

Research article

Government Immigration Policies in Response to the COVID-19 Pandemic

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Novel Coronavirus Disease 2019 (Covid-19) is a virus that emerged at the end of 2019. In less than a year, the virus led to a pandemic with cross-country spread [1]. The spread of Covid-19 brought from people entering a country is referred to as an imported case [2]. In Indonesia, the first case of Covid-19 is thought to have been a close contact of foreign nationals, which implies that Covid-19 was brought from abroad and then spread locally among people in Indonesia. The Immigration Department, as part of the Government's duties to manage the traffic of people from and to Indonesia, has an important role in handling the Covid-19 pandemic. This involves controls and restrictions on people's movement to enter and leave Indonesian territory, and also immigration service transformation for Indonesian citizens and foreign citizens. People sometimes view immigration policies as contradictory. However, immigration policy must prioritize public health security and the national economy. This study employed the normative-empirical approach to analyzing public policy, using qualitative and descriptive methods. It was conducted to examine the Government's strategies in the immigration sector to handle the Covid-19 pandemic and the implementation of immigration functions in the new normal era. The results showed that the Government's strategies in the immigration sector have been dynamic, adaptive and effective.

Keywords: pandemic, immigration policy, selective policy

1. Introduction

The Novel Corona Virus Disease (Covid-19) emerged in Wuhan, China in December 2019. Then on 11 March 2020, World Health Organization (WHO) declared Covid-19 became a global pandemic. Covid-19 is caused by severe acute respiratory syndrome coronavirus2 (SARS-CoV-2) [3]. As of 27 December 2020, within the same year as the Covid-19 became pandemic, the disease has spread globally to all over the country in the world, with 79,231,893 confirmed cases and 1,754,574 deaths [4]. Based on the spreading of virus circumstances, peoples are susceptible to be confirmed on positive Covid-19 due to its easy human to human transmission. Infection symptoms of people with Covid-19 can have mild to severe symptoms. Some groups of people like older

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adults and people with severe underlying medical conditions seem to be at higher risk of developing more severe complications from Covid-19 illness [5].

In response to the Covid-19 pandemic, many countries and multi-national companies are working with WHO to pursue the Covid-19 vaccine. In December 2020, United Kingdom issued emergency authorization for a Covid-19 vaccine and became the first country to do a mass vaccination program [6]. While most of the country in the world raced with the Covid-19 spreading and started the mass vaccination program, Covid-19 also mutated and had variant B.1.617 (Delta Variant) of SARS-CoV-2. The Delta Variant was first known and detected in India in December 2020. In a four months, this variant became the most commonly reported variant in India [7]. Delta Variant has caused a surge in cases of Covid-19 since late March 2021, reaching more than 400,000 new cases and 3600 deaths reported each day in early May 2021 in India [8].

Meanwhile, in Indonesia, as of 1 September 2021, the active case of Covid-19 are 196,281 cases, 133,023 death cases, and 63,111,288 persons already had first dose vaccine [9]. Indonesia has also suffered from the Delta Variant impact that caused a surge in the daily reported cases, imposing the government to decide on emergency public activity restriction (Emergency PPKM) since 3 July 2021 [10]. On 25 July 2021, the emergency PPKM policy changed into several leveled restrictions (PPKM Level), which may be applied differently, according to the Covid-19 data and situation in a certain region [11]. Before the PPKM policy was taken, Indonesian government also had a similar policy about restrictions of public activity with a different name. Some of the previous policies applied, such as large scale social restriction (PSBB) in early 2020, public activity restriction (PPKM) in Java and Bali Island at 11 - 25 January 2021, and micro public activity restriction (Micro PPKM) since 9 February 2021 until 3 July 2021 [12].

Covid-19 can spread through direct means (droplet and human-to-human transmission) and indirect contact (contaminated objects and airborne contagion) [13]. Considering the spreading pattern, people have to limit and avoid crowded activity, especially indoors, and wear a mask and protective equipment to prevent transmission. People's activities are related to people's mobility, and restrictions of people's mobility could effectively handle the pandemic [14]. As the government's duty to control people's traffic and mobility to and from Indonesia, Immigration has an important role in managing the pandemic. Indonesia's government closed the borders from international travelers since Indonesia Minister of Law and Human Rights Regulation No. 27/2021 was issued on 3 July 2021. Recently, the border has been limitedly opened with specific terms and conditions for foreign nationals since the new regulation from Minister of Law and Human Rights Regulation No. 37/2021, issued on 15 September 2021.

