

Research Article

Economic Crisis Recovery with Legal Policies by Governments (A Comparative Study between Indonesian, French, and Argentinian Law)

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ABSTRACT: This article compares the legal policies implemented by France, Argentina, and Indonesia in addressing economic crises. The research method used in this study is doctrinal legal research, combined with a prescriptive-analytical approach, aims to provide recommendations for addressing specific issues and generate arguments, theories, or new concepts as solutions. The findings of this research indicate that France, through the Macron Law, seeks to overcome the economic crisis by reforming the labor market and implementing social policies. Meanwhile, Argentina addresses economic crises by referring to its Constitution, particularly Article 76 and Article 99(3), which provide the legal framework for the government to handle public emergencies and regulate the executive-legislative relationship in crisis policymaking. This is evident in Law 25.156 and Decree 1.019 of 1999, which govern competition protection. In Indonesia, the economic crisis triggered by the Covid-19 pandemic was addressed through the National Economic Recovery (PEN) policy, which relies on statutory authorization. Additionally, Indonesia has adopted a legislative model in responding to emergencies, a concept introduced by Tom Ginsburg and Mila Versteeg.

KEYWORDS: Legal Policy; Economic Crisis; Government France; Argentina.

I. INTRODUCTION

In recent times, in an effort to achieve the goal of a state, to bring prosperity to and protect the human rights of all its citizens, modern states with the rule of law (welfare state) followed several main principles namely the principles of legality, acknowledgment and protection of human rights, separation of powers, free and independent judiciary, people sovereignty, democracy, and constitutionalism.¹ These principles highlight the supremacy of law, law as the highest source in regulating the legal relation mechanism between the society (people) and the state, between the members of society, or between groups of people within society in achieving its goal.

¹ Imran Juhaefah, *Hal Ihwal Kegentingan Yang Memaksa Sebagai Landasan Pembentukan Peraturan Pemerintah Pengganti Undang-Undang* (Disertasi Pascasarjana Universitas Muslim Indonesia 2011).[2].

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The government (*bestuur*) as the implementer of the state's political policies is given the authority through applicable legislation or based on the principle of legality to govern the government, lead or regulate its citizens, provide guidance, mobilise potential, provide directions, coordinate actions, oversee, develop and protect its people.² However in the administration of the state or government in practice, many irregularities occur when organizing the state where the conventional legal framework is unable to accommodate the interest of the state or the people. Thus the need for specific regulations to mobilise the functions of the state effectively rises. As such, a level of precautionary anticipation shall be used in the usage of conventional legal frameworks to anticipate the varying degree of possible irregularities to ensure the continuity of the nation and the state. A state of emergency must be based on the principle of proportionality, a renowned principle in international law. This Principle is considered to be the crux of the self defence doctrine, the core. Inherently, the principle of proportionality is considered to have given a standard of reasonableness as the criteria to determine the level of necessity, resulting in a clearer criteria, which will act as the justification to conduct emergency actions that is proportional, reasonable or equal so as not to surpass the level of reasonability which serves as the basis of the justification to carry out the action itself.³

The *Kamus Pusat Pembinaan dan Pengembangan Bahasa Departemen Pendidikan Dan Kebudayaan* (Dictionary of the Center for Language Development of the Department of Education and Culture) defines *krisis* (crisis) as an urgent and critical situation, or a state of turmoil due to an event or events that affects life. *Ekonomi* (economy) is a basic needs factor of human life that is material or physical in nature, which may also refer to the economic order of a state.

Based on the definition of *krisis* (crisis) and *ekonomi* (economy) as stated earlier, we can infer that an economic crisis is an urgent and critical situation that is full of turmoil due to the order of economic life of a state which is a basic factor in human life that is material in nature. Several economic crises have taken place, for example in France and Argentina

² Muin Fahmal, *Peran Asas-asas Umum Pemerintahan Yang Layak Dalam Mewujudkan Pemerintahan Yang Bersih* (Kreasi Total Media 2008).[100].

³ Jimly Asshiddiqie, *Hukum Tata Negara Darurat* (PT. Rajawali Grafindo Persada 2007).[207].

who have differing problems and thus had different kinds of efforts in solving their respective crises. The comparison of France and Argentina in the context of economic crises becomes of interest due to the differing approach that each state has adopted in solving their respective crises. France, as a member of the European Union, followed more controlled fiscal and monetary policies under the supervision of the European Union (EU) and the European Central Bank. Structural reform and austerity measures became its main strategy in response to their economic crisis. Conversely, Argentina experienced a more acute financial crisis, especially during 2001, and implemented policies such as defaulting on their debt and capital control measures to manage the wider impact on their economy.

