STATE BUDGETING REGULATION AND LEGISLATIVE FRAMEWORK DURING PUBLIC HEALTH EMERGENCIES

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Abstract

When faced with the impact of the crisis triggered by COVID-19, authorities in various countries realized that this time the crisis was completely different (Heimberger, 2023). The coronavirus outbreak resulted in a health crisis and an unprecedented decline in economic activity in history (Organisation for Economic Co-operation and Development [OECD], 2020). Fiscal as one of the instruments to control the crisis, also has various procedural limitations. The regulatory framework in Indonesia only provides implementation procedures in an emergency. Meanwhile, to mitigate the impact of large shocks such as the COVID-19 outbreak, a certain level of flexibility is needed which is not possessed by the current fiscal rules (Bandaogo, 2020). This study aims to answer two research questions, first, why the government chose to create a new emergency budgeting procedure, and second, what are the legal implications of the emergency health budgeting procedure on the state budget? The research was conducted using normative legal research methods, with a statutory approach and conceptual approach at the same time. The results showed that Indonesian regulations do not have state budgeting procedures in emergencies, other than state budget implementation procedures. These implementation procedures are inadequate to deal with the impact of the crisis created by COVID-19, so the government created new emergency procedures. On the other hand, this new procedure has legal implications in the form of ignoring the constitutional principles of state budgeting, suspending twelve laws related to fiscal policy, and creating enormous legal immunity for the government in implementing fiscal policies.

Keywords: State Budgeting, Legal Procedure, Public Health Emergencies

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1. INTRODUCTION

Since the Accountability State Revenue and Expenditure Budget Act of 2022, fiscal year 2022 marks the end of all stages in the budget cycle during health emergencies (Law No. 18 of 2023 on Accountability for the Implementation of the State Revenue and Expenditure Budget for Fiscal Year 2022, 2023). Previously, the budget policy during this emergency was enacted based on the Government

Regulation in lieu of Law No. 1 of 2020 (2020). This regulation is the legal basis for the government to respond to health emergencies by establishing emergency laws as extraordinary measures (Reininda et al., 2022). This policy was chosen to respond to the deep crisis caused by the COVID-19 pandemic, Specifically in the economic sector. Schneeweiss et al. (2020) explained the virus recession is expected to outstrip even the most pessimistic of early forecasts. With strict lockdowns in place across many major economies and a growing recognition that it will be a long path back to normality, Bloomberg Economics has revised its estimate for global contraction in 2020 to -4% from earlier forecasts of -0.2% in March and growth of 3.3% at the start of the year (Schneeweiss et al., 2020).

The Organisation for Economic Cooperation and Development (OECD), in its report, said the outbreak of COVID-19 is resulting in a health crisis and a drop in economic activity that has no precedent in recent history. Containing and mitigating the spread of the virus has rightly been the priority of public authorities to reduce the incidence of the disease, limit the pressure on healthcare systems, and prepare for a more substantial rebound as mitigation measures are relaxed. Many countries have acted forcefully to restrict the economic hardship caused by the direct effects of containment measures (OECD, 2020).

These conditions show a complex crisis triggered by the COVID-19 pandemic. On the one hand, the government must try to control the transmission of the virus by imposing restrictions on community mobility (*Pembatasan Sosial Berskala Besar* or PSBB) (Government Regulation No. 21 of 2020, 2020). Simultaneously, these policies resulted in a sharp decline in economic activity. This creates two dimensions of crisis at once, among others: the health and the economic dimension. The policy choice to accommodate both dimensions at once becomes inevitable, and this is a dilemma. Most countries have now implemented strategies that significantly restrict social interaction to limit the spread of the coronavirus (Karnon, 2020).

Concerns about the effects of these strategies on the economy and the associated impact on social determinants of health are now growing. A more intensified state involvement is necessary in a crisis, primarily through fiscal policy (Heimberger, 2023). In general, economic policy responses to overcoming the impact of COVID-19 can be grouped into four categories: fiscal, monetary, macroprudential, and emergency liquidity policies. Until April 2020, fiscal policy was used the most (45% of total policies), followed by macroprudential (35%), monetary (11%), and emergency liquidity (9%) (Bank Indonesia, 2020).

In Indonesia, Law No. 17 of 2003 concerning State Finance has provided procedures for implementing the state budget in emergencies as a procedure the government can pursue in making fiscal policy during emergencies. Article 27(4) authorises the government to make expenditures for which no budget is available. This is then proposed in the draft amendment to the State Budget and/or submitted in the Budget Realisation Report (Law No. 17 of 2003 concerning State Finance, 2003). This procedure allows the Government to make expenditures without waiting for Parliament's approval in emergencies. However, the methods provided by Law No. 17 of 2003 concerning State Finance are considered insufficient to respond to the emergency conditions triggered by the COVID-19 pandemic. The depth of the impact of this crisis requires fundamental changes to the fiscal policy framework rather than simply intervening through changes in the composition of the budget. Stephens (2020) calls this situation the end of the era of budgetary fundamentalism.

