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## **The Protection of Privacy as Part of Human Rights in Indonesia and the US Law**

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### **Abstract**

The right to privacy is the right of every person which is a human right. Protection of privacy rights needs to be protected by the government through the resulting regulations. Protection of privacy rights is imposed on the government because of the duty to protect that must be carried out by the government. The research aim is to describe the protection of privacy as part of human rights in Indonesia and the US Law. In this case, the research method state that the authority to form regulations as desired. This is based on the principle of state sovereignty. The political will of a country determines how to protect the privacy rights of its citizens. The result shows that Indonesia and the United States regulate the protection of the privacy rights of their citizens at various levels of legislation. This is done by imposing the protection of privacy rights on state institutions and other entities that obtain the data by various methods. Protection of privacy rights is also carried out by providing space for remedies for people whose rights have been violated by personal data management institutions through a lawsuit mechanism to obtain compensation.

**Keywords:** human rights, privacy rights, regulation, Indonesia, United States of America, protection.

### **I. INTRODUCTION**

Human rights are the rights that humans hold solely due to their humanity. Humanity possesses it not because it is granted by society or by positive legislation of the State, but because of his/her inherent dignity. In this sense, despite the fact that everyone is born with a different skin tone, gender, language, culture, and citizenship, he or she is nonetheless entitled to these rights. These are the universal characteristics of these rights. In addition to being universal, these rights are inalienable, which means that regardless of the severity of a person's treatment or cruelty, he or she will not cease to be human and will consequently preserve these rights. In other words, he possesses these rights as a human being (Asplund & Marzuki, 2018).

Privacy is a right that is owned by everyone, and its existence is not determined by others. The existence of privacy has been attached to every individual who is born into the world. This is because privacy is a human right inherent in each individual. In general, privacy is defined as "...The right that someone has to keep their personal life or personal information secret or know only to a small group of people." (Cambridge Dictionary). Privacy can also be interpreted as "the ability of a person or group of people to control their interactions with others, visually, audio, or olfactory to get what they want." (opinion of Rapoport (1977) in Syafrizal et al., 2021). The right to protect personal data departs from the right to respect personal life or called the right to private life which is related to human dignity as living beings. So that humans or individuals are important subjects in the right to protect personal data.

The importance of protecting privacy rights is regulated in several regulations at the international level. Article 12 of the Universal Declaration of Human Rights states that "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks." The same thing is also stated in article 17 of the International Covenant on Civil and Political Rights (ICCPR) which has been ratified in Law No. 12 of 2005 concerning the Ratification

of the ICCPR (International Covenant on Civil and Political Rights) which reads "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation." The importance of regulating privacy rights is also regulated in article 21 of the ASEAN Human Rights Declaration in 2012 which reads "Every person has the right to be free from arbitrary interference with his or her privacy, family, home or correspondence including personal data, or to attacks upon that person's honor and reputation. Every person has the right to the protection of the law against such interference or attacks." Arthur Miller, for example, focuses on the concept of privacy on the ability of each individual to exercise control over the spread of matters relating to himself (Miller, 1971). Alan Westin also focuses on the extent to which a person can determine for himself the extent to which things related to himself can be disseminated to other parties (Westin, 1967).

Given that the right to privacy is a right that is part of human rights, the implementation of the three pillars of human rights protection must be realized. The three pillars of human rights protection are the obligation of the state to protect, the obligation of companies or other people to respect, and the availability of a remedy mechanism for victims whose rights are violated. The government has an important role in protecting the privacy rights of its citizens through the formation of laws and regulations. The research aim is to describe the protection of privacy as part of human rights in Indonesia and the US Law.

## **II. METHOD**

This research was designed using normative legal analysis with a statutory and conceptual approach. These two approaches are used to develop arguments, especially to answer the legal issues raised in this study. The statutory approach is used to examine and analyze the legal assistance of the State's Attorney in handling Covid-19 from various related regulatory aspects. At the same time, the conceptual approach comes from diverse literature combined with informants' views to explain different factors that hinder the State's Attorney in providing legal assistance. Furthermore, the analytical model used is descriptive qualitative juridical, in which various legal materials and data compiled in a structured and systematic way are analyzed juridically and described in a qualitative descriptive manner. It aims to make the resulting information clearer and more argumentative.