Immigration means the movement of people to enter or exit Indonesian territory and its oversight in order to safeguard and uphold state sovereignty. The Directorate General of Immigration (DGI) carries out the implementation of immigration functions and policies under the Ministry of Law and Human Rights in Indonesia. Immigration has four functions which are part of the national government affairs providing (1) Immigration services: (2) law enforcement: (3) national security: and (4) facilitating the development of public welfare. To perform the immigration functions, there are several immigration offices established in a province, city, regency, municipality, or sub-district. Before even the pandemic and movement or mobility restriction policy applied, immigration has authority to refuse any foreign national to enter Indonesian territory in the event that the foreign national suffers from a contagious or infectious disease harmful to public health [15]. Besides that, immigration through the immigration office in a particular area of responsibility could refuse the extension of stay permit of a foreign national that stays in Indonesia and exercise the deportation if it is known that the foreign national is suffering from an infectious disease that endangers public health [16]. It implies that immigration is the main authority to prevent the Covid-19 cases which brought by the foreigner while entering and staying in Indonesian territory.

The role of immigration in securing public health during a pandemic is a mandate of the national interest formulated in the four immigration main functions within the selective immigration policies. The selective immigration policy is implied in the articles within the immigration law. It is written in the explanation section of the immigration law stated that only useful foreigners who do not endanger security and public order are allowed to enter and stay in Indonesia. Selective policies also support the immigration function as a community welfare facilitator. When immigration services are provided to the community, including Indonesian citizens and foreign nationals, it is hoped that immigration services will stimulate the community's economy and realize prosperity.

According to some of the statements above, this paper intends to discuss government strategies and policies in immigration sectors responding to the Covid-19 pandemic and whether the policies taken are appropriate to suppress the Covid-19 transmission and restore public health and economy. In order to understand the context behind the government strategies and policies in the immigration sector, first, it will depict the theoretical frameworks of immigration, particularly in the Indonesian immigration provision. Then it will also describe and analyze how the four immigration main functions affect the policies taken by the government during the pandemic.

2. literature review

As mentioned earlier, immigration relates to the people's mobility to go in and out of a country. Immigration is a term for the migration of people internationally or between a country. The international migration that occurs should aim for entering a country that is not the country of origin with the purpose of staying temporarily or permanently. This migration can arise from personal desires that are influenced by external factors. In addition, advanced development in technology and transportation has contributed to making it easy for everyone to migrate and move from one country to another.

The concept of immigration or international migration arises from the concept of state and its sovereignty. Qualifications of a region should possess for being a state are (a) permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with other states [17]. In order to have the capacity to have relations with another state, a state must have sovereignty acknowledge by other states. Sovereignty is defined as a supreme authority with a territory [18], further explained that a state has ultimate authority within its territory to do everything necessary to govern itself. In relation to migration, state sovereignty will govern and rule a provision wherein a person migrates to the state territory. If a region already establishes as a state, then a movement or a migration of people entering those regions from the outer part will be meet the term of international migration or immigration. Otherwise, the migration happened only defined as local migration or in-between area within the state.

In understanding the causes of immigration occurred in a country, there is a pipe theory that describes the causes of immigration into a perspective of migrant's travel through three parts, which are (a) origin country, (b) transit country; and (c) destination country [19]. The international migration issues must be solved with a deeper holistic understanding of the factors and aspects in the origin country, transit country, and destination country. Origin country is the source of migrants and usually are poor countries, prone to horizontal conflicts, ideological conflicts, armed conflicts or other conflicts. Transit country are generally developing countries which geographical, historical and sociological as in-between the path to developed or destination countries.

For many reasons of migration occurred, mostly there are two primarily aspects which drive the people to migrate. First, economic aspect as the main reason why people migrate. Since in the beginning of market and trade become worldwide, people migrate to another region to look for a better life. This economic aspect could be analyzed into some holistically several leveled aspects in the individuals, the households, the nationals, and the internationals. An example, the individuals act to maximize income

while families minimize risk, and that the context within which both decisions are made is shaped by structural forces operating at the national and international level [20]. Migratory flow schemes based on the economic aspect are simply explained into two schemes; underdeveloped and developing countries to developed countries; and developed countries to developing and underdeveloped countries [19].

The second aspect is social relations. Under the network theory of migration [20], migrant networks are sets of interpersonal ties that connect migrants, former migrants, and non-migrants in origin and destination areas through ties of kinship, friendship, and shared community origin. Driven by economic motive earlier on the migration, other people do the migration because of the social connections already established by the previous migration in the destination area. Establishment of the nature of kinship and friendship structures, each new migrant creates a set of people with social ties to the destination area. Those kinships and friendships later draw upon reasons people migrate to the destination area.

From various studies that have been conducted about the immigration in a time of Covid-19 pandemic, there are several focuses predominantly on the issues of immigration law enforcement [21] [22], immigration services [23], and immigration policy in human rights perspective [24]. In terms of the study, none of the research shows how the government strategic in responding the Covid-19 in the immigration sector with several perspectives and basis to reach the purpose of reducing Covid-19 transmission and restoring the public economy.

This paper adopted a progressive analysis on the development of immigration policy during the pandemic which was very dynamic. This analysis intends to understand how the policymaker had the strategic to manage the Covid-19 in immigration-related affairs. Reviewing the considerations of Indonesian President Regulation Number 82 Year 2020 concerning Committee for Handling Covid-19 and National Economic Recovery, written that Covid-19 pandemic gives impact on several aspects of social, economic, and community prosperity. Then handling of Covid-19 cannot be separated from efforts to recover the national economy due to the impact of Covid-19 in reducing economic activities which endanger the national economy. The handling of Covid-19 and national economic recovery must be applied in a unified strategic policy, which is integrated and cannot be separated.

