

Legal Accountability of Budget Authorities in Refocusing Corona Virus Disease 19

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ABSTRACT

This study focuses on analyzing the legal accountability of budgetary power in refocusing covid-19. According to data from Indonesia Corruption Watch (ICW), state losses in 2020 amounted to Rp. 18.173 trillion, while in 2021, state losses due to corruption cases amounted to Rp. 26.83 trillion. this is in line with the case of social assistance provided by the government including the PKH (Hope Family Program), the Basic Food Card Program, the Bulog Rice Assistance Program, and the BST (Cash Social Assistance) Program. Related legal issues raised and analyzed, 1) Discussion on legal accountability (KSSK) in the analysis of article 27 paragraph (2) Perppu No.1 of 2020 and 2) Legal efforts in enforcing the COVID-19 budget refocusing. Using social-legal methods. The results of the study based on 1) Article 27 paragraph (2) of Perppu No.1 of 2020 and Government Regulations of Presidential Instruction No. 4 of 2020 show the enforcement of budget refocusing by placing the position of regional heads or executive organs in budgeting and budget execution issues. With criminal justice with imprisonment and fines in accordance with Article 12 letter a of Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended in Law of the Republic of Indonesia Number 20 of 2001. 2) Strengthening the mechanism of the role of law enforcement in the budget refocusing system is needed by maximizing implementation of the rules of corruption during the Covid-19 pandemic effectively and provide a deterrent effect through a letter of claim.

Keywords: Corruption of social assistance, KSSK, APBN, Budget Refocusing

Article History;

Received
December 3, 2022

Revised
February 22, 2023

Accepted
Mei 10, 2023

INTRODUCTION

Currently, Indonesia is experiencing a deadly virus situation, namely the Covid-19 Virus which has resulted in increasing cases of corruption in the name of social assistance. The number of cases occurred in a row and became an opportunity for several individuals in the name of social assistance. These individuals did so with various aspects consisting of aspects of procurement of goods, services, bribes and graphics. The practice and occurrence of bribery and extortion are closely related to the bureaucracy and licensing sector in a business climate so that it causes difficulties in producing an impartial fair trial (Transparency International, 2018).

In the area of handling government budget refocusing which is at risk of corrupt practices. After the stipulation of COVID-19 as a national pandemic, government policies have automatically been adjusted. This is of course no exception to the main problems related to financial settlements carried out by both the central government and local governments. Data obtained by the state related to budget refocusing in Covid-19 social assistance is budgeted at 26.2 trillion to meet the needs of handling the Covid-19 pandemic and economic recovery (Haliim, 2020). With the various forms of corruption in social assistance Covid-19, the government has prepared regulations related to budget adjustments in the framework of handling Covid-19, there are several regulations including Government Regulation in Lieu of Law of the Republic of Indonesia Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling Pandemic Corona Virus Disease 2019 Covid-19 (Nugroho, 2021).

With the formulation of policies related to the handling of the pandemic and the recovery of the national economy regarding the vulnerability, the budgeted costs for social assistance are generally very large and relatively free. Meanwhile, supervision over the distribution of social assistance funds is generally quite free or can be explained as less stringent in the distribution of assistance to the poor or vulnerable groups. In handling Covid-19, the Indonesian government itself provides various forms of social assistance, including PKH (Family Hope Program), Basic Food Card Program, Bulog Rice Assistance Program, BST Program (Cash Social Assistance), electricity subsidies and discounts, Pre- Employment Card Program, and internet quota subsidies (Claude Wendling, et al: 2020). The Ministry of Finance Sri Mulyani Indrawati has issued a budget allocation for social assistance programs amounting to 127.20 trillion rupiah. State losses due to COVID-19 globally, in nominal terms, the Indonesian economy lost the opportunity to create added value or suffered a loss of approximately Rp1,356 trillion. The Indonesian economy in 2020 experienced a contraction of 2.1 percent, much lower than the original target of 5,3%.

In a related report on the real sector, the Global Manufacturing PMI indicator in April 2021 reached 55.8 which is the highest number since April 2010. The Baltic Dry Index indicator which shows global trading activity also reached its highest level since August 2019. Meanwhile, global commodity prices are an indicator important for the state budget. In this case, it continues to show an upward trend, even higher than pre-pandemic levels. In a business climate that is not conducive, not yet efficient, and a high-cost economy that is a barrier to investment and export competitiveness, it must be immediately repaired (Launa, et al: 2021)

State expenditure in funding the procurement of vaccinations in the Vaccination Procurement Program and the Implementation of the Covid-19 Vaccination Requires a fairly large expenditure. In 2020 the government issued a budget of Rp. 35.1 trillion from the state budget, the funds are used for 3 million doses of Sinovac vaccine as well as for supporting equipment such as injections, alcohol, swabs, safety boxes, and so on. Then in 2021 the government issued a budget of Rp. 74 Trillion, which is a vast increase of 26.48% compared to 2020 and an increase of 26.48% compared to the previous estimate of 54.4 Trillion (Nugroho, 2021).

