

STEPS TO USE SOCIAL ASSISTANCE IMPACT WITH COVID-19 AHEAD OF ELECTIONS AS A MEANS OF SOCIALIZATION AND EARLY 2021 CAMPAIGN IN MAINTAINING THE POSITION AS REGIONAL HEAD IN INDONESIA

Anas Yusuf¹; Junaedi²; Rudi Hardi³; Try Gustaf Said⁴

Faculty of Law Postgraduate Program Trisakti University, Jakarta¹; Government Study, Muhammadiyah University of Makassar, Sultan Alauddin Street, No. 259 Macassar²; Government Study, Muhammadiyah University of Makassar, Sultan Alauddin Street, No. 259 Macassar³; Muhammadiyah University of Makassar, Sultan Alauddin Street, No. 259 Macassar⁴

Email: anasyusuf1984@gmail.com¹; junaedi@unismuh.ac.id²; rudihardi@unismuh.ac.id³; trygustafsaid@unismuh.ac.id⁴

ABSTRACT

Until now, Indonesia has not implemented a lockdown policy to break the chain of the virus. This phenomenon is giving a big blow, especially from a social point of view, nowadays with the implementation of everything done at home (stay at home and work from home). The packaging is beautiful and attractive for the social assistance mafia related to Covid-19 which is packed with PSBB or other activities carried out by the Governor/Regent/Mayor/Village Head (kuwu/lurah) and ASN, which are inconsistent with the use of Integrated Social Welfare Data (DTKS) and non-DTKS data in providing Social Assistance (Bansos) to the community to overcome the impact of the coronavirus pandemic (Covid-19) may be subject to Law no. 20 of 1999 as amended by Law no. 20 of 2001 concerning Eradication of Corruption Article 2 paragraph (2) and Article 3 Subsidiary Article 372 of the Criminal Code with a penalty of 4 (four) years in prison. Participation and actions that must be carried out by Bawaslu and law enforcers (KPK and other agencies) who are competent in enforcing the law for unscrupulous regional heads, both incumbents, PLTs with their positions, their authority to store Covid-19 aid packaged with social assistance via PSBB can be convicted

Keywords:

Utilization of Social Assistance, Covid-19, 2021 Regional Head Election Campaign

INTRODUCTION

1.1. Background

Our COUNTRY is currently sick with the Covid 19 virus and has also become an international problem. Until now, Indonesia has not implemented a lockdown policy to break the chain of the virus. This phenomenon is giving a big blow, especially from the social aspect of society at this time with the implementation of everything being done at home (stay at home and work from home). Communities with the application of all their homes also indirectly have an impact on the economic side. The state at this time must be present as a counterweight to their social life in their economic emphasis so that it can be overcome. Currently, the government has launched social assistance both from the centre and local governments. The process must have effective oversight by law enforcement agencies. Our country is a country that applies very strict regulations regarding corruption, especially in the use of social funds intended for assistance in a state of emergency. Politicization tactics and ticktock, which are packaged with Covid-19 assistance via PSBB, are illegal acts.

1.2. Problems

The amount of additional expenditure from the central government in the 2020 State Budget is Rp. 405.1 trillion, Rp. 110 trillion or 27%, of the people's money (APBN) will be allocated for social safety nets, including allocation for social assistance to affected communities Covid-19, must be guarded and monitored strictly even super tight, because this people's money will be made, twisted by the social assistance mafia (regional heads) for imaging and early campaign events by looking for opportunities in narrowness, they close their eyes in the midst of suffering people who are in the jurisdiction of the area they lead.

Frills "prospective regional head and/or deputy regional head candidates, both incumbents and non-incumbents, because If assistance is from the regional government, it is sufficient to provide the logo/symbol of the regional government without being accompanied by a photo and/or the name of the regional head and/or deputy regional head distributed through service heads, inspectorates, sub-district heads, village heads (kuwu/lurah), RW/RT and other agencies under the command of regional heads who wish to run for regional heads in the second period (incumbent).

The problems are as follows:

1. How many unscrupulous regional heads, both incumbent, PLT and with their positions, have powers to store Covid-19 aid packaged with social assistance via PSBB?
2. What are the roles and actions that must be taken by Bawaslu and law enforcers (KPK and other agencies) who are competent to enforce the law for unscrupulous regional heads, both incumbents, PLTs with their positions, their authority to store Covid-19 aid packaged with social assistance via PSBB be punished?

