



Discretion and management of the covid-19 pandemic: Indonesia's experience in facing the health crisis

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ABSTRACT

With this study, we want to better understand the role of discretion in the Indonesian government's response to the COVID-19 outbreak, so that we may develop a more equitable and effective policy framework while reducing unintended consequences for as many people as possible. To understand and evaluate legislative regulations and government decisions, especially in the context of social restriction policies and their impact on individual basic rights, this study employs a normative juridical approach, which necessitates analysis of primary, secondary, and tertiary legal materials and the use of legal hermeneutics. According to the findings, Indonesia's legal framework explicitly provides for the use of discretion when dealing with COVID-19, allowing the government and state authorities to respond swiftly and properly to changing circumstances. The key to preventing abuse of authority and prejudice is ensuring openness, accountability, and human rights values in the exercise of discretion. To make sure discretion is both responsive and respectful of democratic norms and human rights, we suggest regulatory changes and strengthened human rights-based supervision procedures.

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1. Introduction

A good law is one that fits in with the rest of the laws already in place. This theoretical framework strikes a balance between the requirement for written law within the legal community for the purpose of legal certainty and the awareness of the significant role of society in the formulation and direction of law (Harahap dkk., 2023). The formation of laws within the framework of Indonesian legal development must harmonise and pay attention to the laws that already exist in society, as doing so is necessary in order to avoid unintended legal consequences from the application of provisions that have a positive impact on achieving legal certainty (Suteki, 2021). Populism is intrinsically linked to the rule of law as a concept. Because the legislation that controls and restrains the state (government) is ultimately seen to have been created under the authority or law of the people (Widodo dkk., 2023).

The fourth paragraph of the 1945 Constitution states that Indonesia's welfare state concept seeks to increase people's wellbeing. A "welfare state" must offer services and meet

community needs. Welfare state government activities include public choices, civil law, and actions. This notion highlights that the government may act in society's interests without justifications or laws, including its commitment to provide public services and enact regulations to execute legislative goals to preserve society's welfare.

Law's role in social transformation provides obstacles that need its conscious application to create a new order. This is seen in legality and effectiveness of regulation. (Bambang, 1994). Article 1 paragraph 9 of Law no. 30 of 2014 concerning State Administration, revised by Law no. 6 of 2023, defines discretion as a government official's decision or action to resolve confusing legislative constraints. Article 22 paragraph (2) seeks to simplify government, close legal loopholes, clarify law, and end government stagnation for the people. Use discretion in good faith, according to discretionary aims, general principles of good governance (AUPB), objectivity, and without conflict of interest.

The Indonesian government struggled to respond to COVID-19. Through Indonesian Presidential Decree No. 11 of 2020 on Public Health Emergencies, Government Decree No. 21 on Large-Scale Social Restrictions, and Perppu No. 1 of 2020, the government exercises discretion due to weak rules. The government is using discretionary authorities, including health restrictions, to stem the spread of a mutated virus despite criticism for delays and inaction.

Health is protected under Indonesia's 1949 RIS Constitution. Article 40 of the RIS Constitution reads "parties always strive to maintain public cleanliness and public health." Article 28 H paragraphs 1 and 2 and article 34 paragraph (2) cover the right to health in article XA of the 1945 Constitution on human rights.

Article 28H and Article 34 of the 1945 Indonesian Constitution guarantee everyone wealth, health services, a healthy living environment, and equal opportunities and benefits for equality and justice. State duties include universal social security and adequate health and public service facilities. Law Number 36 of 2009 on Health stipulates that everyone has the right to health, access to health resources, safe, quality, and affordable health services, and the ability to choose. This law protects clean air, knowledge, and objective medical education. (Pasal 4 UU No. 36 Tahun 2009, t.t.).

Covid-19 problems in Indonesia are mostly government discretion. Regional policy differences like PSBB implementation between Jakarta and Surabaya have generated miscommunication and coordination challenges. Policy choices like epidemic zoning in Malang City are opaque, fostering community distrust. Misuse of discretion in COVID-19 vaccination distribution worsens socioeconomic inequalities and government distrust.