Based on those conceptions, the policy in the immigration sector must be harmonized in terms of the government strategies to secure public health and recover the national economy. The policy implemented is progressive due the Covid-19 case update in other countries and the Covid-19 mutation. Several policies that were applied since the

beginning of the pandemic are dynamic and might be understood by ordinary people as an opposite and inconsistent policy. These contradictory policies certainly have a basis in that decision, while in an emergency situation of the pandemic, a policy like this can be applied [25].

3. Research Method

This study adopts normative-empirical legal research. As the normative legal research, this research is a process to find a legal rule, legal principles, and doctrines of the law to address the legal issue at hand. It will give results of this approach in the argument, theory, or the new concept as a prescription in solving the problems faced problems [26]. As the additional empirical research, this empirical legal research is a legal research method that uses empirical facts taken from human behavior, good verbal data obtained from interviews, and actual behavior that is done through observation. Empirical research is also used to observe the results of human behavior in the form of physical relics and archives [27].

Further on the normative legal research, this research also focuses on applying rules or norms in positive law, especially legal synchronization with the statute approach. Its approach is taken by examining various laws that have to do with the legal issues being handled, by looking at the consistency and conformity between the regulations and other laws or with the Constitution [28]. To understand the strategics of laws and policies maker, the legal political approach is used to define the policy direction about the legal policies which may be implemented, by making a new law or changing the previous law in order to achieve the nation purposes [29]. legal politics as an activity of choosing the method to be used to achieve a social purpose with specific laws in a society whose scope includes answers to several basic questions, namely (a) what purposes are to be achieved through the existing system, (b) what methods and which methods which is considered the best to use in achieving these purposes, (c) when and by means of how the law needs to help in deciding the selection process of purposes and ways to achieve these purposes properly [30].

To deliver the approach used in the research, the author used a descriptive-qualitative method. Qualitative research is research where the researcher is placed as the key instrument, the data collection technique is combined, and the data analysis is inductive [31]. The descriptive explanation is given to describe about the qualitative data that have to meet the characteristics such as (1) Data collected expressed in form of relative value;

(2) In general, the research done on social; and (3) The result is objective, temporal and local [32].

4. Result and Discussion

This section describes two things. First the Indonesian immigration selective policy with human rights basis as the ground of all government policies in immigration sector. Second, it analyzes the strategics and impacts of the progressive government policy and also the politic situation which cause the policies applied in the immigration sector.

4.1. Indonesian Immigration Four Functions

Immigration in Indonesia is governed by the Directorate General of Immigration (DGI) under the Ministry of Laws and Human Rights based on the Laws of Republic Indonesia Number 6 Year 2011. Immigration is part of the embodiment of enforcement implementation sovereignty to maintain order in the nation's life and the state towards a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia. As part of the national government affairs, immigration has four functions to exercise: (a) Immigration services: (b) law enforcement: (c) national security: and (d) facilitating the development of public welfare.

Immigration services function is the function of administering government in context of the people's traffic going in and out of Indonesian territory. This function is implemented in the form of services to Indonesian citizens and foreign citizens. Immigration services to Indonesian citizens are passport services or travel document in lieu of passport; and immigration clearance services to exercising the departure or arrival signs. Immigration services to foreign citizens are application or extension of stay permit and immigration document; application of re-entry permit and exit permit; and immigration clearance services to exercising the departure or arrival signs for foreigner.

Immigration law enforcement function is attached in the immigration rules and laws. Law enforcement is carried out if the provisions on the immigration law and other laws and regulations being violated. Immigration law enforcement is enforced on everyone where are in the jurisdiction of the Republic of Indonesia, either to Indonesian citizens or foreign citizens or else corporation. There are two ways to enforce immigration violations, administrative action, and penal sanctions. Penal sanctions are stated in the penal provision in the immigration law, implemented by performing the immigration investigation, and will be punished in imprisonment and fine sanctions. Immigration

administrative actions are broader in regulate in the law, it can be enforced to foreign national residing in Indonesian territory who engage in harmful activities and which presumably threatening security and public order or disrespectful or contravene the applicable legislation [15] . It can be enforced also to the Indonesian citizen individuals, and corporations as the guarantor of foreigner.

