the analysis of the Capital Adequacy Ratio (CAR) and the average value for quarters 2, 3, 4 of 2019 and quarters 1, 2, 3 of 2020 in Islamic Banks and Conventional Banks which are then carried out comparisons, it shows that the CAR ratio is owned by a Sharia Bank was better before and during the Covid-19 pandemic because the average CAR of Islamic banks was 20.36% and 19.23%. This is higher than the CAR of Conventional Banks with an average of 20.15% and 17.31% especially for the Covid-19 pandemic, because the theory states that if the higher or greater the value of the CAR ratio, it shows the bank's ability to be better in dealing with the Covid-19 pandemic. all possible risks of loss [7]. So it can be said that Islamic banks have a better performance than conventional banks. Although both CAR ratios have decreased from before until the Covid-19 pandemic, the CAR ratio in Islamic Banks and Conventional Banks can be said to be healthy or ideal where, there are provisions or provisions in Bank Indonesia (BI) regarding the minimum capital requirement, that the CAR standard which is determined ideally or the best is more than 8% and it can be said to be healthy.

Based on the test results using the Independent Samples Test on the CAR variable both before and during the Covid-19 pandemic. The test results show that there is no significant difference between Islamic Banks and Conventional Banks.

The results of this study are different from research conducted by Balgis et al. (2017) who conducted a comparative analysis of financial performance on Islamic Banks and Conventional Banks, which stated that there were significant differences. However, it has something in common, namely where the CAR of Islamic Banks is better than Conventional Banks [8].

Comparison of the Financial Performance of Sharia Banks and Conventional Banks based on Non Performing Loans (NPL) / Non Performing Financing (NPF)

Based on the results of the analysis of the value of the NPL ratio and the average value for quarter 2, 3, 4 of 2019 and quarter 1, 2, 3 of 2020 in Islamic Banks and Conventional Banks which were then carried out comparisons before and during the Covid-19 pandemic, shows that the NPF ratio owned by Islamic banks is on average 2.46% and 1.87% higher than the NPL of Conventional Banks, namely 0.87% and 0.54%, especially for the Covid-19 pandemic, because the theory states that the greater the value of the NPL ratio it shows that the more the bank is in an unhealthy condition due to problematic financing which can cause the profit to be received by the bank will decrease. That the quality of substandard and non-performing assets will have a negative effect on profitability [9]. So it can be said that Conventional Banks have a better performance in minimizing the risk of non-performing loans than Islamic Banks. Although both NPL ratios can be said to be healthy or ideal where, there are provisions or provisions in Bank Indonesia (BI) that the ideal or best NPL standard is 0.00% - ≤ 10.35% and this can be said to be healthy[10].

Based on the test results using the Independent Samples Test on the NPL / NPF variable both before and during the Covid-19 pandemic. The test results show that there is no significant difference between Islamic Banks and Conventional Banks.

The results of this study contrary to the research of Thayib et al (2017) which found that there is a significant difference in NPL of Islamic Banks and Conventional Banks.

Comparison of the Financial Performance of Islamic Banks and Conventional Banks based on Return on Assets (ROA)

Based on the results of the analysis of the ROA ratio value and the average value for quarter 2, 3, 4 of 2019 and quarter 1, 2, 3 of 2020 in Islamic Banks and Conventional Banks which were then carried out comparisons before and during the Covid-19 pandemic, shows that the ROA ratio owned by Islamic Banks is on average 1.26% and 1.66% lower than the ROA of Conventional Banks, namely 2.94% and 3.12% especially for the Covid-19 pandemic, based on the theory that the greater or higher the ROA ratio value, then indicates that the bank is increasingly managing or using its assets in order to get a profit [11]. So it can be said that Conventional Banks have a better performance than Islamic Banks.

Based on the results of testing using Independent Samples Test on the ROA variable both before and during the Covid-19 pandemic. The test results show that there is a significant difference between Islamic Banks and Conventional Banks[12].

The results of this study are supported or consistent with research conducted by Riftiasari et al (2020) who analyzed the financial performance of BCA Conventional Banks and BCA Syariah Banks due to the impact of the Covid-19 pandemic, which states that there are significant differences.

Comparing the Financial Performance of Sharia Banks with Conventional Banks based on the Loan to Deposit Ratio (LDR) / Financing Deposit Ratio (FDR)

Based on the results of the analysis of the value of the LDR ratio and the average value for quarters 2, 3, 4 of 2019 and quarters 1, 2, 3 of 2020 in Islamic Banks and Conventional Banks which are then carried out comparisons before and during the Covid-19 pandemic, indicates that the LDR ratioIslamic banks owned an average of 84.65% and 79.38% lower than the LDR of Conventional Banks, namely 94.71% and 92.52% especially for the Covid-19 pandemic, based on the theory that a high LDR ratio indicates that the bank lent all its funds and was relatively not liquid. Conversely, a low ratio indicates that the bank is liquid with excess capacity of funds that are ready to be lent [13]. So it can be said that Islamic banks have a better performance than conventional banks. Although both LDR ratios can be said to be healthy or ideal where, there are provisions or provisions in Bank Indonesia (BI) that the ideal or best LDR standard is less than 94.75% and this can be said to be healthy.

Based on the results of testing using Independent Samples Test on the LDR variable before the Covid-19 pandemic. The test results show that there is a significant difference between Islamic Banks and Conventional Banks. Meanwhile, at the time of the Covid-19 pandemic there was no significant difference between Islamic banks and conventional banks.

The results of this study are supported or consistent with research conducted by Dwi Umardani et al (2016) who conducted a comparative analysis of the financial performance of Islamic banks and conventional banks. stated that there was a significant difference before the Covid-19 pandemic. While the results of research at the time of the Covid-19 pandemic, there were no studies comparing Islamic banks and conventional banks on the LDR / FDR ratio.

Comparison of the Financial Performance of Sharia Banks and Conventional Banks based on the Efficiency Ratio of Operational Costs to Operating Income (BOPO)

Based on the results of the analysis of the value of the BOPO ratio and the average value for quarters 2, 3, 4 of 2019 and quarters 1, 2, 3 of 2020 in Islamic Banks and Conventional Banks which were then carried out comparisons before and during the Covid-19 pandemic, shows that the BOPO ratio owned by Islamic Banks is on average 86.83% and 83.19% higher than the LDR of Conventional Banks, namely 70.13 and 69.71% especially for the Covid-19 pandemic, because the theory states that the lower the BOPO ratio value, it shows that the more efficient banks are in managing their operational costs [14].

So it can be said that Conventional Banks have a better performance than Conventional Banks to be able to generate profits by increasing their operating income and minimizing operational costs incurred. Even though the BOPO ratio of both can be said to be healthy or ideal where, there are provisionsor the provisions in Bank Indonesia (BI) that regarding the minimum capital adequacy requirement, that the ideal or best BOPO standard is below 93.52% and this can be said to be healthy.

Based on the test results using the Independent Samples Test on the BOPO variable in the period before the Covid-19 pandemic. The test results show that there is a significant difference between Islamic Banks and Conventional Banks. Meanwhile, at the time of the Covid-19 pandemic there was no significant difference between Islamic banks and conventional banks.

Research result before the Covid-19 pandemic was supported or consistent with research conducted by Vivin and Wahyono (2017) which examined the comparative analysis of the financial performance of Islamic commercial banks and conventional commercial banks in Indonesia, which stated that the results of their research were significant differences. While the results of research at the time of the Covid-19 pandemic, there were no studies comparing Islamic banks and conventional banks on the BOPO ratio.

4. Conclusion

Based on the results of this study, the financial performance of Islamic Banks and Conventional Banks in the period before the Covid-19 pandemic, namely there are significant differences in the variables Return on Assets (ROA), Loan to Deposit Ratio (LDR) / Financing Deposit Ratio (FDR), and Costs. Operations to Operational Income (BOPO), while in the variable Capital Adequacy Ratio (CAR), Non Performing Loans (NPL) / Non Performing Financing (NPF) there is no significant difference between Islamic Banks and Conventional Banks. As for the period of the Covid-19 pandemic, the financial performance of Islamic banks and conventional banks was that there was a significant difference in the Return on Assets (ROA) variable, while the variable Capital Adequacy Ratio (CAR), Non Performing Loan (NPL) / Non Performing Financing (NPF),

From the results of the conclusions in this study, the authors provide suggestions as follows:

1. For Sharia Commercial Banks
   Based on research data, the profitability ratio of Islamic banking ROA is almost close to the limit set by Bank Indonesia. So that the management of Islamic banks in improving financial performance through bank profitability during the Covid-19 pandemic, which is still ongoing, it should pay attention to aspects of capital, asset quality, liquidity, and cost efficiency. And it is also advisable for Islamic banks to reduce unnecessary operational costs, for example reducing banking products and services that cause high costs.
2. For Conventional Commercial Banks
   Based on research data, the average CAR capital ratio of conventional banks is still lower than Islamic banking. Conventional banks must pay more attention to capital requirements in any financing expansion they make. In the conditions of the Covid-19 pandemic, conventional banks should immediately strengthen their capital to anticipate the high risk that occurs due to the impact of Covid-19.
3. Share future research
   In further research, it is expected to be able to add to the research period because the Covid-19 pandemic in Indonesia is still ongoing. It is hoped that further research can use more banking samples so that the results of the research will be more generalized and can help those who need information about bank financial performance during the Covid-19 pandemic.

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Legal Protection on The Rights of Blind Persons in Public Facilities Services in Makassar City

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Abstract

The gap between public facilities services for normal people and blind persons in Makassar City, still cannot be fully resolved. Blind persons are seen as a burden oftenly which results in their position that being neglected even more. This study aims to (1) find out the implementation of the Convention on The Rights of Persons with Disabilities in fulfilling the rights of blind persons to public facilities in Makassar City, (2) to find out the strategy of the Government of Makassar City in fulfilling the rights of blind persons to obtain public facilities. This research is normative-empirical, research location in Makassar City. Techniques and data collection through literature and interviews. The results of the study show that (1) the implementation of the Convention on The Rights of Persons with Disabilities in fulfilling the rights of public facilities for blind people in Makassar has not been fully implemented even though there is a Regional Regulation regarding the fulfillment of the rights of blind people, due to the lack of available public facilities. 2) the strategy of the Government of Makassar City in fulfilling the rights of blind persons in obtaining public facilities is to provide friendly facilities for blind persons such as guiding blocks on sidewalks.
Keywords: Protection, Blind Persons, Public Facilities Services.

1. Introduction

One form of human rights (HAM) is when everyone gets the same rights regardless of the background of one's shortcomings. As a democratic country, the government is obliged to guarantee and protect the human rights of its citizens, as well as in providing public facilities that are not only based on a sense of security and comfort for users but can also be right on target. Human rights are not limited to normal citizens in general, but also people with disabilities, one of which is blind.

Persons with disabilities are each individual who encounters physical, scholarly, mental, and/or tangible impediments for an extensive stretch of time who in associating with the climate may encounter deterrents and challenges to partake completely and adequately with different residents dependent on equivalent rights [1]. According to the World Health Organization, in 2018 more than one billion people from the world's seven billion people live with physical limitations and it continues to increase every year. The increase in chronic diseases such as diabetes, cancer and mental disorders is the reason for the increase in disability [2].

However, having limitations is not an obstacle in fighting for the rights of persons with disabilities. Moreover, constitutionally persons with disabilities must be viewed and treated equally as citizens. Persons with disabilities are not a disgrace that must be covered up and ignored by the state, it is appropriate for the government and society to embrace and recognize the existence of persons with disabilities as brothers of humanity.

This is comparative as what to Yulia A Hasan passed on in her journal, which said that public advancement is the obligation of all Indonesian residents which ought to be completed together. "National development is the mandate of all the people of Indonesia should be implemented together, by the Central Government and local governments as well as all elements of the nation. The construction was carried out by all the Nations of Indonesia, in all aspects of public life during this time, gradually has been able to improve the welfare and improvement of the sense of security the majority of the community" [3].

So based on the description on how the persons with disabilities has to deal with those struggles. There are the matters that will be discussed as formulation of the problem been collected. That are:

a. How is the implementation of the Convention on the Rights of Persons with Disabilities in the legislation for the fulfillment of public facilities for blind persons?
b. What is the strategy of the Makassar City government in fulfilling the rights of blind persons to obtain public facilities in Makassar City?

2. Methods

In perusing the data. This research used a qualitative descriptive method. Qualitative descriptive analysis is data analysis that classifies and selects data obtained from field research according to its quality and truth, then is linked with theories and legal principles obtained from literature studies in order to find answers to formulated problems. The type of research that I use is the normative-empirical research type. The normative-empirical legal research method is a combination of the normative legal approach with the addition of empirical elements. The purpose of research with the normative-empirical research method is to see how the implementation of normative law (legislation) works by looking at the facts that exist in certain legal events that occur in a society. The research location is the city of Makassar. Through the data collection was accomplished by literature study, interviews, and observation.

3. Research Results and Discussion

3.1. Covention on The Rights of Persons With Disabilities

In the interaction of the increasingly complex global world, various global values have emerged which have become benchmarks and generalizations for each country. One of them is Human Rights (HAM). Thus, when human rights violations occur in various countries, it is considered a threat to national and international security. Human rights values are universal values whose respect is respect for humanity.

Even so, human rights violations continue to occur, such as discrimination. Where there are certain groups who are not treated the same as people in general. They are ignored, ostracized, and sometimes even tortured. They are people with disabilities who are often seen as a mental, physical and intellectual burden.

Particularly in developing countries such as Indonesia, the neglect of the diffable problem is caused by the existence of socio-cultural factors, in addition to economic factors and weak policies and law enforcement that favor the diffable community. This causes people with disabilities to be neglected in all aspects of life. There are more people with disabilities who are unemployed or who cannot get an education than non-disabled people who get decent jobs and education. The problem of diffability and disability or diffability is structurally positioned as something that is disfigured by society and the government in various parts of the country [4].

For this reason, the Convention on The Rights of Persons With Disabilities was born. The Convention on the Rights of Persons with Disabilities was first held at the headquarters of the United Nations (UN) in New York, United States on 13 December 2006 and entered into force on 8 May 2008. This convention was signed by 160 countries out of a total of 173 participating parties. this agreement.

The purpose of this Convention is to shows, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms for all persons with disabilities, and to promote respect for the dignity inherent as an integral part [5]. There are 8 principles that inspired the birth of the Convention on the Rights of Persons with Disabilities, namely [6]:

a. Respect for inherent dignity, individual autonomy; including freedom of choice and individual liberty;
b. Non-discrimination;
c. Full and effective participation and participation in society;
d. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;

e. Equality of opportunity;
f. Accessibility;
g. Equality between men and women;
h. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to defend their identity.

As a participants of the Convention on the Rights of Persons with Disabilities, States parties undertake to guarantee and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination in any form on the basis of disability. To that end, the States Parties undertake to [7]:

a. Adopt all statutory, administrative and other policy laws as appropriate for the implementation of the rights recognized in this Convention;
b. Take all appropriate policies, including laws and regulations, to change or revoke applicable legal provisions, regulations, customs and practices that contain elements of discrimination against persons with disabilities;
c. Taking into account the protection and promotion of the human rights of persons with disabilities in all policies and programs;
d. Refrain from engaging in any act or practice that is contrary to this Convention and ensures that public authorities and institutions act in accordance with this Convention;
e. Take all appropriate measures to eliminate discrimination based on disability by any private person, organization or institution;
f. Carrying out or promoting research and development of goods, services, equipment and facilities of universal design, as defined in Article 2 of this Convention, which require the minimum possible adjustment and the least cost to meet the special needs of persons with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;
g. Carry out or promote research and development, and to promote the availability and use of new technologies, including information and communication technologies, mobility aids, assistive devices and technologies, suitable for persons with disabilities, by giving priority to technology at affordable costs;
h. Provide accessible information to persons with disabilities regarding mobility aids, assistive equipment and technology for persons with disabilities, including new technologies and other forms of assistance, services and support facilities;
i. Promote training of professionals and personnel working with persons with disabilities in human rights as recognized in this Convention so that they are more able to provide the assistance and services guaranteed by these rights.

The Convention on the Rights of Persons with Disabilities perceives that inability is a developing idea and that handicap results from associations between people with incapacities and mentalities and a climate that thwarts their full and successful support in the public eye on an equivalent premise with others. Perceiving that victimization everybody based on an incapacity is an infringement of the nobility and qualities characteristic in everybody, Recognizing additionally the variety of persons with disabilities.

3.2. Ratification of Covention on The Rights of Persons With Disabilities.

The relationship between domestic law law and international law is the most important matters. There is the difference between international law and domestic law. Both of which can complement each other to form a rule that can be used as a guide in behaving in accordance with the objectives or purposes of making these rules [8]. In principle, if an international rule is to be applied to a country, then the international rule must be changed. become a national law, if required by the state constitution [9].

The Republic of Indonesia which is based on Pancasila and the 1945 Constitution of the Republic of Indonesia respects and upholds human dignity. Human rights as basic rights that are inherently human, universal and lasting, are also protected, respected and defended by the Republic of Indonesia,

so that the protection and promotion of human rights for vulnerable groups, especially persons with disabilities, need to be improved.

On December 13, 2006, the United Nations General Assembly issued Resolution Number A/ 61/106 about the Convention on the Rights of Persons with Disabilities. The resolution contains the rights of persons with disabilities and states that steps will be taken to ensure the implementation of this convention [10]. The Indonesian government has signed the Convention on the Rights of Persons with Disabilities. The signing shows that Indonesia attaches great importance to respecting, protecting, realizing and promoting the rights of persons with disabilities, which in turn is expected to realize the welfare of persons with disabilities. Departing from that, not only signing it, Indonesia is deemed necessary to immediately ratify the Convention on the Rights of Persons with Disabilities so that Indonesia has an additional legal framework in protecting, guaranteeing and advancing the rights of persons with disabilities.

Based on Law Number 24 of 2000 about International Treaties, it is regulated in Article 10 letter (d) that the ratification of international treaties in the field of human rights and the environment is carried out by law [11]. With the ratification of the Convention on the Rights of Persons with Disabilities by the Indonesian government, the Indonesian government is lawfully obliged to change the laws, guidelines, laws and regulatory administration of different nations, including evolving laws, to understand the rights contained in the Convention. The laws, guidelines, customs and practices that oppress ladies and ladies with handicaps guarantee that the incapacitated take part in all parts of life, like instruction, medical services, work, legislative issues, sports, craftsmanship and culture as innovation, data and correspondence.

However, this Law is not sufficient to guarantee the rights of persons with disabilities. There needs to be another legal umbrella that truly guarantees and protects persons with disabilities. At the formal juridical level, the next steps to fulfill the human rights of Persons with Disabilities must start from the existence of a Regional Regulation (Perda) which guarantees the fulfillment of the human rights of Persons with Disabilities. South Sulawesi Province has issued Provincial Regulation Number 5 of 2016 about Protection and Services for Persons with Disabilities.

3.3. Public Facilities.

Public facilities are means provided for the public interest, such as sidewalks, road name signs and pedestrian bridges. The facilities provided are facilities that make it easy for the community so that they must be properly maintained. One of the supporting public facilities for blind people is the availability of guiding blocks made of ceramics that have a special design as a sign that is specifically for blind people.

Persons with disabilities have the full right to be given easy access to all facilities in public buildings and in the surrounding environment like other people. This Regulation of the Minister of Public Works No. 30/PRT/M/2006 is a follow-up to Article 18 of Government Regulation No. 43 of 1998 about Efforts to Improve the Welfare of Persons with Disabilities.

Guiding block is working to guide the visually impaired, on this textured floor there is a braile-inspired pattern for the visually impaired to walk forward or stop at the right time. With a guide that can avoid dangerous risks such as hitting other pedestrians, trees, and objects around blind people so that it will provide a sense of security and comfort when walking.

3.4. Implementation of the Convention on The Rights of Persons With Disabilites.

The government is the most important state instrument in guaranteeing and protecting the rights of blind persons in obtaining facilities, one of which is obtaining friendly public facilities for blind people. Endeavors to give legitimate assurance to the position, rights, commitments and jobs of people with inabilities, notwithstanding the Law on Persons with Disabilities, have additionally been helped out through different laws and guidelines, one of which is the guideline that directs public office administration issues. This guideline ensures that equivalent chances for people with incapacities in the

fields it covers, and in the structure of furnishing this assurance to people with inabilities are given offices.

Since the the first, the Government of Indonesia has made efforts to increase understanding and awareness of persons with disabilities. As a signatory to the show on the Rights of Persons with Disabilities, Indonesia sanctioned Law Number 19 of 2011 about the Ratification of the Convention on the Rights of Persons with Disabilities, exhibiting the responsibility and earnestness of the Indonesian Government to regard, ensure and satisfy the privileges of people with disabilities [12]. In the end, it is hoped that it can improve the welfare of persons with disabilities. Indonesia also has Law Number 8 of 2016 about Persons with Disabilities which replaces Law Number 4 of 1997 about Persons with Disabilities who are considered not to have a basic liberties viewpoint, It is more caring and the satisfaction of the privileges of people with disabilities is as yet seen as a social issue where arrangements to satisfy their privileges are just as government backed retirement, social restoration, social help and improvement of social government assistance. People with handicaps ought to have equivalent freedoms in endeavors to create themselves through autonomy as individuals with respect.[15]

In any case, this Law isn't adequate to ensure the privileges of people with incapacities. There should be another lawful umbrella that really ensures and secures people with inabilities. At the formal juridical level, the subsequent stages to satisfy the basic liberties of Persons with Disabilities should begin from the presence of a Regional Regulation (Perda) which ensures the satisfaction of the basic freedoms of Persons with Disabilities. South Sulawesi Province has given Provincial Regulation Number 5 of 2016 about Protection and Services for Persons with disabilities.

Long before that, the Makassar City Government had issued Makassar City Regional Regulation Number 6 of 2013 about the Fulfillment of the Rights of Persons with Disabilities. The Makassar City Government as the executor of the running of the Government wishes to continuously uphold and advance the protection and guarantee of Human Rights (HAM) in social life.

In article 1 point 6 of the Makassar City Regional Regulation Number 6 of 2013 about the Fulfillment of the Rights of Persons with Disabilities, it is clarified that people with disabilities are individuals who have physical, mental, scholarly or tactile limits for a significant stretch of time where when confronted with different impediments, this can prevent their full investment and viability in the public arena on an equivalent premise with others. As per Article 4 passage (1) of Law Number 8 of 2016 about Persons with Disabilities, daze people are named people with actual disability.

4. Conclusion

The implementation of the convention on the rights of persons with disabilities in Makassar City is the spearhead which is very influential in protecting and guaranteeing the rights of blind persons. The availability of the Makassar City Regional Regulation which specifically regulates the fulfillment of the rights of persons with disabilities has become evidence of the seriousness of the Makassar City Government in dealing with social inequality between blind people and normal people in general in obtaining public facilities. However, equal distribution of public facilities for blind people still cannot be fully utilized and felt.

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Blurred the Meaning of the Word Violation Becomes the Meaning of Crime in the Perspective of Human Rights Violations

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Abstract

Meaning, is a deliberate attempt or neglect of individuals or individuals. institutions that mix up the words violation and crime in the formulation of criminal laws and / or in*law enforcement*, thus causing subjective assessments of the administrators and / or state institutions / institutions, which in turn undermines the authority of the law. The case of Habib Riziek Syihab and / or other cases, are examples of the application of the word crimes and violations that are suspected or charged by placing the word crime which is not in its place, but academically is an act of violation. Therefore, if the suspect is still convicted, whose violation is led to a crime, will end in jail, then imprisonment is a force forcing a citizen to be confined without any more rights to freedom (although not for long) or (imprisonment for someone not because of a crime), then The imprisonment is a decision indicating human rights violations, meaning that the judiciary has violated human rights. When someone has committed an offense, then the legal apparatus in a planned, structured, and massive manner directs a suspect to an act of crime, then that should lead to a human rights violation. In the future, if the HRS case ends in imprisonment, then the commissions (judicial and police) do not respond, then legal experts and intellectuals should encourage the Human Rights Commission to conduct examinations of the parties involved in the imprisonment.
Keywords: Crime; Obfuscation; Offense.

1. Introduction

Interpreting human rights in the perspective of the meaning or meaning of the word human as referred to in human rights, can contain various meanings, diversity may be due to various interests, this is academically fine as long as it can be accepted in adequate academic arguments.

Human rights as something that is always in touch with "criminal law" and socio-cultural "politics". Human rights will always be actual if it is related to the phenomenon of legal and political developments in the midst of society, maybe because this last year (apart from parts of the Middle East) open warfare is no longer phenomenal, because in fact it is laden with human rights violations, meaning that it is no longer It is the main form of conquest of a State to another country, because it is easily and clearly visible (human rights violations in the form of war crimes), which are classically easy to see with the spotlight on many human rights violations. Therefore, in its development, it may be that through the phenomenon of political, economic, social and cultural life and the tendency of human rights violations to be more of a political phenomenon through "power politics".

In society there are differences in responding to the meaning of the words crime and violations and leading to errors in understanding the meaning, the meaning and nature of crimes and violations. As for the community referred to here, there are three layers, namely; a) *The man on the street* (layman). b) the second layer among *the student* (students). c) *the yuristen* (experts / law students) [1].

The three layers of society, everyone's hope, that the legal experts / intellectuals (yuristen) will be able to provide legal explanations to. However, the reality is that even in the midst of the law, there

are still difficulties in the development of the law that occurs. Interpreting and understanding the words and meanings of violations and crimes in a definitive perspective of human rights violations, it is not easy to define or give a clear and firm understanding. However, as an introduction, this can be defined simply, that is, if the source of the perpetrator comes from a group of people, individuals who form an organization (State or the like), deliberately with the intention and intention of depriving themselves of the right to live freely without confinement (imprisonment), injuring, harassing or killing a group of people, organization (State or the like) or also to a person or individual. Likewise, if the victim is an individual, or perhaps in a criminal or colloquial term it is usually called "beatings or keroyok", against the victim, the perpetrator is a group of organizations (State and the like) and does so in an organized, systemic and planned manner [2].

2. Method

This research uses qualitative research with a case study approach. The case being studied is the case that befell Habib Rizieq Syihab as one of the influential religious leaders in Indonesia [3]. In addition, the human rights approach is also an urgent matter when it is associated with this phenomenal case.

3. Result and Discussion

Regarding the word effort carried out in an organized, planned and systematic manner, it is usually always associated with the State (as an organization of power). Although it is recognized in various theories of power politics, that the realization of an objective desired by the owners of power, namely all means must be done and eliminating efforts to block the goals they set "*macchiavelisme / machiavelli*", if this happens then the State will lead to the State. power, while in modern countries, the law is a tool of direction, in the sense of law that is appropriate, in harmony and with the heart, soul and mind, both in the sense of unwritten law and the words written in the Law, in the sense that it is not the law that is interpreted according to the will of the momentary interest in power.

In the relation of law, human rights and power in theory in certain matters cannot be reconciled, however in practice, both formulation and implementation are often equated as "forced", especially in the application of law [4]. This means that a criminal act in the form of a legal violation committed by a person / individual is forced or prosecuted as a form of crime, meaning that this coercion will lead to imprisonment, imprisonment is a violation of human rights by the State (termination or loss of a person's rights to live freely without being confined), so that which case against the victim guilty of an act of infringement and not imprisonment when it is fulfilled or has fulfilled its obligations sanctions (administrative fines), but for being forced into the realm of imprisonment "criminalization", then the content, substance and quality of prison terms is, well qualified*"criminal"*Likewise, if it is decided by the state prosecutor (meaning the contents of the request and decision are the same), then the realm that occurs is that the state / public prosecutor has committed human rights violations by imprisoning someone for the act / act or offense of violation. This means that the consequences of imprisonment can be prosecuted again or the prosecutor is wrong in taking / and interpreting, as well as the judge is wrong / wrong in carrying out the law so that the offender's mistake cannot be prosecuted or sentenced to imprisonment,

3.1. Prosecutors, Judges and Independence

In the Indonesian judicial system, where the defendants are more Many hope for the ability of lawyers' arguments and the point of view of judges who are just and intellectual, because they hope that the State apparatus (prosecutors) who obey and are appropriate to the Law are not accompanied by a deep understanding of the true meaning of the content, substance and system of a Law, then, the subjective element (the influence of power) will easily follow, meaning that prosecutors cannot do

much if part of themselves (the executive) and if the leadership (executive) takes part directly or indirectly in the tasks of suing the prosecutors.

Judges in the constitution and existing laws are given powers in the form of independence in making decisions. However, in practice, attitudes. Independence can only be seen in cases that do not contain political aspects of the governmental power at that time (regime). Sometimes what happened was due to pragmatic steps, what a judge presented or brought up by the prosecutor in the trial, sometimes it was not too far from what was being demanded or there was no courage who dared to be far different. Therefore, the highest hope of society lies in judges who have integrity and intelligence, who are able to understand all aspects surrounding a legal action, whether in the realm of violation or in the realm of crime.

3.2. Actualization of Human Rights Development in the Realm of Law

Human speaking in the human rights study is an object, of course it must be separated from humans (people) in different contexts, especially in criminal legislation. Humans in the context of criminal law are individuals, so that in action and accountability through the door of the general court, while the human rights court through the door of the human rights court, Human

issues referred to in human rights are a group of people who are bound due to various relationships, among others, because of one strength of national unity, religious unity, ethnicity, body color RAS. and physical beliefs, beliefs recognized by a nation, and others. Human rights issues in the context of law, of course, are more in the form of crimes and violations, human rights issues can only be seen and / or resolved in a very stingy way, it requires thoroughness, thoroughness and cleanliness of the heart by releasing subjective elements for those who are assigned to solve, in the form of punishing or reconcile (reconcile).

Humans as objects in human rights, of course what is meant are a group of people, as mentioned above. As for the State as a part of being a violator and also being a victim of human rights. Therefore, attacks, occupation, "infiltration" from one country to another, which are not preceded by notification of the attack or with news of the attack, but the attack deviates from the legal principles of fighting "war crimes", then it is part of a human rights violation. Likewise, the act of attacking (killing, injuring or at the very least harassing) a group of people (a group formed because of, similarities, beliefs, ideas, "psychic" and physical ideology) as mentioned earlier.

Therefore, the word “broad meaning” in human rights terms means: (1) there is a crime and, (2) there is a violation or “violation in the narrow sense”. Therefore, in an act, an act, a criminal offense, in addition to a crime, it is also a violation as a human rights violation, if it is committed by a group of people who have formed themselves because of the interests of "the State". Even though the victims are individuals or individuals.

Formulate an understanding as to what is meant by human rights violations in various aspects, dimensions and points of view of a criminal event or criminal act, especially in relation to human activities, activities or behavior that can be categorized as a criminal act or a violation of violations in legislation, firm formulation. about in a constitution and legislation, it is not found, but academic subjectively it can be interpreted that, the meaning and nature of the meaning of an existing law or legislation, however in its meaning and application has deviated from the true meaning of the purpose of punishment in the form of the implementation of sanctions that are in nature. what should or should be from the presence of an existing law (UU), whether a fine (administrative) or imprisonment.

3.3. Law, Human Rights and HRS

The formulation of legal objectives and human rights objectives is a unity of objectives whose target and object is to humanize human beings in their nature, as long as they do not disturb or damage other people around them. The objective of human rights is to always attach to the elements of basic human rights that cannot be disturbed, damaged or eliminated and these rights are given a place of protection, relying on a person or group of people. (ethnicity, nation, state, or institution of power).

Protection of human rights relies on existing laws, so that if the law comes with all its justice, benefits and certainty, which is true, precise and real, that is where human rights are. However, if the law is present with its regulations and / or its application, it is subjective in favor of the power (discriminatory), then at that time there has been a human rights violation. It is known that the current understanding of human rights violations is only when a group of people with a systematic, planned goal makes another group of people helpless (imprisoned, injured or dead).

As for the law in various literatures, the objectives of law generally emphasize one main objective of law, namely the creation of justice for all parties. The word fair in general has a broad dimension covering various aspects of life (ideological, political, economic, social and cultural). However, from a perspective that has a legal objective dimension by several experts, among others, Gustav Raadbruch, put forward three levels of legal objectives, namely; *First*, the goal is to ensure that there is a process and is materialized. *Second*, achieving a benefit for individuals and society. *Third*, achieve a sense of justice for each individual and society [5].

In the relation to the title above which links the actual legal process that is currently running (2021), with regard to the mention of the case of Muhammad Rizieq Bin Husen Syihab (RHS), who was accused of violating the law regarding statutory regulations (Law on Manpower Number 6 of 2018 Article 93 and the Infectious Disease Outbreak Law Number 4 of 1984 article 14 paragraph 1, as well as its derivative regulations) regarding conditions of disease spread (vandemi) epidemic (covid 19). In the legal process, there are meanings that are wrong, blurred or missing, namely the meaning of the words crime and violation.

According to writing is something that is very important and very essential in legal academics to delve deeper into (the essence) of the differences or similarities of the two meanings of the word, because every applicable legislation (positive law), even before it was born and held. The legislators have always determined the areas / domains that are related to crimes and acts, not by mixing them up so that it can happen that law enforcement officers will confuse in the implementation / practice of its application.

It seems that during this time too, there are allegations of the preparation of the Draft Criminal Code (RUUKUHP), regarding the use of the words crime and offense as different things, not reflected in the system, different from the Criminal Code (KUHP). which is currently positive, clearly made in the systematic book 2 (crimes) and book 3 Violations. Although it is acknowledged that many criminal law experts (academics) are aware of this, they also hope that practitioners will know about it, that although many people think that systematics is not what is important, the most important thing is that the essence of meaning is more important.

As a basic understanding of the words evil and offense, two basic words (evil and breaking) are given a prefix and a suffix. The word evil is interpreted as an act whose victim feels the result (physical / psychological pain) is instantaneous or relatively fast, is being violated, the victim does not immediately feel (physical / psychological pain), relatively long waits even the victim may not feel pain, the existence of sanctions on systematic violations, can also be considered to be anticipatory (guarding the possibilities).