## **III. RESULT AND DISCUSSION**

### **3.1 Implementation of Legal Assistance by the State's Attorney for Applications related to Covid-19 Handling Policies**

The spread of the Covid-19 pandemic not only impacts health problems but also relates to social problems to have an impact on other problems (Samudro & Madjid, 2020). Consideration of letter (a) of Presidential Decree No. 12 of 2020, it was also stated that the spread of Covid-19 had implications for broad socio-economic aspects in Indonesia. With the issuance of this Presidential Decree, the President of the Republic of Indonesia has stated that Covid-19 is a non-natural disaster designated as a national disaster, indicating that this is happening in all regions, including Bali, especially Denpasar City.

The central government, as the holder of control of state affairs, carry out good governance and synergizes with regional governments as the implementation of regional autonomy is required to revive and restore emergencies and conditions from adversity. The increase in handling the Covid-19 outbreak must be balanced with the refocusing of the budget and the need for goods/services. For this reason, each regional head has also established an Emergency Response Status in their area, as the Denpasar City Government has begun to actively respond to the situation by forming some policies to implement the discretionary principle or *freies ermessen*.

Saut P. Panjaitan (in Yulikhsan, 2016) says that discretion is a form of exception to the principle of legality (*wetmatigheid van het bestuur*). Meanwhile, Gayus T. Lumbun emphasized that discretion is a policy from central to regional officials that allows public officials to carry out a policy that violates the law on the condition that the public interest is within the limits of authority and does not violate the General Principles of Good Governance. Article 1, point 9 of Law Number 30 of 2014 concerning Government Administration explains that:

“Discretion is a decision or action that a government official determines to overcome concrete problems faced in government administration regarding laws and regulations that provide choices, do not regulate, are incomplete or unclear, and there is government stagnation.”

The Law on Government Administration also regulates various other provisions related to discretion, so that in its implementation, there are limitations that must be considered, namely the General Principles of Good Governance and administrative law, especially on the principle of abuse of authority (*detournement de povoir*) and arbitrary (*abus de droit*) (Gibert & Suardita, 2021). The difference between the two principles, as stated by Sjachran Basah, is that abuse of authority means that the actions of government officials are not following the objectives but actions within the scope of their authority are following the provisions of the regulations, while arbitrarily means that the actions of government officials are not following their objectives and outside their authority (Pietersz, 2017:181). Thus, discretion can be exercised in government administration as long as it does not conflict with the principles of good general governance (Solechan, 2019).

Regarding the Denpasar City Government’s discretionary actions as a step to deal with Covid-19, it can be seen and proven by a number of requests from various agencies within the scope of their administrative areas that are submitted to the Denpasar District Attorney. The act of requesting assistance is carried out to maintain that new actions issued and stipulated in the form of decisions or policies, guidelines, and others remain in legal channels following existing and stipulated laws and regulations. Based on some legal issues submitted by many agencies, both services and government agencies in Denpasar City as applicants to request legal assistance have been resolved, as shown in Table 2 below.

Table 2. Request for Legal Assistance related to Handling Covid-19

Year	No.	Agencies	Request for Legal Assistance
2020	1	Regional Disaster Management Agency	Legal issues regarding hotels as quarantine sites.
	2	Community and Village Empowerment Service	Accuracy or legal suitability regarding the determination of Direct Cash Assistance and changes to the 2020 Village Revenue and Expenditure Budget made by the DPMD.
	3	Denpasar City Health Office	Realization of the Covid-19 budget in 2020 which is intended for the Denpasar City Health Office so as not to violate the law.
	4	Denpasar City Social Service	Providing of groceries and direct cash assistance program.
2021	5	Denpasar City Health Office	Realization of the Covid-19 budget in 2021 which is allocated to the Denpasar City Health Office (Similar to 2020).
	6	Denpasar City Government’s Office of Small and Medium Enterprises Cooperatives	Cooperative education and training activities in the area of the Denpasar MSME Cooperative Office in 2021. This activity is the implementation of the use of the revenue and expenditure budget sourced from the Special Allocation Fund (hereinafter referred to as DAK) in 2021 with the form of activity namely increasing Human Resources Training.