Immigration administrative actions to the foreign nationals may take the form of including their names in the list of exit ban or entry ban; restriction, change, or cancellation of their stay permit; prohibition from residing in one or some particular places in Indonesian territory; obligation to reside at certain place in Indonesian territory; liable to a fine; and/or deportation from Indonesian territory. Immigration administrative actions to the Indonesian national individuals are related to the Indonesian passport services and may take the form of withdrawal, cancellation and suspension of Indonesian passport or travel documents. For the corporations, the Immigration administrative actions may take the form of the written warning; liable to a fine; and/or cancellation of the rights to guarantee foreigners;

National security function is implemented at the border for granting entry and exit permit, at the Indonesian embassy for granting Indonesian visa, and at the Indonesian territory for securing the nation through Immigration intelligence operation and law enforcement of foreign nationals who endanger the nation. National security is important to protect the country, especially from a foreign threat through the foreign national who wants to enter Indonesian territory and is expected to endanger the community. This function also aims to protect Indonesia from transnational crime and illegal immigration that threatens national security and public safety.

The facilitator of public welfare has the purpose that all immigration rules and provisions are meant to support the national economy. Immigration has contributed to granting the stay permit for foreign national investors who want to invest in Indonesia. Immigration provisions also have roles in giving facilities to the foreign national investors as they support the national economics and opening more job vacancy. Another form of economic supporting functions is the visa exemption facility also given to the foreign in a circumstance of tourism [33], and some particular visa and stay permit also issued at the international event held in Indonesia in the purpose of giving an easy immigration administration to the participant in order to increase economic activity in the area.

Those four functions are implemented based on the immigration selective policy. This policy is derived from national sovereignty as the fundamental principle acknowledged by all nations in the world. National sovereignty is the ultimate authority given to the

country to choose the foreign national who wants to enter the country's territory. Indonesian immigration selective policy is written in the explanation section of immigration law. It is stated that under the selective policy that upholds the value of human rights, it is regulated that the entry of foreigners into Indonesian territory, as well as foreigners who obtain a stay permit in Indonesian territory, must comply with the intent and purpose of being in Indonesia. Based on that policy, only foreigners who provide benefits and do not endanger security and public safety are allowed to enter and be in Indonesian territory.

The immigration selective policy, which applied to foreigners, obligate that (a) only foreigners who provide benefit to Indonesia are granted the entry permit; (b) only foreigners that are not endangering the public safety are allowed to enter and stay in Indonesian territory; (c) foreigners must obey Indonesian legislation; (d) foreigners who enter and stay in Indonesian territory must be in accordance with the objectives of the stay permit given.

4.2. Immigration Selective Policy Principle

There are four aspects in Indonesian immigration regarding the selective policy that can be further elaborated. The first is the national interest aspect. National interest can be explained as two perspectives in the tangibility. As a tangible, national interest means a nation's power and its effect against another country. As an intangible, national interest includes the interest in the value of human rights, economics, and society. National interest is the ground of the policymaker to formulating a policy that may affect international and national relationships [34].

The second is the security aspect. The security aspect is related to protecting Indonesian citizens' human rights upon the arrival and stay of foreign nationals in Indonesian territory. Protection and fulfillment of Indonesian citizen's human rights are being harmonized with the border policy to enter and exit Indonesian territory for foreign nationals and Indonesian citizens. Human rights are divided into three divisions as introduced in 1979 by Czech Jurist Karel Vasak, namely three generations of human rights, explained as *Liberté* (liberty), *Égalité* (equality), and *Fraternité* (fraternity) [35].

Liberty is the first-generation right, preconditions for a dignified human existence in terms of freedom, known as civil and political rights [36]. This first-generation limits the state's power over citizens and aims to prevent abuse by those in power. Examples of these rights are freedom of non-discrimination, freedom of religion, freedom of expression, freedom of movement, right to a fair and public trial, etc.

Equality is the second-generation right. This second-generation right is based on establishing equal conditions and is known as social and economic rights. Social-cultural-economic human rights must be provided by the individual/ groups/ the state irrespective of the religious, ethnic, or gender differences. However, not all governments in a country can afford to provide these rights to all citizens, but the government must ensure and demonstrate that they are taking positive steps to achieve and fulfill these rights. The social and economic rights were proposed before as the second bill of rights by the United States President Franklin D. Roosevelt at State Union Address 1944, which at the moment he stated that “*individual freedom cannot exist without economic security and independence*” [37]. Among these rights are the right to earn enough to provide adequate food and clothing and recreation, the right of every family to a decent home, the right to a good education, The right to adequate medical care, and the opportunity to achieve and enjoy good health, The right to adequate protection from the economic fears of old age, sickness, accident, and unemployment, etc.

Fraternity in human rights as the third-generation of human rights means that this is the right which cannot be exerted by only an individual but only by groups or collective of people. Third-generation of human rights are also called as solidarity rights. [36]. Examples of these rights are the right of people’s self-determination; the right to peace; the right to development; the right to a clean environment; the right of minorities, ethnicities, religions, linguistics, etc.

The protection and fulfillment of the three generations of human rights are inter-dependence within each other rights on particular human rights generation. As an example, in the third- generation rights require the institutional support of the state and somehow the limitations of other generation rights, such as the right to have a clean environment which allows peoples to live in a healthy environment, clean and without harmful agents or substances to the health. Still, it may involve a limitation of rights such as the right to work. Another example, like rights of minorities, need the protection of the state through the first generation right called the non-discrimination right.