The source of the word meanings of evil basically originates from the conscience of the individual which is guaranteed by all individuals who are aware and it is hoped that the existence of laws / laws will be legalized by the (UU) of the state, by which the consequences of sanctions (perpetrators) are in the form of feelings of pain as experienced by victims, so that the sanctions There are no alternative options, only in the form (imprisonment to death penalty). The"*theory of retributionretribution theory" (vergeldings theorien)* [6].

As one of the objectives of establishing a law towards an orderly, orderly and safe society "The law of social engineering tools" (law as a tool of social engineering) and accompanied by or accompanied by authoritative legal officials, society and the state are repaired, directed and engineered, then the autonomous function of the state forms the law for the benefit of its people (domain of violation) and vice versa, the autonomous function of society forms the law for the benefit of the state (the domain of crime) [7].

The words crime and violation, in general and in everyday speech are not separated, in general the word violation is not a violation, which means a trapping of an act of a person or group of people in a law or law that has been compiled in an existing legislation (UU and other derivatives or organic

rules). The colloquial language of violating academically contains two domains of action, namely crime and violation, two different things because of the nature of the act, the purpose and the different types of sanctions (imprisonment and administrative fines).

In theory, the prosecutor's office is either an individual or an institution of state power (understands and obeys the substance of a law), if in reality the perpetrator is caught and / or is in the domain of crime, then it can be assumed that, namely the perpetrator has committed a crime against the state, is wrong. one indicator of evil to the state, the state immediately or after the perpetrator acts as it is alleged that his actions are appropriate, relevant or academically closely related to the actions of the perpetrator with consequences that occur immediately or not for a long time, resulting in an imbalance in the surrounding community, in the form of illness, death , suffer psychologically (loss of property / long / continuous suffering or loss of life).

However, one of the very important objective elements, as an offense is interpreted as a criminal act, that is, it must be intentionally made / perpetrator, so that the consequences suffered by the victim are instantaneous and / or the result of the perpetrator's actions, although not instantaneous, must be not long or counting days, namely not more than 1 (one) day. If the perpetrator's act is negligence, then it is not a crime, but a violation, even though the victim has suffered (loss of life and property).

As for the meaning of loss of life and property, as a result of a crime and leading to imprisonment, although in a systematic crime automatically ends in imprisonment, this is not the case, this is not the case if the victim immediately loses life or property, but the perpetrator's actions are not intentionally , just because the perpetrator's negligence caused another person (victim) to lose his life or property, then the pending sanction is not instantaneous imprisonment, but rather the provision of civil compensation and / or fines.

The concept above is actually closer to the concept in Saudi Arabia, the Middle East and several other Islamic countries, if the perpetrator does not have an element or has no intention of intent, only because of his negligence, then the victim who has lost his life or property, does not necessarily sue. In return for imprisonment or death penalty, if it is proven to be negligent or a complete accident, the panel of judges asks the victim or the victim's family to accept the perpetrator's apology accompanied by compensation or a “” fine*diyat*for blood for the victim who suffered or the victim's family who lost his life.

The case of "accident / negligence" around 2016, the case of an Indonesian female worker (TKW) who was accused of murdering an employer in Saudi Arabia and the man who was a Saudi Arabian citizen lost his life, was tried on the advice of the panel of judges asking the perpetrator to apologize to the family (the wife) of the victim and the wife of the victim forgave, provided the perpetrator paid a blood fee of “*diyat*” because the act of taking his life was a crime that must also be punished by death, but what happened in the trial the perpetrator was proven but not intentionally to kill or eliminate the life of the person concerned.

The description of the meaning of crimes and violations in positive law (Indonesia) and criminal law in other countries, in criminal action, is more directed at the realization of justice by reducing imprisonment and death sentences, as well as respecting human rights in the form of the right to life, legal protection rights and other rights. Although the death penalty still exists, especially for the perpetrators of crimes that are very dangerous to the state and society. There are similarities in the meaning of the concept of retaliation theory in the context of the Islamic State and universally in the laws of the West Erofah and America.

3.4. The Purpose of The Relative Use and Universal Use of a Law

The existence of the word violation which the perpetrator is called a violation and is given a suffix originates from the agreement of individuals (organizations, institutions and countries) whose presence of laws / laws is not necessarily true / relatively undesirable (not guaranteed) by all individuals. Existing individuals, so that the sanctions are regulatory and enforceable in the form of alternative alternative crimes (administrative fines) or imprisonment.

The above link, the anxiety of academics who are concerned about this at the moment (HRS case) becomes aware and aware, as well as a test or test, especially for legal practitioners (judges, prosecutors and lawyers), whether they (practitioners) really understand, or do they (practitioners) just

memorize (without spirit) by assuming that there is no essential difference so that they (practitioners) feel no guilt, or maybe they lack knowledge (intellect) or they (practitioners) know that they are more concerned with their interests. momentary (political or rank / position).

Law enforcement, often infiltrated by political interests, the political interests of a case will lead to criminalization. The design of criminalization is usually directed, criminalization of personalization and criminalization of law that is vague or vague in the form of rubber articles, multi-interpretation (legal articles*interpretative*), easily formed according to the wishes of interested parties (usually from the authorities or parties serving power). One form of criminalization is in the form of a law / law which is interpreted as an offense / event / deed / offense, but is used by the state or an unscrupulous practitioner as an offense / event / act / crime. These methods or methods will drop the authority of the legal apparatus or rulers before the public and legal academics / intellectuals.

The Anti-Manpower Law is made as a community regulator if the community / State declares an emergency due to, among other things, an epidemic. This law is more likely that the state is more placed as a helper in society's difficulties. Experts see the consequences of this law more on the perpetrator being called an act of violation, if the derivative of the rules for the implementation of the action is usually called a protocol which has the consequence that the sanction of the perpetrator is called a violation and the form of the main sanction is a fine, not being herded as a crime and then accused of being linked to the articles of crime in the Criminal Code. So it is true what has been argued by some legal experts, that the “HRS” case is more of a violation, then the fulfillment of the fine has been missed, so there is no longer any connection with the legal apparatus, but if the State still withdraws that person as 'HRS', into the realm of Criminal Code that contains criminal articles in the Criminal Code, then there has been a violation of human rights against someone, namely in the form of rights that are not equal to people (discrimination) of law against people for the same actions as other people, so that the correct meaning of law is the same as the application for law It is not that the meaning of law is different in its application, because it follows the flow of opinion of many people who want the political will for power.

A disease outbreak is non-physical, a disease outbreak (Vandemic) can only be marked if a person is physically abnormal and has also been marked or given a statement by an expert (doctor), so that if the person who has been marked is intentionally with the intention of joining other humans and hiding the disease so that other people around him get sick, then that person is called evil (a crime) for his actions subject to the criminal act with the main sanction of imprisonment (KUHP).

As a question about the unclear, which part of the content or certain articles in Law No. 6/2018 Concerning Quarantine and Health and Law No.4 / 1984 on infectious disease outbreaks. which indicates that it contains a criminal act and which would deserve to end in imprisonment and which part is the content / article that contains an act of violation that ends in imprisonment if, it is not covered by administrative fines. Therefore, an existence law must be clearly structured systematically in its regulation and also reflected in the title of naming a law.

In the lessons that are known to be obtained by the bench, that the categorization of the quality of crime, that is recognized and realized by each perpetrator of the crime, crymminologically and socially are dangerous people and the impact and consequences of the activities of their actions, are universally recognized as permanent from the past until now and in the future. Human existence is stated to be an act that is disliked, hated because it should be removed from the surrounding community, and usually the type of action part of that behavior is reflected in the social, legal and religious principles of its adherents and generally the initiative of the birth of the law from the community ,, by the state. and society sees it objectively so that the implication of the sanctions is the deprivation of liberty either temporarily (imprisonment) or for a long time (death penalty or death for life).

Distinguishing an act, event, action or offense, related to the meaning of the words crime and offense, especially the word crime by Jonkers in Zainal Abidin Farid's book, that regarding "crime" isas "*categorizedrechtsdelicten", an* act which is very unfair according to philosophy, that is not dependent in the existing criminal provisions, but exist and are felt in the human consciousness, in the form of human inner awareness that the act is an invalid, illegitimate act determined by law. Zainal Farid Abidin explained more clearly, that offense is a disgraceful act by the community and the maker

should be given a criminal sanction, regardless of the existing criminal provisions. This means that the evil of the act was due to the public's judgment and was then determined by law as a crime [8].

By Jonkers above, who agrees with Andi Zainal Abidin, then the matter of the word violation does not have to have the same quality as criminals whose actions are very disgraceful to the surrounding humans, from the past until now and apply universally, so it can be said that the quality of the elements of a violations cannot be forced into criminal offenses, because they are very different from the nature and philosophy of the two things, because the nature of an act of crime is irreversible, a change in time, humans are being violations that can relatively change or disappear at any time because of the human condition, the nation. , or governmental power.

Strengthening the opinion, Jonkers and A. Zainal Abidin above, regarding crimes and violations, as stated by Eddy OS Hiariej by quoting his book Piers Baire and James Messerschmidt, that a criminal act or *legal definition of crime* is distinguished by *mala in se,* namely a crime in the form of an act which Since the beginning, it was felt "since humans first existed", as an injustice because it was contrary to the norms in society before it was stipulated in law, is currently *mala prohibita.*is identified with a violation, namely actions that are first stipulated in law, then declared law [9].

As for the categorization of violations, the quality of the value is not universal, limited, relative (long or temporary) depending on the system of state and government policies and sometimes sees it objectively subjectively, so that the many initiatives that are born come from power (the purpose of regulating) and people sometimes see it. a subjectivity, in the form of coercion in its regulation, by which the nature of the sanction is temporary (imprisonment if it avoids a fine) or imposes an administrative fine.

Testing the understanding of legal officials in the current government regime, it may be contaminated by mixing the meaning of the essence and violations in the application of criminal law, it may be deliberate / negligent or ignorance will eat the essence of the two words. It is evident that some experts in criminal law and state administration, among others Muzakkir and Refli Harun, have attempted to discuss in various media that cases involving “HRS” are not the realm of crime, but rather the realm of violations [10].

The technical rules (protocol) derived from several existing laws, even though they exist in theory, are not implemented as a whole (kaffah), but are partial in nature, so that some experts suspect some provisions in the article, only certain articles are used to strengthening of the will of power (politics).

The existence of a distinction in the meaning / essence of the words crime and violation. It is clear in the formulation of the position stratatification formulation that the meaning is clearly different, seen in the Criminal Code (KUHP) as a legal product at that time made by criminal experts / intellectuals / thinkers.

4. Conclusion and Recommendation

4.1. Conclusion

Law, human rights, and power in theory cannot be combined in certain respects, but in practice, both formulation and implementation are often equated with being "forced", especially in the application of law. This means that there is a criminal act in the form of a violation of the law committed by a person/individual being forced or prosecuted as a form of crime, meaning that this coercion will lead to imprisonment, imprisonment is a violation of human rights by the State (the termination or loss of a person's rights to live freely without being confined), so that which case against the victim who is guilty as an act of violation and not imprisonment if it has been fulfilled or has fulfilled its sanctions obligations (administrative fines), but because it is forced into the realm of "criminalization" imprisonment, the content, substance and quality of the demands for imprisonment are also of "criminal" quality. Likewise, if it is decided by the state prosecutor (which means the contents of the demand and decision are the same), then what happens is that the state/public prosecutor has committed a human rights violation by imprisoning someone from the act/action or offense. This means that the consequences of imprisonment can be re-claimed or the prosecution is wrong in taking/and interpreting, as well as the judge being

wrong/mistaken in carrying out the law so that the offender cannot be prosecuted for a crime or sentenced to imprisonment.

Imprisoning a person, not because of a legal error or mistake on people, but rather imposing an inappropriate and incorrect legal rule, then the imprisonment is a violation of the human rights of an existing regime against a person, namely the closing of the rights to enjoy the freedom to work. or other activities.

4.2. Recommendation

The need to re-examine the understanding or strengthen the context of the meaning of the words crime and violation in understanding legal rules, both in text and contextually, without adding or subtracting new norms, this hope is addressed to the Constitutional Court (MK).

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Anti Monopoly Legal Perspective on Rubber Sales as a Leading Product of The Asean Economic Society in Siak District

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Abstract

The problem in this research is How is the Perspective of Anti-Monopoly Law on Rubber Sales as the Superior Product of the Asean Economic Community and what factors cause the monopoly in Siak Regency. The research objective was to determine how the Anti-Monopoly Law Perspective on the Practice of Selling Rubber as a Superior Product of the Asean Economic Community and what factors caused the monopoly. The research method is sociological legal research. Data sources are primary data, secondary data, and tertiary data. Data collection techniques are interview observation and literature review. The results showed that there were allegations of monopoly and unfair business competition, especially oligopsony, in the purchase of rubber by two buyers at low prices against rubber farmers in Mempura. This violates Article 13 of Law No. 5 of 1999. The conclusion in this research is the monopoly of purchasing rubber by oligopsony in Mempura District, Kab. Siak is carried out by two rubber buyers who buy rubber at very cheap prices for rubber farmers. The factors that lead to the rubber monopoly are rubber farmers who mostly carry out rubber agricultural production activities individually so that, there is no futures market as a means of hedging and the selling price of rubber from middlemen, there is no domestic market for trading rubber and rubber is sold to factories. at a low price because it is guided by the price of rubber abroad, namely on the Singapore Commodity Exchange (SICOM).

Keywords: Monopsony; oligopsony; Market domination; Superior products.

1. Introduction

The current globalized and highly integrated economic system provides opportunities and problems for the Indonesian people. In general, Indonesia's natural resource wealth and its market dimensions promise a number of advantages in global competition, foreign investment and export markets. However, the increasingly complex development of the world economy has resulted in intense competition in international trade, both trade in goods and services. Various practices to win the competition are often carried out by business actors in various countries in the world, including by using unfair trade practices.

Likewise with the practice of oligosony that occurred in Mempura. The oligopsony case that occurred in Kel.Sei Mempura occurred in relation to rubber plantation products carried out by the cooperative. In general, the rubber (ojol) that is harvested by the community is directly purchased by the cooperative

Since the enactment of Law Number 5 of 1999, entrepreneurs must be more careful in entering into agreements related to market control and determining cooperation in handling a particular project, especially if the project originates from a tender conducted by a large company. .

Monopsony market features

The characteristics of monopsony are as follows:

a. There is only one buyer.
b. Buyers are not consumers, but traders / producers
c. Goods sold are raw materials.
d. The price is determined by the buyer.
e. It is difficult for other companies to enter the market;

The downside of a monopsony market is that buyers can pressure sellers at will. Products that are not in accordance with the wishes of the buyer will not be purchased and can be wasted. This is very detrimental to the seller, so that the seller will only look for alternatives to that selling at a cheap price rather than a big loss [1]. Controlling the market;

Market control is a process, method, or act of controlling the market in the form of:

a. Refuse and or prevent certain business actors from carrying out the same business activities in the relevant market
b. Prevent consumers from engaging in relationships with competing business actors in the relevant market
c. Conducting discriminatory practices against certain business actors [2].

Historical facts reveal that the implementation of the pillars of neoliberalism has succeeded in generating fundamental problems for the economies of countries in various parts of the world. Poverty, unemployment, inequality and deindustrialization are the dominant colors inherent in the implementation of neoliberalism. Even the crisis episode has become an inseparable part of the global economy running on the basis of neoliberal rules of the game [3]. Monopsony market is a condition in which one business actor controls the receipt of supply or becomes the sole buyer of goods or services in a commodity market. Monopsony conditions often occur in inland plantation areas, so that the bargaining position in prices for farmers is nonsen [4].

Badriyah Rifai conducted research on the agreements prohibited by the anti-monopoly law: 1. Oligopoly, 2. Price fixing, 3. Territorial division, 4. Boycott, 5. Cartel, 6. Trusf, 7. Oligopsoni, 8. Integration vertikai 9, closed agreements 10. Agreements with foreign parties, too broad so that the essence of oligopoly itself is not answered in it [5].

Yusriwandi, Novia Dewi, Shorea Khaswarina with their research Analysis of the Structure, Behavior, and Performance of the Rubber Market in Pangkalan Kuras and Bunut Districts, Pelalawan Regency with the results of the research There are 2 ojol marketing channels in Pangkalan Kuras District and Bunut District, Pelalawan Regency, namely: Marketing channel I, rubber farmers sell their ojol to collectors (tauke), then tauke traders sell to big traders and big traders sell to rubber processing factories. Furthermore, the second marketing channel, farmers sell ojol to wholesalers, then wholesalers sell ojol directly to factories; but the author focuses more on the sales system which tends to be oligopoly carried out by cooperatives [6].

A total of 19 superior products, he said, consisted of nine superior products and 10 potential products. The nine leading export products are textiles and textile products, electronics, rubber, forest products, footwear, automotive, shrimp, chocolate / cocoa and coffee [7]. Meanwhile, the 10 potential products for export to ASEAN are leather and leather products, medical equipment and instruments, spices, processed food, essential oils, fish and fish products, handicraft products, jewelry, bamboo and writing utensils other than paper. Mempura has good natural potential, which really invites foreign tourists and foreign tourists to enjoy this natural beauty. Besides being in the Siak River and Mempura River watershed, Mempura has a beautiful environment. The agricultural area is also developing with its flagship commodity in the form of durian plantations [8].

Based on the background of the problem above, the formulation of the research problem is taken as follows:

a. How does the rubber monopoly occur as one of the mainstays of MEA products in Mempura District, Kab. Siak?
b. What are the factors that led to the rubber monopoly in Siak?

2. Methods

This type of research is sociological legal research which discusses the enactment of positive laws regarding monopolistic practices on rubber as one of the superior products of the Asean Economic Community. The location of this research is in Kel. Sei Mempura District Mempura District. Siak**.**

Table 1. Population and Sample

No.	Population Type	Number of population	Number of Samples	Percentage
1.	Rubber farmer	17	5	34
2.	Oligosony doer	2	2	100
	amount	19	7	

Processed Data for 2019

Data Sources: Primary data, . Secondary data, Tertiary data, Data Collection Techniques, Observation, Non-structured interview , Literature review.

3. Results and Discussion

3.1. Results

The Antimonopoly Law which gives freedom to business actors to run their business, but this freedom is in accordance with the provisions stipulated in the Antimonopoly Law. For example, there is a prohibition on controlling a market share of more than 50% for one business actor or group of business actors (Article 17), and control of a market share of more than 75% for two or three business actors (Article 25 paragraph 2 letter b). However, this limitation does not apply absolutely.

This means that not every business actor in excess of the said market share is immediately prohibited, but it must be proven beforehand, whether exceeding the stipulated market share will result in unfair business competition. If yes, then the prohibition is imposed on the business actor concerned, if not, then the business actor is not subject to the prohibition. The price of rubber which has not improved has made farmers complain. This is because the selling price is now getting cheaper where the price is in the range of Rp. 4,000 per kg, while in normal circumstances the price is Rp. 8,000 per kg. Rubber Farmers in Kel. Mempura did not want to sell its rubber latex because it was waiting for the price to improve. The decline in rubber prices was thought to be due to the games of middlemen who controlled rubber sales in the area by adjusting the market price.

Local farmers still depend on middlemen because in this area there is no rubber latex processing factory, even though the rubber harvest is quite a lot [9]. Previously, rubber was one of the leading commodities in Mempura Village. Most of the people worked on rubber plantations, both local and superior seeds. However, recently many people have switched their livelihoods from rubber farmers to oil palm farmers. Besides the price of rubber which is not in accordance with the expectations of the farmers, it turns out that the rainy season also causes the quality and quantity of production tapped by farmers to be much reduced. Conditions like this make the lives of farmers become poor where this situation is also exacerbated by the price of basic food continues to rise because of the issue of fuel price hikes.

The rubber business in this area is an individual or smallholder rubber business that does not have a legal entity or does not belong to PT. This rubber sap is sold freely to two middlemen at a price that is adjusted to the processing factory who is willing to receive the rubber latex from these farmers. Thenin this factory it is processed into semi-finished rubber in the form of cyclic rubber or respirena which is then sold or exported abroad.

3.2. Discussion

3.2.1. The Occurrence of a Rubber Monopoly in Mempura Village, Mempura Regency

In Sei Mempura, there were 2 rubber gums from the local market which were owned by individuals, which were freely sold to shops Sundra Siak (ojol (rubber) wholesale shop. This rubber is sold by tappers / tappers in a certain shape, usually in the form of blocks or pieces and PT's rubber sap is produced by certain PT's plantations and is not sold freely but is processed by the PT which then produces cyclic rubber which is then exported abroad. This rubber owned by PT usually has advantages

because it comes from a uniform selection of seeds and has good standards from the planting period, maintenance or tapping so as to produce a product of better quality compared to traditional rubber. This is to facilitate the process of weighing and transporting pieces weighing 80 kg - 100 kg. The result is that sometimes there are things that are not in accordance with the quality standards applied by the factory [10].

In Mempura Village, there were two rubber buyers who bought rubber directly from a farmer named Hasan and another one who refused to be named. If it is analyzed from Law Number 5 of 1999 concerning the prohibition of monopolistic practices and unhealthy business competition, then the purchase of rubber made by two people against rubber farmers, totaling seventeen people, is categorized as oligopsony.Aandt

3.2.2. Factors Causing The Emergence of The Oligopsony Market

The market or company becomes The oligopsony marketbecause it has a number of strong supporting factors that can guarantee the operation of buying and selling transactions economically. These factors are: typical / special resources (sufficiently large capital). Rubber farmers mostly carry out rubber agricultural production activities individually, making it easy for middlemen to keep prices down. If the farmer has a strong group or institution, the middleman does not deal with individuals. Thus the conditionThis becomes a strong bargaining power for farmers to middlemen not to be treated arbitrarily in setting prices. With the existence of an agricultural group (POKTAN), farmers can also sell their rubber directly to factories without going through middlemen who buy rubber at very cheap prices. So far, the selling price is much higher when purchased at the factory than when purchased by middlemen.

There is no futures market that will conduct rubber trade contract transactions as a means of hedging and the selling price of rubber from middlemen. With the rubber futures market, farmers no longer need to sell rubber to middlemen because the market is ready to welcome rubber. The Antimonopoly Law which gives freedom to business actors to run their business, but this freedom is in accordance with the provisions stipulated in the Antimonopoly Law.For example, there is a prohibition on controlling a market share of more than 50% for one business actor or group of business actors (Article 17), and control of a market share of more than 75% for two or three business actors (Article 25 paragraph 2 letter b). However, this limitation does not apply absolutely.

This means that not every business actor in excess of the said market share is immediately prohibited, but it must be proven beforehand, whether exceeding the stipulated market share will result in unfair business competition. If yes, then the prohibition is imposed on the business actor concerned, if not, then the business actor is not subject to the prohibition. Thus, the Antimonopoly Law is not against big companies. In fact, the Antimonopoly Law encourages companies to become large companies as long as they are on their own merits, not because of unfair business competition practices.

In Mempura Village, Mempura District, District. Siak applies one of the agreements prohibited in Law No. 5 of 1999, namely the Oligopsony of Article 13 which reads; Business actors should be suspected or considered jointly controlling the purchase or receipt of supplies as referred to in paragraph (1) if 2 (two) or 3 (three) business actors or groups of business actors control more than 75% (seventy five percent) of the share. market for one particular type of goods or services (Article 13 paragraph (2) Law No.5 / 1999)

An oligopsony agreement is a market condition in which only two or three companies are buyers who buy certain products. Oligopsony is a market structure dominated by a number of consumers who have control over purchasing. This market structure has similarities to the oligopoly market structure, except that this market structure is centered on the input market. With the practice of oligopsony, producers or sellers have no other alternative to selling their products other than to business actors who have entered into an oligopsony agreement, resulting in producers or sellers only being able to accept prices that have been determined by business actors engaging in oligopsony practices.

Bussiness actors are prohibited from entering into agreements with other business actors with the aim of jointly controlling the purchase or receipt of supplies in order to control prices for goods and or services in the relevant market. The price of rubber which has not improved has made farmers complain. This is because the selling price is now getting cheaper where the price is in the range of Rp. 4,000 per kg, while in normal circumstances the price is Rp. 8,000 per kg. Rubber Farmers in Kel.

Mempura did not want to sell its rubber latex because it was waiting for the price to improve. The decline in rubber prices was thought to be due to the games of middlemen who controlled rubber sales in the area by adjusting the market price.

Local farmers still depend on middlemen because in this area there is no rubber latex processing factory, even though the rubber harvest is quite a lot (interview with Kasman, a rubber farmer, 15 April 2015). Previously, rubber was one of the leading commodities in Mempura Village, considering that most of the community worked on rubber plantations, both local and superior seeds. However, recently many people have switched their livelihoods from rubber farmers to oil palm farmers. Besides the price of rubber which is not in accordance with the expectations of the farmers, it turns out that the rainy season also causes the quality and quantity of production tapped by farmers to be much reduced. Conditions like this make the lives of farmers become poor where this situation is also exacerbated by the price of basic food continues to rise because of the issue of fuel price hikes (interview with M.9).

The rubber business in this area is an individual or smallholder rubber business that does not have a legal entity or does not belong to PT. This rubber sap is sold freely to two middlemen at a price that is adjusted to the processing factory who is willing to receive the rubber latex from these farmers. Thenin this factory it is processed into semi-finished rubber in the form of cyclic rubber or respirena which is then sold or exported abroad. Actually, there are two types of rubber production:

a. Community market rubber sap owned by individuals which is freely sold to shops Sundra Siak (ojol (rubber) wholesale shop. This rubber is sold by tappers / tappers in a certain shape, usually in the form of blocks or pieces.
b. 2. Rubber sap belonging to PT is produced by certain PT plantations and is not sold freely but is processed by the PT which then produces cyclic rubber which is then exported abroad. This rubber owned by PT usually has advantages because it comes from a uniform selection of seeds and has good standards from the planting period, maintenance or tapping so as to produce a product of better quality compared to traditional rubber. This is to facilitate the process of weighing and transporting pieces weighing 80 kg - 100 kg. The result is that sometimes there are things that are not in accordance with the quality standards applied by the factory (interview with Hasan, rubber buyer, May 12, 2019).

In Mempura Village, there were two rubber buyers who bought rubber directly from a farmer named Hasan and one another who refused to be named. If it is analyzed from Law Number 5 Year 1999 regarding the prohibition of monopolistic practices and unhealthy business competition, then rubber purchases made by two people against rubber farmers, totaling seventeen people, are categorized as oligopsony and Business actors should be suspected or considered jointly controlling the purchase or receipt of supplies, if two or three business actors or groups of business actors control more than 75% of the market share of a certain type of goods or services.

There is no futures market that will conduct rubber trade contract transactions as a means of hedging and the selling price of rubber from middlemen. With the rubber futures market, farmers no longer need to sell rubber to middlemen because the market is ready to welcome rubber.

There is no domestic market as a place for rubber trading, so even if it is sold directly to domestic factories, the price of rubber tends to be cheap because it is guided by foreign rubber prices, namely on the Singapore commodity exchange (*Singapore Commodity Exchange / SICOM).* Moreover, Indonesia is one of the world's rubber producing countries. This should be stated so that bargaining power is better. The market will also determine the price because there are seller and buyer factors that will determine the market price

4. Conclusion

The occurrence of a rubber monopoly as one of the mainstays of MEA products in Mempura District, Kab. Siak is the control over the purchase of rubber by two rubber buyers who buy rubber at very cheap prices from rubber farmers. Based on Article 17 of Law no. 5 of 1999 monopoly occurs because the control of the production of goods or services or marketing is in one hand or in one group.

The investigation of alleged violations committed by the buyer is Article 13 which reads business actors are prohibited from entering into agreements with other business actors with the aim of jointly controlling the purchase or receipt of supplies in order to control prices for goods and / or services in the relevant market, which may result in monopolistic practices and / or unfair business competition (Article 13 paragraph (1) Law No.5 / 1999)

Business actors should be suspected or considered jointly controlling the purchase or receipt of supplies as referred to in paragraph (1) if 2 (two) or 3 (three) business actors or groups of business actors control more than 75% (seventy five percent) of the share. market for one particular type of goods or services (Article 13 paragraph (2) Law No.5 / 1999). What are the factors that led to the rubber monopoly in Siak.

a. Rubber farmers mostly carry out rubber agricultural production activities individually, making it easy for middlemen to keep prices down. If the farmer has a strong group or institution, the middleman does not deal with individuals.
b. There is no futures market that will conduct rubber trade contract transactions as a means of hedging and the selling price of rubber from middlemen.
c. There is no domestic market as a place for rubber trading, so even if it is sold directly to domestic factories, the price of rubber tends to be cheap because it is guided by foreign rubber prices, namely on the Singapore Commodity Exchange (SICOM).

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Ecoside Environment: Perspectives on Human Rights in the Context of Management Environmental

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Abstract

Rights the environment is often juxtaposed and even considered part of human rights. This paper discusses the issue of rights to the environment in the environmental management system, besides looking at the relationship between human rights in the environmental sector and environmental crimes which are often termed ecocide - "*ecocide*". This research is a descriptive study, with literature data sources, said to be descriptive because this paper describes environmental rights related to or the same as human rights, and also describes violations and crimes against the environment as ecocides and how these ecocides are seen as human rights violations. The results of the discussion show that in the aspect of environmental management there are individual environmental rights which are not only constitutional substantive rights but also human rights, and these rights are often neglected and even violated. Furthermore, Various ecological events (natural disasters / damage environment) are partly considered to be the result of human endeavor and lead to ecological destruction. Forms of violations or crimes against environmental rights are termed as ecocide, this ecocide should be declared as a form of gross violation of human rights.
Keywords: Ecocide; Environmental rights; Human rights.

1. Introduction

Human rights (HAM) are natural rights that are owned and inherent in every human being. At the implementation level, there is no distinction, race, ethnicity, religion, gender, culture, language, color or nationality. Human rights are absolute and absolute rights as the essence of humans and humanity, thus everyone has the same rights in the eyes of the state. Meanwhile, Iskandar stated that the current state of the environment and development policies greatly influence fundamental rights including to life, rights to health, rights to work and education, rights to information, participation, and justice in natural resource management, as well as rights. other basic. As a result, there are still many people living in the poverty line, where most of them are in a bad environment. On the other hand, environmental degradation is caused by economic activities that sacrifice civil and political rights, such as the absence of public access to information, participation and freedom of speech and assembly. The decline in the quality of the environment, water, air and other natural damages is a boomerang and will cause disasters in the future. Inevitably, the people will eventually become victims. This fact is very contradictory to the spirit of the constitution, which provides many guarantees for the protection of human rights [1].

Substantially constitutionally, a good and healthy environment is the basic key in respecting the rights to the environment as well as the rights of the environment itself, and at the same time these rights can be seen as part of human rights. Every human being has the right to enjoy health, happiness, and the availability of a safe and healthy environment. The environment and nature (ecosystem unity) are bound in a social entity that cannot be separated from humans. If the ecosystem is damaged, then it can be ascertained that there are human rights that are forcibly deprived / lost. Thus, the right to the environment also means that it is closely related to the order of justice as a legal goal.

Despite the fact that the right to environment has not been explicitly set out in the Universal Declaration of Human Rights (UDHR), but the environmental movement*(EnvironmentalMovement)*in the world are usually based on Article 28 to justify the argument that the right environment is also part of human rights . Human rights and the environment are interdependent, and this is the relationship between the environment (environmental rights) and human rights. Law Number 39 of 1999 concerning

Human Rights substantially shows the existence of a relationship between human rights and environmental (rights), it also provides environmental protection arrangements that simultaneously protect human rights, especially those relating to issues of the right to life, health, and protected from interference with property, including the right to participate.

Thus, understanding and acknowledging the existence of human rights can also mean protecting the environment as well as being used to achieve*sustainable development*, because recognizing and protecting human rights is a potential way to protect the environment. Meanwhile, sustainable development (*sustainable development*) is the key to overcoming the problem of human rights violations in the environmental aspect. It is time for sustainable development to be carried out and based on good environmental governance (*Good Sustainable Development Governance*).

2. Methods

The research method used in this writing is descriptive research, which describes the human rights-related conditions. The research data is sourced from library data, namely by basing and summarizing the discussion of environmental and human rights rights (including data) presented from various articles, journals, books and related library materials, both qualitative and quantitative

3. Results and Discussion

3.1 Rights of Environment as Human Rights in The Context of Environmental Management

Indonesia is a country that recognizes the universal values of human rights, the state has a duty to protect*(toprotect),*respect*(torespect)*and meet*(tofulfill)*the fundamental rights of citizens, namely; education, health, welfare, employment, security, and a good and healthy environment. Precisely on October 3, 2009 through the Ministry of Law and Human Rights, Law No.32 of 2009 concerning Environmental Protection and Management was enacted. This Law is considered to be an improvement and complement to the existing Law, namely No. 23 of 1997 concerning environmental management. Furthermore, Law No. 32 of 2009 has become a new hope for environmental sustainability. The strengthening and idealism of the new law is seen by some as a breakthrough that is philosophically based and not exaggerating, let alone politically, especially that this law is the embodiment of the constitutional guarantee provided by the 1945 Constitution (amendments).

One of the classic problems that are tried to be "recycled" in this new law concerns the inherent rights of both humans as individuals and as a social community, as well as the rights of the environment itself. In the 1945 Constitution, Article 28 paragraph (1) states that every person has the right to live in physical and mental well-being, have a place to live and have a good and healthy living environment and have the right to obtain health services. The mandate of the 1945 Law clearly views that the need for a healthy environment is one of the human rights. The state is obliged to provide protection and guarantee for a healthy environment, therefore the state must have a strong authority in managing and protecting the environment. This constitutional basis clearly inspires (requires) the need for the state to make complex rules that are far-sighted.

Furthermore, Article 33 (3) of the 1945 Constitution regulates the distribution and management of natural resources in the phrase*'natural wealth controlled by the State and utilized to the greatest possible benefit of the people'.* However, the mandate of the constitution has not been fully carried out by state administrators. On the other hand, there are still many people who live in the poverty line and live in a bad environment. The basic rights of citizens are also threatened by various destruction of nature, water and air pollution, deforestation, deprivation of people's livelihoods (agrarian and natural resources).