State expenditures in funding the procurement of Covid-19 test kits such as PCR (Polymerase Chain Reaction) Swabs, Antigen Swabs and Antibody Rapid Tests require large funding. Indonesian Corruption Watch (ICW) revealed that there is a potential state loss from the procurement of Covid-19 test kits, amounting to Rp. 169.1 billion. Losses are calculated from the quality of a number of tools that are not up to standard. During April-September 2020, the National Disaster Management Agency (BNPB) appointed seven companies to procure Covid test equipment, such as reagents. The total loss to the state is the accumulation of reagent returns in 78 laboratories in 29 provinces. A total of 498,644 test kits were returned to BNPB (Anggraini, 2020). In returning the Covid-19 test kits, it can be interpreted that BNPB tends to be careless and tends to be negligent in procuring goods in an emergency. The expiration of Covid-19 test kits occurs due to the narrow duration of the use of medical devices offered by the appointed company, indicating the absence of supervision and guarantee of the quality of goods by BNPB.

The refocusing policy has great potential and is very influential on criminal acts when a national disaster occurs. With the allocation of funds from the government that functions as disaster management, it is prone to be misused by certain individuals who should have the obligation to manage this national disaster management fund. By sharpening, paying attention to the funds that should be allocated for the interests of humanity and society according to the function of the national disaster management budget. The data shows an increase in cases in the first six months of 2021, which is as many as 209 cases. Then the state losses due to the increasing number of corruption cases also increased. Data shows that in the first six months of 2020 state losses due to corruption cases amounted to Rp. 18.173 trillion, while in the first six months of 2021 state losses due to corruption cases amounted to Rp. 26.83 trillion (Jamila, 2020).

From the available data, it can be calculated that there has been an increase in the value of state losses of around 47.6 percent due to corruption cases in Indonesia. Thus, the central government prepares regulations related to budget adjustments in the framework of handling Covid-19. In the regulation of Perppu Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling Covid-19, Presidential Decree Number 7 of 2020 concerning the Task Force for the Acceleration of Handling Covid-19, Presidential Decree Number 52 of 2020 concerning Construction of Observation and Shelter Facilities in Combating Covid-19 19 Article 27 paragraph (2) Perppu No. 1 of 2020, and (Perppu) Number 1 of 2020 regarding State Financial Policy and Financial System Stability for Handling the Covid-19 Pandemic. Perppu

Number 1 of 2020 is the basis for policies of the central government and regional governments (Nugroho, 2021).

Thus, the policy of refocusing was immediately accelerated and tightened so that it could easily eradicate various elements of corruption in the budget that should have been used for national disaster management. So that it can minimize corruption and budget swelling intended for handling the Covid-19 pandemic. The Covid-19 budget refocusing policy is intended as an optimization policy to support health care, social safety nets, and economic recovery.

Research on the analysis of the legal accountability of budgetary power in budget refocusing based on article 27 paragraph (2) of Government Regulation in Lieu of Law Number 1 of 2020 has been carried out by Hidayat Nurul (Nurul, 2021), Satria Unggul Wicaksana Prakasa (Prakasa, 2021) and Launa (Launa, 2021) The method used is normative legal research . The research of Nurul , Prakasa, and Launa emphasizes that the policy of refocusing the Covid-19 budget is very important in the process of suppressing corruption in Covid-19 budget funding.

Another study that also discussed legal policy on refocusing the Covid-19 budget was carried out by Hidayat Nurul (Nurul, 2021), which discusses about analysis of financial performance and the effect of the 2020 activity refocusing policy and budget reallocation. Then the research conducted by Satria Unggul Wicaksana Prakasa, (Prakasa, 2021) which discusses social Aid of Covid-19 Corruption: Strategy and Mitigation Policy of Muhammadiyah East Java. And in Launa's research (Launa, 2021) which discusses the potential for Corruption in Social Assistance Funds During the Covid-19 Pandemic.

Based on research What has been done previously, the theme taken in this study still has a connection , namely refocusing the Covid-19 budget. However, this research focuses not only on the study of legal science, but this research will review in more depth with studies related to sciences outside the law where it is useful to strengthen the author's analysis related to legal responsibility for budget refocusing , as well as the best steps or efforts in the process of refocusing the Covid-19 budget . With many cases of corruption in the Covid-19 social assistance budget and the public seeing the unclear procedures and requirements for receiving Covid-19 social assistance. Then the discrepancy between the recipients of assistance with the condition of the community that occurs is less effective. Based on the explanation listed above, the authors are interested in conceptually reviewing the form of management and supervision of the social assistance budget from a legal perspective along with the role of the community in supervision.

The potential for corruption in the process of refocusing and reallocating the COVID- 19 budget for the APBN and APBD. The vulnerable point lies in the allocation of sources of funds and expenditures as well as the use of the budget. KPK carries out prevention efforts by coordinating, monitoring planning refocusing/budget reallocation, and providing recommendations to Ministries/institutions/local governments if they find budgeting or allocation irregularities (Firli bahuri, KPK chairman). Basically, the imposition of imprisonment and witnesses is regulated in Article 27 paragraph (2) of Perppu Law No. 1 of 2020 and Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Criminal Acts of

Corruption as amended in Law of the Republic of Indonesia Number 20 of 2021. This is consistent because According to the Disaster Law Number 24 of 2007 the Covid-19 pandemic is classified as a non-natural disaster. And President Joko Widodo has declared the Covid-19 pandemic a national disaster in Presidential Decree No. 12 of 2020 (BPK, 2020).

