

Legal Preparedness as a New Paradigm for Emergency Law in Addressing the COVID-19 Pandemic as a Non-Military Threat in Indonesia

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ABSTRACT

The COVID-19 pandemic exposed limitations in Indonesia's emergency legal framework in addressing non-military threats while maintaining the rule of law. This study aims to analyze Indonesia's legal response to the pandemic and to construct legal preparedness as a new paradigm of emergency law. The research employs normative legal research using a qualitative approach through statutory, conceptual, and doctrinal analyses of legislation, legal doctrines, and policy documents. The findings reveal that although Indonesia maintained the rule of law through comprehensive legal instruments, its emergency legal framework remained predominantly reactive due to weaknesses in regulatory readiness, institutional arrangements, coordination mechanisms, and operational preparedness. This study proposes legal preparedness as an integrated framework to strengthen emergency governance, national resilience, and the protection of constitutional rights against future pandemics and other non-military threats.

INTRODUCTION

The Coronavirus Disease 2019 (COVID-19) pandemic has fundamentally transformed the way states perceive threats to national security. Prior to the pandemic, threats to the state were generally understood as military threats associated with armed aggression, violations of sovereignty, or interstate conflicts. However, the pandemic demonstrated that non-military threats may produce consequences equal to or even greater than those of conventional military threats, as they are capable of overwhelming healthcare systems, disrupting economic activities, restricting public mobility, impairing the delivery of public services, and simultaneously undermining political and social stability. Within this context, the pandemic can no longer be regarded merely as a public health issue but has evolved into a national security concern requiring a comprehensive, integrated, and law-based governmental response.

Within Indonesia's constitutional framework, the COVID-19 pandemic was never formally declared a state of emergency in the constitutional sense as stipulated under Article 12 of the 1945 Constitution of the Republic of Indonesia (Asshiddiqie, 2025). Rinaldi (2025) argues that the government instead adopted the legal framework of a public health emergency through Presidential Decree No. 11 of 2020 concerning the Determination of the Coronavirus Disease 2019 (COVID-19) Public Health Emergency, which was subsequently followed by Government Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions (Pembatasan Sosial Berskala Besar/PSBB), and Presidential Decree No. 12 of 2020 concerning the Designation of the Non-Natural Disaster of the Spread of Coronavirus Disease 2019 (COVID-19) as a National Disaster, thereby officially recognizing COVID-19 as a national disaster.¹

Indonesia's experience during the COVID-19 pandemic revealed that the national legal system was not fully prepared to respond to a large-scale public health crisis. Although various legal instruments were enacted, they largely reflected a pattern of *legal response*, namely legal measures formulated after the crisis had already emerged. Consequently, numerous regulations were sectoral, temporary, and insufficiently integrated within a coherent legal framework. This situation resulted in overlapping institutional authority, regulatory inconsistencies, and unclear coordination mechanisms among government agencies responsible for pandemic management.

The urgency of strengthening the legal framework is firmly grounded in constitutional principles. The Preamble to the 1945 Constitution explicitly states that one of the primary purposes of the Indonesian state is to protect the entire Indonesian nation and all of its territory. This constitutional mandate is reinforced by Article 1 paragraph (3) of the Constitution, which affirms that Indonesia is a state based on the rule of law (*rechtsstaat*). Consequently, every governmental action, including measures undertaken during emergencies, must be conducted in accordance with the law while upholding the principles of legal certainty, accountability, and respect for human rights (Asshiddiqie, 2012). Furthermore, Article 28H paragraph (1) of the Constitution guarantees every individual's right to healthcare as a constitutional right. Therefore, protecting the public from pandemic threats is not merely a matter of governmental policy

choice but constitutes a constitutional obligation that must be fulfilled through an effective and sustainable legal system.

Previous studies have generally examined the COVID-19 pandemic from the perspectives of policy effectiveness, human rights protection, and the implementation of Law No. 6 of 2018 concerning Health Quarantine. Jones, L. & Hameiri, S. (2022) for instance, argue that the pandemic exposed significant weaknesses in governmental governance when confronting multidimensional crises. Mas'udi, Wawan and Winanti, S.P (2023) conclude that Indonesia's response was predominantly reactive rather than anticipatory. Meanwhile, legal scholarship has primarily focused on regulatory disharmony and jurisdictional conflicts among governmental institutions during the pandemic. Nevertheless, these studies remain largely oriented toward evaluating *legal response* and have paid insufficient attention to developing a legal system capable of preparing the state before crises occur, namely through *legal preparedness*.

The concept of *legal preparedness* has emerged within the field of global health law as the capacity of a legal system to anticipate, prepare for, respond to, and recover from public health emergencies through regulatory, institutional, and governance frameworks established prior to the occurrence of a crisis. According to Moulton et al. (2007), legal preparedness constitutes an essential component of health system resilience because it ensures that governmental actions undertaken during emergencies are supported by clear, coordinated, and accountable legal foundations. This approach extends beyond the mere existence of legal norms by emphasizing institutional readiness, coordination mechanisms, clearly defined authority, and operational instruments that can be immediately implemented when emergencies arise.