Legal concerns have arisen from Indonesian central and regional government discretion on COVID-19. Power abuse, regional policy discrepancies, and lack of transparency are important issues. Legal concerns and public mistrust may result. The government should make and implement rules based on data consistency, transparency, fairness, and accuracy. Neglecting these issues may lead to societal rejection, human rights abuses, and scepticism of government pandemic efforts.

The nature and relevance of discretion in Indonesia's COVID-19 outbreak are examined in this study. How can Indonesia's ideal discretion handle Covid-19 in a fair, effective manner and minimise harm to varied social groups?

2. Method

Applying a normative juridical approach informed by primary, secondary, and tertiary legal sources, this article examines the Indonesian government's use of discretion in response to the COVID-19 pandemic and how that has affected human rights and the balance between societal restrictions and freedoms. Individual rights such as freedom of movement and the right to get proper health treatments are impacted by a variety of governmental rules and actions,

including social restriction policies.

3. Analysis and Results

The Constitution of Indonesia, the highest legal foundation for all legal regulations, must be considered while assessing discretion's philosophical worth. The state's discretionary behaviour, with all its operational systems and infrastructure, is normatively subject to the constitution that underpins its existence. Justice is its moral foundation (Mertokusumo, 2007). Indonesian government discretion on COVID-19 pandemic response seems to contradict freedom and accountability. *Freies Ermessen*, crucial to welfare states, is limited by law. *Freies Ermessen* should be intended for public service tasks, involve an active State administration, be legally permissible, initiated independently, address sudden and significant issues, and be morally and legally justifiable, according to Sjachran Basah. (Basah, 1989).

Previously understood, this discretion emerged as an alternative to cover deficiencies and weaknesses in the application of the principle of legality (*wetmatigheid van bestuur*). However, as science and technology advance, the concept of power becomes increasingly important to serve the public interest. Because unfettered power allows for misuse (*detournement de pouvoir*) or arbitrary action (*willekeur*) that harms people.

This approach permits governments to proactively manage catastrophes with flexibility, which is more critical given the pandemic's complexity and unpredictability. Government decisions on who receives limited medical resources or lockdown rules may cause social inequality if not done wisely and fairly. This includes documenting, reviewing, and correcting every discretionary action throughout a pandemic. Maintaining the integrity and efficacy of discretionary acts requires transparency in decision-making. The general principles of good governance (AUPB) include legality, legal clarity, proportionality, openness, and accountability. Article 27 Paragraph (1) of the 1945 Indonesian Constitution states that "all citizens have the same position in law and government and are obliged to uphold that law and government without exception."

Law No. 30 of 2014 on Government Administration, which ensures AUPB principles, is crucial. Article 2 Paragraph 3 of this Law declares that State Administration is founded on legality, legal certainty, orderly administration, public interest, proportionality, professionalism, accountability, participative, transparent, and justice. This follows broad principles of good governance (AUPB) such as legality, legal clarity, and transparency. The government should follow Law no. while implementing large-scale social restrictions (PSBB) or vaccination distribution. The AUPB's proportionality concept emphasises government action that matches urgency and public requirements. Government discretionary actions should be transparent in the information age.

This reduces authority abuse and fosters public trust, which is crucial for pandemic management. Therefore, discretionary authority must be used with due regard to relevant legislation and sound general principles. By respecting these norms, discretionary authority may improve government justice, openness, and accountability. In Indonesia, discretion is allowing authorities like the government or health professionals to make judgements based on their own judgement and considerations. During this epidemic, discretion may include restricting travel, shutting public venues, or delivering immunisations. In his book "Law Discovery: An Introduction", Indonesian legal expert Sudikno Mertokusumo notes that discretion is vital in law practice since it permits policy alterations under particular instances. The government has the discretion to react to the COVID-19 pandemic according to current circumstances.