Regarding the rights which are contained in various formal forms, it indicates that the issue of rights has its own place, because the issue of rights has always adorned the pages of the history of human life, until when these rights are deemed necessary to receive an adequate portion. In accordance with Article 65 paragraph (1) to paragraph 5, a fact can be found that the rights that exist in the environmental sector are: the

a. right to a good environment and, the

b. right to get environmental education, the
c. right to access information, access participation and access to justice in fulfilling the right to a good and healthy environment, the
d. right to submit suggestions and / or objections to business plans and / or activities that are thought to have an impact on the environment, the
e. right to play a role in environmental protection and management, the
f. right to complain the result of allegations of environmental pollution and / or damage.

After the UUPPLH 2009 was enacted, there were eight rights recognized, namely in addition to accommodating the rights that existed in the previous law, a new right was added in the form of "the*right not to be prosecuted criminal or civil in fighting for the right to a good environment. and healthy "*

The rights mentioned above can be grouped into two types of rightsnamely [2], *first,* substantive rights (*substantive right to environmental* quality), namely the right to a good and healthy environment, *second ,procedural rights*which include ; access rights, participation rights, and participation rights.

In 1999 it was promulgated, Law Number 39 Year 1999 concerning Human Rights, Article 9 paragraph (3) affirms: *"Everyone has the right to a good and healthy environment* [3]. This is also stated in Article 5 paragraph 1 UULH 1997 and the meaning is further deepened on the basis of the philosophy of the right to a good and healthy environment in UUPPLH 2009. Recognition of the right to a good and healthy environment in our country cannot be separated from international influence as part of Countries in the world. Internationally, environmental human rights are contained in the 1st principle of the Stockholm Declaration which reads:

> "*Man has the fundamental right to freedom, equality and adequate conditions of ufe, in an environment of a quality that permits a ufe of diversity and well being any has bears a solemn responsibility to protect and improve the environment for present and future generations…."*

For environmentalists, the relationship between human rights and the environment emerged in 1972 at the Stockholm Conference on the Human Environment (*Declaration on the Human Environment*) which then inspired the birth of UN Resolution 3281 (XXIX) December 12, 1974. One of the goals is to create protection, preservation and improvement of the quality of the environment. This was then reaffirmed by Agenda 21 of the Earth Summit in Rio de Janeiro in 1992. The point, according to Supriadi, is to put the sustainable development paradigm as a development ideology [4].

The right to a good and healthy environment, as a subjective right as stated by Heinhard Steiger CS, is the broadest form of protection for a person. So in this case the right to a healthy and good environment, as a basic right of a person who must be protected in order to have an environment that can affect the survival of humans and other living creatures that are protected from environmental pollution and destruction in a healthy and good manner.

The next development of environmental rights is the right to obtain information and the right to participate in environmental management, known as *participatory rights* [5]. This is regulated in UUPPLH 2009 Article 65 paragraph (2) to (5). These rights have consequences for the State's recognition of the right to participate in the community. Therefore, based on the aforementioned articles, public participation can be carried out by, among others, submitting suggestions, suggestions and objections or submitting complaints to the competent official, it is also possible through Article 70 which gives the community the right to; supervise giving suggestions, opinions, suggestions, objections, complaints, and conveying or reporting information [6].

Although the recognition of these rights is normatively an adoption of Principle 10 of the 1992 Rio Declaration which emphasizes the importance of democratization and community participation in environmental management, it remains that the government in this matter has concerns that environmental management cannot be carried out partially / partially. in the sense that it is managed by

the government itself, because environmental management will be in direct contact with the community, sometimes even the impacts of various forms of environmental management are felt by the community.

The next development of the right to the environment is the "environmental right" itself, that apart from the existence of human rights to / over the environment, the environment itself has rights that must be respected by humans. In view of the existence of environmental rights, there are two schools of thought , *Libertarianism* and *animal rights* [7]. *Libertarianism* rejects the argument from an economic approach which considers that damage and pollution are only effects of unfair distribution of natural resources and inefficiency, but this is seen as a gross violation of personal rights / human rights and material rights. Meanwhile, the idea of *animal rights* states that hunting animals both from an economic and a hobby perspective can threaten the existence of certain species.

3.2 Environment and Ecocide in a Human Rights Perspective

Reflecting on natural disasters and the facts of change environment/ecology, then in fact the environment including the elements in it is moving towards its extinction. A UN panel of experts on biodiversity and ecosystems, the *Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services* (IPBES) - launched a report containing facts about the destruction of the world's ecosystems at this time, in early May 2019. According to the IPBES report, as quoted by M Ridha Saleh et al, as many as one million species have become extinct in The last 50 years due to human activities. The report, compiled by 145 experts from 50 countries, also states that 240 million hectares of natural forest have been lost between 1990 and 2015. In addition, 85% of wetlands have disappeared, and 100-300 million people living in coastal areas are threatened with flooding due to loss of coastal habitat [8].

According to M Ridha et al, if there are no fundamental changes, in turn, it will emphasize the serious threat that our earth, including living things and all their life support systems, is experiencing a process of mass death, which is called *ecocideecocide* or. The term (*ecocideecocide*) is a term contained in the environmental legal system, which is defined as the destruction or destruction of the ecological system of destruction, natural resources in a structured, systematic, and massive manner. A damaged buffer environment will eventually destroy the entire living system. It is likened to a 'suicide' process that is triggered by malpractice in environmental management [9].

Ecocide was introduced by Arthur W. Galston, an American biologist and botanist, at the Responsibility for War Conference in Washington, DC The seminar questioned how American soldiers attacked the Vietcong army by spreading 19,000 tons of chemicals in their hiding forests. The spread of these chemicals not only destroys plants, flora and fauna, but is thought to alter human genes. In this conference also, Arthur Galston proposed a new international agreement to preventcrimes *ecocide*. In this perspective, the idea of *ecocide* provides a powerful conceptual tool in criticizing the use of chemicals to destroy the forests of South Vietnam, which at that time was defined as large and extensive environmental damage and the destruction of ecosystems and human life. Since then, (*ecocideecocide*) has become a popular term among environmental activists to describe massive environmental destruction. Many conventions and seminars have created statutes and conventions since 1970 that oblige the use of positive law for ecocide to be equivalent to human rights violations and war crimes for individuals and institutions that massively destroy nature [10].

Regarding this (definition) of ecocide, WALHI's notes illustrate that currently Indonesia is not feeling well, even "sick". WALHI bases this on natural events / disasters as reported by BNPB. The National Disaster Management Agency (BNPB) noted that in the period of 2020 there have been 2,925 natural disasters that have occurred until), Tuesday (28/12/2020). According to data compiled by BNPB, disasters that occurred throughout 2020 were dominated by hydrometeorological natural disasters such as floods, flash floods, landslides, tornadoes, drought to forest and land fires (karhutla), from the number of incidents of these disasters, hydrometeorological disasters. such as floods, flash floods, landslides, and tornadoes are still dominant this year [11].

Figure 1. Graphic Info on Disaster 2020- (source BNPB)

Why Ecocide? Because ecocide is not only seen from the level of spread and massive environmental damage but from the aspect of the consequences (losses) it causes both in the form of property and life, for the record, that in 2020 alone there were 370 people who died as a result of the impact of natural disasters. 39 people are missing and 536 people are injured, while the World Health Organization (WHO) notes that 23% of global deaths are related to environmental impacts and damage. The number reaches 12.6 million deaths per year [12].

The ecocide categorization can be built on the basis of the argument used as the basis of international law in a trial (*mock trial*) in the United Kingdom on September 30, 2011, and has convicted two crimes that fall into the category ofcrimes, *ecocidenamely* the use / definition of an *ecocide* which occurs if there are several things, among others: (1) extensive damage, (2) damage or loss of the ecosystem of a certain area, (3) whether by a human being or by other causes, in such a way, and (4) the peaceful enjoyment of the inhabitants of an area that has been severely reduced from the natural environment [13].

Furthermore, in the perspective of the resulting impacts, there are 3 categories of impacts that can be discussed as a form of *ecocide*, namely [14]:

a. impact is very long on a unit and function of life and cannot be recovered.
b. the presence of units and functions that are destroyed in a series of life from its original condition.
c. there are physical and psychological deviations in humans.

Based on this, the concept of ecocide to be important in the midst of human life who tend to do exploitation of natural resources. Ecocide concept is the destruction of the natural environment which is done intentionally and / or negligently through various human activities that endanger human life. Hence, ecocide crime is the extreme environmental degradation, which is a vital object needed for the survival of indigenous peoples. Ecocides it may be the result of 'externalities' such as pollution, damaging ecosystems or from inadequate security procedures used by companies, governments and others, operating on customary lands. This leads to a situation where the land, reproductive abilities and long-term health of the indigenous population are damaged beyond repair [15].

Sodikin, taking the example of the Lapindo mudflow incident, stated that a series of human rights violations had occurred, namely the right to life, the right to a good environment, the right to health and

the right to be free from disturbance to property [16]. Some of the occurrences of ecological events are natural disasters, but others are ecological disasters which are the result or result of human efforts / activities, such as mining, reclamation, land clearing (forest burning), industry and others. On this side, environmental crimes are prone to occur in the sense of ecocide, which is a real human rights violation. Furthermore, if it is related to human rights violations according to Sodikin, the rights violated include:

a. The right (to) live-*right to life.*

The right to live does not only include the right to live, but includes the right to enjoy life. The fact that 409 deaths in 2020 due to natural disasters in Indonesia, or approximately 12 million people worldwide, illustrate the serious threat of ecocide to human life in its broadest sense.

Imposing ecological disasters on nature is not a wise move, because many events are closely related to the results of human actions, such as floods. P Nugroho explained that the increasing flood intensity from year to year is caused by 7 things, including: development that is not environmentally sound, the absence of a clean lifestyle in the community, the absence of conservation efforts to balance the water environment including the rainfall itself [17]**.**

b. the right to a good and healthy

environment Pollution and environmental damage are closely related to the fulfillment of the right to a good and healthy environment. Submerged and inundated, landslides, fires that have an effect on mass mobilization are the result, either directly or indirectly, from unfavorable and unhealthy environmental conditions. In 2020, approximately 6.5 million people will suffer and become refugees leaving their homes / environments that are damaged and unsanitary. It is clear that the right to a good and healthy environment is not being fulfilled. The role of humans will be evident in the event of floods and landslides, the National Disaster Management Agency (BNPB) said that land use change was the cause of floods and landslides inBengkulu. Forests are converted to mining and plantation activities resulting in reduced water catchment areas. Head of BNPB Doni Monardo said that high rainfall was not the main cause of flooding and landslides in Bengkulu. Environmental damage in the form of land use change is an important factor in the occurrence of this disaster [18].

The trend of forest cover loss, which is usually the highest in Kalimantan and Sumatra, will shift towards Eastern Indonesia which is projected to increase in the 2017-2034 period. The loss of forest cover and the practice of illegal logging and land clearing, of course, will trigger forest and land fires and haze, as well as ecological disasters such as floods and landslides that will await. As a result of all this exploitation, the people are also the victims of the greed for the exploitation of natural resources. Minority groups and the poor, who have minimal access to information and access to policy making, are usually the first and heaviest victims of the consequences of human rights violations for environmental damage resulting in natural disasters [19].

c. The right to health -health *the right to*

Based on BNPB data, throughout 2020 there were 326 land and forest fires (karhutla) throughout Indonesia with a land area of 296,942 ha and in 2021 as many as 23,783 ha until March. Although many parties claim that forest fires that occur are categorized as natural disasters (natural fires caused by friction from branches and hot temperatures), for environmentalists, forest fires occur due to human activity. Several cases of forest fires show that the forest fires were deliberate [20]. So that the indication that an ecocide has occurred is an indisputable fact. As a result of forest fires, the impact on human health is very clear, air pollution and emissions can cause ARI, lung disease, asthma, heart disease, eye irritation and other diseases.

d. Right to Freedom from All Interference on Possessions*(TheRight to be Free Interference of One'S Home and* Property)

The purpose interference is interference (against) the environment, such as pollution, because of the noise, flooding from a dam, weather changes due to the activity of nuclear power stations (PLTN), forest and land fires and including the Lapindo hot mudflow which inundated residential areas, significantly affecting personal life. This kind of disturbance can be said to be a violation of human

rights. Especially the Lapindo hot mud overflow which is environmental damage in Porong Sidoarjo resulting in interference with the right to be free from all interference on property or in other words the property owned by everyone gets interference or disturbance due to the hot mudflow, until the destruction of property that is really owned by each person with an estimated material loss of 45 trillion [21].

Thus, providing a clear frame for various violations and crimes (against) the environment as a form of *ecocide* proposed along with other crimes against peace, is an expansion of the paradigm and a form of concern for the sustainability of human life and the environment in its broadest sense. It is no longer only humans against humans, but now humans towards the wider earth community. Therefore, in order not to get to the ecocide, it requires will, awareness in the meaning of environmental ethics that fights for environmental justice and recognition of interdependence, mutual need between humans and the environment. Unfortunately, the right to the environment, which is one of the environmental ethics in order to achieve environmental justice, has not been maximally agreed and implemented as a fundamental right / human rights, both politically and legally recognized. The right to the environment only brings and provides moral strength for decision makers and development actors, or more on its political nuances, due to the fact that many activities still lead to ecocidal practices and further distance people from a good, healthy and balanced quality of the environment occurs as a result of environmental management mismanagement.

The importance of understanding environmental rights as human rights in the environmental field is one of the solutions to improve the quality of human life as well as the quality of the environment itself. All have the right and the obligation to protect the environment from natural destruction by individuals or organizations (companies) even on behalf of the state which has a negative impact on humans, so that it is indicated that they have neglected environmental rights. Various cases of environmental destruction and natural disasters should strengthen and open eyes and awaken policy makers to create and achieve economic, social and environmental justice for current and future generations. There is no prohibition on building, as long as the development carried out is sustainable development in accordance with the mandate of "environmental management" while taking into account the needs of future generations. That the environment we live in and have now is essentially a gift from future generations and not a legacy from previous generations.

Within this framework, the government, as the organizer and determinant of state policies, is obliged to play an active role in making policies that are functioned to save the environment in accordance with the constitution, or policies in the form of -green industry, green economy or green legislation. If the government focuses on pursuing state revenues by violating the principle of protecting the ecological system, the government is involved in its efforts to make people lose their right to a good environment while at the same time emphasizing the occurrence of an ecocide. Therefore there is no more time to delay the continuous massive movement to save and protect the environment that is upheld on the recognition and respect of human rights without neglecting the environment which must also be placed as a dynamic subject to be respected. Thus, the human rights and environmental movements will be more felt and benefit all citizens.

4. Conclusion

Based on the previous explanation, it can be concluded that environmental rights are often viewed differently from human rights in general. However, various violations and environmental crimes actually show the forms of crimes against human rights (HAM), and occur in almost all levels of community life. Crimes and violations which in turn will accumulate and lead to violations of economic rights, violations of social and cultural rights, civil and political rights in accordance with the main rights stated in human rights. The phenomenon of the right to a good, healthy and balanced environment as human rights is always linked to the reality of environmental management in Indonesia which has not yet been realized and is still far from expectations. In relation to environmental management, issues of environmental damage, issues of rights to the environment from a human rights perspective, it still requires study, this is done to describe the concepts of human rights and the right to the environment, for example the regulation of rights to the environment in positive Indonesian legal provisions, the right

to a good and healthy environment as a human right, and its implementation in environmental management policies.

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Student Perception of Counseling Services in The Pandemic Era Covid-19

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Abstract

Student perceptions are an assessment activity and the process of giving meaning to the implementation of counseling services in the era of the Covid-19 pandemic. The good and bad assessments of students were viewed from the counseling services provided by students during BDR (Learning from Home). The purpose of this study was to determine student's perceptions of the implementation of counseling services during the COVID-19 pandemic at SMK Negeri 5 Surakarta. The method used in this research is descriptive quantitative. The summary of the results of this study is that counseling teachers must have special techniques so that counseling services during BDR can be carried out. The data collection technique used a questionnaire as an instrument or data extractor, while the data analysis used in this study was a percentage. The results showed that the student's perceptions of the guidance and counseling services as a whole were good. Students hope that counseling services can be carried out easily to solve problems independently.

Keywords: perception; counseling services; counseling services in pandemic.

1. Introduction

Corona Virus is still ongoing, the number of cases is increasing rapidly. On January 26, 2021, the number of COVID-19 cases in Indonesia reached 1,024,298 people. There was an addition of 11,948 positive patients within 24 hours. The COVID-19 case has raised several problems, including in the scope of education.

The implementation of guidance and counseling can run well if students have an interest in joining counseling services. This is influenced by perception, namely the ability to understand or respond to, observation, views, or as a process of remembering or identifying something. Perception also determines choosing one message and ignoring other messages. The results of student's perceptions are based on the counseling services provided by the counselor. The counselor's responsibility is to control and simultaneously carry out various guidance and counseling services and activities. In carrying out their duties and responsibilities, the counselor becomes a "servant" for the achievement of educational goals as a whole, especially for meeting the needs and achieving the development goals of each student.

Research from Ahmed and Firdous explains that there has been a shift in providing guidance and counseling services during the Covid-19 pandemic so that it requires service delivery methods. He is using RAPID (Reflective, Listening, Assessment, Prioritization, Intervention, Disposition) which emphasizes the responsive, fast, and accurate action in providing services in online especially during a Covid-19 pandemic. Research is reinforce the perception of guidance and counseling teacher to be changed in view of the expectations of the participant to do a counseling the provision of service through online becomes an alternative most possible [1].

Research by Supriyanto, Hartini, Irdasari, Miftahul, Oktapiana, Mumpuni explained that the application of social media has a positive effect on the implementation of information, especially in developing the potential of students. The types of social media used are whatsapp, facebook, instagram, webex, zoom, google meet. He emphasized that in the era of disruption and Covid-19, it needed to be adjusted to online extension services by paying attention to energy sources so that service provision was still optimal [2].

2. Method

The method in this study used a survey method. The survey research method [3], namely the survey method is an investigation conducted to obtain facts from existing symptoms and seek factual information, whether about the social, economic, or political institutions of a group or a region. The survey method dissects and skins and identifies problems and justifies conditions and current practices.

3. Results and Discussion

3.1. Results

The research which took place at the State Vocational High School 5 Surakarta with the subject of 304 students from various backgrounds and classes resulted in nine point i.e : (1) participants students looked at the implementation of counseling people indeed need to be done by 92%; (2) participants are students who never do counseling along with teacher guidance and counseling at 37 % and has not been doing counseling for 63 %; (3) completion issue individual after doing counseling for 97%; (4) has the personality of a professional guidance and counseling teacher warm by 83% , can be trusted by 79%, sincere help by 90%, open at 86%, receive counselees what their amounting to 100%, honest 74%, is in charge of 5 %; (5) the guidance and counseling teacher is able to keep the secrets of students by 77%; (6) teacher performance guidance and counseling during the process of counseling for 54% feel satisfied, amounting to 31% was enough, and by 15% feel less satisfied; (7) ease participant students in determining the time and place with teacher guidance and counseling to carry out counseling of 44 %; (8) the many problems that arise before the pandemic 44% and after a pandemic by 68%; (9) hope participant students to counseling individual services in the era of pandemic : conduct counseling in virtual amounted to 100%, keeping secrecy from other teachers by 96%, easy to carry out the contract time and place do counseling by 100%, there are places online special are used for counseling that is not burdensome gadgets participant students by 89%.

Based on the excavation above, it is known that several findings include : (1) most of the participating students thought that education was needed by the students; (2) although many who consider counseling it should be done but still a bit to take advantage of the service is; (3) teacher guidance and counseling can be said to be a professional from the angle of view of personality to show sincerity in helping, honest, open, can be trusted, be responsible, do not look at the background behind the participant students. In addition to personality, more than half of the sample expressed satisfaction with the counseling process that had been undertaken, (4) convenience for counseling also be the thing that determines the level of trust participants learners when telling tall the views of capable of storing confidential, easy to perform the contract implementation of counseling, (5) seeing the many problems expectations of participants learners especially during a pandemic, they expect the existence of a place of counseling in itself which is in contract counseling along with teacher guidance and counseling in virtual.

3.2. Create a Discussion

The results of the research above mentioned the student's perceptions of counseling services to students of SMK Negeri 5 Surakarta. The findings were found that if the majority of students needed counseling, this was also researched by Ishaka & Bakara. He explained that if there are psychological problems also exist in children with special needs such as anxiety, competitiveness, low self - esteem, identity formation. For this reason, this study indicates that the implementation of counseling can be carried out for all circles and at any age level [4].

The level of interest in consultation that low also occur at SMA Negeri 1 Cepu. Research conducted by Kuncorowati explained that the interest of students to consult in the guidance and counseling room was 47.5% and to be able to increase student's awareness, extra services such as group counseling were needed. Through additional services counseling groups, interests of participants learners consult to space guidance and counseling be increased by 79.64% (Kuncorowati, 2017). The same thing was done by Gusneti, the interest in consulting at the Tualang 5 Junior High School with teacher guidance and counseling showed 18.4%, he took action in the form of scheduled consultations

for participating students with problems and during two cycles experienced a significant increase of 71% [5].

Things differently expressed by the participants of students who get the service information career in the classroom, they reveal that get service in the class had enough and more worried if consult directly with guidance and counseling teachers considered to have a problem. Dewi, Yusmansyah, and Sofia explained that there are 5 factors that are less interested in class XI students in BK services at SMA Negeri 1 Natar South Lampung, namely as problem children by 54%, BK room less supportive by 49%, BK teachers as police school of 38%, the participant students shame do counseling at 35%, and the guidance and counseling teacher only deal with children who troubled only by 34%. That is the reason that is expressed by the participant students also experienced by the participant students in Lampung south [6].

Research from Seidel, Mohlman, Basch, Fera, Cosgrove, Ethan explained that the use of sending messages through the website turns out to be able to solve individual problems in mental health. It is strengthening the author's direct service counseling is online so the aspirations and problems that exist in the participant students can be removed, on the one hand still running the protocol of health and the other to optimize service counseling that should be given [7]. Research from Yuksel-Sahin explains that the services provided by guidance and counseling teachers ranging from excavation to evaluation are no more than half of the tasks that must be done by guidance and counseling teachers. For this research, it is emphasized on the importance of input for guidance and counseling teachers so that their professionalism is maintained and has a positive impact because it is able to relieve student problems or develop students' potential optimally. If it is related to the conditions of the Covid-19 pandemic, professional guidance and counseling teachers who are able to help students solve problems are needed [8].

4. Conclusion

Conclusions from the study is that participants are students still need the services of counseling individual is only as a result of the pandemic Covid-19 made a joint educative be hampered in carrying out counseling. The point of view of students towards counseling guidance teachers in conducting counseling already has the personality of a professional guidance and counseling teacher, only need to make virtual counseling to facilitate access for students to do counseling. Their expectations of participants educates the implementation of counseling because of the increasing problems caused by the length of a pandemic Covid-19. For it must be a counseling individuals are virtual in the form of a website.

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The Right to Legal Aid for Women and Children

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Abstract

Legal aid is an effort to realize the human rights of the community to gain access to justice. With the legal assistance provided by the state, it is expected that the dignity and dignity of the community is protected, the fulfillment and protection of the rights and obligations of social justice society as mandated by the constitution. Therefore Legal aid should not only look at poverty from economic aspects but also to other vulnerable community groups such as women, children, indigenous peoples, ethnic minority groups, disappability.

Keywords: legal protection, legal aid, Women and Children.

1. Introdution

In Article 27 paragraph (1) of the 1945 Constitution it is stated "All citizens are equal before the law". This means that the state provides legal guarantees and protection for every Indonesian citizen. This article is a state justification for the recognition of equality before the law or equality before the law. Every citizen is obliged to implement the laws and regulations and has the right to demand equality before the law, legal protection and legal assistance. Therefore, every citizen has the right to equal legal protection without discrimination and based on human rights values.

Equality before the law is not only interpreted as equality before the law, but also equality to gain access to justice (Access to Justice). Equality does not mean guidance so that each individual person is controlled by the same legal regulations and that legal differentiation should not be made according to the legal needs of certain groups and society [1]. Humans are created equal, in the sense that humans have the same dignity but are physically different. According to the International Encyclopedia of Social Science, it is said that humans are the same, in reality humans are not the same in many characteristics, such as differences in gender, character, race, age, intelligence, economy, and others. In the natural state all human beings are born equal but they cannot continue that equality and the inequality must be regulated by law. The content of a legal system actually comes from the underlying conditions, both physical and social, which must be considered to form the "spirit of law" [2]. Therefore, in addition to equality before the law, equality is also needed to obtain access to justice as stated in Article 28 H paragraph (2) of the 1945 Constitution which states "Everyone has the right to receive facilities and special treatment to obtain equal opportunities and benefits in order to achieve equality and justice".

In line with the mandate of the 1945 Constitution, the state enacted Law Number 16 of 2011 concerning the Legal Aid Program (hereinafter abbreviated as UUBH). Legal aid is defined as part of the protection of Human Rights (HAM). According to Article 1 of the UUBH, "legal aid is a legal service provided by legal aid providers free of charge to legal aid recipients, namely the poor. Furthermore, in the Supreme Court Regulation No. 1 of 2014 concerning Guidelines for Providing Legal Services for Underprivileged Communities in Courts, it is stated that the Legal Aid Post (Posbakum) is a service established by and in every court of first instance to provide legal services in the form of information, consultation, and legal advice, as well as document creation. required legal aid aimed at helping the poor to obtain legal aid.

Legal aid, which was initiated in the UUBH, only focuses on the poor. Legal aid should not only look at poverty from an economic aspect but also on other vulnerable groups such as women, children, indigenous peoples, ethnic minority groups, and people with disabilities. Social and economic strata result in not all citizens having the same treatment and access to legal services.

Legal aid is an effort to realize the human rights of the community to gain access to justice (Access to Justice). With the legal assistance provided by the state through Posbakum, it is hoped that people who do not have access to justice can fulfill their rights as mandated by the 1945 Constitution in Article 28 H paragraph (2) of the 1945 Constitution. Relevant to the provisions in Article 5 paragraph (3) of Law No. . 39 of 1999 concerning Human Rights which states, "everyone belonging to a vulnerable group of people has the right to receive more treatment and protection with regard to their specificity".

The article above directly explains that every person or citizen has the right to get special facilities and treatment to be able to feel the opportunities, benefits and equality of justice directly, especially when it comes to a group of people who are vulnerable to dealing with the law. In the sense that legal aid is not just an institutionalization of legal services for the poor, but also a movement and a series of actions to liberate society from the shackles of political, economic, social and cultural structures that are full of oppression [3].

Looking back at other marginalized and vulnerable groups such as women and children who are not covered by legal protection, even though they are parties that need coverage from the provision of legal protection, they are victims of social structures so they tend to have difficulty getting or receiving services.

The existence of patriarchal culture and habits (male dominance) so that physical and psychological violence often occurs against victims of domestic violence, which are generally dominated by women. Marriage requires the arrangement of the same rights and obligations for husband and wife and the obligation to love each other, respect, be faithful, and give each other inner and outer assistance. However, the household becomes a place of suffering, violence and torture and ironically in many cases it is carried out by people close to the victim. Domestic violence is only one form of the phenomenon of violence experienced as women, not only in Indonesia but throughout the world. Although victims of domestic violence are not limited to women (adults and children), data shows that women experience it more often than men. This happens because there is a power relation ship between the victim and the perpetrator. In addition to feeling the tendency of the owner of this power, victims also experience fear, reluctance, and are also ashamed to report to the authorities, women are bound by many things such as having to maintain the existence of a large family and so on. On the other hand, community stigma regarding the level of understanding and privacy as measured by age is one of the triggers why currently so many cases are related to children.

Even if observed more closely, the environment indirectly supports acts of deviance against women and children and overrides actions to support legal protection for those in need. Even though he is not a person who has the authority to carry out the role of implementing or distributing legal protection. As an Indonesian citizen, it is very important to pay attention to the surrounding situation related to Human Rights and support people who do not really get their human rights in the form of legal protection.

This data is confirmed by the SIMFONI-PPA data launched by the Office of Women and Children Empowerment (DPPA) of South Sulawesi Province on December 19, 2019, which recorded 1,709 cases of violence against women and children that occurred in the Province of South Sulawesi. Of the total cases based on forms of violence, the majority were sexual violence which reached 39%, followed by psychological violence as much as 23% and physical violence as much as 18%, abuse of neglect as much as 8%, trafficking and exploitation each 1%, and other violence as much as 10%. While the data related to the relationship between the perpetrator and the victim, the most were husband/wife relationships which reached 428 cases, boyfriend/friends came in second, namely 364 cases, unknown people as many as 342 cases, neighbors as many as 177 cases, family/relatives as many as 138 cases, parents 78 cases, teachers 39 cases, colleagues 12 cases, employer 2 cases and others as many as 225 cases.

Based on the percentage of cases of violence against women and children in South Sulawesi, it can be indicated that the handling or legal assistance for women and children who are in conflict with the law is still not effective. Therefore, legal aid is only effective if sufficient funds are available and human resources are skilled, experienced and actually willing to provide legal assistance. Meanwhile, on the other hand, technical problems that are felt to be quite hindering the implementation of legal aid are verification and accreditation of OBH including requirements and funding of accredited OBH as implementing Legal Aid Posts (Posbakum). If we examine further the requirements and funding, it still

hampers the effectiveness of providing legal aid. This also has an impact on the Campus OBH, where the lack of clarity in implementing technical rules has an impact on the performance of providing legal aid. So from the description of the problem points above, the author will discuss further about "Legal Protection Against Women and Children".

2. Methods

The research method used is field research. The approach used in this case is a sociological juridical approach. Juridically by searching for documents related to legal protection for women and children who are in conflict with the law. Meanwhile, sociologically, by looking at the reality in the field, it is related to the problems of handling legal protection for women and children. The description of this research is descriptive in nature and aims to explore and clarify or describe a number of variables related to the issue of legal protection for women and children.

3. Results and Discussion

3.1. Clarity of Regulations Completing Legal Protection for Women and Children.

Law Number 16 of 2011 concerning Legal Aid which was only enacted in 2012 provides fresh air in ensuring access to justice for all communities and vulnerable groups, for example women and children. However, there are still many question marks regarding the clarity of the rules themselves, both the legal aid rules themselves and other rules that are indirectly related to the provision of legal aid.

3.1.1. Clarity of Legal Aid Legislation in Aspects of Handling Legal Aid Recipients

When discussing the legislation that becomes the 'manual' for legal aid, one of them can be highlighted by Law Number 16 of 2011 concerning Legal Aid.
Where in Article 2, the Implementation of Legal Aid is carried out based on the principles:

a. Justice;
b. Equality in law
c. Openness;
d. Efficiency;
e. Effectiveness; and
f. Accountability.

Furthermore, Article 3 of the Implementation of Legal Aid is explained to aim at:

a. Guarantee and fulfill the rights of Legal Aid Recipients to get access to justice;
b. Realizing the constitutional rights of all citizens in accordance with the principle of equality in law;
c. Ensuring certainty that the implementation of Legal Aid is carried out evenly throughout the territory of the Republic of Indonesia; and
d. Realizing an effective, efficient and accountable judiciary

From article 2 and article 3, we can see that the principles and objectives of the legal aid law itself are clear and good. With the enactment of the Law on Legal Aid, the purpose of fulfilling the rights of Legal Aid Recipients is as a form of fulfillment to obtain access to justice, guarantee constitutional rights, equal status in the law, guarantee the certainty of legal aid implementation being carried out evenly throughout Indonesia. Articles 2 and 3 of the principles and objectives of providing legal aid have been clearly described.

The problem lies in the clarity of the recipients of legal aid, which is focused on the poor who do not fulfill their own proper and independent rights. Actually, in theory, legal aid that is focused on a group is not a problem. However, its implementation to the existing environment and conditions collides with the Minister's decision or other legislation. Where these rules prove that there is no correlation between one rule and another.
Meanwhile, in Article 28 H paragraph (2) of the 1945 Constitution it is stated "Everyone has the right to get special facilities and treatment to obtain the same opportunities and benefits in order to achieve equality and justice". This article emphasizes that convenience and special treatment to achieve equality

are human rights recognized by the 1945 Constitution. The application of the general principle of the concept of justice that individuals before others are entitled to a relative position in the form of certain equality or inequality, treatment of similar matters in a similar manner. or things that are different is a central element in the concept of justice [4]. This rule is relevant to Article 5 paragraph (3) of Law no. 39 of 1999 concerning Human Rights which states, "everyone belonging to a vulnerable group of people has the right to receive more treatment and protection with regard to their specificity". This right is considered to be inherent in every human being, because it is related to the human reality itself [5].

Constitutionally, Indonesia recognizes the existence of human right [6]. Quantitatively, the number of articles in the body of the 1945 Constitution which explicitly includes human rights is not like the American or French constitutions, but is still accommodated in the 1945 Constitution and qualitatively the 1945 Constitution has covered all protections of human rights. With only a few articles concerning human rights in the 1945 Constitution, it does not mean that other rights are not recognized, these articles are not limitative. The source of recognition of human rights is Pancasila, what is recognized as a human right by The Universal of Human Rights, there are also Pancasila points regarding human dignity [7]. The principles of national law are elaboration and refer to the ideals of Indonesian law [8].

The provisions contained in Law no. 16 of 2011 is narrower in scope and only specializes recipients of legal aid for the poor from the economic aspect, while Article 28 H paragraph 2 and Article 5 paragraph (3) of Law no. 39 of 1999 concerning Human Rights has a wider scope, namely legal protection in legal aid is also given to vulnerable people who are in conflict with the law.

Legal aid is also actually regulated in Article 56 and Article 57 of Law Number 48 Year 2009 concerning Judicial Power. In addition, it is also regulated in Article 56 of Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP), for criminal acts that require a sentence of 5 (five) years or more, until the enactment of the Law on Legal Aid on November 2, 2011. However, in its implementation, it differs from one region to another, for example, there are those who impose criminal penalties that are charged with a threat of 8 (eight) years in prison to obtain legal assistance.