Source: Interview Results at the Denpasar District Attorney

The request for legal assistance realized in Table 2 above focuses on the scope of policies related to the acceleration of handling Covid-19 in 2020 by four agencies and policies for the National Economic Recovery program in 2021 by one agency. As stated by the Head of the Legal Consideration Sub-Section of the Denpasar District Attorney, Putu Bayu Pinartha, S.H., M.H. (2021) in the interview session. The legal assistance is related to the President’s mandate to the Attorney General as the leader of the Attorney General’s Office of the Republic of Indonesia, which is then issued a decision based on the principle of discretion and is addressed to his staff at the central level,

namely the Attorney General's Office, then at each province, namely the High Prosecutor's Office and each district or city, namely the District Attorney's Office.

The mandate was addressed to prosecutors in the field of DATUN when acting as State's Attorneys to actively provide legal assistance in supervising policies to accelerate the handling of Covid-19 and policies for the National Economic Recovery program that will be and have been implemented by the government. This illustrates the involvement of prosecutors who actively take action to protect by supervising policies or actions taken by the government, especially efforts to handle the Covid-19 virus pandemic so that they remain on legal channels. Furthermore, it is in line with Faried Ali (in Bisri, 2014), which states that the apparatus's actions in providing public protection must be carried out based on the legality principle as a reflection of Indonesia as a state of law.

Providing legal assistance is one of the powers of the prosecutor's office in the field of DATUN in the authority of legal considerations, especially when the prosecutor is a state's attorney, in the form of providing legal opinions on an ongoing basis on the activities of the previously proposed applicant. This assistance is not analyzed technically but is only carried out in a juridical and normative manner so that the material actions taken by the applicant cannot be held accountable to the State's Attorney. In addition, the State's Attorney does not have the authority to make decisions or policies on legal matters requested by the applicant. Henceforth, the State's Attorney must actively provide written, and oral legal opinions (which will be followed up in writing) requested or not requested by the applicant in anticipation of potential or legal issues that require risk mitigation.

The prosecutor's authority to act as State's attorney is not new. The term State's attorney is a translation of *landsadvocaten*, that in a process (dispute) that is tried with civil procedures, acting for the government as the person in charge of the State in court is given to the judicial officer or prosecutor (Pamungkas, 2015).

To deal with Covid-19, some regulations serve as the basis for providing legal assistance and the process of legal assistance by prosecutors in supervising government policies to accelerate the handling of Covid-19 and for the PEN program, namely paying attention to the Attorney General's Circular Number 7 of 2020 Regarding Optimizing the Implementation of Assistance in Refocusing Activities, Budget Reallocation, and Procurement of Goods and Services in the Context of Accelerating Handling of Corona Virus Disease 2019 (Covid-19) (hereinafter referred to as SEJA No. 7/2020). Then, the Circular Letter of the Deputy Attorney General for Civil and State Administration Number: Se-02/G/Gs.2/04/2020 concerning Guidelines for Assistance in Civil Law Procurement of Goods/Services in an Emergency (hereinafter referred to as SEJAMDATUN 02/G/Gs.2 /04/2020). In addition, the Attorney General's Instruction 8 of 2020 concerning the Task Force for Optimizing the Duties and Functions of the Prosecutor's Office of the Republic of Indonesia in the Implementation of Refocusing Activities and Realizing Budgets Sourced from the State Budget, Regional Budget, and Village Funds for Covid-19 Countermeasures (hereinafter referred to as INSJA No. 8/2020). The juridical basis is undoubtedly a response to the prosecutor's active actions based on the principle of discretion as well as the implementation of the presidential order in dealing with the pandemic and moving for economic recovery.

The presence of prosecutors during a pandemic to remain active in carrying out their authority in providing legal assistance is following statutory regulations, such as: 1) Law of the Republic of Indonesia Number 16 of 2004 concerning the Attorney of the Republic of Indonesia as amended to Law Number 11 of 2021; 2) Presidential Regulation Number 38 of 2010 concerning the Organization and Work Procedure of the Attorney of the Republic of Indonesia as amended for the second time in Presidential Regulation Number 15 of 2021 concerning the Second Amendment to Presidential Regulation Number 38 of 2010 concerning Organization and Work Procedure of the Attorney of the Republic of Indonesia; 3) Regulation of the Attorney General of the Republic of Indonesia Number Per-025/A/JA/11/2015 concerning Instructions for Implementing Law Enforcement, Legal Aid, Legal Considerations, Other Legal Actions, and Legal Services in the Civil and Administrative Sector; 4) Circular Letter of the Deputy Attorney General for Civil and State Administration No: SE-010/G/Gs.2/07/2017 Regarding Technical Guidelines for Providing Legal Considerations in the Civil and State Administrative Sector.