METHODS

The method used in this research is a socio-legal research method. Social legal research is a legal research approach that uses the assistance of social sciences . Text. Brian Z. Tamanaha in his book entitled *Socio-legal Theory: Pragmatism and a Social Theory of law* (1997), explains that there are at least three objectives in socio-legal research. First, Brian Z. Tamanaha wants to comprehensively present a realistic approach to the study. socio-legal. The approach in laws and regulations is used to find out or clarify legal rules as well as maximum sanctions for handling Covid-19 budget refocusing. Second, I want to get into the depths of legal theory by starting from the point of view of social science. This is carried out with an approach from the point of view of legal science in the criminal process for perpetrators of Covid-19 budget corruption. Third, it wants to respond to the increasing influence of the one-sided confession of adherents of the critical school of sociolegal theory. (Tamanaha, 1997). The legal sector analyzes the phrase "certain circumstances" in Perppu Number 1 of 2020, article 27 which discusses and regulates the criminal act of corruption refocusing the Covid-19 budget through a statutory approach.

The legislative approach is used to find out and review the rules and criminal sanctions of imprisonment and fines related to corruption, refocusing the Covid-19 budget. The legal material used in this research is legislation, including Law No. 01 of 2020 (Perppu) on State Financial Policy and Financial System Stability for Handling the Corona Virus Disease 2019 (COVID-19) Pandemic. Law No. 02 of 2020 concerning Law (UU) on Perppu No. 1 of 2020 concerning State Financial Policy. Law No. 30 of 2002 concerning the Corruption Eradication Commission (KPTPK Law), Law number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, Law of the Republic of Indonesia Number 24 of 2007 concerning Disaster Management , the Criminal Procedure Code (KUHP), as well as from the review library based on related themes. The non-legal materials used in this research are non-legal science studies that are relevant to the research being conducted. The data collected from this research will be analyzed descriptively qualitatively.

DISCUSSION AND RESULT

As an effort to overcome this problem, the government should issue regulations governing the Anti-Strategic Lawsuit Against Public Participations (SLAPP). This regulation is very important as a protection for environmental fighters against the threat of criminalization. The concept of Anti Eco-SLAPP is even better if it is interpreted in the Indonesian Procedural Law and elevates the concept of Anti Eco-SLAPP in material law and formal law. This series of procedural laws can be developed in Indonesia in order to reduce criminalization of people who fight for their rights.

KSSK's legal responsibility in the analysis of article 27 paragraph 2 of Law Number 1 of 2020

Corruption Theory

According to experts, according to linguists, corruptio comes from the verb *corrumpere*, a word from an older Latin. The word then derives the terms corruption, *corrupts* (English), *corruption* (France), *corruptie / korruptie* (Netherlands) and *corruption* (Indonesia). According to the Big Indonesian Dictionary (KBBI), corruption is the misappropriation or misuse of state money (companies, organizations, foundations, and so on) for personal gain or others.

From a legal perspective, the definition of corruption has been clearly explained in 13 articles in Law no. 31 of 1999 which has been amended by Law no. 20 of 2001 concerning the Eradication of Corruption Crimes. In the Corruption Eradication Law, several types of corruption are recognized, namely:

- (1) Bribery;
- (2) Embezzlement;
- (3) Extortion;
- (4) Conspiracy for criminal acts of corruption;
- (5) Corruption in the procurement of goods and services;
- (6) Gratification;
- (7) Corruption is detrimental to state finances. (Prakasa, 2020)

The types of crimes related to corruption are:

1. Obstructing the process of examining corruption cases.
2. Do not provide information or provide information that is not true.
3. Banks that do not provide information on the suspect's account.
4. Witnesses or experts who do not provide information or provide false information.
5. The person holding the secret of the position does not provide information or provide false information.
6. Witness who reveals the identity of the reporter (Ardisasmita, 2006).

The definition of **corruption** is a term that comes from the Greek word "corruptio", which means actions that are not good, bad, fraudulent, can be bribed, immoral, deviate from chastity, violate material, mental and legal religious norms (Nurdjana, 1990). Thus, in Indonesia or in various other

countries, corruption is considered a very harmful crime and is a very extraordinary crime. It can be described that corruption without social control will lead to weak law enforcement and tend to be permissive towards transactional practices in eradicating corruption (Cahyani & Al Fatih, 2020). The government's legitimacy to prevent corruption eradication is also in a weak position, because they enjoy a corrupt electoral process and create legislative products. reduce the income of a country (Moene, 2016). Thus, the principles of accountability and social control are

absolute choices so that state order is not damaged by corrupt practices which should be dealt with strictly in a criminal manner in accordance with applicable regulations.