In Indonesia, the urgency of strengthening legal preparedness has become increasingly apparent following the enactment of Law No. 17 of 2023 concerning Health and Government Regulation No. 28 of 2024 as its implementing regulation. Although these legal instruments have reinforced the national health legal framework, several technical provisions concerning the governance of public health emergencies still require operational regulations to enable effective implementation. This condition indicates that successful pandemic management in the future depends not only on the existence of legal norms but also on the comprehensive readiness of the legal system to support cross-sectoral coordination and facilitate rapid, lawful, and accountable decision-making.

LITERATURE REVIEW

Theory of the Rule of Law

The rule of law serves as the grand theory of this study because every governmental action undertaken in response to the COVID-19 pandemic must derive its legitimacy from law. Within a constitutional state, governmental authority cannot be justified solely by necessity but must comply with the principles of legality, legal certainty, accountability, and the protection of human rights. Accordingly, the rule of law provides the normative framework for evaluating whether Indonesia's emergency measures remained consistent with constitutional principles.

According to Friedrich Julius Stahl and A.V. Dicey, the rule of law requires government based on law, protection of rights, equality before the law, and due process (Asshiddiqie, 2012). This theory is therefore used to assess whether Indonesia's emergency legal framework maintained legality and constitutional accountability.

National Security Theory

National Security Theory explains the COVID-19 pandemic as a non-military threat affecting governance, public welfare, and national resilience. Barry Buzan (1991) broadened the concept of security beyond military threats, while the UNDP human security approach emphasized the protection of individuals. This theory is applied to evaluate whether Indonesia's legal framework incorporates pandemic preparedness within its national security strategy.

Theory of Constitutional Law Regarding States of Emergency

Constitutional Emergency Law provides the framework for examining the legality of governmental actions during extraordinary circumstances. Although emergencies require rapid intervention, governmental powers must remain subject to legality, proportionality, and accountability. This theory is used to evaluate Indonesia's emergency legal framework under Article 12 of the 1945 Constitution and relevant emergency legislation.

Legal Preparedness Theory

Legal Preparedness Theory is the principal analytical framework of this study. It views law as a system that must be established before emergencies occur through regulatory frameworks, institutional arrangements, coordination mechanisms, and operational procedures. Developed by Lawrence O. Gostin and reinforced by the International Health Regulations (2005), this theory is used to construct legal preparedness as a new paradigm for Indonesia's emergency law.

Theory of the Formation of Legislation

The theory of legislative drafting emphasizes that effective emergency governance depends on coherent legislation and implementing regulations. Drawing on Hans Kelsen, Maria Farida Indrati, and Bagir Manan, this theory evaluates whether Indonesia's legal framework provides sufficient legal certainty and implementation mechanisms to support a legal preparedness-oriented emergency legal system.

METHODOLOGY

This study employs normative legal research using a qualitative approach to examine the legal framework governing the management of the COVID-19 pandemic as a non-military threat from the perspectives of constitutional law and constitutional emergency law. The analysis is based on statutory regulations, legal doctrines, and relevant legal literature to evaluate the coherence, consistency, and adequacy of Indonesia's emergency legal framework.

The study applies statutory, conceptual, and doctrinal approaches to assess the hierarchy of legal norms governing pandemic management, particularly the relationship among statutes, government regulations, presidential decrees, and implementing regulations. The analysis focuses on identifying legal gaps, regulatory inconsistencies, and institutional weaknesses affecting emergency governance (Soekanto, S., & Mamudji, 2003).

Using a descriptive-analytical design, the research examines the evolution of Indonesia's emergency legal system from the onset of the COVID-19 pandemic to the post-pandemic period. The findings are interpreted through the perspectives of the Rule of Law, National Security, Constitutional Emergency Law, Legal Preparedness, and Legislative Drafting to formulate recommendations for strengthening Indonesia's emergency legal framework. The study ultimately proposes legal preparedness as a normative paradigm for improving regulatory readiness, institutional capacity, cross-sectoral coordination, and operational mechanisms in responding to future pandemics and other non-military threats.

RESEARCH RESULT

Evolution of Indonesia's Emergency Legal Governance During the COVID-19 Pandemic

The COVID-19 pandemic marked a significant turning point in the development of Indonesia's emergency legal framework. Based on an analysis of statutory regulations, government policy documents, and interviews with key informants from the Ministry of Health, the Ministry of Defense, and the Ministry of State Secretariat, this study finds that the legal governance of pandemic management evolved progressively in response to the escalating crisis that began in early 2020. This evolution was reflected not only in the increasing number of regulations enacted by the government but also in changes to institutional arrangements, coordination mechanisms, and the expansion of governmental authority in responding to a public health emergency that gradually came to be recognized as a threat to national resilience.

The findings indicate that Indonesia already possessed several legal instruments capable of providing a legal basis for pandemic management before the outbreak of COVID-19. Law No. 24 of 2007 concerning Disaster Management established the legal framework for governmental responses to disasters, while Law No. 6 of 2018 concerning Health Quarantine regulated various forms of public health quarantine measures designed to protect society from communicable diseases. However, neither statute specifically addressed the governance of a pandemic capable of simultaneously affecting the health sector, the economy, public administration, national defense, and social life. Consequently, the government was required to develop numerous new regulations throughout the pandemic to accommodate the rapidly evolving needs arising from the crisis.