Public Health Emergencies Law of 2020 states that fundamental changes are formulated in the state budgeting procedure during a health emergency, which applies for three fiscal years (2020, 2021, and 2022) (Government Regulation in lieu of Law No. 1 of 2020, 2020). This procedure authorises the government (executive) to set a budget deficit limit of more than 3% of the gross domestic product (GDP). This relaxation of the deficit limit gives the government extraordinary powers to formulate the state budget (Soeparno, 2022). The enormous authority in the hands of the President (executive) to prepare and amend the state budget has raised concerns about constitutional issues, particularly concerning the principle of separation of powers between the President (executive) and the House of Representatives (legislature) in the formulation of the state budget under Article 23 of the 1945 Constitution. In preparing the state budget, the President can prepare and submit the draft state budget to the House. On the other hand, the House has the power to approve or reject the draft budget submitted by the President (The 1945 Constitution of the Republic of Indonesia, 1945). The House's approval is absolute, so theoretically, the government can only implement the state budget after obtaining the House of Representatives (Atmadja, 1986).

In the state budgeting procedure during a health emergency, the House of Representatives (legislature) approval as a form of people's sovereignty over the state budget is questioned. The Public Health Emergencies Law of 2020 provides great authority for the executive to prepare the state budget (Government Regulation in lieu of Law No. 1 of 2020, 2020). This research was conducted to describe budgeting procedures during health emergencies, the reasons for creating these procedures, and the legal implications for the state budget. To that end, the research questions are formulated as follows:

RQ1: Why did the government suspend state budget execution procedures during emergencies and create new state budgeting procedures during emergencies instead?

RQ2: What are the legal implications of the state budgeting procedure during a health emergency on the state budget?

We organise this research by dividing it into several parts. Section 1 is the introduction, which contains a description of the background of the problem and why this object is essential to research. Section 2 is a literature review describing relevant literature as a conceptual basis for compiling a research framework. Section 3 describes the methodology used in conducting the research, namely normative legal research. Section 4 describes the reasons for suspending budget execution procedures during the emergency period and choosing to create new state budgeting procedures

during the emergency period. Section 5 describes the procedures for preparing the state budget during a health emergency and their implications. Section 6 is the conclusion of the research.

2. LITERATURE REVIEW

The fiscal policy consists of using taxes, government spending, and public debt operations to influence the community's economic activities in desired ways. It is concerned with allocating resources between the public and private sectors and their use for attaining stability and growth (Premchand, 1983). In crises, fiscal policy is often an instrument with various rules and formulas in each country. According to Göndör and Özpençe (2014), after the 1960s, it can be said that compensatory fiscal policy is the most influential economic policy against today's world crises. To justify this, they cite the views of Patikin (1964) and Blinder and Solow (1973), which established that government debt increases a household's wealth as the positive effect on aggregate demand by expansionary fiscal policy.

When looking at its definition and its components, fiscal policy is most often associated with the discipline of economics. This tendency is quite reasonable. According to Atmadja (1978), people will be more interested in the quantity and or composition of the numbers contained therein than in the legal nature of the State Budget Law. However, this does not mean the economic dimension is more important than the legal one. Indeed, it cannot be denied that the numbers contained in the state budget play more of a role in the life of a nation or state than issues that may only be useful in theory rather than in legal practice. On the other hand, without a solid theoretical foundation, the State Budget Law will only be a legal building without a framework (Atmadja, 1978).

State budgetary policy is usually carried out in a procedure established by the constitution (Atmadja, 1986). Normatively, the state budgeting procedure in Indonesia is regulated in Article 23 of the 1945 Constitution and more operationally in the State Budget Act of 2003 on State Finance and its derivative regulations. In this regulation, fiscal policy can be divided into two circumstances: normal circumstances and emergencies. The difference between the two is reflected in two things: first, the preparation of basic macroeconomic assumptions that form the basis for the formulation of budget components. In principle, the state budget during an economic crisis can be distinguished from the state budget during normal economic times. In the state budget during the economic crisis, the fundamental difference lies in preparing assumptions that are much different and show degradation in the growth (Simatupang, 2005).

Another difference is in the institutional interaction between the President and the House in preparing and adopting the budget. Under normal circumstances, the President is authorised to draft the State Budget and submit it to the House for approval or rejection. However, in an emergency, the Government can make expenditures for which no budget is available, which are then proposed in the draft state budget amendment and/or submitted in the budget realisation report (Indrawati et al., 2020). In Article 23 of the 1945 Constitution, state budgeting indicates that three essentials must be guided in the state budgeting procedure: firstly, the state budget is regulated by law and regulations, not by other types of legislation. Secondly, it is stipulated in the law every year. This means a periodic nature, thus creating a budget cycle. Third, it must be approved by the House. This approval is absolute as a sign or manifestation of popular sovereignty over the state budget (Paputungan, 2023).