3.1.2. Clarity of Legal Aid Legislation in Aspect of Budget Funds

In addition to the law on legal aid that is directly related to the handling of legal aid recipients, the law also regulates the flow of existing budget funds, one example of which is:

Rules regarding legal aid which are now ratified through Law Number 16 of 2011 concerning Legal Aid (Legal Aid Law), the Government has issued a further regulation, namely Government Regulation Number 43 of 2013 concerning Terms and Procedures for Providing Legal Aid and Distribution of Legal Aid Funds that allow the provision of free or free legal aid for poor people or groups of people who meet the provisions do not get basic rights or independent rights, because the costs are borne by the APBN. Law Number 16 of 2011, Article 16, Legal Aid

1. Funding for Legal Aid required and used for the implementation of Legal Aid in accordance with this Law shall be borne by the State Revenue and Expenditure Budget.
2. In addition to the funding as referred to in paragraph (1), sources of funding for Legal Aid may come from:
   a. Grants or donations; and/or
   b. Other legal and non-binding sources of funding.

To implement this Law, the Government through the Ministry of Law and Human Rights, provides a budget of Rp 40.8 billion which will be used as legal aid funds. Based on the budget that has been allocated, every citizen who is classified as poor in accordance with justice seekers is entitled to legal assistance through Legal Aid Providers (PBH). At first glance this is very helpful in the budget, especially for OBH but on the other hand it is hampered because the reality of the funds themselves are difficult to be disbursed by institutions or organizations that provide legal assistance.

Therefore, although there is clarity from the law that regulates budget funds in such a way, starting from the transparency of initial funds to the regulation of their distribution. Again, the reality is that many OBH have difficulty disbursing budget funds or assistance. In fact, the budget funds that want to

be disbursed are also for the sake of smooth handling of cases, this has made so many legal aids withheld without clarity.

3.2. Problems in the Implementation of Providing Legal Aid to Women and Children

Soerjono Soekanto stated that there are 5 factors that influence law enforcement itself, namely [9]:

1. The legal factor itself, which in this paper will be limited to the law only.
2. Law enforcement factors, namely the parties that form and apply the law.
3. Factors of facilities or facilities that support law enforcement.
4. Community factors, namely the environment in which the law applies or is applied.
5. Cultural factors, namely as a result of work, creativity, and taste based on human initiative in social life.

From the factors mentioned above, we know that it is clear that there is an essence that affects law enforcement, where there are clear points that become benchmarks in the effectiveness of law enforcement itself.

In addition, the provision of legal aid has been regulated in the legal aid law and has even been discussed previously above. However, how is the field execution or what is commonly referred to as the daily implementation of providing legal aid itself.

3.3. Problematika Pemberian Bantuan Hukum Pada struktural Penegak Hukum.

When described, there are several law enforcement groups that have their own struggles or obstacles.

3.3.1. Police Instiution

For free legal assistance, the police, represented at the resort police and local police stations, have collaborated with the lawyer's office. After the enactment of the Law on Legal Aid, the Police can establish cooperation with legal aid institutions. Before the legal aid law was enacted, investigators had requested assistance from advocate organizations for free assistance. Because in the Law on Advocates there are also regulations to provide free legal aid to the poor or those who have not been able to complete their own independent rights.

Obstacles encountered in the field, specifically for someone suspected of committing a criminal act who was "arrested" and had to be accompanied by legal counsel. The suspects who are caught are often poor people, and are generally caught red-handed outside of working hours, so that the fulfillment of legal aid rights is often hampered.

There are also other obstacles encountered in the field related to cases against women and children. Where the victim was found to be stumbling over a case, especially a case of violence, which was then secured safely and was forced to undergo a basic examination even though his mental condition was not good.

Women tend to be victims of domestic violence. This is due to the existence of gender ideology and patriarchal culture. The result of patriarchal culture and gender ideology. These conditions lead to violence and violations of women's rights. Violence and violations of women's rights are criminal acts.

Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Articles 51-53 stipulates that criminal acts of domestic violence are included in the complaint offense. The criminal act cannot be reached by the state without a complaint from the party who feels aggrieved based on the consideration that domestic violence is a domestic matter that arises between husband and wife and the legal relationship between the individual occurs due to marriage which is the scope of civil law. So that in resolving cases involving two parties, namely victims and perpetrators in cases of domestic violence, there are facts, offers of peace between litigants in domestic violence cases are often offered at the first stage of the criminal justice process (investigation).

In the case of a general offense or an ordinary offense, it is possible to make peace between the perpetrator and the victim of a crime. Settlement of offenses that occur in the community is resolved by

the community itself can be reached by way of kinship. However, the peace is not to eliminate criminal responsibility by the perpetrators of criminal acts.

According to Adami Chazawi [10]:

> *"If you refer to the theory and the Criminal Procedure Code, you will not get any rules or articles that regulate the peaceful settlement of criminal cases. However, in the practice that occurs in the community, we often get the settlement of criminal cases peacefully."*

Criminal acts basically do not recognize the existence of peace to stop the process of prosecution and examination in court, even though they occur in the family sphere.

In accordance with Article 50 paragraph 1 of the Criminal Procedure Code against people who are arrested, an examination must be carried out immediately. This also makes it increasingly difficult to apply the Kemenkumham BPHN rules regarding the obligation to show a Certificate of Disability (SKTM) by suspects who want to get legal assistance and the absence of a 24-hour legal aid post.

On the other hand, it is even more difficult for victims to find advocates who are willing to handle cases experienced because of mental trauma accompanied by difficulties in communicating, where to issue and administer SKTM in order to get legal assistance is also difficult.

Sometimes even the police themselves have disagreements with the existing OBH, and also rarely carry out investigations or other level of execution of cases according to the standards of the applicable law, in this case cases relating to women and children.

3.3.2. Prosecutor Institution

The process of providing legal assistance to the prosecutor's office for people who can't afford it on a free basis begins at the first trial. The suspect was asked questions by the investigating prosecutor regarding whether or not to use an advocate. The obstacle in providing legal aid at the prosecutor's office is that there is no instruction from the Attorney General regarding the provision of legal aid. So that the practice of providing legal aid which is now based on the Law on Legal Aid is still "groping". And for cases handled on a free basis, most of the criminal cases are punishable by 8 years or more such as child protection.

Although after the enactment of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, it seems that its application is only a mere formality, because many law enforcers still have the perspective that assistance and investigations based on a sense of kinship in victims are only complementary to administration, so that if it is widely considered the handling of child protection cases is still minimally handled using the standards set by the SPPA Law.

In article 6 of the SPPA Law, in carrying out child protection, the settlement process is required to involve all parties who are responsible for improving the welfare of children as well as special protection for the child concerned. The government and other state institutions are responsible for providing special protection to children in emergency situations and children in conflict with the law [11]. There is a difference between the detention of adults and children. Since being arrested or detained, they are entitled to legal assistance from one or more legal counsel at each level of justice in a different way from adults.

Regarding the rights and obligations of a child who is deprived of his freedom, there is no change in Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection. Article 17 paragraph (1) of Law No. 23 of 2002 concerning Child Protection which states that if a child is deprived of his freedom, he has the right to obtain legal aid or other assistance effectively in every stage of legal remedies that apply.

The provisions in the articles of the SPPA Law and the UUPA, contain the meaning that children cannot be independent in exercising their rights, so they are a vulnerable group that must receive legal protection as stipulated in the 1945 Constitution and the Human Rights Law. In the criminal justice process, children at every level of examination must receive protection as a form of respect for children's human rights. Therefore, every child has the right to receive legal assistance from an advocate at every level of examination according to the procedures specified in the SPPA Law [12]. This is different from the provisions in UUBH.

3.3.3. Court

In providing legal assistance, the Court first looks at the criteria, namely having a penalty of more than 5 (five) years and is a category of people who can't afford it. After the enactment of the Legal Aid Law, the court cooperated with existing legal aid institutions to provide free legal aid.

The obstacle after the issuance of the Legal Aid Law is that the court is often overwhelmed because the legal aid provider is not balanced with the legal aid recipient so that the legal aid provider is not present at the trial and has an impact on delaying the general trial. This happens because the number of accredited OBH is not balanced both in terms of area and number of cases.

3.4. Problems in the Implementation of Legal Aid Provision in Legal Aid Organizations (OBH)

The National Legal Aid System (Indonesian Legal Aid System) which is regulated in Law no. 16 of 2011 concerning Legal Aid (Legal Aid Law) began to be implemented in 2013. The National Legal Development Agency (BPHN), was later appointed as the organizer of the national legal aid system which has the authority to:

1. Supervise and ensure the implementation of Legal Aid, as well as
2. Verify and accredit legal aid institutions or community organizations to meet eligibility as Legal Aid Providers.

Verification and accreditation is carried out by the Ad Hoc Committee assisted by the Working Group to carry out the following matters:

a. Announcement regarding the implementation of Verification and Accreditation;
b. Application or registration from OBH;
c. Administrative checks;
d. factual check;
e. Recommendation for Accreditation category;
f. Determination of Accreditation to the Minister of Law and Human Rights.

However, the obstacles are starting from accreditation verification, available advocates to implementation.

Table : Verification and Accreditation of Legal Aid Organizations

Period	OBH	Disctrict	Attorney	Paralegal
2013-2015	**310**	**129**	**1.117**	**1.018**
2016-2018	**405**	**161**	**2.070**	**2.130**
2019-2021	**524**	**215**	**2.557**	**2.946**

Source: Ministry of Law and Human Rights

Where there is Pre-implementation and the implementation of Verification and accreditation, it turns out that there are still many obstacles including:

1. Information dissemination on verification and accreditation of OBH is carried out through the website of BPHN, WA, print media in this area. But the information has not yet reached the district level;
2. The OBH verification and accreditation implementation committee at the Center has involved academics, Civil Society Organizations, the media and others. But in the regions it has not involved the participation of stakeholders
3. The requirements to participate in verification and accreditation for LBH Kampus (PTN) are quite difficult because there must be a separate legal entity. However, in other areas, using the relevant PTN legal entity
4. OBH candidates do not yet have the capacity for documentation;

5. There is no visible role of paralegals and students in OBH-OBH/LBH Campus who will take part in verification and accreditation.

There are also other difficulties, namely that OBH originating from campuses that should have followed campus accreditation themselves actually have to take part in re-verification which indirectly equates campus OBH with existing private OBH. In fact, campus OBH should still follow the structure of the campus itself. Further, regarding OBH, in this case, Campus OBH, where verification and accreditation are equated with existing private OBH, it raises its own dilemma because OBH should follow accreditation from its own campus.

Moreover, if you pay more attention to the existing students and paralegals, they have minimal knowledge of the material or perspectives in the Legal Aid Law, in this case providing legal aid services to women and children who are in conflict with the law. Especially in terms of the availability of personnel who want to provide legal assistance in this case advocates. In the Law on Advocates, it is determined that those who can represent and or assist in court proceedings are only advocates, this becomes an obstacle for lecturers or paralegals in providing legal assistance. On the other hand, legal aid assistance already exists, but other law enforcement officials even refuse the presence of OBH in this case LKBH who already want to participate, either for reasons of lack of validation of the LKBH and so on, this makes the opportunity for being able to run legal aid.

OBH problems also arise in the use of funds, where budget funds should be given to Legal Aid Organizations (OBH). Funds will be given when solving cases as well as providing assistance and legal services. This makes the process of providing legal aid services very hampered because without budget funds, it is very difficult to carry out these service activities, especially when they have entered the trial stage.

3.5. The Problems of Providing Legal Aid Due to Social Culture Factors

The provision of legal aid in this case is a case related to women and children who have many problems in social culture, due to the mindset, stigma and ideology that are fairly extreme. The most frequent cases of women and children are dominated by sexual violence. Protection of Women and Children shows that there were 1,966 cases of violence throughout 2020. This number increased slightly compared to the previous year [13].

Reported from the news IDN times Sul-Sel [14] According to the Head of the UPT for Women's Empowerment for Child Protection (PPPA) South Sulawesi, of the 896 cases of violence against women and children, generally it occurred in the household and 453 cases, the perpetrators were husband or wife. Meisy Papayungan admitted that the COVID-19 pandemic that occurred over the past year had triggered an increase in cases of violence against women and children in South Sulawesi as many as 32 cases from the previous year [15]. Problems that arise because of the existing social culture, among others:

a. Fear of being a disgrace to the family and extended family and trauma if they have to be ridiculed by society. People's thoughts about women and children who are affected by cases, especially cases of violence. Society without a doubt will ridicule women and children who are experiencing this, even though they know little or even nothing about the chronology of what happened, they still corner the victims, in this case women and children, with various demands.
b. Embarrassed to go to OBH for fear of negative thoughts that arise from several elements within the OBH itself, which in this case is due to the trauma experienced leaving a lot of fear for the victim, so that sometimes in the middle of the process of filling in the basic data it is even hampered or delayed due to sudden doubts from the victim.
c. The environment where the victim lives, where when it is related to a case especially violence, will become an easy target for gossip from the surrounding community which really makes the victim fall mentally and refrain from getting legal assistance.

4. Conclusion

a. The implementation of the fulfillment of Human Rights (HAM) in legal protection for women and children has not been effective, this is due to the synchronous legal rules between the Legal Aid Act, the Law on the Elimination of Violence Against Women, the Child Protection System Act, -Child Protection Law and Human Rights Law, namely vulnerable groups excluding recipients of legal aid financed by the state;
b. Differences in perceptions of law enforcement officers in providing legal aid.
c. There is no common perception of the OBH assessment in the field by the verifier. The requirements to participate in verification and accreditation for Campus LBH are quite difficult because there must be a separate legal entity.

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Noble Values in The Mangkunegaran Manners Are Means of Character Education

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Abstract

Local wisdom plays an important role in providing insights into the wisdom of life of the Javanese people. It is the crystallization of wisdom that becomes a guide for doing something and creates noble moral values. *Dhapukanipun Bab Tata Krama Mangkunegaran* or abbreviated as Mangkunegaran Manuscripts is a form of local wisdom in the form of handwritten ancient or manuscripts. This manuscript contains the culture of manners in attitude and dresses in the Mangkunegaran environment during the VII Mangkunegara leadership. The noble character values that were upheld by the courtiers in the past should be a reference for today's life, especially in shaping and strengthening the noble character of the nation's future generations. In the world of education, there are pillars of character education that aim to shape the character of students according to the character of the Indonesian nation. The purpose of this research is to explore Javanese cultural values in the past through manuscript texts, such as in the manuscript of Mangkunegaran during the Mangkunagara VII leadership so that it is known by the general public and as a means of strengthening character education, especially for the nation's future generations. This research method is descriptive qualitative and philological research. The analysis technique used is the purposive sampling technique. The results of this study are to provide an overview of the manners of behavior in the Mangkunegaran palace environment in the past, but nowadays it can be applied by society in general by revitalizing the pillars of character education. So, it can be concluded that the manners that exist in the palace environment can also be recognized and applied by all circles of society, and should also be conserved, especially by the younger generation as a reference to form a noble character.

Keywords: ancient manuscripts, manners, character education, Mangkunegaran.

1. Introduction

Culture in human life refers to various aspects which include ways of behaving, beliefs, social attitudes as a result of human activities that are unique to certain groups that can be studied. This is supported by the opinion of Koentjaraningrat which states that culture is the work of humans in the form of a system of ideas, feelings, and actions [1]. It can be said that culture cannot be separated from human life. Culture will never exist without the presence of humans, and humans will not be able to survive without creating and implementing culture.

Local wisdom culture plays an important role in providing insights into the wisdom of life of the Javanese people. It is the crystallization of wisdom that becomes a guide for doing something and creates noble moral values. This statement is by Endraswara's opinion that local wisdom is an insight that contains Javanese wisdom in overcoming life problems [2]. Local wisdom in literary works in the form of both spoken and written language [3]. In people's lives, local wisdom can be found in folk tales, songs, proverbs, pieces of advice, slogans, as well as from ancient texts.

Ancient manuscripts have been written in various languages and scripts, as a form of the advancement of civilization (civilization) tradition that lives in society [4]. Ancient manuscripts have a variety of discussions, ranging from moral teachings, history, folklore, and so on. The awareness that ancient manuscripts are a source of authentic knowledge about human identity in the past and have the cultural background of their predecessors, it is necessary to maintain, study and preserve them. Manuscript maintenance needs to be done not only physically, but also by studying and examining in-

depth the knowledge in it, one of which is by examining the noble values contained in ancient manuscripts.

Cultural inheritance in rural areas is not supported by written works, resulting in an oral tradition. This tradition is easily accepted by rural communities because it does not involve writing skills so that the tradition can transcend cultural boundaries at that time [5]. Thus, oral tradition is limited in the oral culture of people who are not familiar with writing [6]. Meanwhile, the written tradition had developed in the court circles and was bound by the palace government system to sustain the legitimacy of the ruling dynasty as well as support the interests of the kingdom [7].

Dhapukanipun Bab Tata Krama Ing Mangkunagaran manuscript or abbreviated as *Tata Krama Mangkunegaran* manuscripts is a form of local wisdom in the form of handwritten ancient manuscripts or manuscripts. This manuscript contains the culture of manners in attitude and dress in the Mangkunegaran environment during the VII Mangkunegara leadership. The Mangkunegaran Kadipaten is one of the Kasunana Surakarta areas, so that the government system is under the authority of the Surakarta Sunanate [8]. Mangkunegaran, which is located in the city of Surakarta, is the center of a duchy government which was formed in 1715 [9]. The Mangkunegarn Kadipaten was founded by R.M. Said or commonly known as Pangeran Sambernyawa who was the first leader of Mangkunegaran. The Duchy of Mangkunegaran and Kasunanan Surakarta are forms of istanasentris in Surakarta.

Tata Krama Mangkunegaran manuscript is one of the many collections of literary works in the form of manuscripts that are neatly stored in the Mangkunegaran Reksa Pustaka Library. Broadly speaking, this manuscript contains the rules governing the manners of the courtiers when they are in or outside the Mangkunegaran environment. These rules are the customs or manners for Mangkunegaran circles, so it is necessary to have written evidence stating this form. In simple terms, this manuscript contains written rules for the courtiers as a culture in behaving in the Mangkunegaran environment.

Regarding the manners written in the *Tata Krama Mangkunegaran* manuscript, it should be used as a reference for learning about traditional customs which aims as an effort to manage local wisdom which is used in the development of national culture, character, and national character. Through literary works in the form of ancient manuscripts, values can be taken to form a noble character as a reflection of the attitudes of the Indonesian people. Character is the values of human behavior related to God Almighty, self, fellow human beings, environment, and nationality which are manifested in thoughts, attitudes, feelings, words, and actions based on religious norms, law, karma, culture. and customs [10].

In connection with the cultivation of important character values, the educational environment is a major component in the introduction of character education values. Education is one of the important fields for a country to shape civilization. The development of character education is carried out by nations by their vision and mission. According to Johansson, E., Emilson, A., & Puroila, A [11]. character education can be started at any grade level. It is important to set a strong foundation for future values. The value of education is experienced by a person from birth to death.

Character education is essentially the responsibility of every member of society, nation, and state to form a new, better generation. Education is an effort made by the community, family, and supported by the government through teaching and guidance activities that take place both in school and outside of school. Sukmadinata explains that there are three important characteristics of education, namely: (1) education must contain values and value considerations, (2) education aims for social life, and (3) the community environment influences the implementation of education. The essence of the purpose of character education is to form a character that is manifest in the person [12].

In the world of formal education, there are pillars of character education that aim to shape the character of students according to the character of the Indonesian nation. The value of character education in the world of formal education is divided into 18 forms which are called pillars of character education, these include religious values, honesty, tolerance, discipline, hard work, creativity, independence, democracy, curiosity, national spirit, love for the country, appreciates achievement, friendly/communicative, loves peace, likes reading, cares for the environment, cares about society, and is responsible [13]. Education aims to achieve human life goals.

Research that examines the value of character education based on ancient texts has been carried out by several researchers, including research conducted by Novia Wahyu Wardhani and Noeng Muhadjir (2017) with the title *Pendidikan Karakter dalam Serat Tripama karya Mangkunegaran IV*. In Novia's research, it discusses ancient manuscripts or manuscripts from Mangkunegaran to take the value

of character education. Furthermore, research conducted by Andika Dian Ifti Utami, et al. (2018) entitled *Penguatan Pendidikan Karakter Melalui Pembelajaran Sejarah Berbasis Kitab Kuntara Raja Niti*, which aims to teach history based on ancient manuscripts. This research is based on the assumption that cultural heritage is an educational component that can foster a sense of belonging and respect for one's own culture. In this research, the main focus is the values that are relevant to history learning and character education.

Based on the previous research that has been described above, the researcher is interested in examining the ancient manuscript entitled *Dhapukanipun Bab Tata Krama Ing Mangkunagaran* or shortened to Mangkunegaran Manuscript Fiber because there has been no research that has examined the text and takes noble values as a means of character education. Besides, the manuscript was written using Javanese script and has been translated by researchers. So that it can add insight and foster a positive attitude towards culture and ancestral heritage. Although the manuscript contains manners for the palace environment, it can be relevant to today's life and contains educational values that can be emulated in today's life.

This research aims to explore the values of Javanese culture in the past through manuscript texts, such as in the *Tata Krama Mangkunegaran* manuscript during the Mangkunegarn VII leadership to be known by the general public and as a means of strengthening character education, especially for future generations. nation, so that from this research it is hoped that it can increase knowledge related to character education that comes from past relics in the form of ancient manuscripts.

2. Method

Based on the description above, the approach used in this research is descriptive qualitative and philological research. As stated by Strauss and Corbin qualitative research is a type of research where the findings are not obtained through statistical procedures or in the form of numbers [14]. The research was built based on data in the text of the manuscript which was developed based on the research objectives. This study also uses the philological research method because the research data is in the form of manuscripts written in Javanese script. Thus the philological approach aims to find data to be analyzed about character education in the *Tata Krama Mangkunegaran* manuscript. The data used in this research is the *Tata Krama Mangkunegaran* manuscript collection of the Mangkunegaran Reksa Pustaka Library.

The data collection of the *Tata Krama Mangkunegaran* manuscript text data used the reading, listening, and note-taking technique following the opinion of Ratna [15]. Reading in data collection activities in the form of paying attention with a focus on objects. The process of paying attention with focus is called listening. Reading and listening are a series of techniques for obtaining valid data followed by data recording activities.

3. Result and Discussion

The results of this research will be explained regarding (1) The Identification of *Tata Krama Mangkunegaran* Manuscripts and (2) Noble values in *Tata Krama Mangkunegaran* Manuscripts as a means of character education.

3.1. The Identification of *Tata Krama Mangkunegaran* Manuscripts

Past cultural traces including customs can be found in manuscripts. Manuscripts are the cultural heritage of our ancestors in the form of handwriting written in local scripts, writing materials also use local materials, such as bark, lontar, daluwang, and plain paper. One of the manuscripts that has never been reviewed is the *Dhapukanipun Bab Tata Krama ing Mangkunagaran* or abbreviated as the *Tata Krama Mangkunegaran* manuscript to make it easier to pronounce the name of the manuscript.

Tata Krama Mangkunegaran Manuscript Manuscript contains the manners that exist in the Mangkunegaran environment, the rules made for the courtiers who serve the VII Mangkunegara, so this manuscript was written or written during the VII Mangkunegara leadership. The written culture of the palace in the past also influenced literary works in the Mangkunegaran environment. There have been many literary works produced since the reign of the first Mangkunegara.

Based on the identification of the *Tata Krama Mangkunegaran* manuscript, some information was obtained including that in this manuscript there are three parts, namely (1) rules of attitude, (2) rules in regulating clothes, and (3) *songsong* or royal umbrella and flags according to their use. Overall the Mangkunegaran manuscript consists of 19 chapters and 43 pages, wherein part 1 consists of 7 chapters,

part 2 consists of 9 chapters, and part 3 consists of 3 chapters. However, this research only discusses in chapter 1, namely regarding the rules of attitude. Furthermore, in this chapter, noble values will be taken as a means to improve character education.

Until now, the *Tata Krama Mangkunegaran* manuscript are kept neatly in the manuscript collection room at the Reksa Pustaka Library which is located in the Mangkunegaran neighborhood of Surakarta. When seen with the naked eye, this manuscript is in quite good condition. The script used in the writing of this script uses the new Javanese script, so it is easy to understand. besides that, the language used is new Javanese with a variety of krama Inggil. However, in writing, a foreign language was inserted, namely Dutch. For example: Openbare Plaatsen, dhie hoek and Dutch written in Javanese script.

Overall, this manuscript is used as a written medium to organize the *abdi dalem* in Mangkunegaran created during the Mangkunegara VII leadership. In this text, there are symbols in attitude, besides that it also contains noble values that are relevant when compared to life today.

3.2. Noble Values In *Tata Krama Mangkunegaran* Manuscripts Are Means Of Character Education

In the world of formal education, it is known that there are 18 character education pillars according to the Curriculum Center of the Ministry of National Education. Even though they are not taught specifically, these values can be integrated into the subjects at school. Besides that, it is also useful for the daily environment, because it contains noble values which include relationships between individuals, social, state, and religion. The following will describe the various pillars of character education:

Number	Educational Value	Character Understanding
1.	Religious	Attitudes and behaviors that are obedient in carrying out the teachings of their religion, are tolerant of the implementation of other worship and live in harmony with followers of other religions.
2.	Honest	Behavior-based on efforts to make himself a person who can always be trusted in words, actions, and work.
3.	Tolerance	Attitudes and actions that respect differences in religion, ethnicity, opinions, attitudes, and actions of others who are different from themselves.
4.	Discipline	Actions that show orderly behavior and comply with various rules and regulations.
5.	Hard work	Behavior that shows a genuine effort to overcome various obstacles to learning and assignments, and to complete tasks as well as possible.
6.	Creative	Thinking and doing something to produce a new way or result from something that is already owned.
7.	Independent	Attitudes and behaviors that are not easily dependent on others in completing tasks.
8.	Democrat	A way of thinking, behaving and acting that values the rights and obligations of oneself and others.
9.	Curiosity	Attitudes and efforts that always seek to know more deeply and broadly from something they have learned, seen, and heard.
10.	Spirit of nationality	A way of thinking, acting, and having an insight that places the interests of the nation and the state above the interests of themselves and their groups.
11.	Love the Motherland	A way of thinking, behaving and acting that shows loyalty, concern, and high respect for the nation, the physical, social, cultural, economic, and political environment of the nation.

12.	Rewarding Achievements	Attitudes and actions that encourage him to produce something useful for society, and recognize and respect the success of others.
13.	Friendly and Communicative	Actions that show enjoyment of talking, associating, and cooperating with others.
14.	Love Peace	Attitudes, words, and actions cause other people to feel happy and secure in their presence.
15.	Like to Read	The habit of taking time to read various readings that are good for him.
16.	Environmental Care	Attitudes and actions that always seek to prevent damage to the surrounding natural environment, and develop efforts to repair natural damage that has occurred.
17.	Social Care	Attitudes and actions that always want to assist others and society in need.
18.	Responsible	Attitudes and behavior of a person to carry out his duties and obligations, which he should do, towards himself, society, the environment (natural, social, and cultural), the country, and God Almighty.

After describing the pillars of character education, then we will discuss the attitudes in the *Tata Krama Mangkunegaran* manuscript which can be used as an illustration as a means of shaping character education, which will then be relevant to the 18 pillars of character education above. The following is a description of the discussion:

1) Tolerance

Humans as social creatures certainly have to maintain brotherhood. Humans who always maintain brotherhood will foster a sense of peace and tranquility. This will also create a sense of oneness. As a human being who maintains a brotherly attitude, he will certainly have a character of tolerance. Tolerance is the behavior of respecting differences in religion, ethnicity, opinions, attitudes, and actions of others who are different from themselves. The Indonesian people, especially the Javanese, have also upheld an attitude of tolerance without forgetting the original character of the Javanese.

The value of tolerance has also been exemplified in the *Tata Krama Mangkunegaran* manuscript. Below showed a text quote of the tolerance value.

"prayogi mêmpanipun kaliyan pêpangkatan. Manawi mangangge cara Walandi kêdah sacara Walandi. nanging manawi pêpanggihan kaliyan pangkat panginggilanipun ingkang mangangge cara Jawi inggih kêdah anêtêpi tangkêpipun tata krama Jawi utawi mirib."

Translation:

"If you use the Dutch method, you must adjust the Dutch method, but if the meeting with the rank above uses the Javanese way, you should use Javanese manners or adjust it as closely as possible."

During the Mangkunegara VII leadership, cooperation with the Dutch was established. This also affects the rules for people in the Mangkunegaran environment when they want to deal with the Netherlands, for example in the way they behave and dress. This is done as an attitude of tolerance and respect for the outside environment that comes in, but still upholds the original character of the nation itself.

2) Discipline

Discipline in a person will determine the success of an attempt to achieve goals. Discipline is an action that shows orderly behavior and obeys various rules and regulations. Discipline is to train the mind, control feelings, will, character to give birth to obedience and regular behavior (Sukarna, 1992: 104).

The value of discipline has also been exemplified in the *Tata Krama Mangkunegaran* manuscript. Below showed a text quote of the discipline value.

> *"Lampahipun abdi dalêm mundur saking sowan Ngarsa Dalêm punika sêsampunipun nyêmbah, ambalik ingêripun mangiwa (manawi botên pakèwêd dening panggenan utawi parlu sanès) lajêng lumampah sarta tangan taksih ngapurancang dumugi kirang langkung 5 tindak. Samantên wau kajawi manawi ambêbêkta."*(page 3)
>
> **Translation:**
>
> "The step of the courtiers when they retreated from the presence of the king after offering prayers, they had to turn to the left (if there was no obstacle to place or other necessities), then stepped in with their hands still staggering up to approximately five steps forward. This can be applied except when carrying something."

As a palace environment, a disciplined attitude must be applied by people who are in Mangkunegaran when they are outside or inside the palace. That matters to create harmony and as a form of devotion for a servant in the king. The rules that have been mentioned above indicate that every attitude that the courtiers want to do is inseparable from the attitude of discipline. Discipline is not only useful for people in ancient times but also very useful for life today. Therefore, both in the formal and informal environment it is important to instill the value of discipline.

3) Hard work

According to Elfindri et al (2012: 102), the attitude of hard work is the attitude of a person who does not give up easily which is accompanied by a strong will in trying to achieve his goals and ideals. Hard work is a behavior that shows a serious effort in overcoming various obstacles to learning and assignments and completing tasks as well as possible. Someone who has an attitude like this will tend to try their best in completing a task or job.

The value of hard work has also been exemplified in the *Tata Krama Mangkunegaran* manuscript. Below showed a text quote of the hard work value.

> *"Mila ing salêbêtipun wanci pasowanan wau manawi nuju kêtêlasan padamêlan ingkang dipungarap kêdah lapur dhatêng kalurahanipun ingkang mengkoni cêlak piyambak."*
>
> **Translation:**
>
> "Besides, if the intention of the *abdi dalem* arrival to work, when the work is done has been completed, then he must report to the sub-district in charge of the work closest to him."

The above quotation shows that when the *abdi dalem* are working, they should be done thoroughly because working thoroughly is a form of hard work. This should be emulated from young to old people, if it works, it must be done seriously and done as well as possible.

4) Curiosity

Curiosity is an attitude and an effort to always know more deeply and broadly from something that has been learned, seen, and heard. Curiosity encourages humans to carry out various activities that aim to find answers to various problems that arise in their minds. The curiosity possessed by each individual is different and not as strong so that in giving answers it is also at the level of individual curiosity. This is in line with the opinion of Samani and Hariyanto (2012: 30) which states that curiosity is the desire to investigate and seek understanding of something that is happening.

The value of curiosity has also been exemplified in the *Tata Krama Mangkunegaran* manuscript. Below showed a text quote of the curiosity value.

> *"Manawi abdi dalêm anggènipun nampèni dhawuh pangandikan Dalêm kirang cêtha utawi kirang mangrêtos, punika kêdah munjuk mitêrang."* (page 7)
>
> **Translation:**
>
> "If the *abdi dalem* receive an order that the king's words are not clear or not understood, he must ask for further information."

The quotation above is an attitude that shows that when the king ruled and it was still unclear, the courtiers should ask for further information. This needs to be done as a form of curiosity. Likewise in today's life, when you don't understand the orders of a superior or anyone's orders and when you don't understand something, you should ask, this attitude also trains individuals to have a high curiosity. A high curiosity attitude will be useful when you are in a work and learning environment.

5) Friendly and Communicative

One of the basics of implementing character education is showing good behavior and mutual respect. Friendly and communicative are actions that show a sense of pleasure to talk, socialize, and cooperate with other people. A friendly attitude is different from communicative, but in a friendly attitude there is a communication attitude. This character is an important asset in social life.

The value of friendly and communicative has also been exemplified in the *Tata Krama Mangkunegaran* manuscript. Below showed a text quote of the friendly and communicative value.

> *"Abdi dalêm manawi wontên ing pajagongan grombolan utawi wontên ing papan ingkang kangge ngakathah, utawi sêsarêngan lumampah kaliyan sintên kemawon. Punika manawi wontên salah satunggal ingkang parlu urmat dhatêng sintên kemawon ingkang nuju langkung sacêlakipun utawi dhatêng ing ngriku sadaya kêdah sami tumut matrapakên urmat sapantês mêmpan mapanipun."* (page 15)
>
> **Translation:**
>
> "If a *abdi dalem* is in a meeting place, in a public place for many people, or when walking together with anyone, when he meets someone who needs to be respected who is near him, then all must participate in the respectful attitude appropriate to that environment."

A friendly and communicative attitude is also necessary for the Mangkunegaran environment according to the quote above. When you are anywhere and with anyone and you meet other people, you must respect each other, so that the attitude of respect is not only for the king but also for fellow courtiers in the Mangkunegaran environment. Mutual respect is carried out to build friendly attitudes and communication. Today, a friendly and communicative attitude needs to be done, because this attitude is also useful for building mutual tolerance between religions, races, ethnicities, and cultures.

6) Social care

Social care is an attitude and action that always wants to assist other people and communities in need. Caring means paying attention to something, social care does not mean interfering in other people's affairs, but rather helping solve problems faced by others with the aim of goodness. This is in line with the opinion of Milfayetti, et al. that a caring attitude is an attitude that is full of attention to the existence of others.

The value of social care has also been exemplified in the *Tata Krama Mangkunegaran* manuscript. Below showed a text quote of the social care value.