RESEARCH OBJECTIVES

Based on the problems mentioned above, the objectives of this study are as follows: To review and analyze the Ways to Utilize Social Assistance Affected by Covid-19 Ahead of the Pilkada as a Means of Socialization and Early 2021 Campaign in Maintaining Position as Regional Head in Indonesia.

RESEARCH BENEFITS

The benefits of this research consist of academic, theoretical, and practical benefits, as follows:

1. Academically, this research is useful for Anti-Corruption Activists related to the Utilization of Social Assistance Affected by Covid-19 Before the Pilkada as a Means of Socialization and Early 2021 Campaign in Maintaining Position as Regional Head in Indonesia
2. Theoretically, this research can enrich the literature in terms of studying law, especially related to the Utilization of Social Assistance Affected by Covid-19 Before the Pilkada as a Means of Socialization and Early 2021 Campaign in Maintaining Position as Regional Head in Indonesia;
3. Practically
 - a. As information material for academics and the public for consideration and input for further research.

- b. As input material for anti-corruption activists in Indonesia regarding the Utilization of Social Assistance Affected by Covid-19 Ahead of the Pilkada as a Means of Socialization and Early 2021 Campaign in Maintaining Position as Regional Head in Indonesia

E. Theoretical Framework

The theory of the legal system (legal system theory) was put forward by Lawrence M. Friedman who stated that the effectiveness and success of law enforcement depend on 3 (three) elements. The three elements of the legal system are (Friedman 2013:6)

a. Legal Substance (the substance of the law)

The legal substance is the laws and regulations, norms, and real human behaviour patterns that are in the system. So, the legal substance concerns the applicable laws and regulations that have binding legal force and become guidelines for enforcement officials.

b. Legal structure (structure of the law)

The legal structure is a pattern that shows how the law is implemented according to its formal provisions. When talking about the legal structure, it cannot be separated from the law enforcement apparatus institutions involved in the process of upholding the law, starting from the police, prosecutors, courts and correctional institutions which all have their duties or roles, namely related to reporting or complaint activities, investigations, investigations, prosecution, proof, imposition of sentences and imposition of sanctions, as well as efforts to reinstate (resocialize) convicts. The law cannot work properly or cannot be enforced if there is no credible, competent and independent legal apparatus.

c. Legal Culture

Law as a tool to change society or social engineering is nothing but ideas that the law wants to realize in order to guarantee the achievement of the function of law as engineering society in a better direction. So, the operation of law is not only a function of legislation but rather support from the legal culture of people involved in the legal system and society, the higher the legal awareness of the community, the better legal culture will be created.

F. Data Sources

Secondary data consisting of legal materials used can be divided into 3 (three) groups, namely:

Primary legal material, namely legal material consisting of legal rules contained in various legal instruments or statutory regulations related to unlawful acts, namely:

- (1) Law no. 20 of 2001 concerning Amendments to Law no. 31 of 1999 concerning the Eradication of Corruption Crimes.
- (2) Law no. 8 of 1981 concerning the Criminal Procedure Code (hereinafter referred to as the Criminal Procedure Code).

DISCUSSION

We all know that currently there is additional spending from the central government in the 2020 APBN of IDR 405.1 trillion, IDR 110 trillion or 27%, of the people's money (APBN) which will be allocated for social safety nets, including those allocated for social assistance to people affected by Covid-19. Likewise, from the results of refocusing activities and reallocation of the local government budget as of

April 16 2020, the total budget reallocated was IDR 56.57 trillion or 5.13% of the total 2020 APBD, namely IDR 1102 trillion. from Rp. 17.5 trillion or around 31% of this Rp. 56.57 trillion was allocated for grants/social assistance spending to overcome the impact of the Covid-19 pandemic in the regions including Indramayu Regency, West Java Province.

Frills "prospective regional head and/or deputy regional head candidates, both incumbents and non-incumbents, because If assistance is from the regional government, it is sufficient to provide the logo/symbol of the regional government without being accompanied by a photo and/or the name of the regional head and/or deputy regional head distributed through service heads, inspectorates, sub-district heads, village heads (kuwu/lurah), RW/RT and other agencies under the command of regional heads who wish to run for regional heads in the second period (incumbent), Based on Article 71 paragraph (3) for example, there are at least 4 (four) elements. First, the subject is the Regional Head or Deputy Regional Head. Second, there are government programs or activities, and third, it is carried out 6 (six) months before the determination of candidates. These three elements are fulfilled but because there is no candidate pair yet, it is not yet complete.