The government may adjust to pandemic circumstances with discretion (Asshiddiqie, 2006). Transparency and accountability avoid discretionary misuse and guarantee society's best interests are served. The Indonesian COVID-19 outbreak shows how discretion may balance executive efficiency and openness and accountability. Sudikno Mertokusumo stressed the

significance of government independence to react swiftly and responsibly to medical catastrophes like pandemics. The government may quickly change movement limitations, quarantine rules, and vaccination distribution dependent on the scenario. According to Jimly Asshiddiqie, discretion without openness and accountability allows for power abuse and incorrect policies. To ensure balance and justice in government discretion, the media, supervisory institutions, and civil society are crucial. Additionally, the government must be held legally and morally responsible for every discretionary choice to ensure that it serves the public interest and the law.

3.1. The Relationship between Discretionary Values and the Legality System

The paradox of power-free value in discretionary action stems from theoretical ideas on government action legality and freedom as an abstraction of limitless activity. Laws are intended to be followed by society and do not contradict. Only current laws are considered when using the evaluation model in society. As explained, the law is a panacea for disease, so government officials can't be empowered to take proactive action to solve problems that arise in people's lives. All they have to do is adjust regulations to solve problems.

This mentality (legality) makes the government's discretion evident since the wisdom mentality adjusts the process to law and political life, because the law serves society, not society serves the law. Any legal system relies on discretion, or judgement, in interpreting and implementing the law. According to Hart's legal theory, law has both hard and soft aspects. Since rules cannot cover all circumstances, Hart contended that discretion is a necessary and unavoidable part of every legal system. Thus, Ronald Dworkin and other legal professionals believe discretion must be restrained by higher legal norms (Varuhas, 2022). Dworkin believes discretion must be used in accordance with legal ideals like justice and equality.

Hadjon stressed that government discretion is free power wielded by officials and the antithesis of constrained authority. Government actions that advance aims and policies are active. (Hadjon, 2005). That the rule of law protects people against government arbitrariness. Plato believed that the rule of law protected citizens against arbitrary state authority and unjust government activities that caused pain. According to Aristotle, a good country is a country governed by a constitution and sovereign laws (Ridwan, 2014b). To limit power, "Enerzids in een binding van rechter en administratie aan de wet, anderzijds in een begrenzing van de bevoegdheden van wetgever" are used. Social interests include public security, privacy, moral protection, resource conservation, economic, social, and cultural growth (Faal & oleh Polisi, 1991).

As an expression of the General Principles of Decent Government, government officials run the state based on truth and fairness (Basah, 1995). Thus, Khrisna Djaya Darumurti asserted that discretionary authority is legal and necessary for governments in rule-of-law nations. It's crucial to establish government discretion's legal validity (Djaya, 2016). The Indonesian government's use of discretion to overcome the COVID-19 epidemic is an example of discretion in administrative and constitutional law, which supports Hart and Asshiddiqie's legal theory of legal flexibility. Dworkin and Asshiddiqie argue that discretion allows policy adaptability to quickly changing pandemic circumstances but also allows for ambiguity and power abuse. Indonesian law and public policy are shaped by the conflict between discretion and accountability and openness.

In this pandemic, governments and health authorities must use discretion based on the AAUPL and managed by procedures that promote accountability and transparency to guarantee rule of law compliance. Indonesia must implement monitoring and review systems for government discretionary acts, particularly in public emergencies like the COVID-19 outbreak, as a rule-of-law nation. Hart and Asshiddiqie believe that discretion helps understand and apply the law to unique events and settings. Dworkin's concept of constraining discretion with higher legal principles applies here. Third, Roscoe Pound's views on social requirements and interests in law

are pertinent here. This emphasises the necessity of considering legislation as a tool to attain society objectives as well as a collection of rules to follow. This indicates that discretion is vital, but it must be limited and controlled to avoid misuse and preserve people's rights and interests (Purbopranoto, 1978). Discretionary power contrasts with rule-of-law authority. Thus, discretionary powers are legal exceptions. Every rule-of-law government administration must be founded on the law. Government concerns are divided between central and regional governments in a decentralised nation. This gives central and regional government authorities power to oversee and administer regional home matters (Ridwan, 2014a).