Thus, as regulated in circulars and instructions, the prosecutor's active actions for legal assistance to government agencies to handle the Covid-19 pandemic do not conflict with the laws and

regulations above. Following the legal level theory or *stufenbautheorie* by Hans Kelsen that norms The legal norms have levels in an arrangement or what is known as a hierarchy, in which a legal norm that is at a high level must be based on a legal norm of a higher level and so on, to a level that can no longer be traced also has a hypothetical and fictitious nature, namely *grundnorm* as the highest norm (Sihombing, 2016).

Considering that legal assistance during the Covid-19 pandemic by the State's Attorney to the government as the applicant, as stated above, is an effort made by the prosecutor's office as the recipient of the attribution authority. The authority obtained through attribution is the authority that comes directly from the sound of the articles and paragraphs of the Act. The recipient of this authority can expand the new power but does not exceed the limit of his authority and absolute responsibility for the attribution recipient because of the legal relationship between the attribution recipient and the legislator (Gandara, 2020). Recipients of attribution authority can create a new authority as a form of expanding their authority that is adapted to conditions (Hastuti, 2018).

To avoid irregularities in legal assistance by the State's Attorney and other legal considerations due to the applicant's limited knowledge, each applicant is expected to read and understand the applicable regulations. It was reiterated by Putu Bayu Pinarta, S.H., M.H in the interview session. He is the Head of the Legal Consideration Sub-Section of the Denpasar District Attorney and a prosecutor who participates as a State's attorney in carrying out legal assistance authority. He mentioned that there are three things that must be considered, namely: a) the applicant only presents a description of the case or the position of the problem in general and does not include specific questions; b) when the application is in the form of a question, it should lead to a legal problem; avoid technical questions; c) the application sometimes does not complete and detailed supporting data or documents. So, the completeness of data becomes very important. Furthermore, it was also said that while providing legal assistance and considerations to regional apparatus organizations in Denpasar City in terms of handling Covid 19, there has never been a deviation until now.

Regarding the flow of requests for legal assistance for handling DATUN legal issues in general and for DATUN legal issues in terms of taking Covid-19 in particular, the process is the same. Based on a number of legal rules established and issued by the Attorney General and the Deputy Attorney General for Civil and State Administration, it contains provisions on the prosecutor's authority in legal considerations and, more specifically, in the authority of legal assistance, the flow of the application is as described below.



Figure 1. Flow of Legal Assistance by State's Attorney  
Source: Denpasar District Attorney at the Expo of Diritimkum and Rakernis 2021

Based on the schematic above, it can be explained some important stages as follows.

### 1. Signing of the MoU (Memorandum of Understanding)

When a policy is taken and determined by the applicant (Institution or agency, BUMN, BUMD) and then requires legal assistance, it can apply to the Prosecutor's Office. It should be preceded by an MoU (Memorandum of Understanding) between the Prosecutor's Office and the applicant. MoU is

defined as a memorandum of understanding or a memorandum of agreement. The legal basis for the MoU is unknown in Indonesian law (contract law). However, the MoU is based on the principle of freedom of contract as contained in Article 1338 of the Civil Code, which states that every agreement made under the law applies as law for both parties. Therefore, the agreement cannot be withdrawn without the agreement of both parties or other reasons according to the law. In addition, it must also be based on good faith. In addition, considering that this MoU is a statement of approval made based on the agreement of the parties who bind themselves and made by taking into account the terms of the validity of the agreement in accordance with Article 1320 of the Civil Code, then referring to Article 1233 of the Civil Code, the MoU is included in the engagement (Setiyaningsih & Budhisulistiyawati, 2020).