> *"Abdi dalêm manawi parlu martuwi tiyang sakit punika kêdah nyingkiri punapa sirikanipun ingkang nuju sakit wau."* (page 15)
>
> **Translation:**
>
> "If the courtiers need to visit the sick, they must avoid bringing things that are prohibited for the sick person."

Following the quote above, describing the attitude when visiting a sick person should not bring something that is forbidden for the person who is sick. This is included in the attitude of social care because a caring attitude is not only related to helping physically or materially to others. It is this caring attitude that must be preserved at this time so that the Indonesian cultural identity which is known for caring and helping does not disappear.

7) Responsibility

Responsibility is the attitude and behavior of a person to carry out his duties and obligations, which he should do, towards himself, society, the environment (nature, social, and culture), the state and God Almighty. The attitude of responsibility is one of the character values that need to be instilled in the person of every human being, in order to become a human being who has a good personality. The attitude of responsibility is a simple measure of a person's attitude and behavior to carry out his duties and obligations.

The value of responsibility has also been exemplified in the Mangkunegaran Manners text. Below shows an excerpt of the value of responsibility text.

"Manawi gadhah parlu ingkang kêdah mawi pamit botên pasowanan, punika kêdah mawi landhêsan ingkang nyata. Upaminipun pamit parlu rencang sadhèrèk gadhah damêl mantu punika pamitanipun wau kêdah mawi dipunkanthèni pasaksèn sêrat saking sadhèrèkipun wau. Grêbanipun sêsagêd-sagêd sampun ngantos pamit. Ingkang botên wontên parlunipun."(page 11)

Translation:

"If you have a need that requires a permit not to serve, you must use concrete evidence. For example, saying goodbye because of your need to hold a wedding, the permission must be accompanied by a letter from the relative. In short, as much as possible do not get permission if there is no need. "

The quote above explains that an attitude of responsibility is also needed in a work environment. Even when there is a need, it is required to attach proof of permission not to enter work. The value of responsibility does not only apply to others but also applies to oneself, religion, and the environment.

4. Conclusion

Based on the research that has been done, it can be concluded that the manuscripts of the Mangkunegaran Manuscripts are currently neatly stored in the Reksa Pustaka Mangkunegaran Library with the condition of the manuscripts and texts that can still be read and understood. Furthermore, there are points regarding noble values in the *Tata Krama Mangkunegaran* manuscript which is related to the pillars of character education. Among them are the values of tolerance, discipline, hard work, curiosity, friendly and communicative, social care, and responsibility. These values should be implemented and preserved as a form of noble Indonesian cultural character.

Thus ancient manuscripts are not only read and known for their history but also need to be thoroughly and thoroughly studied with various kinds of knowledge. As has been done in the research above, if examined in depth there are noble values that are useful as a means of shaping character education. It is necessary to research the *Tata Krama Mangkunegaran* manuscript using different methods so that the manuscript is also known and preserved by the wider community.

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Categories of Human Rights Offenses as International Crimes

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Abstract

The discussion of this article is related to the subject matter, that the underlying thing so that a human rights offense can be categorized as an international crime is because the human rights offense has a wide impact and has received international attention. This form of attention from the international community is concreted in the form of agreements that give birth to international agreements, both through conventions, covenants, treaties and statutes that regulate these types of human rights crimes.

Keywords: Human Rights Offense; International Crime.

1. Introduction

Along with the development of a globalized world as a result of increasing information technology, the tendency for various types of crime to occur cannot be avoided. The trend of crime that is happening now is not only felt or has an impact on one country but has involved many countries. Traditionally, a crime was originally prohibited by all countries, such as murder, theft and other types regulated in the national criminal provisions of each country, but the national nature of the crime can turn into the affairs of the international community [1].

Moreover, if the offense for which the sanctions are imposed is adjusted to the classification of the offense, whether it is carried out in a planned (systematic) or not, and whether the victims are quite large (widespread), that will determine the severity or severity of the sanctions to be given. If it meets the requirements as a murder that can be categorized as a gross violation of human rights or a human rights crime that grabs the attention of the world, even though the incident occurred in the national territory of a particular country, then the crime may become a matter for the international community [2].

In addition, a crime offense can also occur in one country but in the process of solving it involves many countries. In the sense that it is not because these criminal offenses have both been determined by those countries as prohibited in their criminal law, but the type and process of the occurrence of the crime so that the jurisdiction (legal authority) to process it is in more than one country [3].

With regard to state jurisdiction over a crime, there has been a case known as the Harnoko Dewantono case (the Oki case). In this case Oki is a suspect in the murder of two Indonesian citizens and one Indian citizen that occurred in Los Angeles, United States of America, in 1992 [4]. In accordance with the (international) legal context in Oki's case, there are three state jurisdictions to try him, namely: The United States as the place or locus of the offense (territorial jurisdiction), Indonesia and India are based on personal jurisdiction because their citizens are victims. In addition, there are also types of crimes that occur within a country but have an international aspect, namely crimes against humanity. In the context of Indonesian national law, it is known as gross violation of human rights, as regulated in Law no. 26 of 2000 concerning the Human Rights Court (hereinafter referred to as UUPHAM) [5].

Based on the description above, it is interesting to study offenses related to human rights which can be categorized as international crimes. The main issues that will be described in this article are as follows: Why can the category of human rights offense be called an international crime?

2. Methods

This research is a normative research. While the approach used is a statutory approach. The research was conducted on regulations and literature related to human rights and crimes that occur related to human rights globally. Therefore, this research is a literature study [6].

3. Results and Discussion

3.1. Criminal Act Definition

In terms of terminology or grammar, there is no review of the definition of offense in the Criminal Code (KUHP) and other criminal laws outside the Criminal Code. In the Criminal Code or the Law, only the elements of the offense contained in each article are described. The definition of offense is only put forward by experts but by using the term criminal act. The expert or expert who uses the term criminal act is Moeljatno (1985:54), then gives the meaning of the term as follows [7]:

> *A criminal act is an act that is prohibited by a rule of law, which prohibition is accompanied by threats (sanctions) in the form of certain crimes, for those who violate the prohibition. It can also be said that a criminal act is an act which by a rule of law is prohibited and is punishable by punishment, provided that at the same time it is remembered that the prohibition is aimed at an act, (i.e. a situation or event that is caused by the behavior of a person), while the criminal threat is directed at a person who commits a crime. caused it to happen.*

Another expert who consistently uses the term offense is A. Zainal Abidin Farid who explains that although each offense has different elements, in general it has the same elements, namely: a) active/positive or passive/negative actions, b) consequences (specifically offenses). materially), c) against the formal law relating to the principle of legality, and against the material law (silent element), d) the absence of a justification.

In another language, Hermien Hadiati Koeswadji (1993:133) divides offenses into two terms, namely commissi offenses and ommissi offenses. The definition of a commission offense is an offense consisting of committing an act that is prohibited by a regulation. If the offense ommissi is an offense consisting of not doing / doing an act when it should have done [8].

Then the division of offenses commonly used in criminal law practice is formal offenses and material offenses. These two terms according to A. Zainal Abidin Farid are not very appropriate because formal offenses can be interpreted as official offenses even though they are not, formal offenses (formele delicten) mean offenses that only describe the act and do not mention the consequences. Likewise, the term material offense can be interpreted wrongly, an offense related to material things. Whereas what is meant by material offenses (material offenses) are offenses that require the existence of prohibited consequences [9].

To make it easier in terms of Indonesian, the two terms are still used. So the definition of a formal offense is if the formulation relates to committing a criminal act, such as Article 362 of the Criminal Code concerning theft. For a material offense, it is if the subject matter of its formulation is the result, such as Article 351 of the Criminal Code concerning persecution or Article 338 of the Criminal Code concerning murder. In this article, what is prohibited by law is the result [10].

3.2. Scope of the Human Rights Offense

After understanding the definition of offense in general, it will be easier to relate it to offenses related to human rights. Thus, it can be said that human rights offenses are all good deeds of a formal or material nature that have an impact on the neglect of human rights awards.

Human rights themselves can be interpreted as rights inherent in nature in humans which are gifts from God without seeing any differences. In the Declaration of Human Rights which was proclaimed

by the United Nations (UN) in 1948 at the beginning of its declaration, it was stated that this statement was a general implementation basis for all nations and countries. The goal is that every person and every body in society always strives to enhance respect for rights and freedoms by taking progressive actions that are national and international in nature [11].

If the contents of this Human Rights Statement are analyzed, then the classification of respect for human rights consists of civil, political, social, economic, and juridical rights so that everyone is required to respect these rights. Then the respect for human rights was further complemented by the issuance of the International Covenant on Civil and Political Rights by the United Nations in 1966. This international legal instrument known as the Civil and Political Covenant consists of 53 articles, most of which contain rights with the nuances of democracy, freedom and equality. This Covenant has been applied universally because it has fulfilled the requirements for ratification since 1976. Indonesia has ratified or ratified this Covenant through Law no. 12 of 2005.

Likewise, the United Nations in the same year also made the International Covenant on Economic, Social, and Cultural Rights (Covenant on Economic, Social and Cultural Rights). Indonesia has also ratified this covenant through Law no. 11 of 2005. So the scope of human rights includes political, economic, social, cultural, and legal rights that must be upheld by the state (government) and citizens. Consequently, if there is a denial or violation of these rights, it can be said as a legal event or offense which is categorized as a human rights crime.

Moreover, Indonesia already has a legal instrument, namely UUPHAM which can be used as a reference for resolving human rights offenses, although the authority of this UUPHAM is only limited to the scope of civil and political rights. If the grouping of human rights in the field of Economic, Social and Cultural Rights, there is no firm and detailed law enforcement. This neglect of the human rights sector has not yet been criminalized, so it still tends to be difficult to enforce or implement.

The human rights offenses referred to in this article are offenses outside the Criminal Code. Offenses that are extraordinary crimes that are different from the crimes contained in Book II of the Criminal Code. The offenses listed in the Criminal Code although in principle also contain human rights values, but because they are ordinary offenses, the settlement process if there are people who violate them is only through the ordinary General Court.

Unlike people who violate human rights offenses regulated in the UUPHAM, they must be resolved through the Human Rights Court or the Ad Hoc Human Rights Court (for past human rights cases before the formation of the UUPHAM). In addition to UUPHAM, Indonesia also has instruments that contain details on human rights. A year before the establishment of UUPHAM there was Law no. 39 of 1999 concerning Human Rights (UUHAM) describes in detail the rights that are the responsibility of the government to be protected from violations committed by anyone, including state officials. This is explicitly stated in Article 1 point 6 of the Human Rights Law as follows:

> *Violation of human rights is every act of a person or group of people including state apparatus, whether intentional or unintentional or negligence which unlawfully reduces, hinders, limits, and or revokes the human rights of a person or group of people guaranteed by this Law, and do not get, or fear that they will not get a fair and correct legal settlement, based on the applicable legal mechanism.*

Broadly speaking, the details of human rights that must be protected are the right to life, the right to have a family and continue offspring, the right to develop oneself, the right to obtain justice, the right to personal freedom, the right to security, the right to welfare, the right to participate in government, the rights of women, and children's rights (Chapter III UUHAM). The UUPHAM clearly states that a human rights crime (delict) is a gross violation of human rights. The scope of gross human rights violations is stated in Article 7 which includes the crime of genocide and crimes against humanity. Then the two types of crimes are described further in Article 8 and Article 9, which will be discussed at the end of this article and the author will analyze whether gross human rights violations can be categorized as international crimes in accordance with the subject matter of this article.

3.3. Characteristics and Types of International Crime

The study of international crime (international crime) is something that is still relatively new in the science of law so that this definition/term has not been found in various provisions (UU) especially in national law. However, the discourse on this matter has often been developed by international law experts. It also begins with the term international criminal law (international criminal law or international strafprocessrecht).

According to Romli Atmasasmita the growth of international criminal law as a legal discipline comes from two sources, namely: first, from the development of international legal customs (customs) and second, from international agreements (treaties). There have been decisions of the International Court of Justice through customary international law in matters of criminal jurisdiction at sea, such as the Corfu Channel case in 1949. In this case it was decided that the Albanian government was responsible for the Albanian mine blasting which resulted in the death of British prisoners of war. Although this decision does not explicitly state that Albania's actions constitute international crimes or crimes against humanity.

In practice the formation of international treaties regarding the development of international criminal law can be seen with the Agreement on Piracy, such as the Jay Treaty of 1794 between the United Kingdom and the United States which among other things stipulates giving the British Empire the authority to treat United States citizens as pirates who commit crimes aboard a French ship, the Vienna Declaration of 1815 which established the slave trade as a crime against universal principles of humanity and morality. In addition to these agreements, there are also criminal jurisdictions from international bodies, such as in the Charter of the League of Nations (LBB), among others, there are provisions that stipulate that violations of treaties or obligations of each participating country are seen as committing acts of war. against other member countries which can be categorized as international crimes in the form of aggressive war. Likewise with the Convention against Terrorism in 1937, there are provisions regarding the obligations of participating countries to determine acts of terrorism as an act of international character.

The description above can provide an understanding that the characteristics of international crimes are if these crimes have a wide impact and become international attention. The form of this attention can be known if there have been various agreements that gave birth to international agreements either through conventions, covenants or treaties and statutes. Very progressive developments related to the world's attention to international crimes can be seen with the success of the United Nations in establishing a codification of international law regarding it, namely the agreement of the 1998 Rome Statute of the International Criminal Court. International.

The history of the formation or inspiration for the birth of this statute comes from the experience of the previous instrument, namely the Nuremberg Military Court Charter in 1948. In this charter, three types of international crimes have been established, namely: crimes against peace, war crimes, and crimes against humanity. There are four types of crimes that fall under jurisdiction (legal authority) that can be processed according to the 1998 Rome Statute in addition to genocide (ethnic/ethnic destruction) and aggressor (aggression). Then two of these types of crimes were adopted from the Nuremberg Charter, namely war crimes and crimes against humanity.

Then, of the four types of crimes that are subject to the 1998 Rome Statute, there are more details. Genocide types of crimes include, among others, killing group members, inflicting injury or mental injury on group members, causing physical. destruction, preventing births within the group (Article 6).

If crimes against humanity are regulated in Article 7, among others the types of crimes are: murder, extermination, slavery, torture, rape, sexual slavery or other forms of sexual violence, enforced disappearances, apartheid crimes. Likewise, war crimes include all acts committed during wartime that are contrary to the provisions of the law of war, the 1949 Geneva Conventions (Article 8).

3.4. Serious Human Rights Violations as International Crimes

Indonesia's national legal instruments have also adopted international provisions governing offenses or crimes against human rights. Either through the formation of separate laws, such as the UUHAM and UUPHAM as well as laws that ratify international law, such as the 1984 Anti-Torture Convention which was ratified by the Indonesian government in 1998 as part of national law, namely Law no. 5 of 1998.

The birth of Law no. 5 of 1998 concerning Ratification of the main ideas in the Convention Against Torture according to Abdul Hakim Garuda Nusantara (Pax Benedanto, et al, 2000:30) has five important meanings, namely: first, Indonesia has a real commitment to prevent, overcome, and end the phenomenon of torture, second, Indonesia must improve the Criminal Code (KUHP), third, Indonesia provides more adequate legal legitimacy to prevent, overcome, and end torture involving state officials, directly or indirectly, fourth, Indonesia realizes that efforts to overcome torture must be carried out multilaterally. Fifth, Indonesia recognizes the authority of the UN Commission Against Torture to prevent, overcome and end torture. (This description can also be read in the author's book, Human Rights Crime Law Perspective of Indonesian Criminal Law and International Criminal Law, Kencana PrenadaMedia Group, 2020, pp.113-114).

Torture is one of the forms or types of crimes against humanity regulated in the UUPHAM so that torture is included in the category of gross human rights violations (Article 7 and Article 9). If it is related to the characteristics of international crimes which say that the types of crimes that have been included in international conventions can be categorized as crimes with an international dimension, the types of gross human rights violations regulated in the UUPHAM are included as international crimes. Moreover, the substance and principles in UUPHAM also adopt some of the provisions of the 1998 Rome Statute concerning the International Criminal Court (MPI), which is a form of international legal agreement or institution. It is known that the 1998 Rome Statute regulates the types of international crimes that fall within the jurisdiction of the International Criminal Court.

Although the terminology used in the Human Rights Law is different from the 1998 Rome Statute, the Rome Statute explicitly states that the Court's jurisdiction is only on the most serious crimes involving the international community as a whole, namely crimes of genocide, crimes against humanity, war crimes, and crimes of aggression. (Article 5 paragraph 1). If the UUPHAM uses the term Human Rights Court, it has the duty and authority to examine and decide cases of serious human rights violations, including crimes of genocide and crimes against humanity (Article 4 and Article 7).

However, the substance of the types of crimes regulated in the UUPHAM Article 8 concerning the types of crimes of genocide and Article 9 concerning the types of crimes against humanity, mostly adopt the types of crimes in the 1998 Rome Statute which also regulates the two types of crimes. Likewise, the criteria that can be included as crimes against humanity. Both the 1998 Rome Statute and the UUPHAM state that crimes against humanity must be acts as part of a widespread or systematic

attack. The only difference is the inclusion of the words that the attack was "directly directed" against the civilian population in the UUPHAM, while the 1998 Rome Statute does not include the words "directly aimed", only saying "widespread or systematic attack directed against a group of people". civilian population".

If we analyze these differences, there are political intentions in them. The tendency of the implementation of the UUPHAM is only aimed at perpetrators of gross human rights violations (state officials) who are on direct duty in the field that cause crimes against humanity to occur, so that leaders of state officials who are not directly in the field when crimes against humanity occur can avoid accountability. Moreover, in UUPHAM there is a provision that says military commanders "can" be held accountable for the actions of troops under their command (Article 42). The word "can" can be interpreted that a commander should not or should not be responsible. In contrast to the implementation of the 1998 Rome Statute, the principle of command responsibility is known. Article 28 explicitly states that a military commander is criminally responsible for crimes committed by the troops under his command as a result of his failure to exercise control properly and properly. According to A. Patra M. Zen (Makalah, 2002: 4), the principle of command responsibility has become international customary law that should be known by generals or leaders because in practice or since the end of World War II many general who was tried for committing human rights crimes.

The existence of the principle of command responsibility which is firmly adhered to in the 1998 Rome Statute is what politically tends to affect the Indonesian government's delay in ratifying it. Because the consequences of ratification have an impact on the implementation of the 1998 Rome Statute for gross human rights violations that occurred in Indonesia (according to Articles 1 and 17), the UUPHAM is considered unfair and effective in processing serious human rights cases.

4. Conclusion

It can be concluded from the description of the discussion related to the formulation of the main problem of this article, that the underlying thing so that a human rights offense can be categorized as an international crime is because the human rights offense has a wide impact and has received international attention. This form of attention from the international community is concreted in the form of agreements that give birth to international agreements, both through conventions, covenants, treaties and statutes that regulate these types of human rights crimes.

Indonesia as one of the countries that is often under the spotlight for committing gross human rights violations or human rights crimes should optimize the implementation of the UUPHAM in a fair and transparent manner. As well as making amendments to several provisions in the UUPHAM to comply with international legal instruments that regulate human rights. In addition, it must immediately ratify the 1998 Rome Statute as a manifestation of the seriousness of respecting and protecting human rights.

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Sela Decision Against Members of Indonesia Plantation and Agriculture Workers Federation, Riau Province Which is Conducting at the Pekanbaru Industrial Relation Court

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Abstract
The researchers are interested in taking the title Implementation of the Mandatory Decision on the Members of the Riau Province Indonesian Plantation And Agriculture Workers Federation at the Pekanbaru Industrial Relations Court. This research method is the type of this research is sociological law research. The result of this research is that the implementation of the requirement to impose an interlocutory decision against members of the Riau Province Indonesian Plantation And Agriculture Workers Federation at the Pekanbaru Industrial Relations Court, in practice it is not carried out, because from the Industrial Relations Dispute Resolution Case handled by the Indonesia Plantation And Agriculture Workers Federation, a Sela Decision will always be submitted. but the judges of the Pekanbaru Industrial Relations Court were never granted. Furthermore, the obstacles and efforts to overcome them in the Implementation of the Mandatory Decision on Interlocutors Against Members of the Riau Province Indonesian Plantation And Agriculture Workers Federation at the Pekanbaru Industrial Relations Court . The Panel of Judges does not want to rush into making a decision because they want to get answers from the employer about the sit of the case, there has been no strict sanction for the panel of judges from the RI judicial commission when the interlocutory ruling is not carried out even though there is too much evidence to be imposed.
Keywords : Indonesia Plantation And Agriculture Workers Federation of Riau Province & Sela Decision

1. Introduction

The Indonesia Plantation And Agriculture Workers Federation (Federation of Agricultural and Plantation Workers Unions PD.FSPPP.SPSI) is a combination of Agricultural and Plantation Workers Unions registered at the Department of Manpower and Transmigration of Riau Province Number: 05 / PD.FSPPP.SPSI / DTK / 04 / 2009, which was established by deed of establishment Society of Agriculture and Plantation Workers union throughout Indonesia Workers union (SPSI SPPP) Notary Netty Maria Machdar, SH No. 72 on December 13, 2016 [1]. the results of the initial interview with Mr. Hadi Dalimunthe Amrul as union president, members Fererasinya is Approximately 45,000 (forty five five thousand) people consisting of employees or workers of agricultural and plantation companies in Riau Province. Furthermore, the average case of termination of employment for members of the Federation of litigations represented by the chairman or union officers who have reached the industrial relations court is approximately 10 cases per year. In every case the PD.FSPPP.SPSI Management always asks the Court for an interim decision for the need to pay urgent wages for employees, because it is urgent, but the court never grants it [2].

Indonesian Regulations have provided Regulations on Requirements for Courts to Pass Interlocutory Decisions [3]. This is stated in Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes and the Regulation of the Minister of Manpower. This arrangement clearly provides a great opportunity for those who have the authority to do this [4].

Based on the above, it should be based on the law to impose an interlocutory decision on workers who are currently undergoing termination of employment at the Pekanbaru Industrial Relations Court, in other words, interlocutory decisions are not too difficult to impose because they are the rights of workers who are in litigation. However, the request for an interlocutory decision to the panel of judges at the Pekanbaru Industrial Relations Court is very difficult to grant based on the author's preliminary observations on cases currently being handled by members of the *Indonesia Plantation And Agriculture*

Workers Federation (Federation of Agricultural Workers Unions PD.FSPPP.SPSI), Riau Province Who is currently being litigated at the Pekanbaru Industrial Relations Court [5].

The process of litigating in the Manpower Sector until the cassation level at the Supreme Court takes 80 days or in practice it can be more, while at that time employees who are being laid off by the Agriculture and Plantation Companies in Riau Province do not receive their wages [6]. The author's initial interview with officials of the *Indonesia Plantation And Agriculture Workers Federation* (Federation of Agricultural Workers Unions PD.FSPPP.SPSI) Mr. Hadrizon said that during the Case Process at the Industrial Relations Court, some of our members worked as motorcycle taxi drivers, some became construction workers for provide for their families, and some have moved directly to work to other companies [7]. The period of the court case of almost 3 (three) months has forced workers to find other ways of life to survive.

According to the Bengkulu Industrial Relations Court Ad-Hoc Judge Imam P Hidayah , the Sela Decision was to provide legalization for an action that was very urgent, which if not carried out would have a big impact, the Panel of Judges could consider by asking the Defendant in the trial. first, is it true that the Plaintiff's salary has been paid or not? And then there must be proof of payment receipt if it is true that the Defendant has paid to the Plaintiff [8]. Evidence regarding the payment of the salary referred to is borne by the Defendant to prove it, whether it has been paid or not in accordance with the mandate of Article 283 Rbg (Rehts Reglement Buitengewijsten), which states, whoever has rights or events to confirm their rights or to deny or deny the rights of others, then he is obliged to prove his rights.

Research carried out by previous research only provides an initial understanding with regard to the research problem and initial concepts related to this research . Examples of research on termination of employment in terms of law by erni dwita silambi published by the media Neliti, termination of employment on the basis of rejecting mutations by Deden Muhammad Surya published on Researchgate, while this research explains the rights obtained by workers before the Court Decision. Provisional decisions are interlocutory decisions that are passed before the final verdict in relation to the subject matter, so that temporarily pending the final decision be implemented first on the grounds that it is very urgent in the interest of one of the parties [9].

The recognition of the Dutch East Indies Government, that economic livelihoods needed to be properly regulated, opened the way for the government to make social laws that were useful for protecting the working class or workers who were in a weak socio-economic condition. For this reason, through a long history the government has established a large number of new institutions assigned to the labor sector, such as employers, who are obliged to maintain and enforce labor laws, work councils that administer the implementation of the insurance law, intermediaries. a state given the task of carrying out negotiations peacefully and avoiding disputes over the employment relationship of municipal employment offices [10].

Law of the Republic of Indonesia Number 2 of 2004 concerning the settlement of industrial relations disputes, article 96 paragraph 1, states that if in the first trial, it is evident that the employer has not fulfilled its obligations, in this case wages, the Industrial Relations Court must immediately issue an interlocutory decision in accordance with the law's order. -A law which is an order for employers to pay wages along with the rights of workers in the process of termination of employment, the interim decision can be passed on the same trial day or on the second trial day [11]. as long as the examination of the dispute is still ongoing the payment of wages is also not carried out by the entrepreneur, the Chief Judge of the Session orders the Confiscation of Collateral in a Determination. The interim decision cannot be challenged and / or legal remedies cannot be used. in Article 155 paragraph 3 of Law Number 13 Year 2003 there are words of suspension as the key word for interlocutory decisions, this explanation is answered by Article 17 of the Minister of Manpower and Transmigration Number: Kep-150 / MEN / 2000 states before the termination of employment is granted By the Regional Committee and the Central Committee while the Employer does not suspend Workers, Employers and Workers must continue to fulfill all their obligations [12].

In connection with the above background, the formulation of the problem in this research are: B agaimanakah Implementation of Mandatory Injunctions Against Dropping Members *Indonesia Plantation And Agriculture Workers Federation* of Riau province in the Industrial Relations Court Pekanbaru ?

What are the obstacles and efforts in overcoming obstacles for the Pekanbaru Industrial Relations Court Panel of Judges in passing the Interlocutory Decision on members of the *Indonesian Plantation And Agriculture Workers Federation* of Riau Province who are Concerning Termination of Employment ?

2. Methods

This type of research is sociological legal research , carried out by means of an empirical approach by examining the formulation of the problem to be studied as well as providing an overview and analysis of the Equitable Implementation of Fulfillment of Access to Justice for the Poor in Riau Province based on Law Number 16 of 2011 concerning Legal Aid.

3. Results and Discussion

From the results of the interview, the author is linked to the situation in the field and then analyzed, it can be seen that the Implementation of the Mandatory Decision on the *Indonesian Plantation and Agriculture Workers Federation* of Riau Province at the Pekanbaru Industrial Relations Court in practice is not implemented, because of the Industrial Relations Dispute Resolution Case handled by *Indonesia. The Plantation And Agriculture Workers Federation* always submitted a Sela Decision, but the Pekanbaru Industrial Relations Court judge never granted it . Furthermore, the obstacles and efforts to overcome them in the Implementation of the Mandatory Decision on Interlocutors Against Members of the Riau Province *Indonesian Plantation And Agriculture Workers Federation* at the Pekanbaru Industrial Relations Court . The Panel of Judges does not want to rush into making a decision because they want to get answers first from the employer regarding the sit of the case, there has been no strict sanction for the panel of judges from the RI judicial commission when the interlocutory ruling is not carried out even though there is so much evidence to be overthrown, There is no program from the government in providing policies for workers whose wages are unilaterally terminated by employers because they are undergoing a settlement of employment termination at the industrial relations court.

3.1. Execution of the Mandatory Decision on the Members of the Riau Province *Indonesian Plantation and Agriculture Workers Federation* at the Pekanbaru Industrial Relations Court

Results of Interviews with the Chairman of the Federation of Agricultural and Plantation Workers Unions of All Indonesia Workers Union (SPSI) in Riau Province, Mr. Amrul Hadi Dalimunte and from several court decisions that the author took based on observations of research conducted at the Research Site, the data were obtained:

No.	Case Number	Plaintiff	Defendant	Information
1	63 / Pdt. Sus.PHI / 2018 / PN.Pbr	Budi Edwin	PT. Jatim Jaya Perkasa	Judge Refuses to Pass Intermediate Verdict
2	685 K / Pdt.Sus-PHI / 2016	Jumadi Siregar	PT. Bina Fitri Jaya	Judge Refuses to Pass Intermediate Verdict
3	02 / Pdt.sus.PHI / 2016 / PN.Pbr	Agus Warsito, Rahmat, Muhammad Yayang	PT. Inti Kamparindo Sejahtera	Judge Refuses to Pass Intermediate Verdict
4	492 K / Pdt.Sus-PHI / 2015	Abdul Lumban Gaol, Zulkarnaen Saun Kadir	PT. Inti Kamparindo Sejahtera	Judge Refuses to Pass Intermediate Verdict
5	30 / Pdt.Sus-PHI / 2017 / PN Pbr	Saut Hutagalung	PT. The Great Heritage of the Indonesian Archipelago	Judge Refuses to Pass Intermediate Verdict

Data Source: *Indonesia Plantation And Agriculture Workers Federation, Riau Province.*

From the table above, it shows that it is very difficult to grant the Plaintiff's request for an interlocutory decision at the Pekanbaru Industrial Relations Court in relation to orders to employers to pay wages before Industrial Relations dispute cases are terminated. The results of an interview with Mr. Ruzaini, a retired Manpower Office of Riau Province, stated that the interlocutory decision was granted at the Pekanbaru Industrial Relations Court but was related to the Absolute Authority of the Industrial Relations Court.

Employers who terminate their employment to workers do not employ or suspend workers and do not provide wages and other rights as long as the decision of the Industrial Relations Court has not been determined, even though the termination of employment (PHK) carried out by the employer is unilaterally without any stipulation. from the Industrial Relations Court. Whereas based on the provisions of Article 2 of Government Regulation Number 78 of 2015 concerning Wages, workers who are still in the process of Termination of Employment are still entitled to wages, if the Termination of Employment is not due to the death of the Worker / Laborer, there is a Collective Agreement between the worker and the employer or there is a stipulation. Industrial Relations Court.

Juridically, the position between entrepreneurs and workers is the same. In the principle of *Equality Before the Law, it is* interpreted that employers and workers have the same position in law. However, economically and socially, the position between entrepreneurs and workers is different. From an economic point of view, entrepreneurs have a higher economic position than workers. Entrepreneurs are people who have business capital and are entitled to accept labor in accordance with the requirements that have been determined by him, while workers are people who need money so that they submit job applications to entrepreneurs to get them. Correspondingly, from a social perspective, entrepreneurs clearly have a more respectable social position compared to workers. Therefore, the essence of labor law is to protect workers from possible abuse of power by employers.

Article 155 of Law Number 13 of 2003 concerning Manpower instructs workers and employers to continue to carry out their obligations until there is a stipulation of an Industrial Relations Dispute Settlement Institution, including the Industrial Relations Court . However, employers are allowed to suspend workers, provided that they continue to pay workers' wages. To carry out Article 155, the judge can actually issue an interlocutory decision ordering workers to pay wages if the employer does not carry out his obligations, as regulated in Article 96 of Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes. Especially with the risk of collateral confiscation that cannot be challenged . The never issued of this order provoked protests from among the workers. According to Odie, this is a big problem and greatly weakens the position of workers. He pointed Sogo workers though have won in p trials were industrial relations are yet to be paid and forced to look for a second job as a taxi driver so, selling fried foods, and *ngojek* motors. In fact, entrepreneurs are also at a disadvantage when they have to spend money at once when the judge has terminated the employment relationship . Because, even if entrepreneurs win, they still have to pay wages during the process. Furthermore, Odie told me, once during the first trial of a dismissal case he handled, he submitted evidence, among others, in the form of a savings book that had no incoming transfers. Then according to him the request for an interim verdict was rejected by the judge. It turned out that it was not strong enough for the panel of judges, he said. (www.hukumonline.com)

3.2. Constraints and Efforts to Overcome Constraints for the Panel of Judges at the Pekanbaru Industrial Relations Court in passing the Interlocutory Decision

Constraints and efforts to overcome them in the Implementation of the Mandatory Decision on Interlocutors Against Members of the Riau Province *Indonesian Plantation And Agriculture Workers Federation* at the Pekanbaru Industrial Relations Court , including:

a. The Panel of Judges does not want to rush into making a decision because they want to get answers from the employer about the case of termination of employment (Interview with Mayandri Suzarman, Judge at the Bengkulu Industrial Relations Court)
b. There has been no strict sanction for the panel of judges from the RI judicial commission when the interlocutory ruling is not enforced, even though there is too much evidence to impose it.

c. There is no program from the government in providing policies for workers whose wages are unilaterally terminated by employers because they are undergoing the completion of termination of employment at the institution.

Efforts to overcome this in the implementation of the requirement to impose an interlocutory decision on members of the Riau Province *Indonesian Plantation and Agriculture Workers Federation* at the Pekanbaru Industrial Relations Court , including: The Panel of Judges did not want to rush into a decision because they wanted to get answers from the employer about the case of termination of relations. it works. This should not be considered rushed because this is the right of the workforce. In practice, according to Willy, employers are usually on the defensive about wages while waiting for the mediation process to reach the verdict of the Industrial Relations Court . If the court then agrees to pay the new wage the entrepreneur pays . According to him, this is usually the employer's strategy so as not to pay workers' wages during suspension. That is the trend, instead of suspending and having to pay employers directly terminating the employment relationship . Injunction pursuant to Article 96 U ndang Act No. mor 2 of 2004 concerning Industrial Relations Dispute Settlement , can only be used what if entrepreneurs suspension. However, when employers no longer pay wages for workers during the termination of employment, this is very detrimental to workers, so employers should continue to pay for the worker's economic sustainability. There has been no strict sanction for the panel of judges from the RI judicial commission when the interlocutory decision is not made even though there is very little evidence to be able to impose it and there is no program from the government in providing policies for workers whose wages are unilaterally terminated by employers because they are undergoing termination settlement working relationship at the institution.