Roles of the state to protect and fulfill human rights are implemented based on the substantive and its procedural. The substantive rights are all of the human rights provisions through the instruments or other documentation. Procedural rights are described as the government process or effort as the government functions to protect and fulfill substantive human rights under its national laws and provisions [38]. The relations with the immigration policy, the procedural rights are the state effort in exercising the public services to the citizen, including its nation citizen and foreign national citizen. The foreign national citizen, under the equality rights, also benefited from the immigration

public service as the state obligate to provide it but may be limited to several rights such as political rights in a political party or election, owning a land, etc. Thus, Hans Kelsen gives the terms on an international standard that the limitation of the rights of foreign nationals cannot be under the certain minimum standard of civilization, even though that the law of a state does not mean to confer the same rights upon its citizens and foreign nationals [39].

The third is the prosperity aspect. It means that the immigration policy should have a positive impact on the Indonesian economy. As an example of the arrival and stay of foreign nationals in Indonesia, it has been expected to support the national economy in a country in the form of state revenue, tourism, technology transfer, investment, and more job vacancy availability.

The four is the foreign national or non-citizen treatment. Foreign national treatment is one of the immigration policy aspects due to the development of human rights nowadays. This aspect should define the state process and perspective in treating the foreign national. As the concept of nationality stated by Commissioner Nelsen in the General Claims Commission (United States of America – United Mexican States Commission) at Naomi Russell case, nationality is the justification in international law for the intervention of one government to protect persons and property in another country [40]. Based on this concept, the International Court Justice at *Nottebohm Case* determined that nationality has to be effective to allow the state of nationality to represent its national in international sphere [41].

That concept of nationality is important for the immigration policy. Its relation with immigration policy, as the recipient or destination country of foreign national migration, the state has to consider the foreign national treatment on its positive law as the immigration policy also represents the state against the international being. A state treatment on a particular foreign national treatment will benefit both states under reciprocal principle. Furthermore, foreign national treatment relationship with the immigration selective policy will be formulated in the three primary points: (1) the powers and responsibilities of individual states to manage movements of people across their borders; (2) the rights and responsibilities of international migrants; and (3) state cooperation in managing international movements of people [42].

4.3. Immigration Policies since the Beginning of Covid-19 Pandemic.

Since the outbreak of Covid-19, Indonesian immigration has applied several policies, which in chronological order, such are:

1. Ministry of Laws and Human Rights Regulation Number 3 Year 2020 (*Permenkumham No. 3/2020*), concerning Temporary Suspension of Visa Exemption, Visas and the Issuance of Emergency Stay Permits to Chinese Nationals, issued at 5 February 2020;
2. Ministry of Laws and Human Rights Regulation Number 7 Year 2020 (*Permenkumham No. 7/2020*), concerning Granting of Visa and Stay Permit in Effort to Prevention Spreading of Covid-19, issued at 28 February 2020, replaces and revokes *Permenkumham No. 3/2020*:
 - (a) Director General of Immigration, Circular Letter Number IMI-1873.GR.01.01 Year 2020, concerning Implementation of Visa and Stay Permit Application in Effort to Prevent the Entry of Covid-19 in Indonesia, issued at 06 March 2020;
3. Ministry of Laws and Human Rights Regulation Number 8 Year 2020 (*Permenkumham No. 8/2020*), concerning temporary termination of visa exemption and visa on arrival polices, issued at 18 March 2020;
 - (a) Director General of Immigration, Circular Letter Number IMI-GR.01.01-2114 Year 2020, concerning Limitation of Immigration Service in order to Reduce the Covid-19 Transmission, Issued at 23 March 2020;
 - (b) Director General of Immigration, Circular Letter Number IMI-GR.01.01-2115 Year 2020, concerning Temporary Stop of Passport Services and Embarkation of Indonesian Migrant Workers, Issued at 23 March 2020;
4. Ministry of Laws and Human Rights Regulation Number 11 Year 2020, concerning Temporary Prohibition of Foreigners from Entering Indonesian Territory, issued at 31 March 2020;
 - (a) Director General of Immigration, Circular Letter Number IMI-GR.01.01-2325 Year 2020, concerning Temporary Prohibition of Foreigners from Entering Indonesian Territory, issued at 2 April 2020;
 - (b) Director General of Immigration, Circular Letter Number IMI.UM.01.01-2443 Year 2020, concerning Passport Services Policy during Covid-19 Pandemic, issued at 24 April 2020;