The analysis of regulatory developments demonstrates that the government's policy framework was established incrementally. During the initial phase of the pandemic, the government declared COVID-19 a Public Health Emergency through Presidential Decree No. 11 of 2020. Shortly thereafter,

Presidential Decree No. 12 of 2020 designated the spread of COVID-19 as a National Non-Natural Disaster. These two presidential decrees subsequently served as the legal foundation for a series of implementing regulations, including Government Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions (Pembatasan Sosial Berskala Besar – PSBB), Government Regulation in Lieu of Law No. 1 of 2020, which was subsequently enacted as Law No. 2 of 2020, as well as various Minister of Health Regulations governing technical implementation within the health sector. These findings demonstrate that the government progressively constructed its legal framework in response to the increasing complexity of the pandemic.

The evolution of these regulations also reflects a shift in policy orientation. At the outset of the pandemic, governmental regulations primarily focused on controlling the spread of the disease through restrictions on public mobility and strengthening the healthcare system. However, as the pandemic increasingly affected economic stability, food security, public services, and national security, the scope of governmental policies expanded considerably. The government subsequently enacted regulations concerning national economic recovery, emergency budget allocation, vaccine procurement, the digital transformation of healthcare services, and strengthened coordination among ministries and governmental agencies. Accordingly, the pandemic was no longer viewed solely as a public health issue but rather as a multidimensional crisis requiring a comprehensive whole-of-government approach.

These findings are further supported by interviews conducted with all research informants. Representatives from the Ministry of Health explained that, during the early stages of the pandemic, the government confronted a rapidly evolving situation requiring regulations to be formulated within a very limited timeframe to ensure that every governmental action possessed a clear legal basis. According to the informants, without an adequate legal framework, policies such as restrictions on public activities, the provision of healthcare facilities, procurement of medical equipment, and implementation of vaccination programs would have encountered significant legal challenges during implementation. This observation demonstrates that a clear legal foundation constituted an essential prerequisite for the effective implementation of public health policies during the emergency.

A similar perspective was expressed by informants from the Ministry of State Secretariat, who explained that the dynamics of regulatory development throughout the pandemic were heavily influenced by continuously changing circumstances. The government had no prior experience in managing a pandemic on the scale of COVID-19; consequently, policy formulation proceeded incrementally in response to emerging conditions in the field. Accordingly, the enactment of new regulations and the amendment of existing ones were regarded as logical consequences of the government's efforts to adapt its policies to the evolving nature of the pandemic.

In addition to regulatory development, this study also identifies a significant transformation in Indonesia's institutional governance. The government established the COVID-19 Response Acceleration Task Force as the

primary national coordination mechanism, which was subsequently transformed into the Committee for COVID-19 Response and National Economic Recovery (Komite Penanganan COVID-19 dan Pemulihan Ekonomi Nasional – KPCPEN). This institutional framework integrated various ministries and government agencies, including regional governments, the Indonesian National Armed Forces (TNI), the Indonesian National Police (Polri), and public health institutions into a unified national coordination system. Interview findings indicate that this coordination mechanism significantly accelerated decision-making processes, facilitated the distribution of resources, and improved policy synchronization across different regions.

However, the findings also demonstrate that most of the regulations and institutional arrangements established during the pandemic were primarily reactive to the evolving emergency. In other words, the development of regulations, coordination mechanisms, and institutional structures largely followed the immediate needs arising throughout the crisis. This pattern suggests that the strengthening of Indonesia's legal governance occurred incrementally through continuous policy adaptation in response to rapidly changing emergency conditions.

Overall, the findings presented in this section indicate that the evolution of Indonesia's legal governance during the COVID-19 pandemic was characterized by three principal features. First, the government relied upon existing legal frameworks as the initial basis for pandemic management. Second, it progressively developed new regulations and institutional arrangements to address the increasing complexity of the crisis. Third, cross-sectoral coordination emerged as a critical element in ensuring the effective implementation of governmental policies. These three characteristics provide the empirical foundation for the subsequent analysis of legal preparedness, which is discussed in the following section.

Institutional and Regulatory Dynamics in Pandemic Governance

The findings of this study indicate that although the Indonesian government successfully developed a wide range of legal instruments during the COVID-19 pandemic, these efforts were not fully accompanied by adequate institutional preparedness or an integrated regulatory governance framework. An analysis of legal documents, complemented by interviews with key informants, reveals that the principal challenges in managing the pandemic did not stem from the absence of a legal basis. Rather, they arose from institutional coordination dynamics, regulatory fragmentation, and the need for implementation mechanisms capable of integrating multiple actors within a coherent and effective emergency governance system.

The analysis of the applicable legal framework demonstrates that pandemic governance was regulated through numerous legal instruments issued by different governmental institutions. In addition to Law No. 24 of 2007 concerning Disaster Management and Law No. 6 of 2018 concerning Health Quarantine, the government enacted various Government Regulations, Presidential Decrees, Minister of Health Regulations, Instructions of the Minister

of Home Affairs, ministerial circular letters, and policies adopted by regional governments. This regulatory architecture illustrates that effective pandemic management required the involvement of multiple sectors of government exercising different legal mandates and institutional responsibilities.