The Denpasar City Government has annually signed an MoU with the Denpasar District Attorney, in this case referring to the Datun District Attorney to resolve legal issues both in the field of Civil Law and State Administration related to legal considerations. It can be seen from several requests for legal assistance on various policies for handling Covid-19 in 2020 and 2021, such as the agreement contained in the memorandum of understanding No: 415.4/08/KB/BKS/2020; No: B-805/N.1.10/GS/02/2020 and No: 415.4/10/NK/BKS/2021; No: B-2575/N.1.10/Gs/05/2021. This legal assistance to the Denpasar City government will be followed up by several government agencies who then act as applicants submitting applications related to legal assistance on policies that lead to the acceleration of handling Covid-19 and the PEN program.

## 2. Application

There is a letter in the form of a request for legal assistance that leads to the handling of Covid 19 by the applicant (Department/institution/BUMD/government in Denpasar City) entering the One Stop Integrated Service (PTSP) of the Denpasar District Attorney. As previously known, a memorandum of agreement has been made beforehand. Therefore, the agencies within the scope of the Denpasar City government which will act as applicants can directly submit a letter of application for legal assistance to the Prosecutor's Office or the relevant agency serving as the applicant to bring a letter of application for legal assistance to the law of the regional secretariat then from the secretariat submits it to the prosecutor's office while still attaching the application letter submitted by the relevant agency acting as the applicant. After the application letter is submitted to the PTSP, it is then taken to the secretariat of the head of the Denpasar District Attorney's Office for a disposition card to be made, which will then be submitted to the head of the attorney general's office for written information and instructions to what field the application is intended for. Given that the letter is a request for legal assistance, it is addressed to the field of DATUN.

## 3. SP-1

The disposition by the Head of the Denpasar District Attorney was given to the Section Chief of the DATUN for disposition as well. At this stage, at the same time, the issuance of the first warrant (Surat Perintah (SP-1)) is the basis for the prosecutor to act as a State's attorney to conduct legal considerations, one of the main tasks of which is to provide legal assistance.

## 4. Investigation

Afterwards, proceed to the Head of Sub-Section Legal Considerations to run the warrant and orders from disposition. At this stage, the Head of the Sub-Section did several things, namely: a) drafting a warrant containing the team of State's Attorneys who were formed, then providing information to the Intelligence and Special Crimes sector in the form of a Memorandum of Service; b) make an initial review of the application submitted by the applicant to find out whether the application for legal assistance aimed at handling Covid 19 is included in the scope of authority in the DATUN field. It is also necessary to anticipate the occurrence of a conflict of interest accompanied by a SWOT analysis of the case, adjusting to the DATUN case administration form, which will have implications for whether or not it is appropriate to be accompanied by a State's Attorney. When coordination is needed, the prosecutor analyses the request with the leadership's approval. This action is optional. Then, the draft warrant and the results of the review of the application by the Head of the

Sub-Section are submitted to the Head of the Section of DATUN for disposition (usually in the form of an accord) as a form of approval.

#### 5. SP-2

After that, the approval form by the Head of the Section of DATUN, along with the results of the study by the Head of the Sub-Section, is brought to the Head of the Denpasar District Attorney for a disposition (usually in the form of accoord) as a form of final approval. If the investigation results have been concluded and legal assistance can be provided, the Head of the Prosecutor's Office agrees, and a warrant (SP-2) is issued. It is a basis for an order to ensure that the prosecutor acts as a State's attorney for the implementation of legal assistance on policies for handling Covid 19 related to the acceleration of handling Covid-19 or the PEN program. Finally, the application, along with the kickoff meeting analysis, is given to the Secretary to the Head of the Section of DATUN to be archived and given to the applicant concerned.

#### 6. Kick-off Meeting

After issuing the second warrant (SP-2), the State's Attorney conducts coordination activities from the beginning to the end on an ongoing or incidental basis, either directly dealing with the applicant or via virtual. This initial discussion is critical (kickoff meeting) between the State's Attorney and the applicant because the prosecutor must verify, mainly to ensure that the objectives and problems requested are right in the scope of the DATUN case. Appointment and matching of supporting documents submitted with the application. The action is hoped that a dialogue will occur to understand the problem entirely, and then the prosecutor can provide an appropriate juridical analysis.

