

Review of Chapter XII Extraordinary Events and Epidemics Law of the Republic of Indonesia Number 17 of 2023 Concerning Health

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Abstract—The COVID-19 pandemic caused widespread disruptions globally, leading to significant changes in Indonesia. In response, the government amended the Health Law in 2023 (Law No. 17/2023) to address health issues arising from the pandemic. These legal changes aim to enhance the legal framework for public health management. Despite the commitment to prioritize public safety under the principle “*Salus populi suprema lex esto*,” there are concerns regarding handling extraordinary events and epidemics in the law. Removing provisions on regional quarantine may negatively impact enforcing public health safety, crucial in emergencies. Regional quarantine has proven effective in controlling infectious diseases during the pandemic. Eliminating these provisions may pose challenges in ensuring public safety during future epidemics or emergencies. As a next step, evaluating and revising Law No. 17/2023 on Health is crucial to strike a balance between public needs and law enforcement policies.

Keywords— Law Number 17 of 2023 on Health, Extraordinary Events, Epidemics.

I. INTRODUCTION

Health dimension is a crucial aspect of public service, vital after food availability, and ideally, it should be fully managed by the state to ensure equal access to healthcare services for all citizens. However, in reality, resource limitations exist, causing not all healthcare services to be managed and controlled by the state. The Covid-19 pandemic that began in late 2019 became a global issue in almost all countries. Indonesia, as one of the affected countries, has various regulations to anticipate the spread of the virus. However, norm conflicts arise among these regulations [1].

The Covid-19 pandemic, essentially unpredictable by affected countries, led to inadequate preparation, including constructing adequate regulations to handle the pandemic. One of the conditions in Indonesia due to the Covid-19 pandemic is the limitation of regulations, evident in the problematic enforcement of Law No. 6 of 2018 concerning Quarantine during a pandemic, particularly in Articles 90, 91, 92, and 93. These articles generally do not precisely stipulate the use of administrative and criminal sanctions. The author aims to analyze Articles 90, 91, 92, and 93 of Law No. 6 of 2018 concerning Quarantine during a pandemic [2].

Due to problems with regulations mentioned, uncertainty arises in public health protection. In response, President Joko Widodo took swift action through Law No. 2 of 2020 to save the economy from the impact of the Covid-19 pandemic, focusing on financial policies and stabilizing the financial system [3].

The Covid-19 pandemic, affecting the world, including Indonesia, has caused massive disruptions in various sectors, especially in healthcare. This disruption is a massive change triggered by innovations, transforming existing systems and orders. The impact is significant in the health sector, with

changes such as the use of telemedicine services, the implementation of electronic medical records, and legal protection for medical personnel. Therefore, adaptation to these changes is crucial, including in regulatory aspects. Previously, Indonesia had Law No. 36 of 2009 concerning Health [4]. However, with the development of information and technology, these old regulations need revision or repeal. Hence, the Indonesian government through the People's Consultative Assembly (DPR) initiated the revision of the Health Law to adjust legislation to current conditions and respond to significant changes due to the Covid-19 pandemic [5].

The People's Consultative Assembly (DPR) adopted an omnibus law approach in drafting the Health Law. Omnibus Law is a new method of legal changes in Indonesia, including in health regulations. The government, through authorized institutions, decided to change legal products in the health sector using Omnibus Law. A total of 15 health legal products are expected to be changed in the 2023 legislative program. However, the process of forming the Health Bill using the Omnibus Law method has sparked controversy in society, especially for stakeholders like healthcare workers in Indonesia [6].

On August 8, 2023, the President of the Republic of Indonesia finally signed Law No. 17 of 2023 concerning Health, which was ratified in a plenary session of the People's Consultative Assembly (DPR) on July 11, 2023. Derivative rules from this law, in the form of Government Regulations, are scheduled to be completed by the end of 2023.

The Omnibus Law No. 17 of 2023 concerning Health is expected to provide solutions to various problems in the health sector. Some of the issues involve a curative approach in healthcare services, the availability and distribution of Health Resources (HR), preparedness for health crises, and aspects of

pharmaceutical and Medical Device independence. This law is also a concrete effort to combat extraordinary events or epidemics. In emergencies, where the safety of the people is at stake, the government is expected to make every effort to break the chain of extraordinary events or epidemics. This approach aligns with the legal principle expressed by Marcus Tullius Cicero, “*Salus populi suprema lex esto,*” meaning the welfare of the people is the supreme law.