1.1. Surveillance System

Does supervision of the misuse of the use of Covid-19 social assistance via PSBB have to be carried out in particular by Bawaslu, KPK and other agencies in maximizing supervision, Provincial/District/City Bawaslu as electoral oversight institutions also expect support and commitment from other oversight institutions in the regions, of course, and We all understand that in the administration of regional government, the executive does not work alone. There is a DPRD as a strategic partner for the Regional Government of Indramayu Regency and others within the territory of the Republic of Indonesia which also has a supervisory function over the work of the local government. There is an Inspectorate, as the internal supervisor, but strangely they support the policies carried out by the incumbent, especially if they are in the same line (coalition), they will remain silent even though it violates the law.

1.2. The authority of the Bawaslu

The supervisory system carried out by Bawaslu, among others, Bawaslu can recommend to the KPU to disqualify why because active regional heads who are nominating themselves again (officers), if they violate this prohibition can be subject to sanctions in the form of cancellation as candidates, this is as regulated in Article 71 paragraph (3) Law no. 10 of 2016 concerning Pilkada, expressly stated, that: "Regional heads are prohibited from using authority, programs and activities that benefit or harm one of the candidate pairs, both in their own region and in other regions within six months prior to the date of determination of the candidate pair until the date of determination of the candidate pair. the elected candidate pair, why is it because of Law No. 23 of 2014 junto Law No. 9 of 2015 concerning Regional Government, Article 76 paragraph (1) letter (a) also states that Regional Heads and Deputy Regional Heads are prohibited from making decisions that specifically provide personal benefits, family, cronies, certain groups, or political groups that are contrary to the provisions of laws and regulations and letter (d), abuse their authority to benefit themselves and/or harm the region they lead.

District/city, within the framework of administering district/city regional government, the governor as the representative of the central government in the region needs to make strategic policies in this regard. Why is the participation of non-electoral oversight institutions needed? Because Bawaslu, as an electoral supervisory institution is limited by rules regarding Pilkada, can only take action if a pair of candidates has been determined.

1.3. KPK Authority

As for regional heads/PITs who violate criminal law because of their actions, the Corruption Eradication Commission/Attorney/Police can charge them based on Law no. 31 of 1999 as amended by Law no. 20 of 2001 concerning the Eradication of Corruption Crimes, even if assistance comes from prospective candidates who are not incumbents. There is no need to provide a name, self-image/photo, or even a vision and mission as a "casing". Because more or less there will be image content (not sincerity) and socialization in the context of facing electoral contestation.

Why is social assistance prone to politicization and must be monitored

The President of the Republic of Indonesia Joko Widodo ensured that the government would disburse a stimulus worth IDR 405 trillion. The funds are used to deal with the Covid-19 attack, maintain people's purchasing power, and hold back the pace of the economy so it doesn't sag. Of that amount, Rp. 110 trillion was disbursed for social safety nets, which are clearly for the benefit of the people in need, not for the sake of political selling by unscrupulous regional heads.

There are several reasons why social assistance is prone to be misused, both for political purposes and other violations.

1. Mentality and behaviour of regional heads that are deviant, corrupt, and without integrity. This factor is the biggest contributor to the misuse of social assistance funds.
2. This mentality is coupled with an easier and more flexible typology of using social assistance. This means that the planning, disbursement and accountability of funds are easy compared to the use of other government programs.
3. The supervisory institution is not functioning properly so it opens wide the door to irregularities. "If the DPRD and the inspectorate supervise the maximum, then the politicization of social assistance will not occur.
4. Regional heads do not excel so they are afraid of not being re-elected in the upcoming regional elections, because they, especially incumbents, are not confident in relying on the performance that has been done, so they are trying to beautify themselves instantly and also use state resources through the Covid social assistance -19 packed with PSBB packages.

Then what are the legal links and threats for perpetrators who carry out acts of manipulation of Covid-19 which are packaged with social assistance via Large-Scale Social Restrictions (PSBB) or whatever the names are carried out by regional heads (Governors/Regents/Mayors/Village Heads) and agencies so that it can be subject to several legal sanctions, among others, as follows:

1.3.1. Election Law

In Law No. No. 10 of 2016 concerning the Election of Governors, Regents and Mayors Article 71 paragraph (1) states, "State officials, regional officials, ASN officials, members of the TNI/Polri, and Village Heads or other names/Kuwu/Lurah are prohibited from making decisions and/ or actions that are beneficial or detrimental to one of the Candidate Pairs".