Furthermore, Sri Razziaty Ischaya , one of the judges of the Jakarta Industrial Relations Court , sees the problem is in Law Number 2 of 2004. According to him, Article 96 states that judges must issue an interlocutory decision in the first trial or at least the second trial. Legislature and court practice are incompatible . Because practice has events and agenda for the session . He also considered that the interlocutory decision in the two stages was rushed and unfair, because it did not give either party the right to reply. Because in practice, the agenda at the first trial was the reading of the lawsuit. Will the panel determine an interim decision without giving the opponent a chance to answer? Then why is there a court if in the first trial a preliminary decision can be determined. The Industrial Relations Court Session, which is limited to a period of 50 (fifty days), also prevents the judge from wanting to issue an interlocutory decision. "Even if there is an interim decision, it is necessary to prove the agenda for the third and fourth trial," he said. Even though in this case the businessman clearly admitted that he did not pay, according to him there still needed to be proof. Often the payment of suspension wages to workers in the process of termination of employment is considered unfair for employers.

Payment wage suspension is often the reason strife between workers and employers, because of a dispute P emutusan employment relationship would be a burden in terms of both cost and time for employers and workers. In terms of costs, employers feel very disadvantaged if they have to pay suspension wages or processing fees for a period of time, that is, until the decision is legally binding. Meanwhile, in terms of time, employers feel disadvantaged because of the legal process in determining industrial relations disputes so that there are decisions that have permanent legal force (*inkracht*) in Indonesia, which often takes quite a long time. The interpretation of the timeframe that must be paid by employers to workers then becomes a legal problem.

4. Conclusion

The implementation of the requirement to impose an interlocutory decision against members of the Riau Province *Plantation And Agriculture Workers Federation* at the Pekanbaru Industrial Relations Court, in practice it was not implemented, because from the Industrial Relations Dispute Resolution Case handled by the *Indonesia Plantation And Agriculture Workers Federation, a* Sela Decision was always submitted but never granted Pekanbaru Industrial Relations court judge . Constraints and efforts to overcome them in the Implementation of the Mandatory Decision on Interlocutors Against Members of the Riau Province *Indonesian Plantation And Agriculture Workers Federation* at the Pekanbaru Industrial Relations Court . The Panel of Judges does not want to rush into making a decision because they want to get answers from the employer about the sit of the case, there has been no strict sanction

for the panel of judges from the RI judicial commission when the interlocutory ruling is not carried out even though there is too much evidence to be imposed, There is no program from the government in providing policies for workers whose wages are unilaterally terminated by employers because they are undergoing a settlement of employment termination at the industrial relations court. All these obstacles should have been overcome if the results of the analysis were to accommodate the two interests of both the Worker and the Entrepreneur.

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The Role of Parents Social Support on the Social Interaction Ability of Children with Special Needs

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Abstract

Entering a new environment will be a problem, especially for children with special needs. Various impressions and feelings appeared on him. Generally, the new environment makes children with special needs uncomfortable, sometimes accompanied by excessive fears. Social interaction is dynamic social relations, which involves the relationship between individuals, between groups of people, and between individuals and groups of humans. The limitations of social interaction for children with special needs need to be understood by all parties, especially parents. Parents should be able to make efforts so that the social interactions of children with special needs can be improved. The social experience that the child has can determine the power that allows the child to control the environment, self-control or the relationship between the two. This is where the role of parental social support is needed, to align children's actions with existing situations. This research was conducted using the literature review method by collecting related information through books, journals and scientific articles. Conclusion are made by reviewing these materials. This research will be more complete when done with direct research with the children.

Keywords: children with special needs; social interaction; parenting; the role of parents

1. Introduction

Social development is the achievement of maturity in social interaction. This learning process occurs throughout the life span, learning about verbal, non-verbal language, customs, morals, and closeness to other people which is a reciprocal relationship. The ability of children in their development really needs social interaction. Crying is an example of a baby expressing his need. Parents will also respond to the intent of these cries. Humans are created as social beings and will interact with each other in everyday life [1].

Social development follows a pattern, that is, a regular sequence of social behavior, and this pattern is the same for all children in a cultural group. The development of social interaction in a child, apart from being influenced by internal factors, also comes from the environment, especially the family environment which is the closest environment in the child's life. Family is the most important influence of socialization, because family relationships are closer, warmer, and have an emotional tone. Social acceptance will greatly influence the formation of self-confidence and the development of socialization skills [2]. Parents as in control in a family apart from being a model, also become a motivator for the movement of children's social interest. The warm relationship that exists as a trigger for the formation of social skills.

The closest environment that affects children's social interactions is the family environment [3]. Family is an environment that is very important in entering the learning phase of socialization with new friends and the environment. The skill of socializing is usually obtained by children from interactions with family, especially parents. Like Bandura's social learning theory, children will imitate all the behavior and habits of their parents. Even a mother is the first person to play a role in shaping the child's personality and behavior, if the mother is the child's sticky object [4].

Basically, children with special needs also want a situation and environment that supports their growth. An environment that does not give a negative label to their personality, and of course an environment that can make them achievers, grow and develop like other normal children, without feeling inferior, ashamed, and inferior to their deficiencies [5]. These negative feelings will then affect

achievement motivation that is less than optimal. Hallahan and Kauffman (1988) state that children with special needs need support from their environment in order to achieve success. Here, the environment the child is in must provide opportunities and support wholeheartedly [6].

Feelings of inferiority, shame and inferiority are manifestations of feelings that arise as a result of their deficiencies. Children will withdraw from associations and tend to hide their flaws. Indirectly, children already bear the burden from an early age [7]. According to Hurlock (1987) the effect of social acceptance in childhood will affect the formation of self-concepts that will last until adulthood. This self-concept is a picture that the child has about himself, this self-concept is a combination of the beliefs that people have about themselves, physical, psychological, social, emotional characteristics, aspirations and achievements. This self-concept is based on children's beliefs about the opinions of people who are important in their lives, namely parents, teachers, and peers [8].

From here, it is the duty of parents to take their children on a journey towards a more decent life. It's no secret that parents of children with special needs experience prolonged stress in seeking information, diagnosis, the right intervention, and also the right education. It is even more stressful if everything you face is full of question marks that go unanswered. Parents' social assistance and support is important in helping children with special needs to understand their existence, develop social abilities, which in turn can interact in social life [9].

2. Method

This research uses the literature study method, namely by examining literature sources related to the topic of social support for children with special needs in the form of journals or scientific articles or books with appropriate topics [10].

3. Results and Discussions

3.1. Children with special needs

Children with special needs are children with special characteristics that are different from children in general without always showing mental, emotional, or physical disabilities. The large number of children with special needs in Indonesia requires special attention for their development. Of course, it is our collective responsibility to anticipate the right direction for the position and condition of children with special needs. Cooperation between the government, family, community, teachers, and related parties greatly helps the existence and opportunities of children with special needs to be able to self-actualize, optimizing their growth and development.

According to Supriadi Children with special needs include children with certain disabilities (disabled children) physically, mentally and emotionally (including autistic children) as well as those with special educational needs (children with special educational needs) [11]. Likewise, what was conveyed by Lynch that included in the group of children with special needs were not only children with certain physical or mental disabilities, but also “ordinary” children who had difficulty learning at school or underserved by the education system [12]. There are three categories of children with special education needs (CSEN). First, those who have been in school but for various reasons have not made the progress they deserve. They are the ones who then easily drop out of school or stay in class. Most of them are children from poor families with poor physical and health conditions and low enthusiasm for learning. Second, children who have not entered school even though they are old enough, or because the school is not responsive to their situation, is not because these children are intellectually incapable. They are generally children who live in remote areas or are able intellectually but economically weak. Third, a small group of children with physical or mental disabilities that require special handling in their education, which is usually accommodated in special schools [13].

The application of education for children with special needs has 4 bases, namely:

a. Philosophical basis
   1) Every child has the basic right to obtain education.
   2) Each child has the potential, characteristics, interests, abilities and different learning needs.
   3) The education system should be designed and implemented by taking into account the diversity of characteristics and needs of children.

4) Children with special needs have the right to gain access to education in public schools,
5) Public schools with an inclusive orientation are a medium for eliminating discriminatory attitudes, creating a friendly society, building an inclusive society and achieving education for all.

b. Juridical basis
1) The 1945 Constitution, art. 31 (1) and (2)
2) Law No. 23 of 2002, concerning child protection, art. 51.
3) Law No. 20 of 2003, concerning the national education system: ps 3, ps 4 (1), ps 5 (1)
4) Law No. 4 of 1997 on persons with disabilities.
5) Circular of the Director General of Primary and Secondary Education, Ministry of National Education No. 380 / G.06 / MN / 2003 dated January 20, 2003 on inclusive education.

c. Empirical Basis
1) Declaration of Human Rights (1948), Declaration of Human Rights,
2) Convention on the Rights of the Child, (1989), Convention on the Rights of the child,
3) World Conference (1990), on Education for All, (World Conference on education for all),
4) UN Resolution number 48/96 of 1993 concerning Equal Opportunities for People with Disabilities (the standard rules on the equalization of opportunities for people with disabilities),
5) Salamanca's Statement (1994), on Inclusive Education,
6) Dakar's (2000) Commitment to Education for All,
7) The Bandung Declaration (2004) with a commitment to "Indonesia towards inclusive education",
8) Bukit Tinggi recommendation (2005), regarding improving the quality of an education system that is friendly to all.

d. Pedagogical basis

In article 3 of Law Number 20 of 2003, it is stated that the purpose of national education is the development of the potential of students to become human beings who believe and fear God Almighty, have noble character, are healthy, knowledgeable, capable, creative, independent and become citizens. who are democratic and responsible, namely individuals who are able to appreciate differences and participate in society. This goal is impossible to achieve if from the beginning they are separated from their peers in special schools [14].

Education for children with special needs is something new in Indonesia, where children with special needs can study in public schools in their neighborhood and these schools are equipped with support services and education tailored to the abilities and needs of children. The changes that occur are seen in the aspects of people's attitudes towards individual children with special needs who have begun to pay attention, so that new ways of dealing with children have emerged, such as the findings of learning and training models that are in accordance with the needs of children with special needs [15].

3.2. Social Interaction Skills

Gillin and Gillin (1994) explain that social interaction is dynamic social relations, which involves the relationship between individuals, between groups of people, and between individuals and groups of humans. Humans need relationships with other people, adapt to the environment, and try to maintain existing relationships. Humans as social beings have a natural tendency to gather in human groups as well, so they need a good social interaction process.

Social processes according to Gilin and Gilin (1994) are ways of relating that can be seen when people / groups of people meet each other and determine systems and forms of relationships. The next stage of social interaction is the creation of personal social interactions, namely interactions with humans in social (environmental) situations. Papalia et al (2002) explained that the relationship between a child and another child will bring out a prosocial spirit, namely interest in social relationships and concern for other children. Children feel that they are part of other children's communities, so that all their attitudes and behaviors will follow social expectations [16].

The existence of a change in the new environment for children with special needs provides collisions, which can result in things that are fun or disappointing. Children with special needs must be able to make social adjustments in a new environment, for example the school environment. For children with special needs this is very difficult, because children have to adjust to an environment that is foreign to themselves, both passively and actively. In addition, the mental readiness of children with special needs to enter a new environment or other different groups will be very good in their social development. Conversely, children's mental unpreparedness to enter a new world often results in children with special needs failing to develop their social interaction skills. If failure is seen as a challenge and is the best experience, then this will be the main capital to enter the next new environment. If the failure is an inability, then frustration / hopelessness will arise and eventually withdraw from the environment.

According to Erikson states that humans develop in psychosocial stages, each stage consisting of a specific developmental task and confronting the individual with a crisis that must be faced. The psychosocial stages are as follows [17]:

NO.	STAGES	PSYCHOSOCIAL CRISIS	IMPORTANT SOCIAL RELATIONS	ATTITUDE FORMED
1.	First year of life	Trust VS Mistrust	Mother	Trust and optimism
2.	Second year of life	Autonomy VS Shame and Doubt	Parent	Awareness of self-control and satisfaction with sufficiency.
3.	Third to fifth year	Initiative VS Guilt	Basic family	Purpose and direction of ability to take initiative, activity of someone.
4.	Sixth year of life to puberty	Industry vs. Inferiority	Neighborhood and school	Competence in intellectual, social and physical abilities.
5.	Adolescence	Identity VS Confusion	Peer group; leadership model	A complete picture of yourself as a unique person.
6.	Young adult	Intimacy VS Isolation	Partners in peer relations and sex, competence and cooperation	Ability to form close and enduring relationships; make a career commitment.
7.	Middle adulthood (middle age)	Generativity vs. Stagnation	Divided duties and shared household responsibilities	Thinking about family, society, and future generations.
8.	Old age	Integrity VS Dissapointment	Humanity	Awareness of the fulfillment of one's life from feeling satisfied; ready to face death.

In accordance with Erikson's theory of psychosocial stages, the family, especially parents, is the main place for the development of social interactions and the main supporter of the formation of social abilities. The limitations of social interaction for children with special needs should be understood by all parties, especially parents. Parents are obliged to make efforts so that the social interactions of children with special needs can be improved. Parents have an important role in dealing with children with special needs in order to be able to interact with the environment at home and school, because parents are seen as individuals who have the greatest social acceptance for children [18].

3.3. Parents Social Support

Social support is an external contribution that can help individuals to overcome a problem, regardless of the form of support provided. Social support can explain why some people are able to cope more effectively than others when faced with the same stressful conditions. Weiss (in Cutrona, 1986) states that through social support, individuals feel attachment, a feeling of belonging, appreciation, and a trustworthy bond that provides assistance in various circumstances [19].

Social support generally describes the role or influence that can be caused by significant others such as family members, friends, relatives, and coworkers. Johnson and Johnson argues that social support is the provision of assistance such as material, emotional, and information that affects human well-being. Social support is also intended as the existence and willingness of meaningful people who can be trusted to help, encourage, accept and look after the individual.

Social support is a form of help that can be in the form of material, emotional, and information provided by meaningful people such as family, friends, friends, relatives, coworkers or superiors or people loved by the individual concerned. This assistance or assistance is given with the aim of individuals experiencing problems feeling cared for, supported, appreciated and loved.

According to Johnson and Johnson (1991) social support is an exchange of donations that aims to improve welfare and the existence of people who can be relied on to provide assistance, encouragement, acceptance, and attention. The social support system consists of significant others who work together to share tasks, provide needed donations such as materials, skills equipment, information, or advice to help individuals deal with special stressful situations, so that the individual is able to mobilize psychological resources to support them. solving problem [20].

Schaie and Willis (1991) state that social support and couples and families are a system in which there are elements of interdependent relationships. Each member of the family has a specific role to play in the system and each member depends on the other members to play his role. Parents are very important family members for children. Social support from parents can be a strength in the adjustment process. Parents can provide security support and maintain a positive assessment of oneself through expressions of warmth, empathy, approval, or acceptance by other family members [21].

According to Johnson and Johnson (1991) and Smet (1994) the aspects of social support consist of:

a. Emotional support is support that is manifested in the form of attachment, warmth, caring, and expressions of empathy, so that the belief that the individual is loved and cared for.
b. Instrumental support in the form of goods, services, finance, providing the equipment needed, providing assistance in carrying out various activities, providing time opportunities, and environmental modification.
c. Information support is assistance with advice, guidance and information provision. This information helps individuals overcome their problems, so that individuals are able to find solutions.
d. Positive assessment support is an award or assessment that supports individual behavior or ideas in work or social roles which includes providing feedback, affirmations (reinforcements), and social comparisons that can be used for self-evaluation and encouragement to move forward.

3.4. Social Support Resources

Social support is obtained from various sources. According to Pearson (1990) social support comes from spouses, children, siblings, parents, coworkers, relatives, and neighbors. This support comes from close people such as family, which requires a degree of close involvement. A person's perceived support is a perception of the amount of support available from other people. The measure of this amount is qualitative, not quantitative or its frequency. Likewise, according to Brehm and Kassim (1993) that social support can be found in relationships between individuals which are characterized by familiarity and mutual trust. Thus it can be said that social support is a symptom that exists and is separated from one's social life in society [22].

Ahmadi (1988) states that sources of social support include 3 factors, namely:

a. Husband / wife

The person closest to the individual, can communicate actively, pay attention, protect, listen to problems, give praise, and show tolerance when something goes wrong.

b. Family and environment

Family and environment are the first social groups in individual life. Through family, individuals can interact with the environment. The family becomes a place to complain and share feelings when there are difficulties that are being faced, and it is hoped that it will help solve problems, especially parents.

c. Friends

Friendship is a relationship that supports each other, cares for each other, and gifts in friendship can be materialized goods or attention without an element of exploitation.

3.5. Social Support Benefits

Everyone has experiences that are directly or indirectly influenced by the relationships between individuals in the group and the relationships between groups with one another. From this relationship, there are benefits for the individual. The benefits of the types of social relationships that a person feels depend on the accuracy of the support given when facing a situation that is happening and depends on one's acceptance.

According to Chaplan (in Pearson, 1990) social support provides several benefits, namely:

a. Helping individuals develop and direct their psychobiological resources in dealing with stressors.
b. Providing assistance in dealing with demands on individual circumstances.
c. Become material resources, such as money, material needs, and available abilities.
d. Provide cognition guidance and advice.

Individuals who get high social support will experience positive things in their life, greater self-concept, and lower levels of anxiety. This individual also has a more optimistic view of his life because he believes in his ability to control situations than individuals who have low social support. Social support can reduce emotional stress, get out of the problems faced by individuals, and reduce the effects of stressors on health. This means that the social support that individuals get can improve their physical and mental health and well-being.

The Role of Parents' Social Support on the Social Interaction Ability of Children with Special Needs. There is a child named Seva, a 5 year old girl, with her specialty, which is mute. Both parents were embarrassed and deliberately hid the identity of the little girl. Seva has never been friends with anyone, except for the doll he got from his aunt as a baby. Even parents have not thought about sending them to school, especially in a special school for inclusive children. In a separate place, there is a 6 year old boy, named Deni, he is one example of a child with symptoms of genius. The ambition of his parents, he can barely feel the association with his peers. His days are spent taking additional lessons, with the hope that the child can always be number 1 in his environment.

From the two phenomena above, we understand that not all parents know the right way to provide treatment that supports the growth and development of their children. Whereas the most expected support is support from parents. In addition to the shame factor, parents who do not know how to handle it will be wrong in giving treatment, so that the future of the child is deprived. On the other hand, it is not uncommon for social prejudice to arise from the community. Hetherington and Parke (1999) stated that social rejection will further develop if a person deliberately distances oneself or withdraws from social situations. Parents of children with special needs are expected to be willing to learn the characteristics of children and consider the children's shortcomings or strengths as not a disgrace or a privilege that must be distinguished from their environment, let alone take a distance from social life.

According to Sunanto in general the attitudes and views of the community towards children with special needs can be categorized as (1) useless / unnecessary, (2) loved / supported, (3) trained / educated, and (4) equality right. With another point of view, the public's perspective on ABK can be categorized as (1) rejection, (2) acceptance, (3) understanding, and (4) knowledge. Haring (1982) explains that cultural diversity also affects social acceptance for children with special needs. Some community groups still doubt the ability of children to socialize and consider it a deficiency that is only underestimated, and there are social groups that have positive acceptance and support self-actualization of children with special needs.

The presence of children with special needs in a social system or society will cause various reactions. Some societies give denial of their presence, with negative reasons and perceptions, such as unlucky or karma bearers. As for some people who can accept the presence of children with special needs in their environment, these children are often used as jokes or toys. But in other situations there are also people who have been able to accept the existence of children with special needs as they are. Social prejudice also often accompanies the journey of children with special needs. This is where the role of parents is expected by children in entering the social environment, accompanying, supporting, and always being there when the child needs it.

According to Hurlock (1978), basically, the relationship between parent and child depends on the attitude of the parents. If the attitude of parents is positive, the relationship between parent and child will be much better, and vice versa. Many cases of poor adjustment in adults turn out to be rooted in the initial poor relationship between parents and children. According to Bornstein and Lamb (1992) attachment (attachment) of parents and children is the basis of a warm relationship at a later stage of development. Wenar (1994) adds that the family approach to children with special needs is very significant for children's social interests. Starting with family attachment, especially parents, children will have provisions to enter a wider social life, such as the school and community environment. Parents and children begin to recognize their own characteristics and prepare themselves for social situations in order to deal with them positively. Of course, with the cooperation between parents and children, children will be able to establish themselves in social interactions and have positive self-esteem.

Susan Harter, an expert & researcher on self-esteem, states that children's self-esteem can be increased by the following principles:

a. Identify the causes of low self-esteem and areas of competence that are important to the child. Children's self-esteem will be high if they have competence in fields that are considered important to them.
b. Emotional support and social approval. The main source of emotional support, namely family, greatly influences children's self-esteem. Alternative support in the form of confirmation from other people, teachers and significant other adults can also influence children's self-esteem.
c. Performance Improvement. Teaching children real skills often works to increase achievement and thereby increase children's self-esteem.
d. Dealing with problems. Self-esteem also often increases when children experience a problem and try to deal with it, not avoid it. Given the opportunity to face problems, children will behave and act realistically, honestly, and not defensively. This will result in more favorable self-evaluation thinking, resulting in self-generated approval, which will raise his self-esteem.

Optimization of children's abilities needs to be supported by the presence of attachments and parenting styles that are in accordance with the characteristics of the child. Santrock (2007) states that attachment will have a positive effect on children's coping in the face of stressful events. In this case, it is hoped that parents can provide social support in the form of emotional and information support, namely providing positive information, understanding, advice, and direction, in the warmth of the relationship, which in turn will create a positive assessment of the child.

According to Mussen et al (1994) parents are the first to form children's self-esteem. Children with high self-esteem will be better prepared to enter the social environment and be able to adapt positively. Parents who have children with special needs are expected to show acceptance of the child's condition, provide examples of positive behavior patterns, and always provide support at every stage of the child's development. Everything must be studied in detail because parents have to serve it, nurture it, intervene, and educate it in ways that are in accordance with the characteristics of the child.

4. Conclusion

Successful parents are parents who can make their children successful, and great parents are parents who can make their children great. So often that sentence is heard and becomes motivation for parents in educating their children. Often parents experience confusion in dealing with unexpected situations in parenting. It is best if parents understand how to treat and educate children effectively, so that they will succeed in helping children overcome difficult times in their lives. Such parents understand the importance of preparing their children for success.

Parents also understand that children's success can be achieved if they have positive self-esteem from an early age. This will help adjust well in adulthood. Positive self-esteem will foster self-confidence, social interest and social interaction with the wider environment. Children with special needs need attention and support to be able to optimize their growth and development, including social development. It begins with the positive acceptance of parents towards the child's condition which will lead to children's involvement in social interactions. Social support from parents greatly determines the future direction of the child. Children feel not alone and develop this support with their work and achievements. The biggest hope of parents is that children with special needs can live properly, independently, work, and be accepted in a social environment.

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The Important Role of Legal Aspect to Prevent and Overcome Corruption of Social Assistance Funds during the Covid-19 Pandemic in Indonesia

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Abstract

Covid-19 pandemic is an ongoing problem in 223 countries, areas or territories in the world. Globally, as of 9 march 2021, there have been 116.521.281 confirmed cases of Covid-19 reported to WHO. Indonesia has been severely affected by the Covid-19 pandemic, with more than 1.379.662 cases, the highest in Southeast Asia, and 18th in the world. The most visible and tangible effects of the pandemic have been on Sustainable Development Goal 8, decent work and economic growth, caused by a suspension in economic activities, lower-income, less work time and unemployment for certain occupations. In this matter, the government of Indonesia has distributed social safety nets in the forms of special social assistance programs amid Covid-19 pandemic. However, large budget for the social assistance fund are prone to be corrupted, the management of social assistance tends to be minimal in transparency and accountability with justification of fast handling process. This research aims to determine various potential corruption practices in the social assistance funds management by various parties and the impact on poor people's right violations during emergency situation. Results of this research said that there were various forms of corruption namely eliminating factual verification, mark-up, cutting funds, fictitious funds, and audits that violate the procedures. Legal aspect has the strategic role in optimizing the implementation of confiscation of assets resulting from corruption as a deterrent effect for potential perpetrators of economic crimes and issuing legal framework for the establishment of real-time, open access, and integrated information system in the Covid-19 social assistance fund programs management.

Keywords: Social assistance funds; Covid-19; Corruption.

1. Introduction

The coronavirus disease 2019 (hence **Covid-19**) has been exacerbating the social and economic inequality globally. Poor households will remain or in a deeper state of poverty given the decline in their resilience. This means that Covid-19 will pose disproportionate risks to the most vulnerable population, particularly the poor and marginalized [1].The Central Statistics Agency of Indonesia ("**BPS**") recorded that the number of poor people in Indonesia in September 2020 reached 27.55 million people, an increase of 1.13 million people in March 2020 and an increase of 2.76 million people in September 2019. The percentage of poor people in September 2020 was 10, 19 percent, up 0.41 percentage points against March 2020 and up 0.97 percentage points against September 2019. The increase in the percentage of poverty in Indonesia can be seen in the following chart [2]:

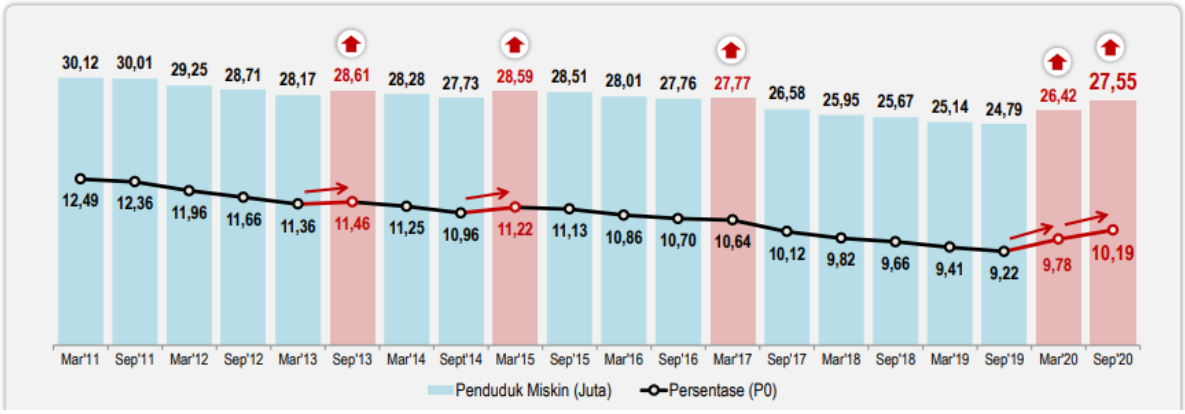


Figure 1. Poverty Development in Indonesia (March 2011 - 2020)

Figure 2. Percentage of Poor Population by Province (September 2019 and 2020)

The factors related to the level of poverty in Indonesia as a result of Covid-19 above, in detail can be described as follows:

a. The Open Unemployment Rate or *Tingkat Pengangguran Terbuka (TPT)* Increases
In August 2020, TPT was 7.07 percent. There was an increase of 1.84 percentage points compared to August 2019 which amounted to 5.23 percent.

b. 29.12 Million Working-Age Population Affected by Covid-19
There was 29.12 million people on working age (14.28 percent) were affected by Covid-19 in August 2020, with details:

- 2.56 million people are unemployed.
- 0.76 million people become are not labour force.
- 1.77 million temporary unemployed.
- 24.03 million people work with reduced or shorter hours.

c. Percentage of Underemployed Workers Increases
   In August 2020, the percentage of underemployed workers was 10.19 percent. There was an increase of 3.77 percentage points compared to August 2019 which amounted to 6.42 percent.

Currently in various countries, including Indonesia, there is a trend of increasing the allocation of funds for handling the Covid-19 Pandemic (Salma, 2021). The Government of Indonesia ("**GoI**") has placed policy responses to support the economic downturn due to the pandemic. The packages range from incentives for the health workers, stimulus for the Micro, Small and Medium Enterprises ("**MSMEs**"), and social assistances including conditional cash transfers or *Program Keluarga Harapan (PKH),* ration cards or *Kartu Sembako* and conditional-unemployment benefit or Kartu Prakerja. Finance Minister stated that the GoI is making effort to reach out the most vulnerable and impacted group in the population, particularly women and the poorest. Basically, there are three groups of people who will receive social assistance. *First*, people who are below the poverty line. *Second*, people who are vulnerable to falling into poverty. These vulnerable people are those who can fall below the poverty line if an income shock occurs. *Third,* other people who are far from the poverty line, but whose income is affected by the economic situation due to Covid-19. Some programs was provided by the GoI to the community are as follows [3]:

a. The Family Hope Program or *Program Keluarga Harapan (PKH),* target of 10 million beneficiaries, prepared Rp37.4 trillion in cash and IDR 29.13 trillion had already been realized (77.9%) as of 4 September 2020;
b. Presidential Assistance for Productive Micro Businesses, targeted at 12 million micro entrepreneurs and has been provided in the amount of IDR 13.4 trillion (9% of IDR 22 trillion) as of 10 September 2020;
c. Workers' Wage Subsidy Assistance of under Rp. 5 million has only been distributed as much as IDR 3.6 trillion (9.5% from Rp. 37.87 trillion). The target is *Badan Penyelenggara Jaminan Sosial Ketenagakerjaan (BPJSTK)* members as many as 15.7 million participants;
d. Cash Social Assistance for communities outside the Jakarta, Bogor, Depok, Tanggerang, Bekasi/ J*abodetabek* area with a target of 1.18 million people, 67.3% or IDR 21.82 trillion of the IDR 32.4 trillion promised by the government has been realized;
e. Cash Social Assistance for Non-*PKH Sembako* Card Program, with a total amount of IDR 4.5 trillion and has been entirely distributed to 9 million beneficiary groups or *Kelompok Penerima Manfaat* (KPM);
f. Jabodetabek's basic food assistance, with a target of 4.2 million people, has been realized by 57.2% (IDR 3.82 trillion from IDR 6.8 trillion) as of September 4, 2020;
g. The disbursement of Cooperative Loans through the KUMKM Revolving Fund Management Agency has been realized in the amount of IDR670 billion (67%) as of 6 September 2020 from IDR 1 trillion with a target of 100 cooperatives;
h. Worker Cards or *kartu kerja* with a target of 5.6 million people, assistance provided by the government as much as IDR. 20 trillion, and only half that has been given, namely IDR. 10.93 trillion (54.7%);
i. Electricity Discounts (450VA and 900VA) planned for 33.64 million members, a program until December 2020 is estimated to spend IDR 12.18 trillion (79.1%) from IDR 15.4 trillion;
j. Village Fund Direct Cash Assistance or *Bantuan Langsung Tunai Dana Desa*, with a target of 12.3 million heads of families and has been provided in the amount of IDR 10.50 trillion as of September 2020 with a total assistance of IDR 31.80 trillion.

Government Social Assistance, both provided by the Central and Regional Governments, very helpful for the citizen during the pandemic covid-19, especially the lowerclass population. However, the fact then emerged that the large allocation of budget sources for social assistance funds presented by the government was also followed by various problems in its implementation, one of the problematic issue was the large potential for misuse of budget funds by the parties involved in every stage of its implementation, both for personal or group interests. There are various examples of corruption cases that were successfully uncovered by law enforcement officials related to misappropriation of social assistance funds during a disaster or emergency situation in Indonesia, namely the Banten Tsunami

Shelter Corruption Case in 2015, the Nias Earthquake and Tsunami Corruption Case, the Post-disaster Drinking Water Supply Project by the Ministry of PUPR in 2018 and the other cases.

Recently, Social Affairs Minister Juliari Batubara has been named a suspect in a reported graft case involving the distribution of COVID-19 social aid [4]. Corruption Eradication Commission (KPK) stipulated that Juliari, his subordinates, Matheus Joko Santoso and Adi Wahyono, had purportedly accepted roughly Rp 12 billion (US$582,020) in bribes from a number of suppliers during the first wave of the ministry's aid distribution earlier this year. The minister had allegedly instructed Matheus and Adi to handpick and strike distribution deals entailing commission fees with several suppliers, including Ardian IM and Harry Sidabuke, as well as PT RPI as a private company allegedly owned by Matheus for a period of between May and November. Matheus, Adi, Ardian and Harry were also named suspects in the graft. "It started with the distribution of COVID-19 social aid consisting of daily supplies from the Social Affairs Ministry, which was worth Rp 5.9 billion with a total of 272 contracts, over the course of two waves. Matheus and Adi had agreed on a IDR 10,000 fee for each aid package costing Rp 300,000. Juliari's personal share throughout the first wave of aid distribution had totaled Rp 8.2 billion. The funds were then managed by Juliari's confidantes to finance the minister's personal life. Julairi has been charged under bribery articles 12 and 11 of the Corruption Law.Considering the corruption cases of social assistance funds in Indonesia, its important to examine through this research the distribution process/models on social assistance funds during Covid-19 in Indonesia, to what extent does the existing distribution process was considered prone to legal violations. Based on this explanation, the formulation of the problem in this study is, **First,** modes of Corruptions in Sosical Assistance Fund Management during Emergency Situation. **Second,** the alternative solutions under legal perspective to prevent and overcome corruption of social assistance funds during the Covid-19 Pandemic in Indonesia.

2. Method

This research is a normative legal research, which examines the application of rules or norms in positive law [5]. Normative research is also known as doctrinal, which provides a systematic explanation of the rules governing certain laws, analyzes the relationship between regulations, and predicts future development [6]. The main basis and reference in this study are the laws and regulations, such as the 1945 Constitution, and the Law on State Financial Policy and Financial System Stability For Handling Covid-19 Pandemy.

The nature of this legal research is prescriptive research. Prescriptive research aims to find ways to solve a problem [7]. The approach used in this research are *first*, statute approach, which is by examining and analyzing related laws and regulations [8]. *Second,* case approach by examining cases of corruption related to the distribution of social assistance. *Third,* the conceptual approach, which is by examining how to solve cases of social assistance distribution [9]. This study uses secondary data. Secondary data is data obtained by an organization or individual from other parties who have previously collected and obtained it [10].