- (c) Director General of Immigration, Circular Letter Number IMI-GR.01.01-2493 Year 2020, concerning Further Explanation of Circular Letter Number IMI-GR.01.01-2325 Year 2020, and its addition about the Procedure of Entry Permit for Foreigner who Hold Particular Permit, issued at 6 May 2020;
 - (d) Director General of Immigration, Circular Letter Number IMI-GR.01.01-0946 Year 2020, concerning Implementation of Immigration Duties and Functions in the New Normal Era, issued at 09 June 2020;
 - (e) Director General of Immigration, Circular Letter Number IMI-GR.01.01-1102 Year 2020, concerning Immigration Stay Permit Service in the New Normal Era, issued at 10 July 2020;
 - (f) Director General of Immigration, Circular Letter Number IMI-GR.01.01-3558 Year 2020, concerning Further Explanation of Director General of Immigration, Circular Letter Number IMI-GR.01.01-1102 Year 2020, issued at 22 July 2020;
 - (g) Director General of Immigration, Circular Letter Number IMI-GR.01.01-4049 Year 2020, concerning Extension of the Date Limit of Emergency Stay Permit Holder to get the Stay Permit, issued at 18 August 2020;
 - (h) Director General of Immigration, Circular Letter Number IMI-GR.01.01-4497 Year 2020, concerning Date Limit of Emergency Stay Permit Holder to get the Stay Permit, issued at 18 September 2020;
5. Ministry of Laws and Human Rights Regulation Number 26 Year 2020 (*Permenkumham No. 26/2020*), concerning Visa and Stay Permit in New Normal Era, issued at 1 October 2020, replaces and revokes *Permenkumham No. 26/2020*;
- (a) Director General of Immigration, Circular Letter Number IMI-1555.GR.01.01 Year 2020, concerning Visa and Stay Permit Policy during the New Normal Era, issued at 15 October 2020;
 - (b) Director General of Immigration, Circular Letter Number IMI-0103.GR.01.01 Year 2021, concerning Temporary Prohibition on Foreigners to Enter Indonesian Territory during Covid-19 Pandemic, issued at 14 January 2021;
 - (c) Director General of Immigration, Circular Letter Number IMI.GR.01.01-0210 Year 2021, concerning Further Explanation and Extension of Validity Period of Director General of Immigration, Circular Letter Number IMI-0103.GR.01.01, issued at 26 January 2021;
 - (d) Director General of Immigration, Circular Letter Number IMI.GR.01.01-0331 Year 2021, concerning Further Explanation of Director General of Immigration,

- Circular Letter Number IMI-1555.GR.01.01 Year 2020, issued at 11 February 2021;
- (e) Director General of Immigration, Circular Letter Number IMI-0661.GR.01.01 Year 2021, concerning Visa and Stay Permit Provisions during New Normal Era issued at 26 March 2021;
 - (f) Director General of Immigration, Circular Letter Number IMI.GR.01.01-0873 Year 2021, concerning Temporary Ban on International Travel to Indonesia, issued at 23 April 2021;
 - (g) Ministry of Laws and Human Rights, Circular Letter Number M.HH-01.GR.02.07 Year 2021, concerning Visa, Entry Permit, Stay Permit Policies during the Implementation of Emergency Public Activity Restriction, issued at 5 July 2021;
 - (h) Director General of Immigration, Circular Letter Number IMI-0158.GR.01.01 Year 2021, concerning Provisions of Extension of Stay Permit for Foreigner Overseas issued at 16 July 2021;
6. Ministry of Laws and Human Rights Regulation Number 27 Year 2021 (*Permenkumham No. 27/2021*), concerning Foreigners Entry Restriction to Indonesian Territory during the Implementation of Emergency Public Activity Restriction, issued at 19 July 2021, replaces and revokes *Permenkumham No. 26/2020*;
7. Ministry of Laws and Human Rights Regulation Number 34 Year 2021 (*Permenkumham No. 34/2021*), concerning Visa and Stay Permit Application during the Handling of Covid-19 Transmission and National Economy Recovery, issued at 15 September 2021, replaces and revokes *Permenkumham No. 27/2021*;
- (a) Ministry of Laws and Human Rights Decision Number M.HH-02.GR.02.02 Year 2021, concerning Several Immigration Checkpoint as Entry Point during the Handling of Covid-19 Transmission and National Economy Recovery, issued at 17 September 2021;
 - (b) Director General of Immigration, Circular Letter Number IMI-0196.GR.01.01 Year 2021, concerning Visa and Stay Permit Application during the Handling of Covid-19 Transmission and National Economy Recovery, issued at 17 September 2021;
 - (c) Ministry of Laws and Human Rights Decision Number M.HH-02.GR.01.05 Year 2021, concerning Foreigner Activities in Relation with the Visa Application during the Handling of Covid-19 Transmission and National Economy Recovery, issued at 22 September 2021;

4.4. Government Strategics Analysis in Immigration Sector

From the previous explanation, immigration functions and immigration selective policy are the fundamental principle of all rules, provisions, regulations and policies that implemented in Indonesian Immigration. At march 2020, Covid-19 pandemic was declared as the Public Health Emergency by the President of Republic of Indonesia [43]. In the emergency situation, the power of the policies issued by DGI under Ministry of Laws and Human Rights could be measures by the implementation of the policy basis under (1) constitutional emergency powers; (2) statutory authorization; and (3) extra-legal action [44].