Discretionary authority allows the power bearer to act based on subjective or personal factors. This is distinct from "general rule of law" authority, where activities must follow legal norms. (Ostrom, 1990). Therefore, discretionary powers must be applied casuistically or contextually, depending on the occasion. Decentralisation gives regional government officials authority to oversee and manage regional home matters, making discretionary power crucial. Local government authorities have freedom to make choices that meet local requirements and situations. Legal clarity and empirical ambiguity are equally crucial in pandemic prevention, and discretionary considerations bridge the gap.

The discretionary power of government officials emphasises agility and sensitivity to ground situations that cannot be completely predicted by regulations. Misuse of discretion during a pandemic might make the difference between successful response and public health catastrophe. Because discretionary activities are not based on personal interests but on the interests of people as a whole and as a reflection, they might nevertheless be considered legitimate actions by state or government authorities. With its casuistic and contextual character, discretion may liberate from bureaucracy or allow practises that violate justice and legal clarity.

Indonesia's decentralised system gives local governments latitude to handle local issues, including pandemics, emphasising the necessity of discretion. It must always be in the realm of justice, equality, and sustainability, thus autonomy is not boundless. Local governments must consider area requirements and circumstances while following national policies and legal principles while handling the epidemic. In a rule of law, discretion must be balanced with public duty and legal system integrity. However, discretion must be part of a country's legal system, particularly during pandemics. State officials' discretion should maximise public interests in crises, not be harmful.

In conclusion, using discretion to combat the COVID-19 epidemic in Indonesia requires balancing flexibility and legal clarity, freedom and control. In unexpected and complicated circumstances like pandemics, discretion may be very useful, but it must be properly monitored and supervised to avoid power abuse and unfairness.

3.2. The Essence of Justice in Welfare State Discretion

State discretion in the context of a welfare state has a significant essence of justice (Walzer, 2008). For the welfare state, this principle means that state discretion should be used to promote a more equal distribution of resources and opportunities across society. According to Ronald Dworkin (Campbell & English, 2011), his legal theory demands that this discretion must be limited by the principles of fair and equitable justice (Choi & Choi, 2019), distributive justice must be implemented based on the principle that everyone has the right to participate fully in the social, economic and political life of society.

The 1945 Indonesian Constitution's preamble states that the state's goal is "...Furthermore, to build an Indonesian state government that protects the whole country and all of Indonesia's blood and promotes general welfare. With such broad national aims in literature, Indonesia is a welfare state. (Lotulung, 1994). However, the state must also apply justice and expediency to fulfil legal goals and provide legal clarity. Thus, to achieve legal certainty in government

administration, fairness and expediency must be reconciled with the law's essential ideals. (Zaelani dkk., 2019).

On the other hand, in welfare state practice, government actions do not need to always be based on the principle of legality. In certain cases, the government can act freely (discretion) on the basis of the principle of *freies ermesen*, namely the legal authority to intervene in public affairs in order to carry out its duties of looking after the public interest (Zaelani dkk., 2019). The controversial reality culminates in the government's freedom to carry out government functions, and violates its responsibilities in implementing these initiatives to protect citizens' rights as stipulated in Law Number 30 of 2014 concerning Government Administration.

The founders of the unitary state of the Republic of Indonesia stressed that the democratic state would be a "welfare state" (*walvaarstaat*) not a "night watchman state" (*nachtwachterstaat*). Thus, fairness and expediency must coexist with legal clarity. Sometimes a welfare state's government must act with judgement, not always legality, to protect the public interest. When done properly, such activities may benefit society and fulfil legal goals. This worry is supported by Law Number 30 of 2014 on Government Administration, which mandates citizen rights protection.

However, government discretionary authority may be abused, weakening legal clarity and violating justice and social benefit principles. In accordance with Pancasila and the 1945 Constitution's preamble, Indonesia is a rule of law and welfare state. However, Gustav Radbruch's legal certainty must be balanced with fairness and expediency in crises. It's no accident that Law Number 30 of 2014 on Government Administration includes government responsibility principles, requiring the government to consider individuals' rights in every effort. Local governments may use discretionary authority to change or construct public health policies that better suit their location.