#### 7. Furthermore, the form of legal assistance provided by the State's attorney and final action

After the kick-off meeting, legal assistance activities are provided in the form of written consultations in which the State's Attorney prepares a legal opinion or a memorandum of opinion to answer legal issues submitted by the applicant. The format for drafting a legal opinion consists of a) Basis, namely the legal basis for the State's Attorney to provide a legal opinion; b) Position Case, containing a brief explanation of the current situation followed by actions that the State's Attorney must take following the rule of law, then the chronology of the problem; c) Activities, describe the activities that have been carried out by the State's Attorney in legal assistance; d) Problems, include several problems submitted by the applicant for later legal analysis by the State's Attorney; e) Analysis, containing the legal review of the State's Attorney which is compiled in a normative juridical manner by taking into account the hierarchy of laws and regulations; f) Conclusion, a summary of the analysis that has been described; g) Suggestions, the State's Attorney can provide recommendations regarding legal opinions that have been prepared. Legal assistance can also be in the form of oral consultations when the State's Attorney coordinates with the applicant, and then Minutes of Meeting (MOM) are made so that every discussion can be recorded properly and accurately.

Furthermore, every legal assistance activity carried out by the State's Attorney must be reported to the Head of the Section of Datun. Then, the Head of the Section of Datun reports to the Head of the District Attorney's Office as a progress report that is carried out regularly. For the end of the activity, legal assistance is required to make a final report (S-7). The final report of the applicant is submitted to the State's Attorney. Furthermore, the prosecutor also makes a final report on the analysis results related to the harmony of legal opinions that have been given as a unified conclusion. As a last measure, the State's Attorney must ensure that he has archived every document from the beginning to the end of implementing legal assistance.

The stages of implementing legal assistance illustrate that the State's Attorney has been following the procedures stipulated by the law in carrying out his authority. Thus, it can give confidence to the applicant that the participation of the State's Attorney is recognized and felt by the applicant. Furthermore, in this case, some government agencies in Denpasar City are protected from violating the law. As a result, the efforts that prosecutors want to achieve to participate actively in handling Covid-19 by several government agencies in Denpasar City can be carried out effectively.

### **3.2 Supporting and Inhibiting Factors of State's Attorney in Implementing Legal Assistance**

Several supporting and inhibiting factors have been analyzed on the problem of legal assistance carried out by the State's Attorney to various Denpasar City government agencies. These factors are described below.

#### **1. Supporting Factors.**

Factors that support the implementation of legal assistance for State's Attorneys include:

##### **a) Strategic area and supporting access**

The Denpasar District Attorney is located in the capital city of Bali Province, Denpasar City. The existence of a city area is advantageous because it is located in a central area with various supporting accesses. The Denpasar District Attorney's Office is not far from the location of the Denpasar city regional apparatus organization, so implementing legal assistance, sending and receiving printed files of application letters or analyzing applications does not take a long time. In addition, it is easy to coordinate, especially to discuss a requested problem. The Denpasar District Attorney's Office's existence in an easy-access area leads to a network of supporting information and communication systems. In addition, there is a website and the "Wayan Adhyaksa Denpasar" application which is digital-based and can be used with Android and iOS devices.

##### **b) The existence of a legal basis that regulates**

The action of the State's attorney to provide legal assistance in handling Covid-19 by the Denpasar City government agency is a form of action based on the principle of discretion that is not outside its primary authority. Therefore, the action is considered illegal or deviant if discretion is beyond the authority. In other words, it is not in accordance with the legislation or there is an element of abuse of authority (Sihotang et al., 2017:67). Besides that supported by his right as the recipient of the attribution authority as outlined in: a) Circular Letter of the Attorney General Number 7 of 2020 concerning Optimizing the Implementation of Assistance in Refocusing Activities, Budget Reallocation, and Procurement of Goods and Services in the Context of Accelerating Handling of Covid-19; b) Circular Letter Number: Se-02/G/Gs.2/04/2020 concerning Guidelines for Civil Legal Assistance for the Procurement of Goods/Services in an Emergency; and c) Attorney General's Instruction Number 8 of 2020 concerning the Task Force for Optimizing the Duties and Functions of the Prosecutor's Office of the Republic of Indonesia in the Implementation of Refocusing Activities and Realizing Budget Sourced from the State budget (APBN), Regional Revenue and Expenditure Budget (APBD), and Village Funds for Covid-19 Response.