Refocusing Theory

Etymologically (the origin of the word), the notion of budget refocusing is to focus or refocus the budget. Meanwhile, in terms of terminology (according to the term), budget refocusing is to concentrate or refocus the budget for activities that were not previously budgeted through budget changes. Etymologically (the origin of the word), the notion of Budget Reallocation means reallocating the budget. Meanwhile, in terms of terminology (according to the term), budget refocusing is re-allocating the activity budget resulting from refocusing to be allocated to activities that were not previously allocated through a budget change mechanism by shifting/shifting/moving the budget from previous activities to other activities (Nurul, 2021).

Weston argues that refocusing will make it easier for managers to monitor and make better decisions when the company's business is positioned more narrowly. This also happens in a country, the concept of refocusing should also be applied in ensuring the financial stability of a country, especially when facing a crisis. Refocusing is an alternative to minimize the occurrence of economic recession in ensuring national economic stability. Consideration of refocusing is of course the occurrence of a global economic shock due to an event or the fragility of the economic system due to the impact of inappropriate or strategic policies (Nurdiani, 2021).

According to M. Ichwan, state finance is a quantitative activity plan (with the figures of which are expressed in a number of currencies), which will be carried out for the future, usually one year. According to Geodhart, state finances are all laws that are stipulated periodically which give the government the power to carry out expenditures for a certain period and indicate the financing tools needed to cover these expenditures.

The elements of State finance according to Geodhart include:

- a. Periodic.
- b. Government as program implementer.
- c. The budget implementer includes two powers, namely the expenditure authority and the authority to explore sources of financing to cover the expenditures concerned.
- d. The form of the State budget is in the form of a law

The purpose of refocusing and reallocating the budget is aimed at accelerating the handling of Covid-19. The impact of the Covid-19 pandemic has resulted in the set targets being constrained (Nurul, 2021)

Regulation Regulates Refocusing

Specific arrangements related to budget refocusing made by the government are Presidential Instruction Number 4 of 2020 concerning Refocusing Activities, Budget Reallocation, and Procurement of Goods and Services in the Context of

Accelerating Handling of COVID-19, but every regulation made by the government is of course all based on budgetary needs.

In Presidential Instruction Number 4 of 2020 concerning Refocusing of Activities, Budget Reallocation, and Procurement of Goods and Services in the Context of Accelerating Handling of COVID-19 itself, the focus of the regulation is more focused on efforts to reallocate the budget that was previously intended for other than handling COVID-19 which was later changed to focus on efforts to accelerate handling of COVID-19. This is very important considering that COVID-19 is a very extraordinary event. So substantially, if we look at the concept of public interest, budget refocusing is a must. The President of the Republic of Indonesia, Joko Widodo, emphasized the issuance of Presidential Instruction No. 4/2020, which instructs all Ministers / Leaders / Governors / Regents / Mayors to accelerate the refocusing of activities, reallocation of budgets and procurement of goods and services for handling COVID-19 Presidential Instruction Number 4 of 2020 concerning refocusing activities, reallocating budgets, and procuring goods and services in the context of accelerating the handling of COVID-19 The government must determine the priority scale by sorting the spending budget based on the level of urgency (Nurdiani, 2021).

The government can refocus on the budget, especially for the health and social sectors. This refocusing of the expenditure budget is also necessary because of the decline in revenue budget assumptions. In order to facilitate activity planning, coordination of implementation, as well as monitoring and evaluating the performance of handling the COVID-19 pandemic, the allocation of funds for handling the pandemic is grouped in the classification of special COVID-19 accounts. The government can also cut certain expenditures, such as spending on official travel, meeting spending, technical guidance, counseling, and the like to be diverted to handling COVID-19, namely business travel costs, capital expenditure costs. Number 12 of 2011 concerning the Formation of Legislation, there are several basic principles (Launa, 2021).

Article 5 of Law no. 12 of 2011 concerning the Establishment of Legislation must be based on:

- a. *Clarity of purpose.*
- b. *The appropriate forming institution or official.*
- c. *Compatibility between types, hierarchies and payload materials.*
- d. *Can be implemented.*
- e. *Usability and usability.*
- f. *Clarity of formulation.*
- g. *Openness*

In addition to the principles mentioned in Article 5, other principles must be contained in the laws and regulations as regulated in Law no. 12 of 2011 concerning the Establishment of Legislations are:

- a. shelter.

- b. Humanity.
- c. Nationality.
- d. kinship.
- e. Archipelago.
- f. Unity in Diversity.
- g. Justice.
- h. Equality in law and government.
- i. Order and legal certainty,
- j. Balance, Harmony and harmony.

If we look at the provisions of budget refocusing, including in Presidential Instruction Number 4 of 2020 concerning Activity Refocusing, Budget Reallocation, and Procurement of Goods and Services in the Context of Accelerating the Handling of COVID19, efforts to draw up legal sources for these provisions are based on the principles of implementation, efficiency and effectiveness. The guarantee of the interests of this principle certainly leads to the guarantee of the interests of the community. The indicator of the existence of this principle is the meaning from the regulatory side that budget refocusing is a form of regulation that comes out of the realm of formal justice, where in formal justice itself the procedural values of regulations that have been embedded must really be applied in such a way.