The findings further suggest that the diversity of these regulatory instruments provided the government with considerable flexibility to adjust its policies in response to the evolving pandemic. At the same time, however, this diversity created significant coordination challenges because policy implementation had to be carried out simultaneously by ministries, government agencies, and regional governments. Consequently, the effectiveness of pandemic governance depended not only on the quality of the legal norms enacted but also on the government's ability to integrate diverse regulatory instruments into a coherent and consistent implementation framework.

Based on the interview findings, all informants agreed that cross-sectoral coordination constituted the single most important factor in the successful management of the pandemic. An informant from the Ministry of Defense explained that once the pandemic began to affect multiple dimensions of public life, it could no longer be regarded solely as a public health issue. Instead, the pandemic affected national stability, logistics distribution, economic activity, public service delivery, and societal resilience, thereby requiring the active participation of numerous ministries and government agencies within a unified national coordination system.

"The pandemic was not merely a public health issue. Its impacts extended to national defense, the economy, public services, and national stability, making inter-ministerial coordination an essential requirement throughout the emergency period." (Interview with an informant from the Ministry of Defense). This statement demonstrates that the COVID-19 pandemic fundamentally reshaped the government's perception of the nature of the threat it faced. Whereas the pandemic was initially understood primarily as a public health emergency, subsequent developments revealed its far broader implications, thereby necessitating a whole-of-government approach. The findings also indicate that institutional coordination became just as essential as regulatory development in ensuring the effectiveness of governmental policies.

The study further finds that the effectiveness of interagency coordination during the pandemic was significantly enhanced by the establishment of the COVID-19 Response Acceleration Task Force, which was subsequently transformed into the Committee for COVID-19 Response and National Economic Recovery (Komite Penanganan COVID-19 dan Pemulihan Ekonomi Nasional – KPCPEN). Document analysis indicates that these institutions functioned as national coordination centers linking the central government, regional governments, technical ministries, the Indonesian National Armed Forces (TNI), the Indonesian National Police (Polri), the National Disaster Management Agency (BNPB), and various public health institutions within a unified coordination framework.

Interview findings further demonstrate that the Task Force accelerated governmental decision-making by simplifying coordination channels that had

previously been dispersed across multiple institutions. An informant from the Ministry of State Secretariat explained that this mechanism enabled the government to formulate policies more rapidly, particularly when urgent decisions requiring cross-sectoral coordination had to be made within a limited timeframe.

"Through the Task Force, coordination became much faster because all ministries were able to communicate developments and operational needs directly, enabling the government to make decisions without unnecessary delay."(Interview with an informant from the Ministry of State Secretariat). However, the study also finds that the effectiveness of this coordination mechanism depended heavily upon temporary institutional arrangements. The Task Force was established specifically in response to the COVID-19 pandemic and did not become a permanent component of Indonesia's governmental structure. This finding suggests that the success of interagency coordination during the pandemic relied primarily on institutions created after the crisis had already emerged, rather than on a permanent emergency governance system that had been established in advance.

Beyond institutional arrangements, the study also identifies important developments in the formulation of implementing regulations. Throughout the pandemic, the government repeatedly revised technical implementation guidelines in response to evolving scientific knowledge, changing epidemiological conditions, and emerging societal needs. These revisions included policies governing restrictions on public activities, quarantine procedures, vaccination programs, public health surveillance systems, and the digital transformation of healthcare services. These developments demonstrate that Indonesia's regulatory framework remained adaptive and continuously evolved in response to changing circumstances.

However, the document analysis also indicates that, following the enactment of Law No. 17 of 2023 concerning Health and Government Regulation No. 28 of 2024, several statutory provisions still require implementing regulations to ensure their effective operationalization. These include, among other matters, national coordination mechanisms for public health emergencies, the allocation of authority among governmental institutions, emergency command structures, health data governance, and standard operating procedures for addressing cross-sectoral public health threats. These findings suggest that Indonesia's post-pandemic regulatory reform remains incomplete and continues to require further refinement at the implementation level.

Overall, the findings presented in this section reveal three major dynamics characterizing Indonesia's institutional and regulatory governance during the COVID-19 pandemic. First, the effectiveness of pandemic management depended substantially upon the government's capacity to integrate regulations issued by multiple governmental institutions into a coherent legal framework. Second, cross-sectoral coordination emerged as the principal factor enabling the effective implementation of governmental policies during the emergency. Third, while temporary institutional arrangements significantly accelerated governmental responses, they did not fully address the need for a permanent and

sustainable emergency governance system. These three findings provide the empirical foundation for the subsequent discussion on the future development of legal preparedness, which is examined in the following subsection.

Lessons Learned for Developing Legal Preparedness

The findings of this study demonstrate that the COVID-19 pandemic not only tested the capacity of Indonesia's national health system but also challenged the ability of its legal system to provide a normative foundation for governance during a public emergency. The synthesis of documentary analysis and interview data indicates that, throughout the pandemic, the Government successfully developed a range of legal instruments to support public health measures, economic recovery, and cross-sectoral coordination. However, these legal and institutional responses were largely formulated after the emergency had escalated, suggesting that regulatory and institutional development was predominantly adaptive rather than anticipatory.