These three essences are a unity that cannot be separated. But all three boil down to the essence of absolute People's Representative Council of Indonesia (*Dewan Perwakilan Rakyat*, DPR) approval. This approval of the DPR requires the State Budget to be enacted by law (Atmadja, 1978) and, at the same time, a periodic law. The latter two essences are in line with the definition of the state budget from the point of view of constitutional law (Goedhart, 1975), which is the entirety of periodically enacted legislation that authorises the executive power to carry out expenditure in respect of a specified period and indicates the means of financing necessary to cover such expenditure. According to Article 23 of the 1945 Constitution, the House Approval as a critical is constructed as authorisation. Therefore, the government can only implement the state budget after obtaining approval, which reflects the stronger position of the House before the government. Many experts consider this a sign of popular sovereignty (Pringgodigdo, 1974).

An essential aspect of the country's budgeting procedure is the fiscal rules. Fiscal rules are institutional mechanisms that impose numerical limits on budgetary aggregates to ensure fiscal discipline and credibility. They can help correct budgetary policy inefficiencies such as procyclicality, improve revenue collection efforts, and curve overspending (Bandaogo, 2020). According to the International Monetary Fund (IMF) released data that from 1985 to 2015, 96 countries around the world used fiscal rules (Lledó et al., 2017). This dataset includes four types of rules: budget balance rules, debt rules, spending rules, and revenue rules, which apply to the central government, general government, or public sector.

Adopting fiscal rules in Indonesia must be distinct from the fiscal year changes and the state budget format. The fiscal year change, which started in April and ended in March, was changed to the same as the calendar year (January–December). Changes in the structure and format of the State Budget were adjusted to approach internationally accepted standards as used in Government Financial Statistics (GFS) to support government transparency and accountability. The format and structure of the state budget, which in previous periods was prepared as a T-account based on the principle of a balanced and dynamic budget, has been changed to an I-account since the 2000 State Budget. The format and structure of the state budget in the form of an I-account allow the budget deficit to be reflected explicitly and financed with domestic and foreign sources of financing (Hadi et al., 2014). With the change in the fiscal year and state budget format, Indonesia adopted two of the four budgetary rules through Law No. 17 of 2003 concerning State Finance: the budget balance and debt. Budget

balance (i.e., deficit or surplus) rules directly target the budget balance (i.e., the gap between government expenditure and revenue). This includes a requirement to run a position not exceeding a specified deficit limit or achieving a specified minimum surplus (OECD, 2019). Debt rules set an explicit limit or target for public debt in per cent of GDP. By definition, this type of rule is the most effective in ensuring convergence to a debt target. However, it needs to provide more guidance for fiscal policy when debt is well below its ceiling (IMF, 2009).

In Law No. 17 of 2003 concerning State Finance, these two rules are formulated in Article 12(3) and its explanation. This norm gives room to prepare the state budget in deficit and determine the sources to finance the deficit. However, at the same time, the Explanation of Article 12(3) limits the deficit for each fiscal year to a maximum of 3% of gross domestic product and the accumulation of loans to finance the deficit to 60% of gross domestic product (Law No. 17 of 2003, 2003). In more detail, the limits on deficits and the debt to finance them are set out in Government Regulation No. 23/2003 (Lledó et al., 2017).

The limit on the size of the deficit correlates with the state's budgeting procedures in emergencies. In emergencies, budgets are often prepared for more significant deficits than in normal circumstances. This is due to a decrease in state revenue and, at the same time, the need for more substantial expenditure. However, increasing the deficit will increase the debt to finance it. In this context, questions were raised about the effectiveness of temporary fiscal policy actions in lessening the depth and duration of the slowdown and about the potential long-run adverse effects on the economy of the debt accumulation resulting from the fiscal stimulus (Freedman et al., 2010). However, we can also consider the research of Romer (2021), which suggests that in contrast to the fiscal response to the financial crisis, there is no evidence that fiscal space is an important determinant of the aggressiveness of the pandemic fiscal package.

Law No. 17 of 2003 does not provide for state budget procedures in an emergency. Instead, it only provides for state budget execution procedures in an emergency. This needs to be distinguished, given that in the state budget cycle, budget preparation and budget execution are two entirely different stages. The procedure for implementing the budget in an emergency is regulated in Article 27, Chapter VII (Law No. 17 of 2003, 2003), on implementing the State Budget and Regional Budget. There are two procedures provided. First is the procedure through the Amendment. This procedure can be carried out when the following conditions occur:

a. macroeconomic trends that are not in line with the assumptions used in the State Budget;

b. changes in the main points of fiscal policy;

c. circumstances that cause budget shifts to be made between organisational units, between activities, and between types of expenditure;

d. circumstances that cause the previous year's excess budget balance to be used for financing the current budget.