Data collection is done by searching for issues in the mass media, searching books, journals, legal regulations, and court decisions, which are then analyzed using descriptive methods to answer the problem formulation [11]. The legal materials obtained are then subjected to discussion, examination and grouping into certain sections to be processed into information data. The results of the analysis of legal materials will be interpreted using systematic interpretation methods, grammatical, and teleology [12].

3. Result and Discussion

3.1. Modes of Corruptions in Social Assistance Fund Management during Covid-19 Emergency Situation

Corruption during a emergency period (disasters or pandemi) needs to be the important object of discussion, because it does not only happen in Indonesia but also in the world. As an example, Since the end of 2013, the Ebola virus disease has been ravaging the economies and societies of Sierra Leone, Liberia, and Guinea-Conakry, infecting over 20,000 people by the end of 2014. The disease also spread to Nigeria, though it was quickly contained. An estimated $1 billion in international public and private aid has been dispersed to these countries to try to stem the epidemic [13]. Corruption played a key role

in the outbreak, spread, and slow containment of Ebola in these affected countries [14]. International Committee of the Red Cross mentioned there was 5% of the Ebola epidemic response funds were corrupted by certain groups [15].

In this discussion, there are 3 potential prone to corruption in social assistance program based on the distribution of time as follows:

a. Pre-disaster
   In this phase, the target of corruption is a procurement or training project related to disaster mitigation.

b. When a disaster occurs
   Corruption occurs when a disaster or in the emergency response phase. This phase become the most vulnerable because the project or activity were carried out in the midst of hectic situation helping disaster victims. Procurement must be carried out quickly and massively. Corruption patterns such as price mark-ups and recipient manipulation are easy to be implemented.

c. Post disaster
   Even in this phase, the potential for corruption was very large because it involves a lot of money, especially for rehabilitation activities, also related to construction of permanent and temporary shelters.

Table 1. Amount of State Losses in Corruption Cases

No.	Information	Amount	State Loss Value	The Value of Bribes
1.	Procurement	174	IDR 957.3 billion	IDR 91.5 billion
2.	Non-Procurement	97	IDR 7.4 trillion	IDR 109.3 billion

Table 2. Corruption by Sectors (Top 10) 2019

No.	Description	Amount	State Loss Value	The Value of Bribes	Extortion fees Value	Value of Money Launderin g
1.	Natural Disasters	5	Rp2.1 billion	Rp460 million	Rp10 million	-
2.	Mining	4	Rp5.9 trillion	-	-	-
3.	Court (Law)	3	Rp246 million	-	-	-
4.	Prosecutors and Police (Law)	3	-	Rp136.5 million	Rp1 billion	-
5.	prison	2	Rp1 billion	-	-	-

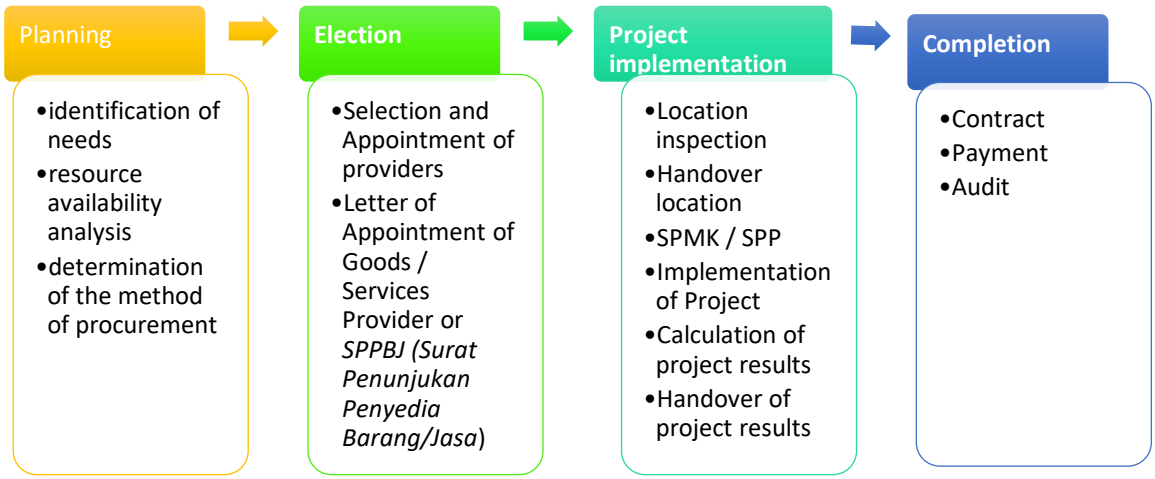


Figure 1. Procurement Stage based on Regulation of the Government Goods / Services Procurement Policy Agency Number 13 of 2018 concerning the Procurement of Goods/ Services in Emergency Handling ("LKPP Law No. 13 of 2018")

Potential for Corruption in Every Stage

Based on research from Transparency International Indonesia, corruption has a great potential to occur at every stage of the procurement of goods, from the planning stage to the completion. Details regarding the forms of corrupt practices are as follows:

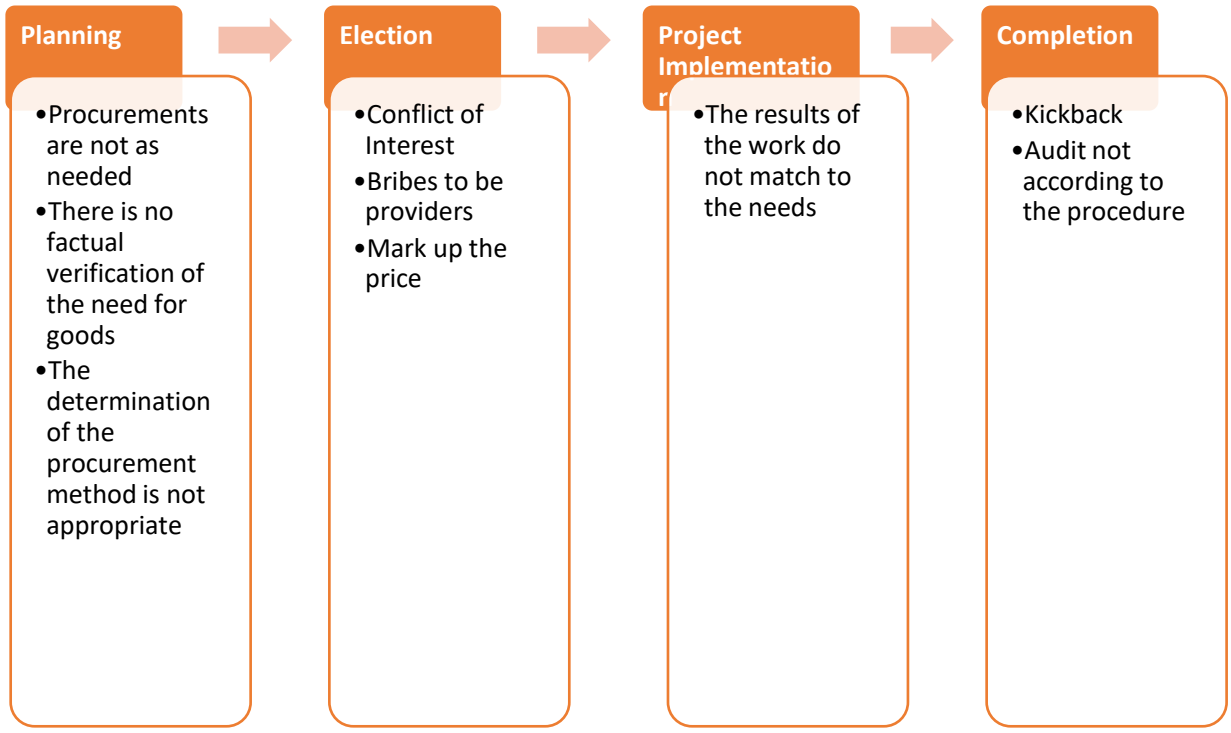


Figure 2. Potential Corruption in Procurement Stage

There are several conditions in Indonesia becomes supporting factor for corruption practices as described in the chart above as follows:

1. Information regarding procurement for handling Covid-19 is not transparent enough
2. Inaccurate *Kelompok Penerima* Manfaat (KPM) data collection

   For example, collecting KPM data is the biggest challenge in the village cash direct assistance program ("**BLT Dana Desa**"). There is a dynamic in the elaboration of Integrated Social Welfare Data/ *Data Terpadu Kesejahteraan Sosial* (DTKS) with data on BLT Dana Desa potential recipients. In this case, there is an overlap with data on beneficiaries from other APBN programs. In addition, the data on BLT Dana Desa recipients is dynamic in nature, which allows data to decrease or increase at any time depending on the verification submitted from the results of village meetings.

   Data collection is also a major challenge for the effectiveness of BLT Dana Desa distribution. Data for social assistance from the central government often refers to different sources. This is exacerbated by the heads of village who have their own version of the data on the poor in their respective regions. Therefore, there must be a combination of data collection as a solution. The central government already has data based on uniform indicators and criteria. However, when they arrive in the village, they also need to be open and transparent to community input because it is feared that data from the central government has not captured the dynamics in the regions.

3. Data on medical equipment and drug needs are not integrated between the central and local governments, and potentially double budget
4. Private and public assistance through task forces cannot be accessed by the public

   The social media company TikTok provided cash assistance of IDR 100 billion to the *Gugus Tugas* for the acceleration of handling Covid-19. The donation will be used to provide medical equipment to compensation for heirs of health workers who died due to Covid-19 [16].

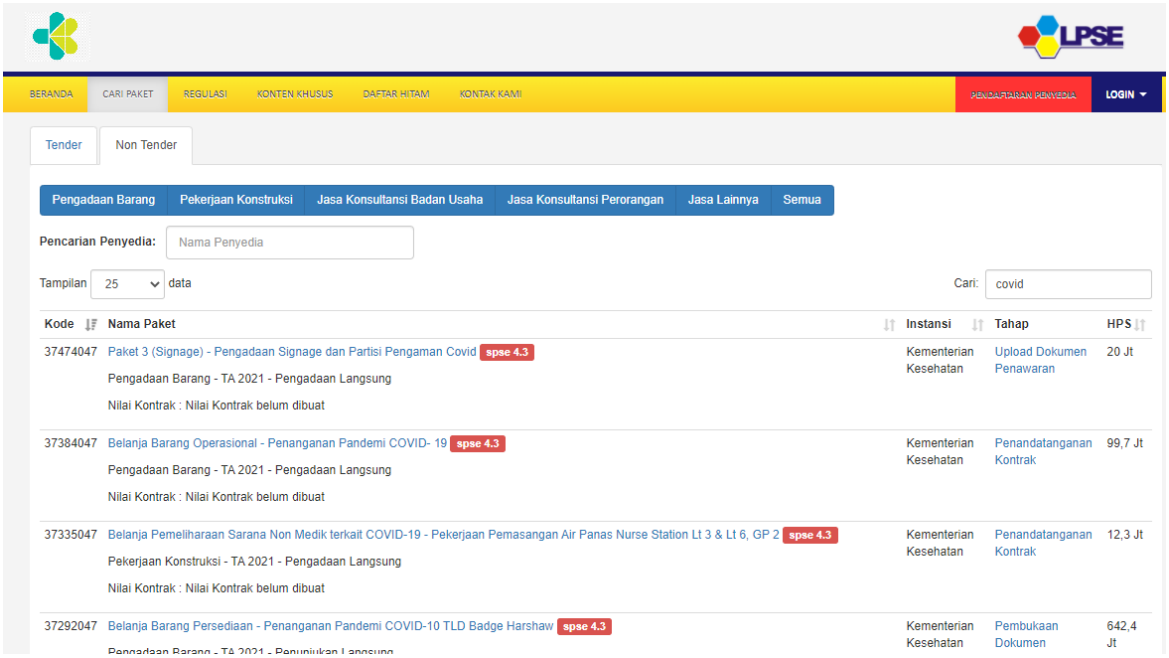
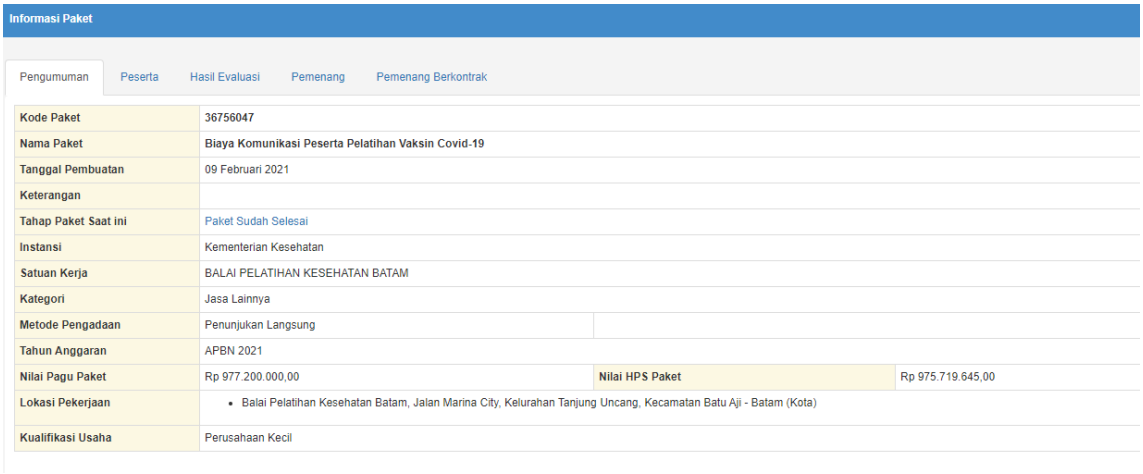


Figure 3. Procurement of goods in Covid-19 Emergency Period at the LPSE of the Indonesian Ministry of Health



Informasi Paket

Pengumuman | Peserta | Hasil Evaluasi | Pemenang | Pemenang Berkontrak

Kode Paket	36756047		
Nama Paket	Biaya Komunikasi Peserta Pelatihan Vaksin Covid-19		
Tanggal Pembuatan	09 Februari 2021		
Keterangan			
Tahap Paket Saat ini	Paket Sudah Selesai		
Instansi	Kementerian Kesehatan		
Satuan Kerja	BALAI PELATIHAN KESEHATAN BATAM		
Kategori	Jasa Lainnya		
Metode Pengadaan	Penunjukan Langsung		
Tahun Anggaran	APBN 2021		
Nilai Pagu Paket	Rp 977.200.000,00	Nilai HPS Paket	Rp 975.719.645,00
Lokasi Pekerjaan	• Balai Pelatihan Kesehatan Batam, Jalan Marina City, Kelurahan Tanjung Uncang, Kecamatan Batu Aji - Batam (Kota)		
Kualifikasi Usaha	Perusahaan Kecil		

Figure 4. Procurement of goods in Covid-19 Emergency Period at the LPSE of the Indonesian Ministry of Health

By paying attention to the figure above, the LPSE website as the official website only displays the total ceiling value and does not contain detailed information regarding the specifications of goods in procurement, including the number of goods, brands, and third parties involved. This becomes a limitation for the community in accessing data relate to the process and mechanism on procurement of goods during a Covid-19 pandemic.

The management and distribution process of social assistance fund are potential for corruption. The Center for Anti-Corruption Studies at Universitas Gadjah Mada (Pukat UGM) revealed that social assistance funds in emergency situations was prone to corruption [17]. During the current Covid-19 pandemic, the Central Government and Regional Governments have disbursed budgets to implementing social assistance as part of the Social Safety Net or *Jaring Pengaman Sosial* (JPS). The Central Government of Indonesia has disbursed budget of IDR 405 Trillion which includes social assistance funds of IDR 110 Trillion. Meanwhile, the Regional Government disbursed a budget of IDR 67.32 Trillion which includes IDR 25 trillion in the form of social assistance to be given to the citizen [18].

According to the brief report of the DPR RI Commission III hearing with the Corruption Eradication Commission (KPK) on the agenda "Anticipatory steps of the KPK in supervising the Covid-19 budget issued by the Government" explained that the critical points for corruption in handling Covid-19 include [19]:

a. procurement of goods / services;
b. philanthropy / third party donations;
c. refocusing and reallocating the Covid-19 budget, and
d. implementation of social assistance (social safety net).

Furthermore, it also specifically explained the critical points for social assistance in handling Covid-19, namely:

a. fictitious
b. exclusion error
c. inclusion error
d. quality and quantity

There was several examples of corruption cases regarding disaster relief funds can help to see how the corruption modes often occur in Indonesia.

1. **Banten Tsunami Shelter Corruption:**
   - This corruption case involves the Director, Manager of PT Tidar Sejahtera and Commitment Making Officer or *Pegawai Pembuat Komitmen* (PPK) of the Ministry of PUPR
   - State losses of Rp. 16 billion

- Project for temporary evacuation building located in Pandeglang Regency
- Mode: Construction of the Labuan Pandeglang Tsunami Shelter, budgeted by the Ministry of PUPR in 2014 amounting to Rp. 18.2 billion. Allegations of corruption have arisen because the project construction process was halted several times in 2015. The work carried out did not comply with the specifications contained in the contract documents. The results of the BPK audit stated that the construction of the 3-story building failed completely or was a total loss.
- The tsunami occurred in the Sunda Strait in 2018, which then causing 400 casualties and displaced 30,000 victims with a building that was supposed to accommodate the victims of the disaster, but could not be used because of corruption before the disaster occurred.
- Corruption is classified as pre-disaster.

2. Corruption Case for the Nias Earthquake and Tsunami (Post-Disaster) - Manipulation and Mark Up during the procurement of goods and services
    - Involving the Nias Regent and Head of the General Affairs and Equipment Section of the Regional Secretary for Nias Regency
    - State losses amounting to Rp. 3.7 billion
    - Project: Disaster Impact Management
    - Mode: The Regent and concurrently as Chair of the Disaster Management Executive Unit submitted a budget of Rp. 12.28 billion for the empowerment of the people of Nias which was finally approved with a value of Rp. At the Bupati's verbal order, the Head of the General Affairs and Equipment Section of the Nias Regional Secretary as his subordinate gradually transferred the money to a private account. The Nias Regent ordered the purchase of goods directly without an auction process. These funds were used by government officials under their positions to buy ping pong tables, sewing machines, volleyball, and so on. Apart from not going through the auction process, every receipt for the purchase of equipment is marked up with a price.
    - Purchase a Ping Pong table and equipment for 20 packages of IDR 14,000,000 made in receipts of 40 packages of IDR 110,000,000 so there is a difference of IDR 96,000,000
    - Purchase 600 packages of sewing machines, waist sewing machines, border sewing machines and accessories for Rp.432,500,000, made a receipt of Rp1,100,000,000, so there is a difference of Rp.667,500,000

3. Drinking Water Supply Project (2018) (Pre-Disaster)
    - Involving a number of officials in the Ministry of PUPR and directors of the company winning the tender
    - The forms of bribes varied: IDR 3.3 billion, USD 3.2 thousand and SGD 23,100
    - Mode: a number of officials in the PUPR ministry arranged in such a way as to auction off the SPAM construction project for the 2017-2018 Fiscal Year so that it could be won by PT WKE (with a project value of IDR 50 billion) and PT TSP (with a project value of IDR 20 billion). In return, the PUPR ministry official asked for a fee of 10 percent of the project value and then divided 7% for the head of the Work Unit and 3 percent for the PPK.

The difficulty of the public in accessing documents related to decisions in the Supreme Court Decision Directory is one of the obstacles for us to find out some cases that have been decided inckract to see how cases of corruption actually happened during a disaster. Disaster conditions that can occur anytime and anywhere, also open up opportunities for disaster social assistance funds that are prone to corruption, both by the nature of the disaster situation which prompts a rapid government response as well as regarding existing regulations that need to be reviewed whether have been advanced in preventing corruption practices in disaster relief funds or are there still opportunities for these violations. Some factors make disaster social assistance funds prone to corruption can be described as follows:

1. The government is required to work quickly and tactically, hence that policies are made to be monopolistic and centralized.
2. Fast and flexible, allowing the existing rules to be broken through and creating large discretionary space. For example, the issuance of a *Peraturan Pemerintah Pengganti Undang-Undang* or Government Regulation in Lieu of a Law No. 1 of 2020 regarding State Financial Policy And Financial System Stability For Handling Covid-19 Pandemy.

   The Article 27 paragraph (1) stipulated that:

   "*Costs that have been incurred by the Government and / or KSSK member institutions in the context of implementing state revenue policies including policies in the field of taxation, state expenditure policies including policies in the field of regional finance, financing policies, financial system stability policies, and national economic recovery programs economic costs to save the economy from crisis and not a loss to the state."*

   If we look more closely at article 27, we will find a big gap for misuse of the budget. This is because this type of assistance is very risky to become a wetland for irresponsible parties, as a similar pattern has occurred in the case of the Bank Century bailout scandal [20]. Article 27 makes policy makers immune to the law if the implementation of this Perppu occurs maladministration such as misuse of the budget, ineffective and efficient financing, embezzlement of funds, and so on.

   Then, article 27 paragraph (2) stipulated that:

   "Members of the KSSK, the Secretary of the KSSK, members of the KSSK secretariat, and officials or employees of the Ministry of Finance, Bank Indonesia, the Financial Services Authority, the Deposit Insurance Corporation, and other officials related to the implementation of this Government Regulation in Lieu of a Law cannot be prosecuted either civil or criminal if in carrying out duties based on good faith and in accordance with the provisions of laws and regulations."

   The article 27 paragraph (3) stipulated that:

   "All actions including decisions made based on this Government Regulation in Lieu of Law are not the object of a lawsuit that can be submitted to the state administrative court."

   The two provisions of the article above, indirectly nullify the function of the Republic of Indonesia Supreme Audit Agency (BPK) and DPR RI to carry out audit and supervisory functions. Logically, if there are financial problems in the implementation of the regulation by the BPK or the DPR, the policy maker concerned cannot be prosecuted civil or criminal on the pretext that the action was based on good faith.

3. Provision of aid and post-disaster rehabilitation, potentially misused for personal gain.

3.2. The alternative solutions under legal perspective to prevent and overcome corruption of social assistance funds during the Covid-19 Pandemic in Indonesia.

Corruption is a problem that can be seen from various perspectives, both from the human perspective, public administration, politics, law, accounting, sociology, technology and so on. The approach to eradicating corruption needs to put special emphasis on the most crucial factors, and at the same time use various strategies in parallel. The grand strategy against corruption needs to be placed within a clear, measurable national policy framework that focuses on efforts that can have direct impact for the community.

From the above discussion, we can conclude that governance issues in the Covid-19 policy are:

1. unclear monitoring of oversight (MONEV) and fraud control;
2. information that is very closed and only general information is opened to the public;
3. accountability for planning and implementing programs is minimal, provision of too much discretion, and

4. the immunity of public officials.

In this discussion, some of the alternative solutions may be given to prevent and overcome corruption of social assistance funds are *First*, take preventive actions by creating a legal framework for:

1. Enhance the effectiveness of the supervisory function

Supervision in this case can be carried out through implement integrated supervision by the government inspectorate and optimizing public supervision through reporting or billing center and social media. To be more effective, this can be done by issuing a transparent and accountable public service system in the process of distributing social assistance funds to the community from central to regional levels. one of the ideas is to publish information systems in the form of websites or other electronic media, contains information management, distribution and reporting of social assistance management. At the same time, this information system is also an application of the principles of accountability and openness in public services.

2. Increase transparency and accountability in the implementation of the procurement of goods and services in the context of overcoming Covid-19

This can be done by opening the widest possible access to the public as much as possible (broadly and in detail) regarding the procurement of goods and services, especially during Covid-19 pandemic. Without the open disclosure of information to the public, even though the public already has a high level of awareness to carry out public surveillance, this will be difficult to achieve when the information that the public gets is insufficient even though the information is submitted through the official government website or portal. Transparency of information is very important for the community to assess the number of goods, the suitability of goods to the needs of the community, specifications of goods, and other matters related to the use of Covid-19 social assistance funds. Currently, if we open the official government-owned website portal specifically for covid-19, namely *Covid19.go.id*, there will be no reports on the amount of incoming donations, contractors and third parties involved, procurement of goods and services, what donated goods are needed, until any hospital that is needed to be present in an particular area. As a recommendation, the website does not only inform the number of victims and health protocols, but its capacity can be increased to provide up-to-date and comprehensive information to supports accountability for managing covid-19 funds and encourage direct supervision from the citizens.

3. The existence of a periodic audit system

To support the accountability of the management of Covid-19 social assistance funds, what can be done next is the existence of a periodic audit system, which must also be supported by the willingness of government officials and all stakeholders including third parties involved, especially in distribution and procurement of goods and. This is also important to detect potential behaviour seeking personal gain and avoiding any conflict of interest in managing covid-19 funds.

4. Forming a Task Force Unit whose function is to carry out a special supervisory function on Covid-19 social assistance funds

The task force unit to carry out the budget oversight function for the Covid-19 social assistance funds could involve various law enforcement agencies in Indonesia such as the KPK, BPK, PPATK, and other law enforcement agencies to oversee the operation of the Covid-19 pandemic response funds.

In addition, law enforcement is also an important aspect as a countermeasure (curative action) and also a preventive measure for the recurrence of corrupt practices when law enforcement is strictly enforced. In this case, there are several recommendation options that can be done, which are as follows:

1. Impose the maximum possible punishment for criminals who have been proven to have committed acts of corruption in the covid-19 social assistance fund.

In this case, there is a growing issue in society regarding the sanctions that must be imposed on perpetrators of corruption in social assistance funds, namely the imposition of the death penalty. In

this regard, Article 2 paragraph (1) of Law of the Republic of Indonesia Number 31 of 1999 concerning Eradication of Corruption Crimes stipulated:

> "*Every person who illegally commits an act of enrichment of himself or another person or a corporation that can harm the state finances or the economy of the country, is sentenced to life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty)) years and a fine of at least Rp. 200,000,000.00 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah).*"
>
> Article 2 paragraph (2):
>
> *"In the event that the criminal act of corruption as referred to in paragraph (1) is committed under certain conditions, the death penalty may be imposed."*
>
> Elucidation of Article 2 paragraph (2):
>
> *"What is meant by "certain conditions" in this provision is a situation which can be used as a reason for criminal action against the perpetrator of a criminal act of corruption, namely if the criminal act is committed against funds allocated for overcoming dangerous situations, national natural disasters, overcoming the consequences of widespread social unrest. , overcoming economic and monetary crises, and repetition of corruption crimes."*

Looking at the formulation of the article above, determining the status of a certain conditions is the key to the application of Article 2 paragraph (2) of the Corruption Law. In this context, we need to see whether Article 2 paragraph (2) is relevant to the current conditions of the Covid 19 Pandemic or not. We encounter regulatory obstacles when implementing the death penalty against corruptors of the Covid social assistance funds as in Article 2 paragraph (2). The elucidation of Article 2 paragraph (2) only lists natural disasters as the reason for the death penalty, while Covid 19 is a non-natural disaster. This is also if we remember the Law on Natural Disaster Management which divides disasters into 2, namely natural disasters and non-natural disasters.

When article 2 paragraph (2) cannot be applied during the Covid 19 period, what can be an alternative is to approach the current economic crisis in Indonesia, bearing in mind that the explanation of article 2 paragraph (2) also opens opportunities for that condition. An economic crisis can be punished by death, however in this cases it is requires further comprehensive study.

Although the death sentence was justified in accordance with the anticorruption law, the idea of actually handing down such punishment remained "far-fetched" in Indonesia, considering the absence of any historical precedent. This will be a special challenge for judges, namely great courage to impose the death penalty in Indonesia, including in the midst of the ongoing debate in the community regarding the pros and cons of imposing the death penalty. Instead of the death sentence, the government should explore alternative, yet harsh punishments, such as a scheme designed to impoverish graft perpetrators. There are many ways, for example demanding compensation from the state money taken, as regulated in the Corruption Act. The second is related to the expropriation of the assets of the corruptors, but until now the positive law in Indonesia has not been implemented. Rancangan The Asset Confiscation Law is not included in the 2021 priority national legislation program [21].

Apart from the above efforts, it also needs to be supported by public awareness to take an active role in the available channels to provide reports and complaints on the procurement of goods and services during the Covid 19 pandemic. In addition, local governments, both provincial and district/ city also need to play an active role in facilitating and assisting villages in the implementation of various assistance programs, especially in the regions, such as the BLT Dana Desa program hence that this policy can be implemented properly, transparent and accountable.

4.Conclusion

The social assistance corruption case shows that social assistance funds that should have been allocated to people affected by the Covid-19 pandemic are very vulnerable to being misused by irresponsible parties. The causes of misuse of social assistance funds are caused by several things: First, the database is chaotic because the data on social assistance recipients is confusing, there are always multiple recipients and fictional data. Second, the weakness of supervision and audits to minimize misuse of social assistance funds.

As an alternative solution, the government needs to make a serious legal framework or scheme to oversee social assistance funds from distribution to reporting, namely the establishment of real-time, open access, and integrated information system in the Covid-19 social assistance fund programs management, the existence of a periodic audit system, forming a task force unit whose function is to carry out a special supervisory function on Covid-19 social assistance funds. Furthermore, the law enforcement needs to Impose the maximum possible punishment for criminals who have been proven to have committed acts of corruption in the covid-19 social assistance fund.

5. Acknowledgement

Alhamdulillahirobbil alamin, the author gives thanks for the presence of Allah subhanahu wa taala who has given the blessings and favors of faith, and Islam also the opportunity for enchance the author capacity including the occasion to complete this research, hopefully all of us will be given blessings and guidance by Allah in every step of our journey.

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Fullfillment of The Right to Higher Education for Persons with Disabilities

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Abstract

One of the mandates from the founding fathers, as set forth in paragraph 4 of the 1945 constitution, is to protect the entire nation and all the blood of Indonesia, promote public welfare, educated the nation's life and participate implementing world order based on independence lasting peace and social justice. Of the country's goals,it is explicitly explain that the intellectual life of the nation is a constitutional responsibility which must be run by the state. Protection and guarantees of human rights are not only reserve for normal citizens, but also for persons with disabilities, namely people who have phsycal, mental, intellectual and sensory limitations. In reality, Persons with disabilities are very vulnerable to discriminatory treatment related to fulfilling the right to education, especially higher education. Based on this, the author describes how to regulate the rights to higher education for persons with disabilities, the research methods used is normatitive yuridicial research with statuta approach where it can be concluded that the fulfillment of the right to education for persons with disabilities in general has been well regulated in the International human rights conference, Article 28 C paragraph 1 and Article 28 E Paragraph 1 of the 1945 Constitution, also regulated in Law Number 39 of 1999 concerning human rights, as well as in Law Number 8 of 2016 concerning persons with disabilities. Howefer, specifically for the fulfillment of higher education rights for persons with disabilities, it has not been regulated in Law Number 12 of 2012 concerning higher education.

Keywords: Right, Higher Education, Disabilities

1. Introduction

Among other creatures, human is the most special creaturefor being blessed with abilities to walk, see, hear, and speak. However, on the other hand, not every human is favored to feel how happy it is to to be able to listen to beautiful music, talk to family, and see beautiful sunsets at dusk. They are people who have disabilities aside of other pre-eminences that they own as human [1].

As a person with a disability, having limitations is not an obstacle or an excuse for the elimination of the rights of a person with special needs. It is natural that all human beings have the same human rights wherever they are. Human rights that are inherent in a person are not distinguished by differences in physicality, skin color, ethnicity, race, or beliefs. The enforcement of human rights occurs comprehensively to everyone in any part of the world, including persons with disabilities.

The inherent rights of every human being is reflected in the preamble of the 1945 Constitution of the Republic of Indonesia which animates all articles, especially those related to equal status of citizens in law and government, the right to work and a decent living, freedom of association and assembly, the right to express thoughts orally and writing, freedom to embrace a religion and to worship in accordance with that religion and belief. In addition, every human being still has equal human rights regardless his position, rank, wealth and even education level [2]. Based on this, it has become a legality to oblige other human beings to respect these inherent human rights and not to discriminate against someone just because they have a disability with special needs.

Education is an investment in a nation, and a provision for human life both in the present and in the future. Education has a very big influence in all aspects of life [3]. Education is a way to educate the nation as mandated in the preamble of the 1945 Constitution of the Unitary State of the Republic of Indonesia that "... To protect the entire nation and all the blood of Indonesia and to advance public welfare, educate the nation's life, and to participate in implementing world order based on eternal peace, and social justice…". The equality of the right to education for everyone is also stated in 28H paragraph

2 of the 1945 NKRI Constitution which determines that everyone has the right to get facilities and special treatment to get the same opportunities and benefits in order to achieve equality and justice. Additionally, in article 31 paragraph (1) it has been stipulated that every citizen has the right to education, then it is further explained in Article 31 paragraph (3) of the Constitution of the Unitary State of the Republic of Indonesia which mandates that the government strive for and implement a national education system that improves security and piety to God Almighty as well as noble morals in order to educate the nation's life as regulated in the Law [4].

Education for every citizen is a necessity that cannot be ignored. Taking an education level from primary, secondary to tertiary education is a right for everyone. Moreover, education has very detailed rules and all of these rules promote equality for everyone and do not exclude persons with disabilities. Apart from being regulated in the 1945 Constitution of the Republic of Indonesia, the implementation of education is also regulated in several laws.

Law Number 20 of 2013 concerning the National Education System must be able to ensure equitable distribution of educational opportunities, increase the quality, relevance and efficiency of education management in order to face world developments. This is regulated in detail in Article 5 paragraph (1) of Law Number 20 of 2013 concerning the National Education System that every citizen has the same right to obtain quality education. Furthermore, in Article 5 paragraph (2), it is explained that citizens who have physical, emotional, mental, intellectual and / or social disabilities are entitled to special education [5].

In this regard, the Law on human rights per se regulates the provision of educational rights for persons with disabilities as stated in Article 42 of Law Number 39 of 1999 concerning Human Rights, that every citizen who is elderly, physically disabled and / or mentally disabled have the right to receive special care, education, training and assistance at the expense of the State, to ensure a decent life in accordance with their human dignity, and to increase self-confidence and the ability to participate in the life of society, nation and state. This has shown how the Indonesian government guarantees and recognizes the rights of all people, especially for people with disabilities.