Based on the overall findings, the study reveals that the experience of managing the COVID-19 pandemic fundamentally reshaped the Government's understanding of the importance of legal preparedness. Prior to the pandemic, the existing legal framework was generally considered sufficient to support governance during emergencies. Nevertheless, the pandemic demonstrated that the existence of legal norms alone was insufficient without clearly defined coordination mechanisms, permanent institutional arrangements, structured allocation of authority, and operational instruments capable of being activated immediately in times of crisis. Consequently, the effectiveness of emergency governance depends not merely on the availability of legal regulations but also on the readiness of the legal system to translate those regulations into coordinated governmental action.

The interview findings further reveal a shared consensus among all informants regarding the necessity of strengthening legal preparedness before emergencies occur. An official from the Ministry of Health emphasized that the pandemic underscored the limitations of relying solely on regulations enacted during a crisis. According to the informant, operational mechanisms—including inter-agency coordination, health data management, logistics distribution, and the provision of healthcare services—should be established as integral components of a legal framework that can be activated immediately when a public emergency arises. *"The pandemic taught us that we should not start everything from scratch once a crisis has already occurred. Coordination mechanisms, institutional responsibilities, and implementing regulations should be prepared in advance so that the Government can respond more rapidly and effectively."* (Interview with an official from the Ministry of Health).

A similar perspective was expressed by an official from the Ministry of State Secretariat, who argued that the pandemic highlighted the importance of clearly defining institutional authority and decision-making responsibilities. Although inter-ministerial coordination functioned relatively well because all institutions shared the same objective, the experience also demonstrated the need for clearer command structures, institutional accountability, and inter-agency

working relationships to ensure that policy implementation would not depend solely on situational decision-making.

Meanwhile, an official from the Ministry of Defence emphasized that the pandemic provided a new understanding of the nature of non-military threats. Public health emergencies affect not only healthcare delivery but also economic stability, food security, national resilience, and the continuity of essential public services. Consequently, pandemic governance requires a comprehensive whole-of-government approach rather than a sectoral response limited to public health institutions alone.

The synthesis of all empirical findings identifies four major lessons that consistently emerged from both documentary analysis and interview evidence. First, regulatory harmonisation is essential to reduce fragmentation across multiple legal instruments governing emergency management. Although the Government was able to issue numerous regulations within a relatively short period, the relationships among these regulations continued to evolve throughout the pandemic, requiring repeated adjustments and legal refinements.

Second, the establishment of permanent institutional arrangements constitutes an important lesson derived from the experience of the COVID-19 Acceleration Task Force and the Committee for COVID-19 Handling and National Economic Recovery (KPCPEN). While these institutions proved effective in facilitating cross-sectoral coordination, they were established on an ad hoc basis and therefore did not constitute a sustainable governance framework for future public health emergencies.

Third, strengthening cross-sectoral coordination emerged as one of the most consistent findings throughout the interviews. The pandemic demonstrated that effective crisis management depends upon the Government's ability to integrate ministries, government agencies, local governments, security institutions, and healthcare providers within a unified governance structure supported by clearly defined roles, responsibilities, and communication mechanisms.

Fourth, the availability of implementing regulations constitutes an indispensable component of effective emergency governance. The enactment of Law Number 17 of 2023 on Health and Government Regulation Number 28 of 2024 represents a significant step toward strengthening Indonesia's national health system. Nevertheless, these regulatory reforms still require comprehensive implementing regulations to ensure their effective operationalisation during future public health emergencies.

Collectively, these four lessons demonstrate that the COVID-19 pandemic has reshaped the orientation of Indonesia's emergency legal framework. The findings indicate that the future development of emergency law should no longer focus exclusively on the Government's capacity to enact regulations during a crisis. Instead, greater emphasis should be placed on developing a legal system that possesses institutional readiness, effective coordination mechanisms, and operational implementation frameworks before emergencies occur. Accordingly, the experience of the COVID-19 pandemic provides a strong empirical foundation for advancing a more adaptive, integrated, and preparedness-

oriented legal system capable of addressing future pandemics and other non-military threats.

Overall, the findings indicate that Indonesia successfully established a broad range of legal instruments and institutional mechanisms in response to the COVID-19 pandemic. Nevertheless, the study also demonstrates that the effectiveness of emergency governance depends not only on the existence of legal regulations but equally on institutional readiness, cross-sectoral coordination, and operational implementation mechanisms that support policy execution. These empirical findings provide the basis for a more comprehensive discussion of how legal preparedness can be conceptualized as a new paradigm of emergency law for addressing pandemics as non-military threats in Indonesia. The following section develops this analytical discussion in greater detail.

DISCUSSION

Reinterpreting Pandemic Governance under the Rule of Law

The findings of this study demonstrate that Indonesia's response to the COVID-19 pandemic remained firmly grounded in the principles of the rule of law, despite being implemented under emergency conditions that required rapid governmental decision-making. The empirical evidence indicates that nearly all strategic policies adopted during the pandemic—including the declaration of a public health emergency, restrictions on public activities, the establishment of the COVID-19 Acceleration Task Force, and the implementation of the National Economic Recovery Program were preceded by the enactment of legal instruments that provided the necessary legal basis for governmental action. These findings suggest that the Government did not treat the state of emergency as a justification for bypassing the law; rather, it continued to regard law as the fundamental foundation of public governance throughout the crisis.