The second is a procedure that is explicitly referred to as an emergency procedure. In this procedure, the government can make expenditures for which no budget is available, which are proposed in the amendment draft and/or submitted in the Budget Realisation Report. However, these two procedures are unable to address fiscal policy challenges during the pandemic. The fiscal policy response during the pandemic requires a much more extensive space than the available procedures.

The data on the key fiscal measures focus on two discretionary measures, namely total fiscal measures and health-related expenditure measures. This fiscal support includes resources allocated or planned in response to the COVID-19 pandemic since January 2020, focusing on government discretionary measures as automatic stabilizers based on each country's characteristics. The IMF categorises three types of fiscal support with different near-term and long-term implications for public finances. These fiscal measures are based on three sub-groups of liquidity support: above-line measures of additional spending and forgone revenue; below-the-line measures (equity injections, loans, asset purchases, or debt assumptions), and contingent liabilities refer guarantees (on loans, deposits, etc.). These responses focus on government discretionary measures that supplement existing automatic stabilizers. The fiscal measures and health expenditure measures also depend on the country's characteristics. Fiscal policy responses are based on taxation and spending measures to support economic recovery. These include grants to small business owners, additional funding for public services, tax reductions or delays, and financial support. Health expenditure mainly concerns healthcare equipment, hospital capacity, vaccines, free health services, and COVID testing (Sariyer et al., 2023).

3. RESEARCH METHODOLOGY

The research methodology used in this research is normative legal research or what is often referred to as doctrinal legal research. In this method, the law is often conceptualized as what is written in laws and regulations, or law is conceptualized as rules or norms that are a benchmark for community behaviour towards what is considered appropriate (Efendi & Ibrahim, 2018). This method is also referred to as library research or document study because research is mostly carried out on secondary data in the library (Waluyo, 2008).

The research uses a statutory approach and a conceptual approach at the same time. The statutory approach is used to analyse secondary legal materials that are the object of research, especially on the aspects of the hierarchy of legislation and legal principles (Marzuki, 2021). Secondary data in this research includes the 1945 Constitution of the Republic of Indonesia, Law No. 17 of 2003 concerning State Finance, the Public Health Emergencies Law of 2020, Presidential Regulation No. 72 of 2020 concerning Amendments to Presidential Regulation No. 54 of 2020 concerning Changes in the Posture and Details of the State Budget for the 2020 Fiscal Year, and various other public sources such as official reports from state institutions and international financial institutions, including scientific articles or research journals. A conceptual approach, used to analyse shifts or

changes in state budgeting procedures in emergencies, before and after the enactment of the Public Health Emergencies Law of 2020, and the implications for state budgeting during the public health emergency period.

4. RESULTS: DIFFERENT CRISES AND DIFFERENT PROCEDURES

The available procedures for implementing the state budget in an emergency are considered inadequate in responding to the crisis of COVID-19 because the crisis and its impact this time are very different from the previous crisis episodes. COVID-19 was a shock of unprecedented complexity and severity and led to the most significant contraction since the Great Depression (Gourinchas et al., 2021). The associated economic downswing due to the health crisis is even more pronounced, making governments take extraordinary actions to counter-steer and cushion its economic impacts. Stringent containment measures imposed to slow down the spread of the coronavirus (COVID-19 or C19) were quickly reflected in short-term declines in economic activity and surges in public interventions across major economies (Bökemeier & Wolski, 2022).

The impact of the crisis shock is clearly explained in the global financial organisations' statistical data, which essentially shows a sharp economic downturn. The global economy is expected to lose nearly $8.5 trillion in output over the next two years due to the COVID-19 pandemic, wiping out almost all the gains of the previous four years. The sharp economic contraction, which marks the sharpest contraction since the Great Depression in the 1930s, comes on top of anaemic economic forecasts of only 2.1% at the start of the year. The report estimates that GDP growth in developed economies will plunge to -5.0% in 2020. A modest 3.4% growth — barely enough to compensate for the lost output — is expected in 2021. World trade is forecasted to contract by nearly 15% in 2020 amid sharply reduced global demand and disruptions in global supply chains (United Nations, n.d.). Indonesia is a country that is in the circle of economic shocks. COVID-19 is a real threat to the Indonesian economy. The macroeconomic growth in 2019 of 5.3–5.4% must be corrected to 2.97% in the first quarter of 2020 and -5.32% in the second quarter of 2020 (Soeparno, 2022).