Furthermore, paragraph (3) also states that the Governor/Deputy Governor, Regent/Deputy Regent, and Mayor/Deputy Mayor (if allowed to include the Village Head/Kuwu/Lurah/Legislative Member) are prohibited from using their authority, programs and activities which is beneficial or detrimental to one pair of candidates, both in their own region and in another region within 6 (six) months prior to the date of determination of the pair of candidates until the determination of the elected candidate. Regarding sanctions, in this case, listed in paragraph (5), namely incumbents, are subject to sanctions for cancelling their candidacy. However, if he is not an incumbent, the sanctions are regulated in accordance with the applicable laws and regulations.

Article 188 also states that "Every state official, State Civil Apparatus official, and Village Head or other designation/Lurah who intentionally violates the provisions referred to in Article 71, shall be punished with imprisonment for a minimum of 1 (one) month or a maximum of 6 (six) months and/or a fine of at least IDR 600,000.00 (six hundred thousand rupiahs) or a maximum of IDR 6,000,000.00 (six million rupiahs)."

1.3.2. Local Government Law

In Law no. 23 of 2014 Junto Law no. 9 of 2015 concerning Regional Government, Article 76 paragraph (1) letter (a) also states that Regional Heads and Deputy Regional Heads are prohibited from making decisions that specifically benefit personal, family, cronies, certain groups, or political groups that are contrary to the provisions laws and regulations and letter (d), abuse of authority that benefits oneself and/or harms the region being led.

Article 71 Paragraph (3) of the Pilkada Law reads, "prohibits governors or deputy governors, regents or deputy regents, and mayors or deputy mayors from using their authority, programs and activities that are beneficial or detrimental to one pair of candidates, both in their region and other regions within six months before the date of determination of the pair of candidates until the determination of the elected candidate pair.

There are four elements in the regulation, the subject is the regional head, then using government programs, and carried out within six months before the determination of candidates. The three elements are met, but one advantageous and disadvantageous element for the other pair is incomplete because there is no candidate pair. City." Meanwhile, regional heads who violate but are not officials are regulated following statutory regulations based on Article 71 paragraph 6. which states that the actions taken by several regional heads who include their photos on social assistance fall into the category of election criminal violations, referring to Article 71 Paragraph (3) Election Law.

1.3.3. Criminal Under the Corruption Law and the Criminal Code

As for the criminal threat for the social assistance mafia related to Covid-19 which is packaged with PSBB or others (Governors/Regents/Mayors/Village Heads and ASNs) who misappropriate Covid social assistance packaged with PSBB can be subject to Law no. 31 of 1999 as amended by Law no. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, Article 2 and Article 3, the threat is a maximum of 20 years in prison and a fine of up to Rp. 1 billion," "Subsidiary Article 372 of the Criminal Code, with a threat of 4 years.

In Article 2 paragraph (2) of Law no. 31 of 2001 concerning the Eradication of Corruption Crimes. It is clearly stated in the law in the explanation section, "that someone who is suspected of committing a criminal act of corruption under certain circumstances will be given the death penalty". The definition of what is meant by "certain circumstances" in this provision is intended as "aggravating for the perpetrators of corruption if the crime is committed when the country is in a state of danger following the applicable law, when a national natural disaster occurs, as a countermeasure for acts of corruption, or when the country is in a state of economic and monetary crisis. The Covid 19 events that occurred have been determined by the President through Presidential Decree No. of 2020 concerning the Stipulation of Non-Natural Disasters of the Spread of Corona Virus Disease 2019 (COVID-19) as a National Disaster.

This has been strengthened by the Corruption Eradication Commission (KPK) by issuing Circular No. 11 of 2020, April 21, 2020, concerning the Use of Integrated Social Welfare Data (DTKS) and non-DTKS data in providing Social Assistance (Bansos) to the community to overcome the impact of the coronavirus pandemic (Covid-19).

DTKS managed by the Ministry of Social Affairs is a database that has been used to provide social assistance to the community nationally. DTKS is always undergoing improvements. Through the SE addressed to the Chairperson of the Task Force for the Acceleration of Handling Covid-19 both at the national and regional levels and the heads of the ministries/institutions/regional governments, the KPK recommended five things so that the data collection and distribution of social assistance were right on target.

1. Ministries/agencies and local governments can collect data in the field but still refer to DTKS. If a discrepancy is found, assistance can still be provided and the new beneficiary data must be reported to the Social Service or the Social Welfare Data and Information Center (Pusdatin) of the Ministry of Social Affairs to be proposed for inclusion in the DTKS according to applicable regulations.
2. Vice versa, if the beneficiary is registered with the DTKS but the facts on the ground do not meet the requirements as a beneficiary, then it must be reported to the Social Services Agency/Pusdatin for improvement of DTKS,".
3. To ensure valid data, the data for social assistance recipients from other programs or data collected in the field should be compared with the NIK data with the local Dukcapil Office data.
4. Ministries/agencies and regional governments guarantee transparency and access to data on beneficiaries, assistance realization, and available budgets to the public as a form of transparency and accountability.
5. KPK encourages involvement and increased public participation in monitoring. For this reason, ministries/agencies and regional governments need to provide public

complaint service facilities that are easy, inexpensive and can be followed up immediately,".