##### **c) Active, Fast, and Responsive Actions by Denpasar City Government Agencies as Petitioners.**

Undeniably, the realization of an activity's implementation cannot be separated from the parties' response. The implementation of legal assistance by the State's Attorney's Attorney against the policies of some agencies dedicated to handling Covid-19 was due to active, fast, and responsive actions by the Denpasar City government agencies to request assistance. In response to Presidential Instruction Number 4 of 2020 regarding the Acceleration of Handling Covid-19, the Attorney General's Office issued SEJA No. 7/2020, which is aimed at the DATUN field prosecutors in the areas of the Attorney General's Office, the High Prosecutor's Office, and the District Attorney's Office to optimize the implementation of the acceleration.

In implementing the PEN program, Denpasar City government agencies are actively requesting legal assistance from the State's attorney in 2021 because 2020 is the first year of increasing the number of Covid-19 cases in Indonesia. At that time, various government efforts were more focused on accelerating the handling of Covid-19, as well as requests for legal assistance that was also more oriented to policies regarding acceleration. Furthermore, in 2021 with the condition of Covid 19, which can be said to be sloping due to good handling, the government will focus more on restoring the economy to return to normal. Institutions as applicants whose applications have been realized: 1. In 2020, namely a) Regional Disaster Management Agency; b) Community and Village Empowerment Service; c) Social Service and; d) Department of Health. 2. In 2021, includes a) the Department of Health; b) the Department of Small and Medium Enterprises Cooperatives of Denpasar City Government.

#### **2. Inhibiting Factor**

The factors that hinder the implementation of the legal assistance of the State's attorney are as follows.

a) Error submission of request by applicant

The application for legal assistance by the applicant was submitted to the State's attorney in the form of questions in hopes of being given a solution following the provisions of the legislation. However, based on the results of interviews, there are still applications that only explain the problem position in general. In other words, no specific or substantial questions must be resolved. Sometimes, the questions are just technical. Of course, the State's attorney's authority is limited and cannot work outside the rules.

b) Delay in data and reports by the applicant

When legal assistance by the State's Attorney is carried out, the applicant, apart from submitting and explaining the problem, must also include supporting documents and data as the accuracy of the application. On the other hand, it helps the State's Attorney to make the results of the analysis of the submitted application. In addition, periodic reports are required until the end of the activity. In its implementation, based on the results of the interviews, the State's Attorney faced obstacles in the analysis results due to the lack of attached data. Unfortunately, when requested, the applicant did submit the data not on time, thus making the prosecutor have to wait. Then, the periodic reports, especially the final report (S7), are also not timely in reporting, thus making the prosecutor confused about proceeding to the next stage. Referring to PERJA-025/A/JA/11/2015, the State's Attorney is actively providing legal opinions in writing, requested or not requested by the applicant.

c) The number of State's attorneys who concentrate on Legal Assistance is limited

There are eight prosecutors in the field of DATUN at the Denpasar District Attorney who can act as State's attorneys based on warrant (SKK), namely the Head of the DATUN Section, the Head of the DATUN subsection, the Head of the Legal Considerations subsection, and five Functional Prosecutors. In addition, one person was added as Secretary to the Head of the DATUN section. Providing legal assistance to local government agencies is the main task of the Head of the Legal Consideration subsection. The interview results show that the increasing number of requests for State's attorneys to provide legal assistance to strategic policies to deal with the impact of Covid-19 requires working hard and fast. Although, sometimes there are some obstacles, considering that the State's attorney and the Head of the Legal Consideration subsection also continue to exercise their authority as Public Prosecutors who resolve criminal cases.

#### **IV. CONCLUSION**

Based on the results of the analysis obtained, it is concluded that in the process of implementing legal assistance to government policies related to the acceleration of handling Covid-19 and the PEN program by the State's Attorney, the Denpasar District Attorney, has been running according to its authority as stipulated in the legislation and some other regulations issued by the Attorney General's Office based on the principle of discretion. Of course, following the principles of good governance, the various policies carried out by the central and regional governments can realize good governance. It cannot be denied that a number of factors support or hinder the implementation of legal assistance by the State's Attorney to a number of government agencies in Denpasar City as the applicant. There are three supporting factors, namely a strategic area and supporting access, a legal basis regulating it, and active, fast, and responsive action by the Denpasar City government agency as the applicant. While the inhibiting factors include errors in applying by the applicant, delays in data and reports by the applicant, and the number of State's attorneys who focus on providing legal assistance is very limited.

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