II. LITERATURE REVIEW

Extraordinary Event

An Extraordinary Event is a significant increase in the epidemiological rates of morbidity or mortality in a specific area within a defined period, which may lead to the occurrence of an epidemic [7]. An Extraordinary Event refers to the substantial increase or emergence of cases of morbidity or mortality in an epidemiological sense in a specific area within a defined period. It is important to note that such events can serve as a precursor or trigger for an epidemic.

Considerations related to epidemiological impacts, public health responses, and preventive strategies may be necessary to control or address the situation. This can include health response planning, case tracking, isolation, and other preventive efforts. Awareness of the definition and implications of an Extraordinary Event is crucial in efforts to understand and address potential risks to public health.

Epidemic

An Epidemic is the significant spread of a contagious disease in a community, with the number of cases exceeding normal levels at a specific time and in a specific area, potentially leading to a catastrophe [8]. An epidemic is a serious occurrence in public health, characterized by the significant spread of a contagious disease in a particular area. During an epidemic, the number of cases of the disease noticeably exceeds the usual level for a specific time and region. This normal level serves as a benchmark for identifying anomalies in disease spread. In this context, an epidemic is not just an increase in cases but also results in a situation that can be considered a catastrophe. Its impacts can include severe strain on the healthcare system, social disruption, and significant economic repercussions. Therefore, a good understanding of epidemic characteristics and effective prevention and response measures is key to protecting the community and minimizing its negative impact.

Epidemics and Extraordinary Events are emergency situations with different focuses. An epidemic emphasizes the spread of contagious diseases and a significant increase in cases, potentially causing a catastrophe. On the other hand, Extraordinary Events encompasses various emergency events, not only related to health, such as natural disasters or economic crises. Understanding this difference is crucial in designing effective responses to protect the community.

III. METHODS

This research utilizes the normative legal research method as an appropriate approach to address the issues raised in the context of this study. The normative legal research method is

chosen because it is highly relevant to the nature of the issues presented. The normative approach in this research focuses on the study of law as a system of norms. This normative system involves principles, rules, court decisions, agreements, and legal doctrines within the legal context. Using this method, the research involves an in-depth analysis of the applicable laws, depicting the law as a series of rules or standards that apply in society and serve as guidelines for individual behavior.

Within the framework of this research, the normative legal research method not only confines itself to the analysis of the legal texts but also considers how the legal provisions are implemented in legal events that occur in society. In other words, the research will examine the extent to which the application or implementation of the law aligns with the provisions of existing legislation.

The primary objective of using this method is to assess whether the application or implementation of the law complies with the provisions of the applicable legislation, providing a deeper understanding of the relationship between legal rules and the reality on the ground. Additionally, the normative legal research method can help identify inconsistencies or issues in the implementation of the law that can become the focus of analysis.

IV. RESULT AND DISCUSSION

Extraordinary Events and Epidemics in Law Number 17 of 2023 Regarding Health

Extraordinary Events are events beyond reason that can threaten public health, such as natural disasters or the spread of diseases with serious consequences. An epidemic is the significant spread of a disease in a region or population, involving a number of cases exceeding the normal level. Responding to Extraordinary Events and epidemics involves preventive, handling, and recovery measures, including inter-agency coordination and efforts to reduce social and economic impacts. Law Number 17 of 2023 Regarding Health explains extraordinary events and epidemics in Articles 352 to 400. The Indonesian government is making efforts to prevent the spread of Covid-19 through legal product publications [9].

1. Extraordinary Events

Article 352 in Law Number 17 of 2023 concerning Health emphasizes the responsibility of Regional and Central Governments in protecting the public from Extraordinary Events. Precautionary, handling, and post- Extraordinary Events recovery activities must be carried out in a coordinated, comprehensive, and sustainable manner at various levels, including in regions, entry points, as well as domestic ports or airports. Cross-sector collaboration involving Medical Personnel, Health Workers, academics, the Indonesian National Army, the National Police, and community/religious figures is key to addressing Extraordinary Events situations.

Article 353 provides criteria for designating an area as an Extraordinary Event. This involves considerations such as the emergence of new diseases, a continuous increase in cases over a specific period, a significant increase in morbidity or mortality, and other criteria set by the Minister. Local leaders or the Minister are responsible for designating Extraordinary

Events, and this designation can be revoked if the area no longer meets these criteria. Further details on this procedure are regulated by Government Regulations.

Article 354 asserts that after the Extraordinary Events designation, local leaders or the respective Minister must promptly carry out various Extraordinary Events mitigation activities. These activities include various aspects such as epidemiological investigations, surveillance, risk factor control, eradication of Extraordinary Events causes, prevention and immunization, health promotion, risk communication, case management, handling Extraordinary Events -related deaths, and other mitigation efforts according to the cause of Extraordinary Events. Thus, this law provides a clear and detailed legal foundation for Extraordinary Events mitigation, emphasizing coordination, vigilance, and swift action as responses to such extraordinary situations.