Based on the provisions stipulated in Article 6 letters a, b, and c of Law no. 19 of 2019 concerning the Second Amendment to Law no. 30 of 2002 concerning the Corruption Eradication Commission, the KPK is tasked with, among other things, carrying out preventive measures, coordination and monitoring so that no acts of corruption occur, through the implementation of the National Strategy for Corruption Prevention (Stranas PK) action plan, DTKS has been matched with population data at the Directorate General of Population and Civil Registration of the Ministry of Home Affairs (Ditjen Dukcapil Kemendagri) based on a Population Identification Number (NIK), so that recipients of assistance in DTKS are believed to be based on NIK.

Another reason for using DTKS is that improvements related to the accuracy of the status of beneficiaries are carried out periodically with the help of data collection by the local government and validation verification procedures (vertical) so that it is believed that beneficiaries are on target.

CONCLUSION

Whatever the form, it is packaged in beautiful and attractive packaging for the social assistance mafia related to Covid-19 which is packaged with PSBB or other things carried out by the Governor/Regent/Mayor/Village Head (kuwu/lurah) and ASN, which are not suitable for use Integrated Social Welfare Data (DTKS) and non-DTKS data in providing Social Assistance (Bansos) to the community to overcome the impact of the coronavirus pandemic (Covid-19) can be subject to Law no. 20 of 1999 as amended by Law no. 20 of 2001 concerning Eradication of Corruption Article 2 paragraph (2) and Article 3 Subsidiary Article 372 of the Criminal Code with a penalty of 4 (four) years in prison.

Where in Article 2 paragraph (2) of Law no. 31 of 2001 concerning Eradication of Corruption Crimes. It is clearly stated in the law in the explanation section, "that someone who is suspected of committing a criminal act of corruption under certain circumstances will be given the death penalty". The definition of what is meant by "certain circumstances" in this provision is intended as "aggravating for the perpetrators of corruption if the crime is committed when the country is in a state of danger by the applicable law, when a national natural disaster occurs, as a countermeasure for acts of corruption, or when the country is in a state of economic and monetary crisis. The Covid-19 event that occurred has been determined by the President through Presidential Decree (Keppres) of the Republic of Indonesia Number 12 of 2020 concerning the Designation of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 (COVID-19) as a National Disaster.

Apart from the threat of Law No. 20 of 1999 as amended by Law No. 20 of 2001 concerning the Eradication of Corruption, active regional heads who are running for office again (officers), if they violate this prohibition can be subject to sanctions in the form of cancellation as candidates, this is as stipulated in Article 71 paragraph (3)) UU no. 10 of 2016 concerning Pilkada, expressly stated, that: "Regional heads are prohibited from using authority, programs and activities that benefit or harm one of the candidate pairs, both in their region and in other regions within six months before the date of determination of the candidate pair until the date

of determination of the candidate pair. the elected candidate pair, why is it because of Law No. 23 of 2014 junto Law No. 9 of 2015 concerning Regional Government, Article 76 paragraph (1) letter (a) also states that Regional Heads and Deputy Regional Heads are prohibited from making decisions that specifically provide personal benefits, family, cronies, certain groups, or political groups that are contrary to the provisions of laws and regulations and letter (d), abuse their authority to benefit themselves and/or harm the region they lead.

REFERENCE

- Lawrence M. Friedman, Legal System: Social Science Perspective, (Bandung: Nusa Media, 2013), p. 6.
- Law Number 23 of 2014 concerning Regional Government (Pemda)
- Law Number 10 of 2016 concerning Regional Head Elections
- Law Number 31 of 2001 concerning the Eradication of Corruption Crimes
- Law Number 19 of 2019 concerning the Second Amendment to Law Number: 30 of 2002 concerning the Corruption Eradication Commission
- Presidential Decree Number 2020 concerning the Determination of Non-Natural Disasters Spread of Corona Virus Disease 2019
- KPK Circular Number 11 of 2020, April 21, 2020, concerning the Use of Integrated Social Welfare Data (DTKS) and non-DTKS data in providing Social Assistance (Bansos) to the community to overcome the impact of the coronavirus pandemic (Covid-19)