The economic impact of COVID-19 is more complicated than the global economic crisis in 2008–2009, which world leaders and decision-makers in the business sector felt. The assumption of the economic impact of the COVID-19 pandemic is a shock due to adverse supply conditions. Two conditions cause this shock: first, workers in the manufacturing sector are exposed to the virus so that they stop working, automatically reducing production capacity; second, population activities are restricted to reduce the spread, but at the same time, have an impact on reducing production, reducing international trade, creative economy, tourism, and other economic activities (Suparman, 2021).

These two conditions are the dilemma faced by the government in formulating fiscal policies. The more contained you want the novel coronavirus to be, the more you will need to lock down your country — and the more fiscal space you will require to mitigate the deeper recession that will result. The problem for most of the Global South is that policymakers lack fiscal space even in the best of times (Hausmann, 2020). The significant difference between the type of crisis and the economic impact triggered by the COVID-19 pandemic meant that the emergency procedures provided by Law No. 17 of 2003 concerning State Finance were insufficient to guide fiscal policymaking. As one of the main instruments to mitigate the crisis, the state budget is also under pressure, as reflected in the deep decline in budget revenues and the surge in expenditure needs. Therefore, more than just the flexibility to change the expenditure side of the budget is needed. Bandaogo (2020) explains that mitigating the impact of a significant shock like the COVID-19 outbreak requires flexibility that many existing fiscal rules lack. Accordingly, the crisis will likely lead to changes in existing fiscal frameworks.

The changes to the fiscal framework were made by issuing the Public Health Emergencies Law of 2020. This regulation created a new state budget procedure in a health emergency. The fundamental change in this new procedure is carried out by giving greater authority to the government (executive) to make changes, shifts, and adjustments to all budget items in the state budget, both the revenue budget and expenditure budget, as well as in determining the deficit and the financing budget to finance the existing deficit. There are at least three authorities given to the government (executive) in the state budgeting procedures in a health emergency, namely the authority to determine a budget deficit that exceeds 3% of GDP, the authority in the expenditure budget, and the authority in the revenue budget (Government Regulation in lieu of Law No. 1 of 2020, 2020).

4.1. Emergency fiscal rule

Changes to fiscal rules were made to the budget balance rule. Previously, the budget balance rule was adopted in Article 12(3) of Law No. 17 of 2003 concerning State Finance and its Explanation, which limits the deficit in preparing the state budget to 3% of the GDP (Law No. 17 of 2003 concerning State Finance, 2003). However, Article 2(1) of the Public Health Emergencies Law of 2020 was suspended by authorising the Government to set a deficit limit exceeding 3% of GDP over three fiscal years (2020, 2021, and 2022). This change in fiscal rules was the most important in the state budgeting procedure during the health emergency. Increasing the deficit is unavoidable due to deeply corrected revenue sources and sharply increased expenditure requirements. Stephens (2020) explains that governments throw trillions of dollars into the fight to prevent economic collapse to appreciate just how absurd the preoccupation of recent decades was with balanced budgets, public deficits, and debt-to-GDP ratios. Of course, governments must set sustainable limits for spending and borrowing, but the era of fiscal fundamentalism has passed (Stephens, 2020).

At the same time, however, this reprieve was limited because of the recognised impact of increasing debt due to the high deficit policy. This restriction is done by specifying the suspension

period of the budget balance rule for only three fiscal years. These restrictions are essential, especially in developing countries, including Indonesia. Authorities in emerging market economies have provided more minor, yet still significant, direct fiscal support, equivalent to between 1% and 9% of GDP. For many economies, this has contributed to the most significant single-year increase in the government debt-to-GDP ratio during peacetime (Hudson et al., 2021). Another restriction is the retention of the debt rule. The literature review section states that Law No. 17 of 2003 concerning State Finance adopts two of the four second-generation fiscal rules: the budget balance rule and the debt rule (Law No. 17 of 2003 concerning State Finance, 2003). In the state budgeting procedure during a health emergency, the fiscal rule that is suspended is the budget balance rule. In contrast, the debt rule is maintained as a maximum limit of 60% of GDP accumulation. This rule is essential because, during the implementation of the state budgeting procedure during a health emergency, there will be an increase in the amount of debt. So, the maximum limit on the amount of debt that cannot exceed 60% of GDP will be a legal restriction, in addition to restrictions in terms of the implementation period.

4.2. Expenditure authority

Significant pressure on the expenditure side led to the revised state budget in light of the urgent national need to address public health disasters and expand the social safety net by emphasising equity and targeting (Suparman, 2021). This condition requires flexibility for the government in determining expenditure budgets, which was previously not possible under Law No. 17 of 2003 concerning State Finance. Therefore, the state budgeting procedure during a health emergency authorises the government in the following areas (Government Regulation in lieu of Law No. 1 of 2020, 2020):

- Adjusting the amount of mandatory spending;
- Shifting budgets between units, between organisations, between functions, and between programs;
- Using budgets sourced from (a) the remaining budget surplus, (b) endowment funds and accumulated endowment funds for education, (c) funds controlled by the state with specific criteria, (d) funds managed by public service agencies, and (e) funds derived from the reduction of state equity participation in state-owned enterprises;
- Providing loans to the Deposit Insurance Corporation;
- Prioritising the use of budget allocations for specific activities (refocusing), adjusting allocations, and/or cutting/postponing the distribution of budget transfers to regions and village funds, with certain criteria;
- Providing grants to the Regional Government.