2. Epidemics

Law Number 17 of 2023 Regarding Health regulates in detail the responsibilities of the Central Government and Regional Governments in facing epidemic situations. Articles 356 and 357 emphasize the duty of the Central Government and Regional Governments to carry out Epidemic Preparedness, Epidemic Response, and post-Epidemic activities to protect the public from potential epidemics. The focus includes types of diseases that may cause epidemics, such as specific endemic infectious diseases, new infectious diseases, and the re-emergence of old infectious diseases. The Minister is responsible for determining these types of diseases based on specific criteria.

Articles 358 to 361 regulate Epidemic Preparedness activities in the regions of Regional Governments, entry points, and domestic ports or airports. Regional Governments are responsible for observing risk factors, handling potential disease cases, and designating Epidemic Affected Areas. The Central Government, through Articles 359 to 361, regulates Epidemic Preparedness activities at Entry Points, including observing diseases and risk factors at Entry Points, ports, or airports serving domestic traffic.

Articles 362 to 365 grant authority to the Ministry of Health to supervise ships, aircraft, and land vehicles to or from abroad or Epidemic Affected Areas. This supervision is further regulated by Government Regulation. Additionally, Articles 366 to 368 regulate Health Quarantine Documents as a means of overseeing and preventing the entry or exit of diseases and potential epidemic risk factors.

Articles 369 to 370 address special situations, where the Minister can propose to the President to declare an epidemic as a non-natural national disaster. Articles 371 to 379 emphasize epidemic mitigation through disease investigation activities, strengthening surveillance, patient handling, risk factor control, handling of at-risk populations, risk communication, and other mitigation actions.

Article 380 asserts that further provisions regarding the implementation of epidemic mitigation activities are explained through Government Regulations. Article 381 details post-epidemic recovery measures, involving the normalization of Health Services and the social, economic, and cultural life of the community. All further provisions are explained in

Government Regulations to restore stability and the well-being of the community after facing epidemic challenges.

3. Integration of Extraordinary Events and Epidemic Mitigation in Law Number 17 of 2023

This research analyzes Law Number 17 of 2023 regarding Health, with a focus on the integration of ordinary event and epidemic mitigation. This research method is chosen because it is relevant to the research objective, which prioritizes an analysis of the legal norm system that includes principles, rules, court decisions, agreements, and doctrines. The normative approach in this research emphasizes understanding the law as rules or standards that govern individual behavior in society. Moreover, this method allows the researcher to assess the implementation of the law in legal events that occur in society, thus evaluating how well it aligns with the provisions of applicable legislation.

In the context of Law Number 17 of 2023 regarding Health, several aspects are detailed. The third part emphasizes the role of laboratories in confirming Extraordinary Events and Epidemics, emphasizing national sovereignty and benefits to the public. The fourth part establishes responsibility for waste management, ensuring that the process complies with existing regulations and considers the safety of the public and the environment. Sections five to seven regulate critical aspects, including periodic reporting, resource allocation, and rights, obligations, and prohibitions related to Extraordinary Events and Epidemic mitigation.

Detailed analysis of the laboratory indicates an emphasis on national interest and public benefit in laboratory confirmation. Waste management is directed to ensure public and environmental safety. The provision of periodic reporting from the regional level to the center creates an effective monitoring mechanism. Furthermore, resource regulation ensures the involvement of all relevant parties, from medical personnel to health supplies. Detailed regulation of rights, obligations, and prohibitions creates a strong foundation for maintaining public health and the effectiveness of mitigation efforts.

Thus, this research demonstrates that Law Number 17 of 2023 regarding Health provides a comprehensive and integrated legal framework for dealing with ordinary events and epidemics. The normative legal approach opens a window of understanding of law implementation in practice, emphasizing the importance of compliance with legal norms as guidelines for behavior in addressing public health challenges.

Issues in Chapter XIIc Regarding Extraordinary Events and Epidemics in Law Number 17 of 2023 Regarding Health

Law Number 17 of 2023 regarding Health reflects the government's commitment to prioritize legal values such as justice, usefulness, and legal certainty in the context of mitigating Extraordinary Events and epidemics. Through the legal principle "*Salus populi suprema lex esto*" stating that the safety of the people is the highest law [10]. This law is expected to give top priority to the protection and assurance of public safety. However, issues arise regarding the absence of regional quarantine provisions in the law. Although the law provides a comprehensive framework for epidemic mitigation,

special emphasis on regional quarantine is considered essential, especially in dealing with more deadly epidemics. In line with the principle “*Salus populi suprema lex esto*,” the government is expected to wisely execute efforts, including the use of regional quarantine, to break the chain of epidemic spread for the safety of the people [11]. Despite the regulations on epidemic mitigation in the law, implementation also needs to consider aspects of justice, usefulness, and legal certainty so that the goal of protecting the public can be achieved to the best of its ability.