For instance, discretionary measures that violate human rights or damage particular populations violate justice and expediency. Therefore, the legal system must achieve the correct balance between legal clarity and discretionary flexibility. To ensure this discretionary power is used responsibly and in accordance with law, justice, and expediency, control and accountability mechanisms like judicial review, legislative supervision, and information transparency are needed. The 1945 Indonesian Constitution made human rights (HAM) part of the state constitution. Articles 28B and 28I of the 1945 Constitution require the state to respect, defend, promote, and fulfil citizens' human rights. Law No. 30 of 2014 on Government Administration embraces AUPB principles such legality, legal certainty, public interest, openness, and accountability (Article 2 Paragraph 3).

The government must follow the law, these values, and human rights while performing its tasks. In emergencies or pressing social needs, governments may require discretionary powers to respond faster and more effectively. In these situations, AUPB values and human rights must be followed. Strong supervision and an effective accountability mechanism are essential to balance legal clarity, fairness, and benefits. In addition, community engagement in decision-making ensures that government actions respect human rights and community interests. The government's discretion in fighting the COVID-19 outbreak in Indonesia calls into question constitutional law and state management. This requires the government to act beyond legal certainty rules based on judgement or policy. However, this strategy poses ethical and legal issues, particularly with human rights and legal clarity.

The government's discretion to limit community activities or implement vaccinations must be carefully framed to protect individual basic rights under Article 28B and Article 28I of the 1945 Constitution (Ridwan, 2014a). State administrative entities or personnel manage public affairs via government legal acts. Government actions include: (1) actions taken by government officials in their capacity as rulers or state equipment (*bestuurs-organen*) with their own initiative and responsibility; (2) actions taken in the context of public functions; (3) actions intended to lead to administrative law consequences; and (4) actions taken to protect state

interests. The fourth criterion is that government acts always protect state and public interests. Every government action, whether legal or ordinary, has a legal objective based on justice to defend the state and people's interests (Longo dkk., 2015).

Government legal acts are actions carried out by state administrative bodies or officials in the context of administering public affairs (Andreassen, 2018). If we understand discretion as a spectrum between strict regulation and extensive freedom of action by the government, then we will see that 'rechtshandelingen' usually requires normative clarity and stricter legal certainty. To guarantee legitimacy and legal clarity, pandemic choices that influence people's human rights or economic freedoms, such as PSBB or vaccine programmes, must be governed by explicit legal standards and public responsibility.

For instance, emergency medical resource distribution may be done faster and without numerous procedural hurdles, but ethics and distributive fairness must be considered. Legal theories like Rawls's and Dworkin's justice theories apply here. Meanwhile, Dworkin believes laws should be implemented honestly and discretion should be restricted by just and equitable justice (Jessen & Tufte, 2014). Government officials must be fair and not discriminate while using discretion. To overcome the COVID-19 pandemic in Indonesia, justice theory and discretion must be evaluated to see how well they align with justice, especially in the context of Pancasila, the country's constitution.

Pancasila's "Social Justice for All Indonesian People" pillar provides a moral underpinning for public policy, including pandemic response. Whether based on Rawls's "veil of ignorance" or Dworkin's fair and equitable justice, government officials' discretionary judgements reflect the policy's success and legitimacy. Dworkin believes that this discretion must be framed in fair and equitable justice so that every conduct may be accounted for in moral and legal contexts. Thus, discretion in pandemic management is not just a tool for administrative efficiency, but also a sign of the state's devotion to Pancasila's justice ideals and our national morality.

3.2. The Ideal Concept of the Application of Discretion in Overcoming Covid-19 in Indonesia

Indonesian COVID-19 pandemic management is difficult, including human rights. Indonesia must address these issues while respecting and protecting its people's human rights as a democratic nation with a big and varied population. Effective pandemic response requires discretion in policymaking. The appropriate discretion in dealing with COVID-19 in Indonesia balances pandemic prevention and management with human rights protection. This discretion does not allow for the disregard of human rights, but rather makes them the basis for all actions.