Constitutional emergency power means that in the constitution of Indonesia, already stated that the executive body under the President of the Republic of Indonesia can declare the emergency state. The government can rule by extraordinary actions and policies to exercise the management of the emergency. These actions and policies are permitted if the legislator and court's concept of check and balance is adequately done.

Statutory authorization means that even the constitution of Indonesia already constitutes the President has the right to declare an emergency state, it does not necessarily mean the right to declare an emergency state should be taken. Executives can be granted additional powers through ordinary legislation, which may be sufficient to address the crisis, and it is called as the "legislative model" of crisis governance [45]. Reviewing the President's decision to declare a public health emergency, this decision is not using the constitutional basis as President right to declare the state emergency. However, this decision is under article 4 about the President's power in governing the state [46]. By mean of additional powers through ordinary legislation, immigration under the Indonesian Law number 6 year 2011, could exercise the deportation or refusal of entry to foreign national which endanger the public health and this is also implied that the policies of immigration during pandemic only at the ministry's level regulation.

Extra-legal actions means that in the state of emergency, unauthorized executive action may be occurred. This unauthorized could mean that the policies issued may not be subject to the higher level legislation matter. An example of this extra-legal actions, the foreign nationals visit visa exemption facility was regulated under the Presidential Regulation, and during the Covid-19 pandemic, this visit visa exemption facility was revoked and suspended with the ministry's level regulation.

Thus, in order to describing the government strategics and policies during pandemic, the author give several point of view as the basis of the analysis which interrelated with one another, such are (1) periods of issuance of the policies; (2) the approaches and

purposes on the policies; and (3) the legislation process and legislation hierarchy of the policies;

TABLE 1: Periods of Immigration Policies Since Covid-19 Pandemic.

No.	Periods	Policies ¹
1.	Pre-declaration of Covid-19 pandemic by WHO	Point (1), (2), (2.1), (3), (3.1), and (3.2)
2.	Declaration of Covid-19 pandemic by WHO	Point (4) and point (4.1) – (4.8)
3.	Implementation of new normal era	Point (5) and (5.1)
4.	Covid-19 mutation issues, contradictive policies during implementation of new normal era	Point (5.2) – (5.8)
5.	Implementation of emergency public activities restriction	Point (6)
6.	Covid-19 handling and national economy recovery	Point (7) and point (7.1) – (7.3)

Refer to the points in the several policies issued in chronological order above.

Periods of immigration policies issuance is one of the government strategics in responding the Covid-19 pandemic. The periods are matter as the case development of Covid-19 in Indonesia and in other countries. At the pre-declaration of Covid-19 pandemic, Indonesian government is aware of the Covid-19 outbreak in china and issues immigration policies as the prevention of Covid-19 brought by people entering Indonesian territory. Then when Covid-19 has been declared as pandemic, it means that handling of Covid-19 has to be taken seriously which caused the government closed the border.

The Covid-19 pandemic is not end in a short time, and the pandemic impact of national economy is significant. New normal era policies is taken that urges the public to live a new way of living through implementation of health protocol in daily life. Immigration policies also changed as the new normal era implementation to opening the border. Indonesian is ready to accept the foreign nationals arrival in Indonesian territory in purpose of triggering the economy.

Peoples are ready to live everyday with Covid-19, but the Covid-19 mutated to become more contagious and with severe health impact. While the border is still open, the government closed the border partially for several countries which the Covid-19 mutated and the spike of the case occurred. The impact of new Covid-19 mutation has also reached Indonesia. In the moment of June to July 2021, there were a spike of Covid-19 positive case and almost reaching 57.000 cases (Peta Sebaran, 2021). This make the government issues an emergency restriction of public activities and re-closing its border. When the positive cases are reduced gradually, the government opened again the border with specific purpose of foreigner who want to enter under economical purposes.

TABLE 2: Purposes and Approach of Policies Issued.

No.	Purposes	Approaches Assessment ¹				Policies ²
		a	b	c	d	
1.	Partial border closing for the Chinese citizens and foreign nationals from China	3	4	1	2	Point (1), (2), and (2.1)
2.	Limitation of Indonesian passport services and embarkation of Indonesian migrant workers	4	3	2	1	Point (2.2), (2.3), (4.2), (4.4), and (4.6)
3.	Termination of visa exemption and visa on arrival policies	3	4	1	2	Point (3)
4.	Border closing for foreign nationals which do not have existing stay permit	2	4	1	3	Point (4), (4.1), and (4.3)
5.	Emergency stay permit and waiver of overstay fine.	3	2	1	4	Point (4.5), (4.7), and (4.8)
6.	Border opening during the implementation of new normal era	3	2	4	1	Point (5) and (5.1)
7.	Partial border closing as Covid-19 mutation for British and Indian Citizens and also foreign nationals from those country	3	4	2	1	Point (5.2) – (5.4), and (5.6)
8.	Improvement of health protocol in the implementation of immigration services	4	3	1	2	Point (5.5) and (5.7)
9.	Extension of stay permit in case the foreign nationals are overseas	2	1	3	4	Point (5.8)
10.	Border re-closing during emergency public activities restrictions as the spike of Covid-19 case in Indonesia	3	4	1	2	Point (6)
11.	Partial border re-opening for limited purposes of the foreign nationals	3	2	4	1	Point (7) and (7.1) – (7.3)
Total Score		33	33	21	23	110

Assessment of approaches used in the policy, a : National Interest; b : Security; c: Prosperity; and d: Non-Citizens Treatment. Assessment use a number indicator. 4 is the most influential, 3 is influential, 2 is less influential and 1 is the least influential. Refer to the points in the several policies issued in chronological order above.