The debt crisis experienced by France began from Greece who had a high deficit in their state budget and was experiencing a global financial crisis, alongside the level of Greek debt which caused the debt crisis. The impact of this crisis was felt by other EU member countries who adopted the Euro as their national currency including Portugal, Italy, Greece, and Spain (PIGS).⁴ PIGS also had high levels of debt, with debt over 60% of GDP prior to the debt crisis, causing the rise of interest during the Greek debt crisis, greatly influencing the amount of debt and the state deficit experienced by these countries which affected their economies and the value of the Euro.⁵

In the banking sector, banks in France experienced instability and obstacles in financial activities, because the French banks held bond letters/public and private debt in the EU, mainly from Greece. The French Banks had provided debt to Greece to the amount of \$93 billion in 2010. As a result, the French banks were experiencing high exposure to risk. In comparison, France's economy as measured by the level of income prior to the EU debt crisis was relatively stable and experienced growth every year. However, during the EU debt crisis, the French economy became unstable, where the rate of GDP growth experienced a drastic downturn of 3.31% between the years 2008-2009, and deficits rising to 7,2% of GDP in 2009.

⁴ Humphrey, W. 'Krisis Utang di Zona Euro', Terdapat di <http://berkas.dpr.go.id/puslit/files/infoingkat/Info%20Singkat-III-22-IIP3DI-November-2011-4.pdf>

⁵ F Hananaomi, *Efek Domino Krisis Euro Zone Terhadap Negara Italia* (Universitas Riau 2015).[10].

France's efforts to resolve and overcome the economic emergency was rigidly regulated with a level of emergency. Beyond the *pouvoirs* exception, Article 36 of the French Constitution stipulates the stage of siege which is also stipulated in Article 41 of the Defence Act, and state of emergency which is regulated in the *Loi instituant un état d'urgence* of 1955 (this act precedes the Constitution). In France, the Law that stipulates the state of emergency regulates that a state of emergency may be declared by the government, to be applicable fully or partially to the state (including the department of *d'outre-mer non-metropolitan*) in case the present danger was caused by the attack on public order or in situations that can be likened to a public disaster.

Meanwhile, the crisis that was experienced by Argentina urged their government to declare austerity measures and asked the International Monetary Fund (IMF) to accelerate the disbursement of the US\$ 50 billion loan.⁶ The economic crisis in Argentina was caused by political turmoil and high inflation and was worsened by the drought in Argentina. The drought caused crop failure, affecting harvest of corn and wheat. Alongside the drought, the political crisis caused the stock market to decline. The large amount of money in circulation is the main cause of the high level of inflation. This caused Argentina's foreign reserves to decline sharply as it attempted to ensure the stability of its exchange rate.

This research picked France for this case study since the economic policies that it adopts are controlled under the European Union framework which gives a perspective into the influence of international law in affecting the economic recovery. Meanwhile, Argentina represents a more flexible approach based on drastic national policies, such as renegotiation of debt and currency devaluation, which had a significant impact on its long term economic stability.⁷

In addition, the two states have differing historical and structural context in resolving their economic crises. France, with an economy that is integrated with the European market, has access to a bailout mechanism and support from several financial

⁶ Adi Setiawan, Fitri Kartiasih, 'Contagion Effect Krisis Argentina dan Turki ke Negara-Negara Asia, Benarkah Terjadi?' (2021) 21 Jurnal Ekonomi dan Pembangunan Indonesia.[59–76].

⁷ D Howarth, 'The Legacy of State-led Finance in France and the Rise of Gallic Market-Based Banking' (2013) Vol 26 No. 3 Governance.[369–395].

institutions such as the European Central Bank and the International Monetary Fund in a financial emergency. These allowed France to implement fiscal policies which were more controlled and coordinated with its European Union partners. Conversely, Argentina has a long history of dependency with domestic economic policies which is often influenced by political and social pressure. Recurring economic crises, such as the crises of 2001 and 2018, reflects the vulnerability of the Argentine economy from external shocks, including volatility in exchange rates and the high dependency on commodity exports. In responding to such crises, Argentina implemented more drastic policies, including nationalisation of assets, intervention in monetary policy, and debt restructuring that consistently become a source of uncertainty for international investors.⁸

With this significant difference, this research aims to understand how the two states navigated their respective economic crises, and how the effectiveness of their policies can be a source of knowledge and lessons for other states that may be facing similar economic challenges. The differing approach adopted by France and Argentina in resolving their economic crises implies the need for a comparative study which will be able to give insight on the effectiveness of the varying policy strategies and how the lessons from both states can be compared with the context of Indonesia.

II. RESEARCH METHODS

This paper will be written in the form of a normative law (doctrine) research, that emphasizes the analysis of written legal norms in the law, court decisions, and legal doctrines. This approach aims to gain a deeper understanding, interpret, and evaluate the applicable laws and its implementation in a legal event. In addition, interviews with informants or sources may be used to enrich the analysis.

This paper is prescriptive in nature, not simply describing laws and regulation but also providing analysis and solutions on the legal issue of the paper. With this approach, we expect that the paper will give applicable and relevant legal guidance.