If formal justice is applied, then budget refocusing cannot be applied because the budgeting in the APBN and APBD related to the procurement of goods and services has primarily become an agreement for certain interests. However, in terms of the values contained in the provisions of budget refocusing, the substance of material justice is one of the objects that are put forward. Mahfud further stated, since the third phase of the amendment to the 1945 Constitution, our constitution has directed that law enforcement in Indonesia in principle adheres to the good aspects and the conception of *rechtsstaat* and the rule of law at the same time guaranteeing legal certainty and upholding substantial justice. , can also be interpreted as a form of social justice which emphasizes several aspects of values that are accommodated in the concept of justice.

The main problem of social justice is the distribution of favors and burdens in society which Brian Barry summarizes in three groups, namely:

- (1) economy (money)
- (2) politics (power)
- (3) social (status).

So in the sense of regulation, budget refocusing is one of the policies that can indeed be accepted not only in terms of the formation of laws and regulations, but also from the aspect of constitutionality where the aspect of constitutionality is more in an effort to rely on the interests of the community as the identity of the highest norm in the concept of law in Indonesia.

Criminal theory

In relation to covid 19, the government must of course have a good synergy, especially since all lines are required to jointly support the handling of covid 19. Both the central government and regional governments must continue to integrate and coordinate so that the handling actions carried out both at the center and in the regions run in balance. . The Indonesian government itself provides various forms of social assistance including PKH (Hope Family Program), Basic Food Card Program, Bulog Rice Assistance Program, BST Program (Cash Social Assistance), electricity subsidies and discounts, Pre- Employment Card Program, and internet quota subsidies to facilitate maximum budget refocusing practice.

There are several cases related to corruption in the refocusing of the Covid-19 budget, including the case of former Social Minister Juliari Batubara as a suspect in the alleged bribery case for social assistance in handling the Covid- 19 pandemic for the Jabodetabek area in 2020. The determination of the suspect Juliari at that time was a follow-up to the arrest operation carried out by the KPK. on Friday, December 5, 2020. After being named a suspect, in the evening Juliari surrendered himself to the KPK. In the case that Juliari does not work alone, he is assisted by Matheus Joko Santoso and Adi Wahyodo in carrying out his actions. Corruption is carried out by cooperating with its suppliers, namely Aridian and Harry Sidabuke. In its implementation, corruption is carried out in two stages. First, Matheus and Joko Santoso set a fee of IDR 10,000 for each food package with one price for one package amounting to IDR 300,000 per package. Thus, Juliari was subject to Article 12 letter a of the Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended in Law of the Republic of Indonesia Number 20 of 2001. And a sentence of 12 years in prison and a fine of Rp. 14,590,450,000. And sentenced Ardian and Harry Sibadukke to 4 years in prison and a fine (Jakarta, Kompas.com, 2020).

Then at a practical level, several concrete cases related to allegations of corruption in social assistance were seen caused by acts of abuse of authority as follows:

1. The defendant in the case of corruption in the Covid-19 social assistance fund (bansos) in the Jabodetabek area 2020, Matheus Joko Santoso, was sentenced to 9 years in prison. Reporting from Antara, the panel of judges at the Jakarta Corruption Court (Tipikor) stated that Joko legally and convincingly committed a criminal act of corruption together with former Minister of Social Affairs (Mensos) Juliari Batubara and Adi Wahyono. In addition, the panel of judges also required Joko to pay a fine of Rp. 450 million, subsidiary of 6 months in prison. The judge's decision is known to be more severe than the prosecutor's request, which previously requested that Joko be sentenced to 8 years in prison and a fine of Rp. 400 million, subsidiary to 6 months in prison. Matheus Joko was found guilty of violating Article 12 letter b in conjunction with Article 18 of Law (UU) No. 31 of 1999 as amended in Law No. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption in conjunction with Article 55 Paragraph 1 of the 1st Criminal Code in conjunction with Article 64 Paragraph (1) KUHP and Article 12 letter i of Law No. 31 of 1999 (Jakarta, Kompas.com, 2020).

2. The social assistance corruption case in West Java involving regional officials from the sub-district head, village head, village apparatus to the head of the RT with the mode of cutting funds should be the right of the community in need and by replacing the contents of the social assistance box in the form of basic needs with products of lower quality and value (Merdeka.com, 2020).
3. The Bansos corruption case was carried out by the Hamlet Head and Members of the Village Consultative Body (BPD) in Banpares Village, Tuah Negeri District, Musirawas Regency, South Sumatra by cutting off direct cash assistance (BLT) funds owned by residents affected by the Covid-19 pandemic. Some of these cases are related to criminal acts of corruption in this case concerning social assistance whose funds should be allocated to the community. The two suspects were charged with Article 12 letter e of Law Number 20 of 2001 on the amendment to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes (Musirawas, 2020).

Corruption crimes are generally sharpened by Article 27 paragraph (2) of Perppu No. 1 of 2020, reads: "KSSK members, KSSK Secretary, KSSK secretariat members, and officials or employees of the Ministry of Finance, Bank Indonesia, the Financial Services Authority, as well as the Deposit Insurance Corporation, and other officials, related to the implementation of Government Regulations in Lieu of Law cannot be prosecuted either civilly or criminally if in carrying out the task it is based on good faith and in accordance with the provisions of the legislation."