As a legal state, Indonesia has provided opportunities for those with special needs to obtain equality in terms of education, this is stated in Article 5 paragraph (1) point (e) of Law Number 8 of 2016 concerning Persons with Disabilities. Then Article 10 point (a) explains that persons with disabilities are entitled to quality education in all units, lines, types, and levels of education [6]. However, the regulation regarding the right to education at the higher education level is not regulated in Law No.12 of 2012 concerning Higher Education.

In Indonesia, there have been 9 million people with disabilities, The large number of people with disabilities in Indonesia must be the government's main concern so that there are no violations of their rights, especially in terms of providing equal education rights at all levels, including to tertiary education [8]. Each tertiary institution must provide convenience or accessibility for persons with disabilities, such as the availability of facilities and services for students with disabilities, including the readiness of lecturers and education staff in understanding, mastering and applying teaching techniques and services for students with disabilities. Based on the above background, the problem to be examined in this research is "how are the regulations regarding the rights to higher education for persons with disabilities?"

2. Methods

This research is a normative juridical study using a statutory approach (Statute Aproach) and a conceptual approach (conceptual aproach), where the problem is solved by collecting and processing existing legal materials [9].

3. Results and Discussion

3.1. Definition of Persons with Disabilities

Persons with disabilities are people who need special treatment and assistance in their interactions with other communities. However, that does not mean that they should be isolated from the outside world. According to the Great Dictionary of the Indonesian Language, '*penyandang*(person)' is defined

as a person who has (suffer from) something, while *'disabilitas* (disability)' is an Indonesian word that comes from the English loan word 'disability' (plural – disabilities) which means disability.

According to John C. Maxwell, a person with a disability is someone who has a disability that can interfere with activities [10]. Apart from those who are elderly, many people with disabilities also come from children, which according to Igak Wardani, children with special needs are children who have something extraordinary that significantly distinguishes them from children of the same age, the extraordinary that the child has is something which can be positive or negative [11].

Persons with disabilities are also members of society who have the right to remain and have an existence in the local community. Persons with disabilities should receive every support needed in the structure of education and teaching, health and welfare, and employment and social services. So that in the application, the rights of persons with disabilities in a human rights perspective are categorized as special rights for certain groups of society but must still be respected in terms of their equal position in the eyes of the law and society [12].

Several definitions of persons with disabilities are regulated in the Law, namely [13]:

a. According to UN Resolution Number 61/106 dated December 13, 2006, persons with disabilities are every person who is unable to guarantee by himself, in whole or in part, his normal individual needs and / or social life, as a result of his disability, whether innate or not, in terms of physical and mental abilities.
b. According to Law Number 39 of 1999 concerning Human Rights, persons with disorder/ disabilities are a vulnerable group of people who are entitled to more treatment and protection with regard to their specificity.
c. According to Law Number 11 of 2009 concerning Social Welfare, persons with disabilities / disabilities are classified as part of society who have a life that is not humanly worthy and has criteria of social problems.
d. According to Law Number 19 of 2011 concerning the Ratification of the Rights of Persons with Disabilities, persons with disabilities are people who have long-term physical, mental, intellectual or sensory limitations who in interacting with the environment and attitudes of the community can encounter obstacles that make them difficult to fully and effectively participate based on equal rights.
e. According to Law No. 4 of 1997 concerning Persons with Disabilities, a person with a disability is any person who has a physical and/ or mental disability, which can interfere with or constitute a hindrance and an obstacle for him/ her to do properly, which consists of physically disabled people; mentally disabled people; physically and mentally disabled people.
f. Updated with article 1 number 1 of Law Number 8 of 2016 concerning Persons with Disabilities, it is stated that persons with disabilities are any person who experiences physical, intellectual, mental, and/ or sensory limitations for a long period of time who, in interacting with the environment, may experience obstacles and difficulties to participate fully and effectively with other citizens on the basis of equal rights.

3.2. Legal Basis for Education Rights for Persons with Disabilities

a. International Law

Education is one of the main instruments for the formation of an educated generation. With education everyone will get very useful knowledge and information. Seeing how important education is for everyone, international law will certainly regulate and direct how the education system is implemented. Several international legal instruments regulating the importance of education. One of them is T.S.N Sastry 2011 Article 26, which states that the importance of education is not only as an instrument to educate human life, but also as an instrument to implement human rights that are guaranteed both nationally and internationally. T.S.N. Sastry stated several goals to be achieved with education, namely [14]:

1) Education for all, to strengthen respect and to help promoting human rights and fundamental freedoms.
2) The development of human personal abilities and dignity values can be achieved only when people are aware of the importance of promoting human rights.

3) Education helps to understand, tolerate, promote gender equality and friendship with fellow human beings around the world.
4) Education promotes caring behavior for vulnerable groups, such as refugees, mentally and physically disabled people, elderly people, children, the third gender, and people who are socially, economically and culturally disadvantaged, and promotes the end of racism, language, religion, and so on.
5) Education is able to support all people to play an active and effective role in the economic, political, social, legal and cultural development of society and the state.
6) Education aims to achieve the goals of human rights by instilling perspectives of values, morals, and human ethics.
7) Education aims to achieve the goals of the United Nations and international law to create world peace and security.

This is in line with article 26 of The Universal Declaration of Human Rights, International Covenant on Economic, Social, and Cultural Rights (1966) which was ratified by Law No.11 of 2005 which also acknowledges that education is a human right for everyone. The right to education is regulated in article 13. In article 13, it can be seen that the convention participants agreed on several things, namely:

1) Recognizing everyone's right to education,
2) Education must be directed towards enhancing human capabilities and dignity values and strengthening human rights and freedoms,
3) Education must enable all people to participate effectively in an independent society, promote understanding, tolerance and friendship between all States and between all races, ethnicities or religious groups, and further as a United Nations activity to maintain peace.

Apart from the presence of the two instruments above, the right to education is also further regulated in several special conventions including the Convention on the Rights of Child (1989) and the Convention on the Elimination of All Forms of Discrimination Against Women (1979). Based on article 28, it is determined that "States Parties recognize the right of the child to education". In the context of fulfilling the right to education for children, convention participants must (1) make basic education compulsory and free for all people, (2) develop various types of second-level education including general and vocational education that is accessible to every child and take appropriate steps such as free education and providing financial assistance in cases of need, (3) making higher education accessible to all persons with basic abilities through appropriate means, (4) providing educational and vocational information and guidance accessible to all people, (5) taking actions to increase active participation in schools and reduce dropout rates.

In addition, article 10 of the Convention on the Elimination of All Forms of Discrimination Against Women (1979) states that women have the same rights as men in terms of obtaining education. Based on the aforementioned conventions, it is clear that education has been recognized internationally as the right of everyone. It can even be said that education has become a basic right besides the right to life and the right to freedom to support the fulfillment of other human rights.

b. National Law

Several articles in the 1945 Constitution of the Republic of Indonesia and other special laws that determine that education is a basic right of citizens are as follows:

1) Article 28 C paragraph (1) of the 1945 Constitution of the Republic of Indonesia which stipulates that "everyone has the right to develop themselves through the fulfillment of their basic needs, the right to education ...".
2) Article 28 E paragraph (1) of the 1945 Constitution of the Republic of Indonesia which stipulates that "Everyone is free to embrace a religion and worship according to his religion, choosing education and teaching, …".

3) Article 12 of Law no. 39 of 1999 concerning Human Rights which determines that every person has the right to protection for his personal development, to obtain education, to educate himself, improve his quality of life so that he becomes a human being who is faithful, devoted, responsible, noble, happy, and prosperous in accordance with human rights.
4) Article 5 of Law no. 20 of 2003 concerning the National Education System which determines that (1) every citizen has the same right to obtain quality education, (2) citizens who have physical, emotional, mental, intellectual, and/ or social disabilities are entitled to special education, (3) Citizens in remote or underdeveloped areas as well as remote indigenous peoples have the right to receive special service education, (4) citizens who have special intelligence and talent potential are entitled to special education, (5) every citizen has the right to the opportunity to improve education as long life.
5) Article 9 paragraph 1 of Law no. 23 of 2002 which determines that every child has the right to education and learning in the context of personal development and the level of intelligence according to their interests and talents.
6) Article 9 paragraph 2 of Law no. 23 of 2002 which stipulates that in addition to the rights of children as referred to in paragraph (1), children with disabilities are also entitled to special education, while children who have excellence are also entitled to special education.
7) Article 51 of Law no. 35 of 2014 which stipulates that children with disabilities are given opportunities and accessibility to obtain inclusive education and/ or special education.
8) Article 10 of Law no. 8 of 2016 concerning Persons with Disabilities stipulates that the right to education for persons with disabilities includes the right to (1) obtain quality education in educational units of all types, pathways and levels in an inclusive and specific manner; (2) have equal opportunities to become educators or educational personnel at educational units of all types, tracks and levels; (3) have equal opportunities to become quality education providers in education units at all types, tracks and levels; (4) get proper accommodation as students.
9) Article 40 paragraph 2 of Law no. 8 of 2016 which determines that the right to education for persons with disabilities is implemented in the national education system through inclusive education and special education.

3.3. Regulation of Higher Education Rights for Persons with Disabilities

Regulations related to higher education rights for persons with disabilities are generally regulated in Law No.8 of 2016 concerning Persons with Disabilities. However, this is not regulated in the Law on Higher Education, namely Law No.12 of 2012. On the other hand, Article 32 of Law No.12 of 2012 only regulates special education and special services for students who have potential, and does not regulate students with disabilities. The right to higher education for persons with disabilities is only regulated in a Ministerial Regulation, namely Permenristekdikti No 46 of 2017 concerning Special Education and Special Services in Higher Education. Persons with disabilities have the same educational rights as other children up to the tertiary level. For this reason, every higher education provider is obliged to facilitate persons with disabilities by establishing a Disability Service Unit at the university.

Persons with disabilities should have the same educational rights as other people to pursue education up to the tertiary level. In line with this, it is an obligation for higher education providers to facilitate persons with disabilities by establishing a disability service unit. In the learning process in higher education, persons with disabilities will receive special education which is carried out inclusively and regulated in the academic settings of each university. Inclusive tertiary institutions must have adequate infrastructure, consisting of lifts in two or more story buildings, labeling in braille and information in the form of voice, ramps for wheelchair users, guiding paths (guiding blocks) on roads or corridors in the campus environment, campus or building maps/ plans in the form of embossed maps/ plans, toilets or bathrooms for wheelchair users, and special learning media and resources [15].

4. Conclusion

Education for Persons with Disabilities at all levels including higher education is a right that has received recognition both in international and national regulations. Recognition of the Right to Education is contained in article 26 The Universal Declaration of Human Rights, International Covenant

on Economic, Social, and Cultural Rights 1966 which was ratified by Law Number 11 of 2005 which also recognizes that education is a human right for everyone. This is in line with the Regulation of Higher Education Rights for Persons with Disabilities in the Law. No. 8 of 2016 concerning Persons with Disabilities where everyone has the same opportunity to obtain education at all types, pathways, and levels. However, the specific regulation on Higher Education Rights is not regulated in the Higher Education Law, namely Law No.12 of 2012. Unfortunately, special regulations regarding Higher Education for Persons with Disabilities are only regulated through Ministerial Regulation, namely Permenristekdikti No. 46 of 2017.

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Gender Equality in Indonesian Politics: Case Study in Regional House of Representatives of Manado City

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Abstract

Gender equality is one of the global goals which is contained in the fifth point of the Sustainable Development Goals (SDGs). Gender equality is a human right, and is vital for a peaceful, prosperous world. In Indonesia context, gender equality is one of the government policy on the involvement of women in the politics. This study aims to analyze gender equality in Indonesian politics with case study in the Regional House of Representatives in Manado City. This research will focus on how the women members of the Regional House of Representatives in Manado City in the periods of 2014-2019 take a role and responsibility to address the aspiration from society. This study uses qualitative research methods by collecting data through in-depth interviews. The results showed that women legislative candidates in the Manado city does not get an obstacle to involved in the local politics, this is because the people of Manado City adhere to an egalitarian culture. However, the number of women's representation are still considered unable to represent the interests and aspirations of the women's community. This inability can be seen in the inadequacy to carry out legislative functions. Meanwhile, Manado City received the highest number of domestic violence cases in North Sulawesi province in 2017-2019, but it did not get the attention of women legislators to be realized in the form of regional regulations so that the 30 percent representation that the government has attempted is still not optimalized in terms of quality. This research concludes that there is a need for synchronization between the quota given to women in the composition of members of the legislature with the capability of women members of the legislature in decision-making process and drafting legislation products to address the issues from society.

Keywords: Gender Equality; Indonesian Politics; Local Politics; Women Legislator; Decision-making Process

1. Introduction

Gender equality is one of the global goals which is contained in the fifth point of the Sustainable Development Goals (SDGs). Gender equality is a human right, and is vital for a peaceful, prosperous world. [1] In Indonesia context, gender equality is one of the government policy on the involvement of women in the politics. The Indonesian government has shown a commitment to gender equality through various legal regulations and the signing of a number of international commitments and covenants. One indicator is the trend of increasing women's representation in the legislature, especially since the 1999 general election. Various attempts have been made to encourage women's representation in the House of Representative (DPR) through political parties.[2]

Women's representation in parliament needs to be an important concern because it can give women the authority to make policies that contribute greatly to the achievement of women's rights, especially gender equality. Because often men members cannot fully represent women's interests to address the issues and the differences of experiences and interests.[3] This presence has produced several encouraging results for the benefit of women, including the presence of the Law on the Elimination of Domestic Violence, the Citizenship Law, and the Law on the Elimination of the Crime of Trafficking in Persons.[4]

The 30 percent quota for women is also an effort to mainstream gender equality in the Indonesian political system. This quota began to appear in Article 65 of Law Number 12 of 2003 concerning the Election for Members of the House of Representatives (DPR), Regional Representative Board (DPD) and DPRD (Regional House of Representatives). The 30 percent quota for women was later developed in Law Number 10 of 2008 which made the 30 percent quota for women's representation a requirement that had to be verified in the process of registering legislative candidate candidates. The provision on 30 percent women's representation continues to be present in the Electoral Law, including the current Law Number 7 of 2017.

Furthermore, Law Number 2 of 2011 concerning Political Parties contains a policy mandating political parties to include women's representation of at least 30 percent in their establishment and in the management at the central level. This figure is obtained based on research by the United Nations (UN) which states that a minimum amount of 30 percent allows a change to occur and has an impact on the quality of decisions taken in public institutions.

Previous research on gender equality in politics was conducted by Azzahra & Aushafina who examined gender equality through sustainable development goals in the case of Timor Leste. In her research, Timor Leste is the only country in the Asia Pacific with 38 percent of parliamentary seats held by women. The high level of representation of women in the government of Timor Leste is seen as one way to meet the SDGs targets and achieve gender equality.[5]

Research that specifically discusses gender equality in Indonesian politics is reviewed by Arlina regarding women's representation as members of the Regional House of Representatives (DPRD) of East Kalimantan Provincial. The results of this study indicate that the representation of women in members of the Regional House of Representatives of East Kalimantan Province is still very low and does not reach 30 percent, so it must be increased.[4]

Based on the explanation above, the researcher is interested in exploring gender equality in Indonesian politics with a case study at the Regional House of Representative (DPRD) of Manado City. The unique case of the DPRD of Manado City is that of the 40 elected members for the 2014-2019 period, 13 people or 32.5 percent of them consist of women legislators. This data shows that the rules of the DPRD Manado City have fulfilled the 30 percent quota, but what this research wants is whether the 30 percent quota during her tenure has actually performed its function by representing the aspirations of the community, especially women in the Manado city.

2. Method

This study uses a qualitative method with a descriptive analysis approach. This research describes gender equality in Indonesian politics, especially in the DPRD of Manado City. Sources of data obtained by direct data collection from various sources such as: in-depth interviews and documentation of activities in the field. In addition, researchers also conduct literature reviews, namely collecting data from books, journals, newspapers and other sources of information that are closely related to research problems. The data analysis technique is processed qualitatively to see gender equality through the output in the form of regional regulations produced by women legislative members in the DPRD of Manado City. The steps used in data analysis were data reduction, data presentation, and data verification.

3. Result and Discussion

The DPRD of Manado City is a people's representative institution in Manado City which functions to organize the government. The working partners of the DPRD of Manado City re the government of Manado City and North Sulawesi Province with several related agencies in them. Legislative members in the DPRD of Manado City consist of elected members of political parties participating in general elections.

Members of political parties participating in general elections who are elected to become legislative members in the DPRD of Manado City have 3 functions as well as several powers and duties during their term of office. There are three functions of DPRD members, namely the legislative function to form regional regulations, the budgetary function to prepare the APBD and the supervisory function

to control the implementation of regional regulations and other regulations as well as local government policies.

The elected DPRD members for the Manado City for the 2014-2019 period are 40 (forty) people. The forty elected representatives of the people with a term of office of five years have the obligation to carry out their functions during the term of office of five years. The leadership of the DPRD of Manado City is collective and collegial, led by a chairman and two deputy chairmen for members with a total of at least twenty people. The chairman of the DPRD of Manado City is a DPRD members who comes from the political party that gets the most seats, while the deputy chairman is a member of the DPRD who comes from the political party that has the second and third most votes.

Noortje Van Bone is the chairperson of the DPRD of Manado City for the 2014-2019 period with two deputy chairperson, namely Richard Sualang and Danny Sondakh who are spread into 6 factions, namely; The Democratic Party Faction, the Greater Indonesia Movement Party Faction, the People's Conscience Party Faction, the Indonesian Democratic Party of Struggle Faction, the Golongan Karya Party Faction, the People's Mandate Party Faction. The following is the composition of the factions in the DPRD of Manado City for the 2014-2019 period: [6]

Table 1. Composition of the Faction in DPRD of Manado City 2014-2019 period

No	Faction	Political Party	Chairperson	Seats
1	The Democratic Party Faction	Democratic Party - Demokrat (9)	Deasy Roring	1. Cicilia Londong 2. Nortje Henny Van Bone 3. Michael Fernando Kolonio 4. Vanda Ariantje Pinontoaan 5. Jimmy Sangkay 6. Royke Anter 7. Anita De Blouwe 8. Lili Walanda 9. Deasy Yolanda Roring
2	The Greater Indonesia Movement Party Faction	Great Indonesia Movement Party - Gerindra (5) Prosperous Justice Party - PKS (2) United Developme nt Party - PPP (1)	Apriano Saerang	1. Apriano Ade Saerang 2. Mona Claudya Kloer 3. Fany Mantali 4. Lineke Kotambunan 5. Benny Parasan 6. Nur Rasyid ABD Rahman 7. Syarifudin Saafa 8. Fatma Bin Syech Abubakar
3	The People's Conscience Party Faction	Hanura,(4) National Democratic Party - Nasdem (3)	Stenly Tamo	1. Robert Ronald L Tambuwun 2. Stenly Tamo 3. Arthur Adolf Paat 4. Revani Parasan 5. Winston Monangin 6. Arthur Rahasia 7. Dijana Silfana Pakasi

4	The Indonesian Democratic Party of Struggle Faction	Indonesia Democratic Party of Struggle - PDI-P (6)	Markho Tampi	1. Richard Sualang 2. Marko Tampi 3. Gregorius Tonnya Rawung 4. Victor Polii 5. Hengky Kawalo 6. Theresia Pinkan Nuah
5	The Golongan Karya Party Faction	Party of the Functional Groups - Golkar (5) Indonesian Justice and Unity Party - PKPI (1)	Sonny Lela	1. Danny Sondakh 2. Raynaldo Phirsen Heydemans 3. Sonny Lela 4. Christiana Lina Pusung 5. Liliy Binti 6. Roy Maramis
6	The People's Mandate Party Faction	National Mandate Party - PAN (4)	Abdul Ibrahim	1. Mohammad Wongso 2. Abdul Wahid Ibrahim 3. Boby Daud 4. Bambang Herawan

Source: Data of DPRD of Manado City 2014-2019 period

Based on the composition of the factions in the DPRD of Manado City in 2014-2019, the Democratic Party consists of 9 people divided into 6 women and 3 men, the Gerindra Party consists of 5 people with a composition of 2 women and 3 men, PKS with 2 men, PPP with 1 women, Hanura Party with 4 men, Nasdem with 1 women and 2 men, PDI-P with 1 women and 5 men, Golkar with 2 women and 3 men, PKPI with 1 men, PAN with 4 men. From the six factions, only the Democratic Party Faction is chaired by women. In addition to the six factions, the DPRD of Manado City also has a board which is divided into 4 commissions, namely:

Table 2. The Commission in DPRD of Manado City 2014-2019 period

Commision	Chairperson	Vice Chairperson
Com. I	Royke Anter (Demokrat)	Robert Tambuwun
Com. II	Revani Parasan (Hanura)	Pingkan Nuah (PDI-P)
Com. III	Lily Binti (Golkar)	Lieneke Kotambunan (Gerindra)
Com. IV	Apriano Saerang (Gerindra)	Dijana Pakasi (Nasdem)

Source: Data of DPRD of Manado City 2014-2019 period

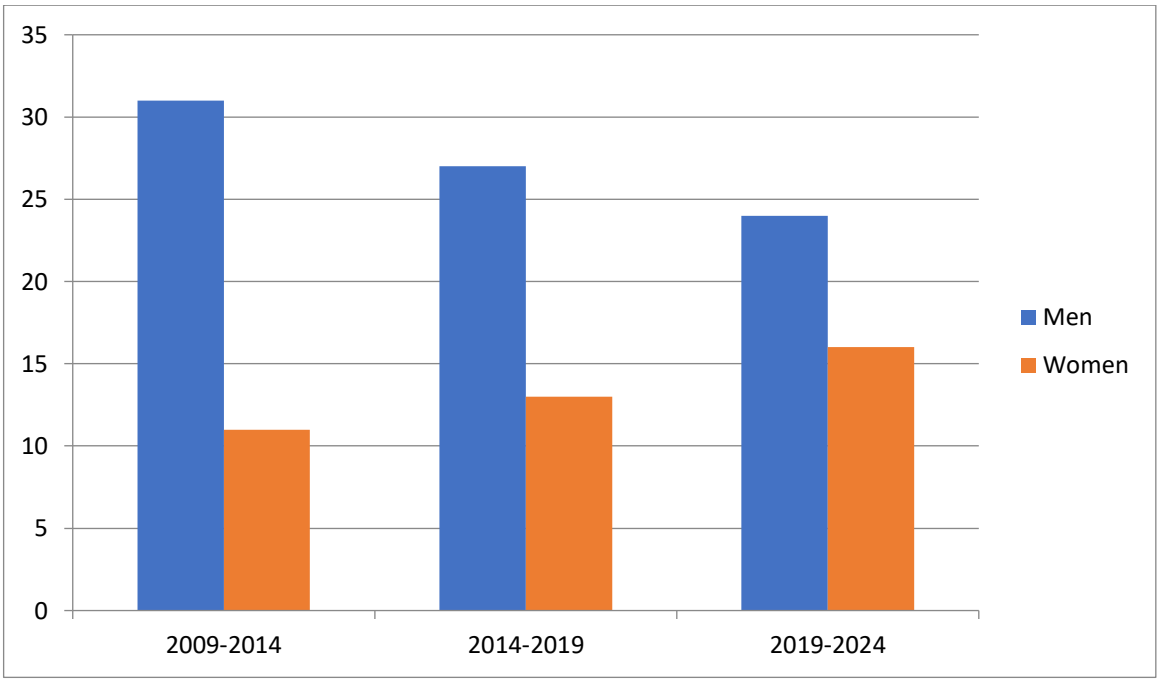
Commissions I, II, III, and IV above have their respective duties and functions. Commission I is a commission in charge of government, Commission II in charge of the economy, Commission III in the field of development, and Commission IV in charge of welfare, education and health. Similar to the composition of the DPRD of Manado City faction, only Commission III is chaired by a women.

Tables 1 and 2 above show the classic structural factor of being a legislator in the DPRD, who must follow the faction rules as an extension of the political party so that the position of the head of the faction tends to be occupied by women. In practice in the DPRD, one legislator becomes chairperson of the DPRD of Manado City, and one women legislator is entrusted with being the chairman of commission III.

However, overall, of the 40 legislative members in the DPRD of Manado City who are spread into 6 factions and 4 commissions, 13 women legislators elected in 2014-2019 period (32.5%) while 27 men legislators (67.5%). This figure shows that the percentage of representation of women in the DPRD of Manado City is based on Law No. 7 of 2017 regarding the Election has been fulfilled because the number of women's representation in the DPRD of Manado City has exceeded 30 percent. The 32.5%

representation of women in the DPRD of Manado City should be able to make changes and have an impact on the quality of decisions taken. The following is a comparison of the percentage of women's representation in the DPRD of Manado City for the 2014-2019 and 2019-2024 periods

Figure 1. Member Composition of DPRD of Manado City in 2004-2019, 2014-2019 dan 2019-2024



The number of women's representation in the DPRD of Manado City in the 2014-2019 period even increased by 6.5% compared to the previous period and continues to increase. The 2019-2024 period has even increased by 7.5% when compared to the 2014-2019 period. The number of women's legislators previously numbered 13 people, in 2019 increased to 16 people (40%), while men legislators, which previously numbered 27, in the 2019-2020 period experienced a decline with 24 men representatives (60%).

The increase i n the number of women legislative members in the DPRD of Manado City shows that women in Manado City can also compete with men in competing for legislative seats and even have the same rights and obligations as other men legislative members in carrying out their duties and functions as legislators. at the DPRD of Manado City. The following is an explanation of Anita De Blouwe from Commission C who is a representative of the Democratic Party faction regarding the activities and work programs of women legislators in the Manado City DPRD:

> *"The role of women legislative members here is no different from men legislators, so our roles are the same here, both fighting for the rights of the people. There are 3 functions on the board here; supervision, legislation, budgeting. Here there is also a budget agency, a legislative body, a commission, the head of the commission, there these 13 women are scattered. Moreover, this is the first time in the city of Manado to have a woman chairman "(Interview with Anita De Blouwe, Commission C member of the DPRD of Manado City, 16 July 2019)*

Anita De Blouwe's statement above emphasizes that women legislative members in the DPRD of Manado City have the duty to carry out 3 functions, namely the function of supervision, legislation and budgetary for the government in Manado City so that the rights of the people of Manado City can be fulfilled. The woman who was elected as a legislator in the DPRD of Manado City stated that she did not experience cultural or social obstacles when she was nominating or when she became a legislator. In their activities as legislators, they also do not experience problems when expressing their opinions in

sessions or meetings with men legislators in order to carry out their duties and functions in the DPRD of Manado City.

However, the absence of cultural or social obstacles experienced by members of the DPRD of Manado City legislature does not necessarily smoothen their activities and work programs related to strategic policies related to women as suggested by the system theory that often during the policy-making process there is a tug of interest by superstructure and political infrastructure. The political superstructure consists of members of the legislature, government and agencies in the city of Manado, while the political infrastructure consists of interest groups and NGOs which are representatives of the community and society itself.

The output produced after going through the process of tug of interest in the political system then determines the quality of the women legislative members. This can be seen in the 3 functions that have been carried out by women legislative members during their term of office in the DPRD of Manado City, especially in the legislative functions related to the making of local government regional regulations and budgets related to women society.

Regarding legislation, namely the making of local DPRD regulation (Perda), there are two regulations that must be made by legislators, namely the initiative and routine regulations. The following are the initiatives regulations initiated by the Regional House and routine regulations that are discussed and passed annually, namely:

Table 3. Local Government Regulations Initiative and Routine Regulations of DPRD of Manado City

Year 2014	1. Amandments of Local DPRD Regulation on Spatial Planning 2. Local DPRD Regulation of the Report (LKPJ) of Mayor on the Implementation of Local Government Budget (APBD) in 2013 3. Local DPRD Regulation of Amandments of Local Government Budget (APBD) in 2014 4. Local DPRD Regulation on the Amandments of the Local DPRD Regulation No. 9/2011 on Regional Medium Term Development Plan (RPMD) 5. Local DPRD Regulation on Local Government Budget (APBD) in 2015
Year 2015	1. Local DPRD Regulation on Post and Telecommunication Management 2. Local DPRD Regulation on Tourism 3. Local DPRD Regulation of the Report (LKPJ) of Mayor on the Implementation of Local Government Budget (APBD) in 2014 4. Local DPRD Regulation on the Amandments of Local Government Budget (APBD) in 2015 5. Local DPRD Regulation on Local Government Budget (APBD) in 2016
Year 2016	1. Local DPRD Regulation of the Report (LKPJ) of Mayor on the Implementation of Local Government Budget (APBD) in 2015 2. Local DPRD Regulation on Local Government Organization Structure (OPD) 3. Local DPRD Regulation on Regional Medium Term Development Plan (RPJMD) on period 2016-2021 4. Local DPRD Regulation on Government Equity Participation of Manado City to Bank Sulutgo 5. Local DPRD Regulation on Government Equity Participation of Manado City to Indonesian Regional Water Utility Company (PDAM) 6. Local DPRD Regulation on Main Plan on Information Technology and Communication

	7. Local DPRD Regulation on Wastewater Management 8. Local DPRD Regulation on the Amandments of Local Government Budget (APBD) in 2016 9. Local DPRD Regulation on Local Government Budget (APBD) in 2017
Year 2017	1. Local DPRD Regulation of the Report (LKPJ) of Mayor on the Implementation of Local Government Budget (APBD) in 2017 2. Local DPRD Regulation on the Amandments of Local Government Budget (APBD) in 2017 3. Local DPRD Regulation on Local Government Budget (APBD) in 2018 4. Local DPRD Regulation on Financial and Administrative Rights of Leaders and Members of the DPRD of Manado City 5. Local DPRD Regulation on Placement and Utilization of Workforce 6. Local DPRD Regulation on One-stop Integrated Services 7. Local DPRD Regulation on Environmental Management
Year 2018	1. Report (LKPJ) of Mayor on the Implementation of Local Government Budget (APBD) in 2017 2. Local DPRD Regulation on the Amandments of Local Government Budget (APBD) in 2018 3. Local DPRD Regulation on Public Service Levies 4. Local DPRD Regulation on Libraries 5. Local DPRD Regulation on Retribution Permit to Employ Foreign Workers 6. Local DPRD Regulation on Local Government Budget (APBD) 2019
Year 2019	1. Report (LKPJ) of Mayor on the Implementation of Local Government Budget (APBD) in 2015 2. Local DPRD Regulation on the Amandments of the Formation and Compotition of Local Government Apparatus 3. Local DPRD Regulation on Stability and Public Order 4. Amandments of Local Government Budget (APBD) 2019
Unfinished Regulations	Local DPRD Regulation Draft on Establishment and Expansion of Urban Villages Local DPRD Regulation Draft on Spatial Planning 2019-2039 Local DPRD Regulation Draft Solid Waste Management

Source: Data of DPRD of Manado City 2014-2019 period

During the five years of the 2014-2019 period the legislators have produced 36 legislative regulations and routine regional regulations, but none of the regulations produced by legislators in the 2014-2019 period are specifically for women. Based on the table above, it can be seen that the regional regulations that are also produced by women legislative members of the DPRD of Manado City have not been maximized due to the lack of regional regulations that prioritize women and empowering community participation, even though regional regulations are the formation of legal norms whose enforcement will bind the entire community in the city of Manado.

For cases of violence against women, the NGO Swara Parangpuan, which in system theory is a representative of the community, revealed that Manado City was the highest case distribution in North Sulawesi province. The highest number of cases occurred in 2016, with 78 cases and has decreased in the following years. This is because there is already information regarding the existence of service institutions provided by the government, this information has then been distributed to the public. The community has begun to be enlightened by information related to the issue of violence against women. Even so for the North Sulawesi region, as many as 57 cases or 33% of the highest distribution of domestic violence cases was in Manado City, then followed by South Minashasa at 29%, Minahasa 9%,

Bolaang Mongondow Timur 7%, Bitung 5%, Tomohon and Bolaang Mongondow respectively. 2% each, and the most recent are Southeast Minahasa and Sangihe with 1% each.

The women who were victims experienced layered violence. They experience sexual, physical and psychological violence while related regulations or policies are still lacking in implementation. Based on this, the government's attention is needed to make the issue of women and children a priority program in the preparation of regional development planning. So that the government needs to immediately make regional regulations (Perda) and provide budget guarantees to provide protection to victims and provide services needed by victims in a comprehensive and sustainable manner up to empowerment.

The NGO Swapar (Swara Parampu) has also urged the Manado City DPRD to immediately complete the Perda (Regional Regulations) on the Protection of Women Victims of Violence, seeing the high number of cases of violence against women and children. The level of security for women and children in the city of Manado is still low, so that the DPRD of Manado City needs to be serious in finalizing the Perda so that it can be implemented. It's just that out of the 36 Perda (Regional Regulations) produced by the Manado City DPRD legislative members in the 2014-2019 period, there has not been a single Perda initiative by the gender responsive council.

Based on the role theory, this shows that the role of women legislative members in DPRD of Manado City still needs to be improved because there is no output in the form of gender responsive perda produced in 2014-2019. So that an increase is needed not only in terms of quantity but also needs to be balanced with improvements in terms of quality.

This is in line with the results of the percentage of the Gender Empowerment Index (IDG) by the Central Statistics Agency (BPS) which, despite showing the results of an increase, the Human Development Index (IPM) of Indonesian women in 2018 is still at the level of 68.06 and seems to be lagging behind. IPM for men at the level of 74.85. Women legislators who are representatives of the women's community are obliged to ensure that women in the city of Manado can have a decent life, both physically and mentally.

4.Conclusion

The results showed that women legislative candidates in the Manado city does not get an obstacle to involved in the local politics, this is because the people of Manado City adhere to an egalitarian culture. However, the number of women's representation are still considered unable to represent the interests and aspirations of the women's community. This inability can be seen in the inadequacy to carry out legislative functions. Meanwhile, Manado City received the highest number of domestic violence cases in North Sulawesi province in 2017-2019, but it did not get the attention of women legislators to be realized in the form of regional regulations so that the 30 percent representation that the government has attempted is still not optimalized in terms of quality. This research concludes that there is a need for synchronization between the quota given to women in the composition of members of the legislature with the capability of women members of the legislature in decision-making process and drafting legislation products to address the issues from society.

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