A human rights-oriented pandemic response means preventing COVID-19 without violating basic rights like the right to accurate and reliable information, health care, work, a decent living, and peaceful assembly. Human rights must not be sacrificed to fight the epidemic. During a pandemic, these rights become harder to satisfy, but not less crucial. However, the pandemic has shown how crucial these rights are to safeguard health and well-being and maintain justice and social stability during crises. Policymakers must carefully consider human rights while making decisions.

In COVID-19 policymaking, discretion is crucial. The freedom or flexibility of public authorities or government agencies to make deliberate judgements is called discretion. Human rights (HAM) must always guide this judgement. The COVID-19 epidemic has presented government and society with unprecedented problems. To address these issues, measures have included restricting travel and social contact, shutting economic sectors, and adopting a national immunisation programme. Decisions on these policies need discernment.

Economic movement will slow if mobility is restricted. This circumstance should force the government to choose between economic development and Covid-19 control. The administration must decide whether to prioritise health or the economy, it appears. Both are

significant and should be examined. Thus, the government must create policies that balance these two rights without disregarding either. Finding a balance between economic and health rights is difficult. Government's decision to curb migration will help reduce corona virus spread. However, if this approach is continued without a time limit and other alternatives, it may cause additional societal issues including poverty, crime, and psychopathology (Dinata & Akbar, 2021).

While allowing rapid and effective efforts to combat the COVID-19 outbreak, government discretion does not violate human rights. Instead, exercising discretion requires ongoing examination and safeguarding of human rights, which should never be infringed, even in an emergency. Human rights underpin democracy and the rule of law. The state must defend people's human rights during pandemics. Second, considering human rights guarantees reasonable and not excessive actions. While travel and social contact limits are important to stop the virus's spread, they must protect fundamental rights like the freedom to work and make a livelihood. Thirdly, human rights may boost public engagement and government confidence. Honest information about the epidemic and the government's measures empowers individuals to actively participate in containment while feeling safe. Thus, COVID-19 discretion should always prioritise human rights. This is essential for a fair, reasonable, and sustainable pandemic response, not only a legal or moral requirement.

Law 30/2014, revised by Law 6/2023, on the Determination of the Job Creation Perppu emphasises the need of studying discretion in emergencies. Article 1 point 9 of Law 30/2014 defines discretion as government officials' decisions and actions to solve concrete administrative issues, especially when laws and regulations offer choices, are unregulated, incomplete, unclear, or stagnate. Government personnel may use discretion if they align with discretionary goals, follow general principles of good governance (AUPB), use objective reasoning, avoid conflicts of interest, and act in good faith. These parameters guide and guarantee reasonable judgement in emergencies like the COVID-19 epidemic.

Indonesia's COVID-19 outbreak showed the necessity for flexible legal frameworks that prioritise human rights. Law 30/2014, revised by Law 6/2023, controls discretion but emphasises good governance. However, discretion must function within human rights compliance, which is frequently disregarded. This boosts government credibility and promotes public engagement and openness, which are crucial for pandemic control. Indonesians consider discretion an ethical and constitutional duty with far-reaching consequences. Beyond a quick reaction, it must examine long-term social and governance implications. The consideration of human rights is not only legal and moral but also a measure of efficacy and fairness. In accordance with human rights, mobility restrictions must balance public health with the freedom to work.

Critically, current standards appear inadequate to assure consistent human rights consideration in discretion. Practical variations from legislative standards can lead to human rights violations such as unfair arrests, discrimination, and unreasonable limits on free speech and assembly. Law enforcement's priority over rights-based approaches worsens the problem. Pandemic response legislation and discretionary practises must be reformed to prioritise human rights. During pandemics, discretion should be used to promote and defend human rights, not to violate them. Fair, transparent, and human rights-conscious discretion requires robust monitoring by stakeholders, including civil society organisations. In COVID-19, discretion should coincide with human rights. The government's constitutional duty to defend and fulfil human rights is not expressly articulated in discretion terms or aims, making this vital.