The government's policy towards social assistance funds in various villages found many loopholes to be misused because in each village it has its own funds related to social assistance, because the allocation of village funds focuses on community empowerment. In the law enforcement process, elements of violating the law are often found and also abuse of authority which is often associated with state losses as the basis for imposing criminal penalties for an official who has committed a criminal act of corruption. Abuse of authority or *detournement de pouvoir* is the act of an official that is not in accordance with but is still within the scope of the provisions of the legislation. Abuse of authority referring to the Corruption Crime Act is abusing the authority, opportunity or means attached to it because it has a position or position that can harm the state or the state economy (Jamila, 2020).

Regarding the crime of abuse of authority contained in Article 3 of Law Number 31 of 1999 in conjunction with Law 20 of 2001 "that every person with the aim of benefiting himself or another person or a corporation, abuses the authority, opportunity or means available to him because position or position can be detrimental to state finances or the state economy, shall be punished with life imprisonment or imprisonment for a minimum of one year and a maximum of twenty years and or a fine of at least Rp. 50,000,000.00 and a maximum of Rp. 1,000,000,000.00.

Abused by irresponsible parties. The main implication or impact of the misuse of social assistance is that the government has spent a budget in the context of administering this social assistance, but what should be this social assistance is present as the government's concern for what the community is experiencing but is

not heeded by the relevant government instruments who only want to take personal advantage. and harm society on a very large scale. As for the abuse committed by Juliari P. Batubara, namely taking advantage of the provision of social assistance distribution programs and through these actions there are elements of enriching oneself, another person or a corporation, and committing acts of abuse of authority as Minister of Social Affairs and resulting in loss of state finances and / or the country's economy so that the elements of criminal acts of corruption (Maheswari, 2021) .

The Covid-19 handling budget comes from budget efficiency of Rp 64 billion, with details of the budget for official travel and meetings of Rp 10.2 billion, the Cianjur DPRD official trip of Rp 2 billion, physical projects worth Rp 30 billion, eviction of activity posts at the Puskesmas and hospital amounting to IDR 21 billion, and the CNL program budget of IDR 300 million. In addition, there was also a transfer of the capital investment budget for BJB of Rp 5 billion, tax sharing expenditure of Rp 8 billion, expenditure on grants and social assistance of Rp 4 billion, and social assistance grants of Rp 8 billion. In addition, there was also a cash fund of Rp 10 billion which was also diverted for handling Covid-19. And set the whole to Rp 100 billion. As much as Rp 68 billion from the Covid-19 handling fund will be allocated for health care, starting from the procurement of facilities. health, Personal Protective Equipment (PPE), masks, vitamins, rapid tests and others (Kurniawan, 2021).

From the various budget changes that have occurred, it is clear that the budget will be revised in 2020 to balance the handling of COVID-19 during this pandemic. In practice, the local government of each district should make changes to the budget.

The phrase in article 27 paragraph 2 of Law Number 1 of 2020.

The Constitutional Court (MK) has held a Decision Session on the Formal and Material Examination of Law 2 of 2020 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Corona Virus Disease 2019 (COVID-19) Pandemic. 19) and/or In the Context of Facing Threats That Endanger the National Economy and/or Financial System Stability Become a Law against the 1945 Constitution. With this decision, the coordinating minister for Political, Legal, and Security Affairs Mahfud MD affirmed that the Constitutional Court confirmed all the contents contained in it. in Law 2/2020. Two types of testing were carried out on Law 2/2020, namely formal and material. Mahfud said that all who requested a formal examination were declared rejected by the Court. Meanwhile, the material test involving the addition of phrases as long as it is carried out in good faith in accordance with the laws and regulations that previously only existed in Article 27 paragraph (2) to Article 27 paragraph (1), (2), and (3) actually strengthens (Nurul, 2021).

The main role of the KPK as a state institution tasked with being able to monitor and investigate cases of corruption in the Covid-19 social assistance fund in Indonesia is to carry out preventive efforts in three ways, namely, prevention, prosecution, and education. This is regulated in articles 6 and 7 of Law no. 19 of 2019.

In the field of prevention, the KPK carries out the authority to carry out coordination and monitoring functions at the central and regional levels, by establishing 15 special idea units at the Deputy for Prevention, namely:

1. Working with the Task Force for the Acceleration of Handling Covid-19, by means of the team conducting research and providing recommendations for systematic problems in the procurement of goods and services in handling Covid-19. The team is also tasked with collaborating with relevant ministries and institutions to provide refocusing assistance.
2. Carry out activities and reallocate budget funds, as well as carry out the assistance process in the Procurement of Goods and Services in an emergency period.
3. Coordinate with 9 Task Forces at the level in collaboration with other agencies such as BPKP, PKPP and APIP who are tasked with assisting local governments in the process of refocusing and reallocating the APBD for handling Covid-19 (Maheswari, 2021).