4.3. Revenue authority

As is the case in the field of budget expenditure, the pressure of the impact of the COVID-19 pandemic on the state budget is felt in the revenue budget. Unlike the previous year, which showed an increasing trend in terms of revenue, the COVID-19 pandemic has caused state revenues to experience a deep contraction. In detail, state revenue in 2020 is estimated to decline from the government's estimate of IDR 2,233.20 trillion to IDR 1,760.88 trillion. Tax revenue is only IDR 1,462.63 trillion, and non-tax state revenue is IDR 297.75 trillion (Bahtiar & Hariyadi, 2020). In facing the downward trend in revenue, the government's authority in the revenue budget was changed. This change authorises the government to issue Government Securities and/or State Sharia Securities with specific purposes, especially in the context of the Corona Virus Disease 2019 (COVID-19) pandemic, to be purchased by the Indonesian Central Bank, state-owned enterprises (*Badan usaha milik negara* or BUMN), corporate investors, and retail investors (Government Regulation in lieu of Law No. 1 of 2020, 2020).

5. DISCUSSION: STATE BUDGETING PROCEDURES DURING HEALTH EMERGENCIES

It must be recognised that the state budgeting procedure created by Government Regulation in lieu of Law No. 1 of 2020 during the health emergency provided flexibility for the government in formulating fiscal policy. This successfully became one of the instruments in controlling the crisis during the COVID-19 pandemic and slowly encouraged improvement, especially in the economic sector. Along with issuing Government Regulation in lieu of Law No. 1 of 2020, the Government launched Stimulus Package III as a follow-up policy, containing additional spending and financing for the 2020 State Budget with a significant amount, IDR 405.1 trillion. This policy is intended to carry out three main focuses of handling COVID-19 in Indonesia, first, saving lives and improving the quality of public health; second, providing social safety nets; and third, saving the economy and the business world, especially for people experiencing poverty and small businesses. The details of the policy are as follows (Kementerian Keuangan, 2021):

- Health amounting to IDR 75 trillion;
- Expansion of the social safety net to IDR 110 trillion;
- The rescue of the economy and the business world amounted to IDR 70.1 trillion;
- Budget financing support for the National Economic Recovery Programme amounts to IDR 150 trillion.

However, such policy choices increased the deficit-to-GDP ratio and a subsequent increase in debt to finance the deficit. The correction and increase during the emergency period due to the COVID-19 pandemic, reflected in the deficit-to-GDP presentation during the implementation of the state budgeting procedures during the health emergency: first, the realisation of the budget deficit in the 2020 State Budget is -5.78% of GDP (Law No. 3 of 2021 concerning Accountability for the Implementation of the State Revenue and Expenditure Budget for Fiscal Year 2020, 2021); second, the realisation of the budget deficit in the 2021 State Budget is -4.39% of GDP (Law No. 26 of 2022 concerning Accountability for the Implementation of the State Revenue and

Expenditure Budget for Fiscal Year 2021, 2022); and third, the realisation of the budget deficit in the 2022 State Budget is -2.38% of GDP (Law No. 18 of 2023 on Accountability for the Implementation of the State Revenue and Expenditure Budget for Fiscal Year 2022, 2023). An increase in the deficit percentage of GDP, except for the 2022 budget, has the consequence of increasing the financing budget, mainly from debt. Empirically, the increase in debt accumulation to finance high deficits during the crisis period is published regularly by Bank Indonesia. In 2020, accumulated government debt increased from 30.6% of GDP in 2019 to 39.8% of GDP in 2020, and in 2021, accrued government debt increased significantly to 41.2% of GDP (Bank Indonesia, 2022). This increase represents a risk to the regional and global economy of deficits associated with fiscal stimulus measures becoming chronic, leading to permanently higher debt (Freedman et al., 2010).

There are legal implications that are also not simple and are the main focus of this research. There are three legal implications during the state budgeting procedures in health emergencies. First, the Public Health Emergencies budget shifts the fundamental principles for preparation based on constitutional procedures. Two principles are set aside: the principle that the House must approve the state budget before it is implemented by the Government and the principle that the stipulation and amendment of the state budget can only be made by law, not other laws and regulations. When putting in place fiscal policy responses to the pandemic, governments are taking a series of measures out of a sense of urgency — such as bypassing legislatures, relaxing procurement procedures, and not seeking citizens' inputs — that undermine accountability. While such "shortcuts" may feel justifiable, given the huge uncertainties surrounding the pandemic and the need to respond speedily, they make it more difficult for citizens and their representatives to understand what governments are really doing, and how effective they are at addressing the health and economic impacts of COVID-19 (International Budget Partnership, 2021).