Law Number 17 of 2023 Regarding Health indicates that health quarantine at entry points and in regions is comprehensively regulated to protect the public from potential epidemics. This regulation includes a series of actions and responses directed at controlling the spread of infectious diseases and public health risk factors. The importance of regional quarantine is recognized as an effective response in dealing with public health emergencies, especially during serious epidemic situations [12]. Although not explicitly mentioned, this law provides a legal basis for the implementation of regional quarantine to protect the safety of the people, following the principle “*Salus populi suprema lex esto*.”

However, it should be noted that the absence of regional quarantine provisions in this law can create issues related to law enforcement and the effectiveness of measures in epidemic mitigation. By incorporating the positive aspects of this law, it is important to continue monitoring its implementation to ensure its success and usefulness in protecting public health. Although Law Number 17 of 2023 does not explicitly mention regional quarantine regulations, this law provides a comprehensive legal basis for epidemic mitigation. Epidemic mitigation measures include disease investigation, strengthening surveillance, patient handling, risk factor control, handling at-risk populations, risk communication, and other mitigation actions. Thus, this law provides a comprehensive framework for addressing and preventing the spread of epidemics, even though it does not specifically detail regional quarantine regulations.

In the context of Epidemic Mitigation, handling at-risk populations, as explained in point e, includes concrete measures. First, efforts are made through providing immunity to vulnerable populations. Second, prophylaxis is given as a broader preventive measure. Additionally, restrictions on social and community activities are also part of the strategy to protect at-risk populations from potential epidemic transmission. Considering these three aspects, these measures become an integral part of the epidemic mitigation plan to minimize impacts and protect public health.

Regional quarantine plays a crucial role in addressing extraordinary events or epidemics, especially in emergency situations threatening public safety. Its urgency lies in the effort to create geographic quarantine or cordon sanitaire, aiming to limit the movement of people and goods in and out of a specific area, with exceptions for essential needs. Regional quarantine becomes an essential instrument in breaking the chain of disease transmission, as seen in the COVID-19 pandemic.

Research shows that since early 2020, the COVID-19 epidemic originating from Wuhan, China, has threatened global connectivity and supply chains, causing the suspension of international relations, international trade, and cross-border population mobility [13]. Health quarantine efforts, while not entirely capable of stopping the virus from spreading to other countries, regional quarantine can significantly reduce the rate of spread. Lockdown and quarantine policies in Wuhan and other cities in China were government measures to anticipate the spread of Covid-19. These actions resulted in the cessation of various community activities, including learning, transportation, public area work, factory closures, reduced investment, export-import, construction, the banking sector, and other activities. As a result, China's economic growth fell by 2% from the initial position of 6% before the Covid-19 pandemic [14]. Several countries, including China, Italy, Spain, France, Malaysia, and the Philippines, have implemented regional quarantine policies during the COVID-19 pandemic. Although their implementations vary, these policies indicate that regional quarantine is considered a serious measure in dealing with a global health crisis.

The legal principle “*Salus populi suprema lex esto*,” which interprets that the safety of the people is the highest law, becomes the main basis to support the urgency of regional quarantine in epidemic or extraordinary event situations. The absence of regional quarantine provisions in Law Number 17 of 2023 Regarding Health may cause inconsistencies with this legal principle.

In the context of more serious epidemics, as highlighted, large-scale social restrictions may not be sufficient to control the spread of the disease. Therefore, regional quarantine is considered a more effective option to protect public safety. The enforcement of regional quarantine is expected to help break the chain of epidemic spread and provide better protection to the public. The government is expected to take the best measures to involve regional quarantine in public health crisis management. With a focus on the principle that the safety of the people is the top priority, the steps taken should consider effectiveness and urgent needs in dealing with public health emergencies.