The role of the KPK in carrying out its authority in overseeing the allocation of Covid-19 social assistance funds in the field of prosecution is the success of the KPK's role in disclosing cases of bribery in the Covid-19 social assistance fund budget carried out by social ministry officials and a number of relevant members. The role of the KPK in the education sector is to launch the JAGA Bansos application, in response to orders in handling cases of mistargeted cases of the Covid-19 social assistance fund. In addition to the KPK which is authorized to carry out surveillance and investigation policy steps, there are other institutions that also help, namely the BPK. The BPK has a role in helping the community to be able to actively participate in conducting complaints and monitoring, as well as providing information to the BPK to be able to carry out an examination, which can then be followed up if irregularities are found in the misuse of the budget (Sosiawan, 2019).

Therefore, with the policies of regulatory measures that have been set by the government as well as preventive measures that have been taken by state government institutions such as the KPK, BPK, and BPKP, it is hoped that corruption of social assistance funds during the Covid-19 pandemic in Indonesia will not be repeated. return. So that people can enjoy and receive their rights in accordance with what has been given by the government. So that there are no more cases that bring losses to the community and the country's economy.

Legal efforts in enforcing the COVID-19 budget refocusing

1. Non-adjudication efforts through Advocacy, Litigation, Adjudication

refocusing policy is based on the provisions in the Presidential Instruction regarding Activity Refocusing, Budget Reallocation, and Procurement of Goods and Services in the Context of Accelerating Handling of COVID-19 . Such an arrangement, of course, is not too strong, in fact it will potentially become a gap for mensrea (evil intentions) for implementing government policies, especially both budget users/budgetary power users. What should be regulated in the budgeting policy related to the budget refocusing policy is through the issuance of a Government Regulation in Lieu of Law which is the substitute basis for the Law on Regional Government which has been the legal basis for the regional financial policy process (Andini, 2021).

Weston argues that refocusing will make it easier for managers to monitor

and make better decisions when the company's business is positioned more narrowly. This also happens in a country, the concept of refocusing should also be applied in ensuring the financial stability of a country, especially when facing a crisis. Refocusing is an alternative to minimize the occurrence of economic recession in ensuring national economic stability. Consideration of refocusing is of course the occurrence of a global economic crash due to an event or the fragility of the economic system due to the impact of inappropriate or strategic policies.

Special arrangements related to budget refocusing made by the government are Presidential Instruction Number 4 of 2020 concerning Refocusing Activities, Reallocating Budgets, and Procurement of Goods and Services in the Context of Accelerating Handling of COVID-19 (Inpres, 2020). Thus, every regulation made by the government is of course all based on budget needs. In the Constitution of the Republic of Indonesia, what is meant by regional budgeting must be formulated by the executive and legislative organs. Presidential instructions related to refocusing regional budgets are not in the form of Presidential Instructions but must be replaced with government regulations in lieu of laws. Such a budgeting system will make the legal basis including the degree of implementation of regional budgeting run and have a clear juridical basis. The budget refocusing policy must of course run according to the rules by taking into account integration and coordination with the central government. Supervision of budget refocusing must also be carried out by various parties so that budget irregularities do not occur during this COVID-19 pandemic (Nurul, 2021).

This is inseparable from the substance that there are special regulations regarding budget refocusing made by the government, namely Presidential Instruction Number 4 of 2020 concerning Refocusing Activities, Budget Reallocation, and Procurement of Goods and Services in the Context of Accelerating Handling of COVID-19, but every regulation made by the government of course everything is based on budgetary needs. This is very important considering that COVID-19 is a very extraordinary event. So substantially, if we look at the concept of public interest, budget refocusing is a must.

The President of the Republic of Indonesia, Joko Widodo, emphasized the issuance of Presidential Instruction No. 4/2020 which instructs all Ministers / Leaders / Governors / Regents / Mayors accelerate the refocusing of activities, reallocation of budgets and procurement of goods and services for handling COVID-19 Presidential Instruction Number 4 of 2020 concerning refocusing of activities, reallocation of budgets, and procurement of goods and services in the context of accelerating the handling of COVID-19. The government must determine the priority scale by sorting the spending budget by level the urgency. The government can refocus on the budget, especially for the health and social sectors. This budget refocusing is also necessary because of the declining revenue budget assumptions (Andini, 2021).

In order to facilitate activity planning, coordination of implementation, as well as monitoring and evaluating the performance of handling the COVID-19

pandemic, the allocation of funds for handling the pandemic is grouped in the classification of special COVID-19 accounts. The government can also cut certain expenditures, such as spending on official travel, meeting spending, technical guidance, counseling, and the like to be diverted to handling COVID- 19, namely business travel costs, capital expenditure costs. In 2011 concerning the Establishment of Legislation, there are several main principles. Article 5 of Law no.12of2011concerningtheEstablishmentofLegislation(Prasetyo,2020).