This alignment requires regulatory improvements. Develop clear norms and standards that integrate human rights into decision-making. Control, accountability, openness, public engagement, and decision-challenge processes must be improved. To better understand human rights and their duties, government personnel should get training.

Finally, civil society and human rights organisations must monitor and hold the government

responsible for discretionary abuses. Add standards to safeguard and satisfy human rights, provide human rights-based monitoring systems, and increase openness and accountability in decision-making to regulate discretion. Examination of government officials' discretionary powers should guarantee alignment with discretionary goals, good governance principles, objectivity, lack of conflict of interest, and good faith. Present circumstances fail to resolve human rights deficits. Thus, letter f's standard, "There is protection and fulfilment of human rights" in Article 24 of Law 30/2014 controlling government discretion, is crucial. The addition may be argued:

This criterion assures that every government discretionary policy considers human rights. For example, efforts to combat the COVID-19 pandemic should provide equal access to health care for everybody, regardless of social or economic class. Government discretion follows the Indonesian state's 1945 Constitution Preamble purposes by adopting this rule. This involves defending the Indonesian country, promoting general welfare, nurturing intellectual life, and contributing to a world order founded on freedom, everlasting peace, and social justice.

This standard shows the government's commitment to human rights, which may improve public confidence and involvement in government policies and processes. This rule prevents human rights abuses. By requiring the government to consider human rights when making discretionary policies, it deters human rights breaches. This norm increases government accountability. Governments may be held responsible for discretionary human rights abuses, fostering accountability and responsibility. In addition, academics employ grammatical methods to analyse the rule "There is protection and fulfilment of human rights" in article 24 of Law 30/2014: (1) The new rule focuses on "protection and fulfilment of human rights" as its theme. This topic targets the government, which has discretion, (2) Predicate: "Existence" refers to the subject's commitment to preserve and fulfil human rights, (3) Object: "HAM" refers to human rights that the government must defend and fulfil, and (4) A clause has been added to clarify and tighten the obligations in the article. Grammatically, this standard clarifies what the government should do with its discretion. The rule now includes a human rights provision that improves discretionary human rights safeguards and gives governments more guidance on how to employ discretion in accordance with human rights principles. This is more explicitly emphasized in the table below.

Table 1. Ideal setting description for human rights-based discretion

Ideal Setting	Description
Additional Human Rights-Based Discretion	Every discretionary choice and action must satisfy human rights principles including non-discrimination, basic freedoms, and public engagement.
Human Rights-Based Monitoring	Enhancing supervisory mechanisms like the human rights commission and ombudsman to monitor and evaluate discretion. There must also be a way for people to report rights violations.
Transparency and Accountability Enforcement	Government officials must explain their choices and actions and make them publicly available. If officials misuse their power or violate human rights, they must be prosecuted and held responsible.

This system optimises discretion in COVID-19 prevention while protecting human rights. However, government, civic society, and people must collaborate for successful implementation. Pandemic response must be rapid, efficient, and democratic and human rights-based.

4. Conclusion

Indonesia's legal system has provisions for the use of discretion in responding to COVID-19, enabling for swift and appropriate action to be taken in light of local circumstances while being consistent with the public interest and state duty. The key to preventing abuse of authority and prejudice is ensuring openness, accountability, and human rights values in the exercise of

discretion. Adding human rights protection norms to the Law on Government Administration and improving human rights-based monitoring mechanisms are two examples of regulatory reform that would be helpful in ensuring that discretionary responses to the pandemic respect and protect democratic values and human rights.

The study highlights the significance of spending money on and improving healthcare facilities. If the government of Indonesia is serious about being ready for future health emergencies, it should make improving healthcare infrastructure, such as hospitals, clinics, and labs, a top priority. To find out what other nations are doing well and where they may improve, future studies might compare Indonesia's pandemic management to other countries.

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