This interpretation is consistent with the principle of government under law, which constitutes one of the defining characteristics of a constitutional state governed by the rule of law. According to Asshiddiqie (2007), the rule of law extends beyond the mere existence of legislation; it requires that every act of government be based on lawful authority and remain constitutionally accountable. In this regard, the issuance of Presidential Decree No. 11 of 2020 concerning the Declaration of a Public Health Emergency, Presidential Decree No. 12 of 2020 declaring COVID-19 a National Non-Natural Disaster, together with numerous implementing regulations, demonstrates the Government's commitment to maintaining the principle of legality despite operating in an exceptionally dynamic and uncertain environment.

However, the findings also reveal that the existence of a legal basis did not automatically reflect the readiness of Indonesia's legal system to confront the pandemic. As demonstrated in the findings section, most strategic regulations were enacted only after the pandemic had escalated into a national crisis. In other words, the legal framework evolved in response to the progression of the emergency rather than functioning as a pre-established system prepared before the crisis emerged. This distinction highlights an important difference between the legality of governmental action and the preparedness of the legal system. A government may act lawfully while simultaneously lacking a legal framework

capable of being immediately operationalized in response to rapidly evolving threats.

These findings offer an important perspective when examined through the lens of constitutional emergency law. Asshiddiqie (2007) argues that a state of emergency constitutes an extraordinary constitutional condition that permits the Government to exercise exceptional powers, provided that such powers remain within constitutional limits and continue to uphold the principles of the rule of law. This perspective underscores that emergency law should not be understood as a legal vacuum in which governmental actions are exempt from legal constraints. Rather, it functions as a constitutional mechanism that legitimizes extraordinary governmental measures while preserving constitutional accountability. Within the Indonesian context, the legal instruments enacted during the pandemic demonstrate the Government's continued commitment to maintaining legality by ensuring that every emergency policy was supported by an appropriate legal foundation.

However, the experience of the COVID-19 pandemic demonstrates that the principal challenge no longer lies in determining whether the Government possesses the legal authority to act, but rather in assessing whether the legal system is sufficiently prepared to provide regulatory instruments that can be implemented immediately once an emergency arises. The findings indicate that throughout the pandemic the Government was required to repeatedly revise regulations, establish new coordination mechanisms, and formulate operational guidelines while the crisis was already unfolding. This suggests that the existing legal framework had not been designed to adequately accommodate the governance needs of a rapidly evolving public emergency.

The findings also contribute to the broader discourse on the relationship between emergency law and national security. Buzan (1991) argues that threats to national security are no longer confined to military aggression but increasingly encompass non-military threats capable of disrupting the functioning of the state and the well-being of society. The COVID-19 pandemic clearly illustrates how a public health crisis evolved into a multidimensional threat affecting economic stability, public service delivery, social resilience, and overall governance. Consequently, the pandemic cannot be understood merely as a public health issue; rather, it constitutes a multidimensional non-military threat requiring an integrated legal and institutional response across multiple sectors of government.

Within this context, the findings indicate that the Indonesian Government gradually shifted its policy orientation from a predominantly public health approach toward a more comprehensive national security perspective. This transformation is reflected in the expansion of the COVID-19 Acceleration Task Force into the Committee for COVID-19 Handling and National Economic Recovery (KPCPEN), the active involvement of the Indonesian National Armed Forces (TNI) and the National Police (Polri) in policy implementation, and the integration of ministries and government agencies into a unified national coordination mechanism. Although these developments demonstrate the Government's capacity to adapt to the changing nature of the threat, the findings also reveal that such institutional integration was established only after the

pandemic had already emerged and therefore represented a reactive rather than a pre-planned governance strategy.

Compared with previous studies, these findings contribute a broader perspective to the scholarship on emergency law. Existing research has primarily concentrated on the legality of restrictions on constitutional rights during the pandemic or the constitutionality of governmental emergency measures. This study advances the discussion by demonstrating that the principal issue extends beyond the legality of governmental actions to encompass the preparedness of the legal system itself to support effective emergency governance. Consequently, evaluating emergency law should not be confined to assessing the legality of governmental responses after a crisis has occurred; it should also examine whether the regulatory framework, institutional arrangements, and coordination mechanisms were adequately prepared before the emergency arose.

Taken together, these findings suggest that Indonesia's experience during the COVID-19 pandemic calls for a fundamental shift in the conceptualization of emergency law. Emergency law should no longer be viewed merely as a legal framework activated in response to crises, but rather as a comprehensive system that is established and institutionalized before emergencies occur. This shift provides the conceptual foundation for understanding legal preparedness as the capacity of the legal system to ensure the availability of regulatory frameworks, institutional arrangements, coordination mechanisms, and operational instruments that can be activated rapidly and effectively in response to pandemics and other non-military threats.