If we look at the provisions of budget refocusing, including in Presidential Instruction Number 4 of 2020 concerning Activity Refocusing, Budget Reallocation, and Procurement of Goods and Services in the Context of Accelerating the Handling of COVID19, efforts to draw up legal sources for these provisions are based on the principles of implementation, efficiency and effectiveness. The guarantee of the interests of this principle certainly leads to the guarantee of the interests of the community. The indicator of the existence of this principle is the meaning from the regulatory side that budget refocusing is a form of regulation that comes out of the realm of formal justice, where in formal justice itself the procedural values of regulations that have been embedded must really be applied in such a way. If formal justice is applied, then budget refocusing cannot be applied because the budgeting in the APBN and APBD related to the procurement of goods and services has primarily become an agreement for certain interests. However, in terms of the values contained in the provisions of budget refocusing, the substance of material justice is one of the objects that are put forward (Fransisca, 2021).

The main problem of social justice is the distribution of favors and burdens in society which Brian Barry summarizes into three groups, namely:

- A. economy (money);
- B. Politics (power); and
- C. social (status).

So in the sense of regulation, budget refocusing is one of the policies that can indeed be accepted not only in terms of the formation of laws and regulations, but also from the aspect of constitutionality where the aspect of constitutionality is more in an effort to rely on the interests of the community as the identity of the highest norm in the concept of law in Indonesia.

2. Attempts in Adjudication by Law Enforcement

Based on the results of monitoring carried out by the Ministry of Finance together with the Ministry of Home Affairs, it has been identified that several regions have not submitted their APBD reports. Meanwhile, for regions that have submitted APBD Adjustment reports, an evaluation has been carried out by considering the potential for a decrease in Regional Original Income, especially those from taxes and regional retributions, as a result of the decline in community and economic activities. In addition, the evaluation also pays attention to the development of the Covid-19 pandemic in each region that requires prevention/handling quickly with an adequate budget (Djauhari, 2020).

Based on the results of the monitoring and evaluation, it has been determined that a partial postponement of the DAU distribution in May 2020 for several regions has taken into account the considerations of the Ministry of Home Affairs. The provision for the postponement is stated in the Decree of the Minister of Finance Number 10/KM.7/2020 (KMK No. 10/2020). The postponement of DAU is imposed on: (i) Regional Governments that have not submitted their APBD reports, and (ii) Regional Governments that have submitted APBD Reports but have not complied with the provisions of the SKB and PMK No. 35/2020, based on the following criteria:

- A. *Rationalization of goods/services expenditures and capital expenditures of at least 50% each, as well as rationalization of personnel expenditures and other expenditures, taking into account the estimated decline in regional income;*
- B. *There are local government efforts to rationalize regional spending, by taking into account:*
 1. *Regional financial capacity, by providing tolerance for the total rationalization of goods/services expenditures and capital expenditures of at least 35%;*
 2. *An extreme decrease in Regional Original Income as a result of the decline in community and economic activities, and/or*
 3. *The development of the level of the Covid-19 pandemic in each region that needs to be handled immediately with an adequate budget;*
- C. *The use of the results of rationalization of regional expenditures to be allocated for the prevention/handling of Covid-19, social safety nets, and moving/recovering the economy in the regions (Nurul, 2021).*

With the delay in the distribution of part of the DAU, it is hoped that: (i) Regional Governments that have not submitted the APBD Adjustment Reports can immediately submit the said reports, and (ii) for Regional Governments whose APBD Adjustment Reports have not complied with the provisions and evaluation criteria as mentioned above can immediately carry out revise the report and submit it back to the Ministry of Finance and the Ministry of Home Affairs. If the Regional Government immediately submits the APBD Adjustment report according to the provisions, some of the postponed DAU will be redistributed in May 2020. However, if the Regional Government does not immediately revise and resubmit the report, the DAU will still be postponed according to applicable regulations. For this reason, from time to time, monitoring of the implementation of the reallocation and refocusing of the APBD will continue to be carried out by taking into account the developments of the pandemic and the impact of Covid-19 in each region. The results of the monitoring will be used as the basis for the implementation of DAU distribution in the following month in accordance with applicable regulations (Nurul, 2021).

CONCLUSION

Presidential Instruction Number 4 of 2020 concerning Activity Refocusing, Budget Reallocation, and Procurement of Goods and Services. In the context of accelerating the handling of COVID-19. However, the potential for deviations from
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regional financial policies from the refocusing of the budget is clear, namely by placing the position of regional heads or executive organs in budgeting and budget execution issues. Whereas in the Constitution of the Republic of Indonesia what is meant by regional budgeting must be formulated by the executive and legislative organs. This is where the presidential instruction related to refocusing the regional budget should not be in the form of a presidential instruction, but must be replaced with a government regulation in lieu of a law, which hopefully in the future such a budgeting system will make the legal basis, including the degree to which regional budgeting is carried out and have a clear juridical basis.

The budget refocusing policy must of course run according to the rules by taking into account integration and coordination with the central government. Regional budgeting policies during the COVID-19 pandemic must of course be based on the need to accelerate handling both from the health, economic, political and other aspects related to the interests of the community. This is actually the basis for the birth of Presidential Instruction Number 4 of 2020 concerning Refocusing Activities, Budget Reallocation, and Procurement of Goods and Services. In the context of accelerating the handling of COVID-19. However, the potential for deviations from regional financial policies from the refocusing of the budget is clear, namely by placing the position of regional heads or executive organs in budgeting and budget execution issues.

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