Parliament's approval of the state budget has a common thread with the division of powers theory developed by John Locke in the UK and the trials political doctrine developed by Montesquieu. The division and separation of powers are intended to guarantee the human rights of the people from the arbitrary actions of the ruler. The human rights manifested in the principle of popular sovereignty in state finances at that time appeared as the right to participate in determining the state budget, now known as the "right to budget" (Atmadja, 1986). Many scholars argue that most scholars in France, Germany, and the Netherlands have said that Parliament's approval of the state budget is a power of attorney (machining). Because the DPR's approval is a power of attorney, the government should provide a report on the implementation of the budget at the end of the fiscal year to the House, which has authorised it (Yamin, 1960). However, during this health emergency, the House's approval is placed at the end. Barroy et al. (2020) put emergency regulations in place to authorise urgent spending for an immediate response within existing budgets and through simplified approval mechanisms. Procedurally, the approval mechanism by the House has changed by placing approval not at the beginning but at the end of implementation to change the concept of the House's budget rights, which previously tested state spending for needs in the current year, to test state spending for benefits in the current year (Indrawati et al., 2020).

The principle that amendments to the State Budget can only be stipulated by law is a consequence of the approval of the House. However, after this emergency procedure was enacted, the Government set a deficit of 5.07% in Presidential Regulation No. 54 of 2020 concerning Changes in the Posture and Details of the State Budget for Fiscal Year 2020. This was changed again in June 2020 through Presidential Regulation No. 72 of 2020 concerning Amendments to Presidential Regulation No. 54 of 2020 concerning Changes in the Posture and Details of the State Budget for the 2020 Fiscal Year, which changed the posture of the 2020 State Budget with a total value of Rp 695.2 trillion and increased the state budget deficit to 6.34% of GDP. The Reforms 2020 State Budget only uses a Presidential Regulation instrument, not a Law. This deviates from the principle of absolute House approval and stipulation of the law. On the other hand, besides providing flexibility for the government in minimising the state budget, this emergency procedure also creates greater authority in the hands of the President. In this context, public health emergencies have developed into an instrument to consolidate power and even profit (Chandranegara & Cahyawati, 2023).

Through the procedure for preparing the state budget during a health emergency, the president can make changes to the state budget, including determining a deficit above 3% of GDP without obtaining prior parliamentary approval. It is undeniable that this procedure has its restrictions. There are at least four restrictions in this procedure: first, restrictions through debt rules, in the form of a maximum limit on debt accumulation that cannot exceed 60% of GDP; second, restrictions through the period of enactment of emergency procedures for only three fiscal years; third, Government Regulation in lieu of Law No. 1 of 2020, which created this emergency procedure, was approved by the House (legislative review) so that it was passed into Government Regulation in lieu of Law No. 1 of 2020; and, fourth, Government Regulation in lieu of Law No. 1 of 2020 has been reviewed at the constitutional court, and has received confirmation from the constitutional court that this procedure is constitutional as long as it is passed into Public Health Emergencies Law of 2020.

The enactment of state budgeting procedures during the public health emergency suspended the enactment of various content material in twelve laws at once. This suspension is explicitly regulated in Article 28 (Government Regulation in lieu of Law No. 1 of 2020, 2020): Law on General Provisions and Procedures for Taxation, Law on Bank Indonesia, Law on State Finance, Law on State Treasury, Law on Deposit Insurance Corporation, Law on Fiscal Balance Between the Central Government and Regional Governments, Law on Health, Law on Villages, Law on Regional Government, Law on the People's Consultative Assembly, House of

Representatives, Regional Representatives Council, and Regional Representatives Council, Law on Financial System Crisis Prevention and Management, and Law on the 2020 State Budget. The state budgeting procedure during a public health emergency creates legal immunity for government officials who carry out this emergency procedure. The form of legal immunity is an exception in the use of any money using this emergency procedure must be considered as saving the economy from crisis and cannot be categorized as a state loss. This exception makes every government official who organizes policies using this procedure, free from potential prosecution or charges of committing a criminal act of corruption. Article 27(2) and (3) of Government Regulation in lieu of Law No. 1 of 2020 emphasise that government officials who take actions or make decisions based on this emergency procedure cannot be prosecuted civilly, criminally, or sued through the state administrative court.

However, these emergency procedures remain temporary. The full impact of a state budget prepared under these emergency procedures will be felt through the debt burden that creates limited fiscal space in later years. Globally, the IMF projected data shows that for 2020 alone, deficits have increased global debt by 13% points to reach 96.4% of GDP in 2020 (IMF, 2020). Indonesia, therefore, needs to develop emergency budgeting procedures rather than maintain emergency budget execution procedures, which have proven to be of no benefit during the COVID-19 pandemic crisis period.