V. CONCLUSION

The legal principle “*Salus populi suprema lex esto*” (the safety of the people is the highest law) serves as the foundation for the establishment of the Republic of Indonesia, as reflected in the Preamble of the 1945 Constitution. This principle emphasizes the protection of the entire nation and the Indonesian bloodline as the top priority. In the context of emergencies, such as pandemics, the state is committed to taking measures for the safety and well-being of the people, including regional quarantine policies and other actions that support the goal of public protection. Overall, this principle illustrates the state's commitment to the security and welfare of the people as a primary principle. The implementation of the “*Salus populi suprema lex esto*” principle is not fully evident in the efforts to address extraordinary events or epidemics formulated in Law Number 17 of 2023 Regarding Health. This is apparent from the absence of regional

quarantine regulations that were previously present in the Health Quarantine Law. In situations where a more dangerous outbreak than COVID-19 occurs in the future, regional quarantine would be more appropriate than large-scale social restrictions.

REFERENCES

- [1] Mahardika, A. (2023). Politik Hukum Pembentukan Undang-Undang Penanggulangan Wabah Pandemi Dengan Metode Omnibus Law. *Legacy: Jurnal Hukum Dan Perundang-Undangan*, 3(1), 91-115. <https://doi.org/10.21274/legacy.2023.3.1.91-115>
- [2] Fadli, Ibnu. "Problematika Penegakan Undang-undang No 06 Tahun 2018 Tentang Kekejarantinaan dalam Masa Pandemi." PhD diss., Universitas Islam Indonesia, 2023.
- [3] Ampow, Glory Miliani. "Penerapan Diskresi Oleh Presiden Atas Kebijakan Keuangan Negara Dalam Penanganan Pandemi Covid-19 Melalui Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2020." *LEX ADMINISTRATUM* 9, no. 3 (2021).
- [4] Satria Indra Kesuma. (2024). Ulasan Undang-Undang No.17 Tahun 2023 Tentang Kesehatan. *Jurnal Nusantara Berbakti*, 2(1), 253–261. <https://doi.org/10.59024/jnb.v2i1.324>
- [5] Satria Indra Kesuma. (2024). Ulasan Undang-Undang No.17 Tahun 2023 Tentang Kesehatan. *Jurnal Nusantara Berbakti*, 2(1), 253–261. <https://doi.org/10.59024/jnb.v2i1.324>
- [6] Iskandar, S. . (2023). Legal Politics of Establishing a Health Bill with the Omnibus Law Method. *LEGAL BRIEF*, 11(6), 3639–3649. <https://doi.org/10.35335/legal.v11i6.717>
- [7] Santoso, Hari. "Laporan Akhir Tim Analisis dan Evaluasi Hukum Tentang Wabah Penyakit Menular." Badan Pembinaan Hukum Nasional Departemen Kehakiman dan Hak Asasi Manusia RI (2005).
- [8] Santoso, Hari. "Laporan Akhir Tim Analisis dan Evaluasi Hukum Tentang Wabah Penyakit Menular." Badan Pembinaan Hukum Nasional Departemen Kehakiman dan Hak Asasi Manusia RI (2005).
- [9] Widianoro, Andri, and Sri Astutik. "Perspektif Hukum Dalam Penanganan Pandemi Covid-19: Studi Komparatif di ASEAN-5." *AL-MANHAJ: Jurnal Hukum dan Pranata Sosial Islam* 5, no. 1 (2023): 175-186.
- [10] Handayani, Lefi Evti. "ASAS *Salus Populi Suprema Lex Esto* Dalam Rehabilitasi Penyalahguna Narkotika Di Masa Pandemi Covid-19." *Lex LATA* 5, no. 3 (2023).
- [11] Akmal, Fathurrahman, and Tri Suhendra Arbani. "Pembebasan Narapidana melalui Asimilasi dan Integrasi dalam Perspektif Asas *Salus populi suprema lex esto*." *Alauddin Law Development Journal* 5, no. 2 (2023): 398-409.
- [12] Asyahril, Asyahril Pattihua. "Analisis Yuridis Undang–Undang Nomor 6 Tahun 2018 Tentang Kekejarantinaan Kesehatan Dalam Prespektif Hak Asasi Manusia (Ham)." *Dinamika* 29, no. 1 (2023): 7119-7153.
- [13] Widianoro, Andri, and Sri Astutik. "Perspektif Hukum Dalam Penanganan Pandemi Covid-19: Studi Komparatif di ASEAN-5." *AL-MANHAJ: Jurnal Hukum dan Pranata Sosial Islam* 5, no. 1 (2023): 175-186.
- [14] Sudrajat, S. A., & Kurniawan, N. P. (2023). Perlindungan Negara Dalam Menghadapi Corona Virus (Covid 19) Berdasarkan Hukum Tata Negara Darurat. *Jurnal Hukum In Concreto*, 2(2), 128–140. <https://doi.org/10.35960/inconcreto.v2i2.1168>