National interest and security aspect are equally influential under the approaches assessment in the immigration policies issued during pandemic with the score of each aspect equal 33 score. Then non-citizens aspect is score is 23 and the least influential aspect is the prosperity aspect with the score is 21.

Elaborating the assessment result, the government put the national interest and security as equal aspect to manage the Covid-19. This equality means that the security aspect are in line with the national interest of securing the public health. Non-citizen aspect are come next in the assessment score which describe the government has also giving the solution to the foreign nationals affected by Covid-19 and have interest in Indonesia. The prosperity approach is the least influential aspect because he economy

depends on people's activities, which are currently being restricted due to the Covid-19 pandemic.

Based on the level of hierarchy in Indonesian legislation, the Indonesian Immigration Policies during Covid-19 are:

1. The highest legislation related to immigration is Indonesian Law Number 6 Year 2011 on Immigration, signed by the President of the Republic of Indonesia with the approval of the Indonesian House of Representatives. There was no change in this legislation during the Covid-19 pandemic. In order to change on this level of legislation, it needs the Indonesian legislative body, which is the Indonesian House of Representative, under the national legislation program [47], and might be done through some procedural step which may not be adaptive during the pandemic.
2. Government Regulation Number 31 Year 2011 on the Implementation of Indonesian Law Number 6 Year 2011 is signed by the President of the Republic of Indonesia. There was no change in this legislation during Covid-19 pandemic. The drafting of change or making this legislation there must be subject to the higher legislation matter, which there is no change during the pandemic.
3. Ministry of Laws and Human Rights Regulation (*Permenkumham*) and Decisions (*Kepmenkumham*) related to immigration, signed by Minister of Laws and Human Rights. This level of legislation is implementing the Indonesian Law on Immigration and Government Regulation according to the current situation and condition. *Permenkumham* and *Kepmenkumham* can be changed relatively quickly due to the concept that this level of legislation is done only at the minister's level, which does not involve the legislative body. The Ministry of Laws and Human Rights drafted this level of legislation and must be subject to the higher legislation matter. Failing to do so, the peoples or other particular party can appeal the Minister of Laws and Human Rights Regulations and Decisions to the judicial review under the supreme court;
4. Director General of Immigration related letters are the lowest level of the legislations related to the immigration policies during the Covid-19 pandemic. This level of legislation usually contains the technical procedures and steps and the further explanation of *Permenkumham* and *Kepmenkumham* related to the immigration matter. These technical procedures and steps progressively change during the Covid-19 pandemic with consideration of the situation and condition of the pandemic.

Analyzing the legislation process and its hierarchy, the immigration policies during a pandemic are at the level of minister regulation and DGI regulation. Minister and DGI's level legislation are the effective and quick way to respond to the Covid-19 pandemic as the need of regulations policies during the pandemic. This level of legislation did not involve the legislation body in processing and issuing a policy. As notes of this level of legislation, there are several of policies issued as an extra-legal action which the policies is not subject to the higher legislations. However, the government can issue this kind of policy in terms of procedural invocations of emergency is intergrity; substantive review of rights restrictions, balancing rights against public health concerns; and affirmative steps to combat the Covid-19 virus and its effects [44].

5. Conclusion

The covid-19 pandemic has a serious impact on the public health and national economy. Immigration as the authority to regulate people's traffic to enter and exit a country, has an important role in handling the pandemic. In order to manage the pandemic, the Indonesian government has to take an effective policy with the purpose to suppress the Covid-19 cases and also recover the national economy. However, the policies given can be evaluated as contradictive policies with the previous policy issued. Nonetheless, the government can issue this kind of policy as long as it is in line with the purposes to handle the Covid-19 pandemic.

In response to such findings, it is known that there are several points of view proposed by the author to elaborate the government strategics in the immigration sector, such are (1) periods of issuance of the policies; (2) the approaches and purposes on the policies; and (3) the legislation process and legislation hierarchy of the policies; Analysis of the policies through these point of view gives the result that every policy in immigration sector is dynamic and adaptive to the pandemic situation and also effective as its procedure of the legislation policy are the fastest way to respond the pandemic in need of policies to address it. To improve the national economy, the authors suggest opening several international port borders in the tourism area on the condition that health protocol is applied strictly there. It means to trigger the local economy and support the community during the pandemic.

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