From Emergency Legal Response to Legal Preparedness

The findings indicate that Indonesia's legal system demonstrated a strong capacity for rapid legal response during the COVID-19 pandemic through the enactment of various regulations that provided the legal basis for emergency declarations, public health measures, fiscal reallocation, healthcare services, and the national vaccination programme. These measures reflect the Government's institutional ability to maintain governance during an unprecedented crisis. However, most legal instruments were introduced only after the pandemic had escalated into a national emergency, indicating that regulatory frameworks and coordination mechanisms evolved reactively rather than being established beforehand. This suggests that Indonesia's legal system was characterized more by legal response than legal preparedness. While legal response concerns the formulation of laws and policies after a crisis emerges, legal preparedness requires pre-existing legal frameworks, institutional arrangements, coordination mechanisms, and clearly defined authorities that can be activated immediately during emergencies. Accordingly, the Government's extensive regulatory response should not be equated with an adequate level of legal preparedness.

This interpretation is consistent with the work of Lawrence O. Gostin and Lindsay F. Wiley (2016), who identify legal preparedness as one of the fundamental pillars of public health law. According to Gostin, the function of law extends beyond legitimizing governmental actions during a crisis; it must also establish the institutional capacity that enables the State to respond to public

health threats rapidly, effectively, and in a coordinated manner while continuing to uphold the principles of the rule of law. Accordingly, the effectiveness of a legal system should be assessed not only by its ability to produce regulations but also by the extent to which those regulations have been prepared for effective implementation before an emergency occurs.

This perspective becomes even more relevant when examined in light of the International Health Regulations (2005) developed by the World Health Organization (WHO). The IHR requires States Parties to develop a set of core capacities for responding to public health emergencies, including regulatory capacity, disease surveillance systems, institutional coordination, risk communication, and emergency response governance. From this perspective, legal preparedness constitutes an integral component of broader public health preparedness because, without a coherent legal framework, essential technical capacities cannot be effectively implemented (World Health Organization [WHO], 2005; WHO, 2021).

When compared with the findings of this study, Indonesia appears to have established several of the key elements associated with legal preparedness. The country already possessed statutory frameworks governing disaster management and health quarantine, gained valuable experience in cross-sectoral coordination through the COVID-19 Acceleration Task Force and the Committee for COVID-19 Handling and National Economic Recovery (KPCPEN), and successfully implemented a range of public health policies throughout the pandemic. Nevertheless, this study also finds that several critical components continued to develop reactively, including implementing regulations, permanent coordination mechanisms, and more detailed provisions governing the distribution of authority among government institutions. These findings suggest that Indonesia's legal preparedness remains in a transitional phase toward a more integrated and comprehensive emergency governance system.

The findings also contribute a new perspective to the ongoing debate on emergency law in Indonesia. To date, discussions on emergency law have largely focused on the legitimacy of extraordinary governmental powers and the protection of constitutional rights during emergencies. While these issues remain fundamental, the present study demonstrates that another equally important dimension has received comparatively limited attention: the preparedness of the legal system before emergencies occur. The COVID-19 pandemic revealed that delays in issuing implementing regulations, adjusting coordination mechanisms, and establishing new institutional structures significantly affected the Government's ability to respond effectively during the early stages of the crisis.

Accordingly, this study argues that emergency law should be evaluated not only through a post-crisis perspective but also from a pre-crisis preparedness perspective that assesses whether adequate legal and institutional capacities existed before an emergency occurred. This distinction is critical because the effectiveness of responses to rapidly evolving non-military threats depends largely on the legal system's level of preparedness. The findings further show that legal preparedness extends beyond the existence of regulations, requiring integrated regulatory frameworks, institutional arrangements, coordination

mechanisms, clear authority, and operational procedures. Therefore, future legal reform in Indonesia should shift from a predominantly reactive approach toward developing an anticipatory legal system. In this sense, legal preparedness represents a new paradigm that strengthens emergency law by transforming it from a reactive instrument into a comprehensive foundation for national resilience against future crises.

Strengthening Emergency Law Through Legal Preparedness

The findings demonstrate that the COVID-19 pandemic highlighted the need to reorient Indonesia's emergency law reform from a reactive to a preparedness-based approach. Although the Government successfully enacted various legal instruments that legitimized emergency measures, the pandemic revealed that effective emergency governance depends not only on legal norms but also on the readiness of institutional arrangements, coordination mechanisms, operational procedures, and clearly defined authorities. The continuous adjustment of these elements throughout the crisis indicates that Indonesia's legal system evolved alongside the pandemic rather than being fully prepared beforehand. From a legal preparedness perspective, emergency law should therefore be understood not merely as a body of rules activated during crises, but as an integrated legal and institutional framework established before emergencies arise, enabling rapid, coordinated, and effective responses to future non-military threats.

This perspective is consistent with the evolution of the global health governance regime, which recognizes preparedness as a central pillar of public health governance. The International Health Regulations (2005) extend beyond outbreak notification requirements by obligating States Parties to develop core capacities in surveillance, institutional coordination, risk communication, laboratory systems, and emergency response. Consequently, law functions not merely as a source of governmental authority but as the institutional framework that enables these capacities to operate effectively through clearly defined allocations of authority, standardized operational procedures, and well-established coordination mechanisms (World Health Organization [WHO], 2005; WHO, 2021).