There are several guidelines that the government can consider in strengthening fiscal rules:

- An unambiguous and stable link between the numerical target and the ultimate objective, such as public debt sustainability.
- Sufficient flexibility to respond to shocks so that the rule should not exacerbate their adverse macroeconomic impact. Depending on the country's circumstances, flexibility might be needed to deal with output, inflation, interest and exchange rate volatility, and other unanticipated shocks (e.g., natural disasters). However, it is essential to distinguish between temporary and persistent shocks.
- A precise institutional mechanism to map deviations from the numerical targets into incentives to take corrective actions: this can be achieved by incorporating in the rule a mechanism that mandates a correction of past deviations over a well-defined time frame, raising the cost of deviations and an explicit enforcement procedure (IMF, 2009).

Based on the above guidelines, the legal framework for state finance in Indonesia can formulate procedures for state budgeting during emergencies by balancing flexibility and accountability in crises. This is important to ensure that any irregularities in emergencies remain in line with the principles of state budgeting set out in the Constitution. Another part is that it is time to review the fiscal rules adopted by Law No. 17 of 2003 concerning State Finance. The debt rule remains relevant, especially as a constraint on expansionary fiscal policy during crises. However, whether to retain the budget balance rule, considering the expenditure and revenue rules, as the other two fiscal regulations included in the second generation of budgetary rules, needs to be revisited (Bandaogo, 2020).

In addition to the content material in the twelve laws explicitly mentioned, there are several laws whose content material is also suspended even though it is not explicitly mentioned. For example, the provisions in Article 27(2) and (3) of Government Regulation in Lieu of Law No. 1 of 2020 suspend some of the content material in the Criminal Code, Civil Code, and Administrative Court Law. Thus, the laws whose content material is suspended during the enactment of state budgeting procedures during a public health emergency are actually more than twelve laws.

6. CONCLUSION

This research draws two conclusions, as analysed in the previous section. First, when facing the complexity of the crisis triggered by the COVID-19 pandemic, Indonesia's legal framework needs to have procedures for state budgeting in emergencies. What is available are only procedures for implementation in emergencies. The available methods need to be more adequate to respond to this crisis because, in addition to being limited to making sacrifices in the expenditure field, these procedures are fully bound by the available fiscal rules. Meanwhile, the health crisis requires a fiscal response that includes all components of the state budget, including revenues, expenditures, deficits, and financing to finance these deficits. This is why the Indonesian government created procedures for preparing the state budget during a health emergency through Government Regulation in lieu of Law No. 1 of 2020. Through this emergency regulation, the government has the legal basis to formulate fiscal policy through an unprecedented procedure. Makin and Layton (2021) call it an aggressive fiscal policy of increased health spending, income transfers increased welfare payments, and wage subsidies to companies to retain employees to minimize short-term unemployment.

The state budgeting procedure during a public health emergency has at least three legal implications. First, this emergency procedure resulted in the constitutional principles of state budgeting, namely the principle of parliamentary approval and the stipulation of the state budget in law, being overridden. This can be seen from the fact that changes to the state budget only use the legal instrument of a Presidential Regulation, not a law. At the same time, this procedure also declared the budget balance rule as one of the fiscal rules adopted by Law No. 17 of 2003 concerning State Finance invalid. Through this change, the government has greater authority to make changes to the state budget, without having to go through the instrument of a law that requires the approval of the Parliament and does not have to be bound by fiscal rules that limit fiscal space. Second, the emergency procedure automatically suspends no less than twelve laws relating to fiscal policy. Thirdly, the emergency procedure creates enormous legal immunity for the government in implementing fiscal policy. This takes the form of the exclusion of any use of the state budget during the health emergency period from being categorized as a state financial loss, including a guarantee that

government officials cannot be prosecuted criminally, civilly, or sued through the state administrative court if they take actions or make decisions based on state budgeting procedures during the health emergency period.

The various irregularities created by state budgeting procedures during health emergencies ultimately lead us to the fact that the current regulations in the field of state finance have very real weaknesses, especially when faced with emergencies. Law No. 17 of 2003 concerning State Finance of the Republic of Indonesia does not have procedures for preparation in emergencies, only procedures for implementation in emergencies, which have proven to be unable to be a solution to health emergencies due to COVID-19. For this reason, more in-depth research is needed to find a formulation of state budget procedures during emergencies in the future. This comprehensive research can only be done with the support of various empirical data that will be indispensable for finding the ideal formulation. The empirical data presented in this study is woefully inadequate and is also its main weakness. For example, data on adjustments to the amount of mandatory expenditure, budget shifts between organisational units, between functions, and between programs. These empirical data would be very useful material for formulating emergency procedures in the future.

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