When viewed in light of these standards, Indonesia has made significant progress toward strengthening legal preparedness, particularly through the enactment of Law No. 17 of 2023 on Health and Government Regulation No. 28 of 2024. These legislative reforms demonstrate the Government's commitment to consolidating the national health system in the post-pandemic era. Nevertheless, this study also finds that the effectiveness of these reforms remains highly dependent upon the adoption of comprehensive implementing regulations governing operational mechanisms for responding to future public health emergencies. Without adequate technical regulations, legal reform risks remaining normative in nature without producing meaningful improvements in governmental practice.

Beyond regulatory reform, the findings show that strengthening emergency law also requires institutional reform. Although the COVID-19

Acceleration Task Force and KPCPEN improved cross-sectoral coordination, both were temporary bodies established only during the pandemic. This indicates the need for permanent coordination mechanisms that can be activated immediately in future emergencies. The pandemic also highlighted the importance of clearly defining institutional authority, coordination procedures, and decision-making processes to reduce policy fragmentation and improve response effectiveness. In addition, legal preparedness should be supported by continuous evaluation, institutional learning, and periodic revision of emergency frameworks to ensure their adaptability to evolving risks. Accordingly, future reforms should prioritize regulatory harmonization, permanent coordination mechanisms, clear operational procedures, and continuous institutional learning. Together, these reforms position legal preparedness as a normative framework for developing a more resilient, adaptive, and sustainable emergency legal system in Indonesia.

CONCLUSION

This study demonstrates that Indonesia's legal system responded to the COVID-19 pandemic as a non-military threat while maintaining the rule of law through the enactment of statutes, government regulations, presidential decrees, and implementing regulations that provided legal legitimacy for governmental actions during the emergency. However, the findings reveal that Indonesia's emergency legal framework remained largely reactive, relying on regulations, institutional arrangements, and coordination mechanisms developed during the crisis rather than on a legal system prepared in advance.

The study argues that the primary challenge of Indonesia's emergency law lies not in the absence of legal authority but in the limited development of legal preparedness. Accordingly, it conceptualizes legal preparedness as a new paradigm of emergency law consisting of four interrelated dimensions: regulatory preparedness, institutional preparedness, coordination preparedness, and operational preparedness. These dimensions provide an integrated framework for strengthening emergency governance, enhancing national resilience, and safeguarding constitutional rights in future pandemics and other non-military threats.

Theoretically, this study extends the discourse on constitutional emergency law by shifting the analytical focus from emergency legal response to legal preparedness. Practically, it offers a normative framework for reforming Indonesia's emergency legal system through stronger regulations, institutional capacity, cross-sectoral coordination, and operational readiness.

RECOMMENDATIONS

Based on the findings, several recommendations are proposed to strengthen Indonesia's emergency legal system. First, the Government should accelerate the issuance of implementing regulations under Law No. 17 of 2023 on Health and Government Regulation No. 28 of 2024, particularly those governing public health emergency mechanisms, institutional authority, and operational procedures. In addition, a permanent national coordination mechanism should

be institutionalized to ensure effective collaboration among government institutions during future emergencies.

Furthermore, Indonesia should develop an integrated legal preparedness framework by harmonizing regulations, strengthening institutional capacity, standardizing operational procedures, and conducting regular simulations and evaluations. Such measures would enhance the legal system's anticipatory capacity while reinforcing national resilience and the protection of constitutional rights.

Future research should further examine the implementation of legal preparedness through empirical and comparative studies, particularly in relation to other non-military threats such as cyberattacks, biological hazards, and environmental emergencies.

ADVANCED RESEARCH

This study focuses on a normative analysis of the development of legal preparedness within the framework of Indonesia's emergency law, using the management of the COVID-19 pandemic as a case study. Accordingly, its scope is limited to evaluating the regulatory framework, institutional arrangements, coordination mechanisms, and policy implementation from the perspectives of constitutional law and constitutional emergency law. Future research could extend this work by empirically examining the implementation of the legal preparedness concept across different sectors of government to assess the extent to which legal preparedness influences the effectiveness of emergency management in practice.

Furthermore, comparative studies across jurisdictions are needed to examine Indonesia's emergency legal framework alongside countries that have developed more mature legal preparedness systems, such as South Korea, Singapore, Japan, and Australia. Such comparative analyses could contribute to the development of more adaptive institutional and governance models capable of addressing the evolving nature of non-military threats.

Future studies may also develop a Legal Preparedness Assessment Framework that enables the level of a country's legal preparedness to be evaluated systematically through measurable indicators, including regulatory readiness, institutional capacity, coordination mechanisms, operational capability, and the protection of constitutional rights. The development of such an assessment framework would provide both theoretical and practical contributions to strengthening emergency law governance in Indonesia.

In addition, the concept of legal preparedness should be further examined in relation to other forms of non-military threats, including cyberattacks, biological hazards, climate change, energy crises, and environmental emergencies. Expanding the application of this concept beyond the context of the COVID-19 pandemic would enhance its relevance as a comprehensive paradigm of emergency law for addressing a broad spectrum of national security risks in the future.

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