⁸ S Calvo & C. M Reinhart, *Capital flows to Latin America: Is the evidence of contagion effects?* in G. Calvo, M. Goldstein, & E. Hochreiter (eds.), *Private capital flows to emerging markets after the Mexican crisis* (1996).[151-171].

The data gathering instrument used is document study, which includes primary source of law (laws and regulation, court decisions), secondary source of law (scholar's opinion, law journals, law books), and tertiary source of law (law dictionaries, law encyclopedias).

The data obtained in this paper will be analyzed using the qualitative analysis method, which will thoroughly, holistically, and comprehensively examine legal materials. This paper does not focus on numerical data, but will focus on understandings and interpretations of the law which generates an analytical-prescriptive conclusion. It is expected that this paper will contribute to the development of legal knowledge and become a reference for the more effective implementation of the law.

III. ECONOMIC CRISIS RECOVERY EFFORTS BY THE FRENCH GOVERNMENT WITH LEGAL POLICIES

The European Union debt crisis was caused by external factors, from the global economic crisis that was experienced globally in 2008. The global economic crisis caused market shock, a situation that shocked the global capital market which affected the condition of the market and gave negative sentiments to investors in the capital market. This situation caused a financial downturn on a global scale and threatened the economic sector, and the weakening of the currency of several states, trust in the money market, hinders the financial access and impacts the labor sector.⁹ This decrease affected the global trade exchange including the member states of the European Union. Therefore, negative correction in the value of stock of around 3.67% occurred, including France as a member of the Union.¹⁰

When the European Union debt crisis occurred, the French economy became unstable. This was caused by the economic downturn and the deflation of the American Dollar. In the banking sector, French banks experienced instability and hindrance on

⁹ G Alogoskoufis, *Greece's Sovereign Debt Crisis: Retrospect and Prospect* (Hellenic Observatory Papers on Greece and Southeast 2012).[25-26].

¹⁰ K Khairunnisa, 'Upaya Yang Dilakukan Oleh Uni Eropa Dalam Menanggulangi Krisis Ekonomi Yang Terjadi Di Yunani Pada Tahun 2008- 2017', Terdapat pada <http://scholar.unand.ac.id/39944/2/2.%20BAB%201.pdf>

financial activities since the French banks held private bonds in the European Union region, especially Greece.¹¹ Where the French banks loaned \$93 billion in the form of debt to Greece in 2010. Therefore, large exposure to risk will be experienced by French banks if Greece defaulted on their loan.¹²

The French Constitution only regulates state of emergency generally. In Article 16, it simply explains the decision making mechanism in a state of emergency that has to be declared by the President which has consulted with the Prime Minister, Presidents of the Houses of Parliament, and the Constitutional Council. So a specific law is needed to regulate the state of emergency in the economic crisis aspect.

Thus in an effort to resolve the economic crisis, the French Government issued two economic reforms dubbed as “Macron Law” named after Emmanuel Macron who was serving as the Minister of Economy. Macron Law is an economic act initiated by Emmanuel Macron under President François Holland. The goal of this act is to reform various sectors to increase economic growth and flexibility of the labor market. This program became an effort to increase economic growth and to become steps to allow companies to negotiate more flexible pay/wages and working hours for the workers. Secondly, it gives a larger chance for companies to loosen their procedures for recruitment, dismissal, wages and working hours based on the conditions of the economy, not limited by discussion procedures. However the two reforms created widespread protests from various backgrounds. The Labor Act was condemned by the labor unions and university students and caused protests, stating that the act is linked to the weakening of labor protection.¹³

Loi n° 2015-990 année 2015 pour la croissance, l'activité et l'égalité des chances économiques (Law no. 2015-990 of 2015 on the Growth, Activity, and Equal Economic Opportunity) has been adopted with the financial crisis as the background and reflects a European and international trend in finance and banking regulation currently. The Act was announced as French Legislator's response to the cause of the economic crisis and

¹¹ C Plumb & J Ponthus, 'France seen moving towards bank bailout. Reuters' (2011) reuters.com/article/us-francebanks/france-seen-moving-bailoutidUSTRE78P2AT20110926.

¹² E Grandin, 'French Banks Proved Resilient to Crisis but Will Need to Bulk Up Ahead of Stricter Regulation' (2011) Terdapat pada http://www.lefigaro.fr/assets/pdf/bank_s.pdf

¹³ *Ibid.*

has two goals: firstly, to regulate and oversee entities who are suspected to be the source of turmoil (such as the market operators, rating agencies, derivative market, alternative funds, etc), and secondly, to support the economy. Since a certain substance of the Macron Law caused controversy, the Government used Article 49.3 of the French Constitution, which allowed the passing of the bill without going through a parliamentary vote.

In the French law and economy landscape, *Loi Macron* or Macron Law (Loi n° 2015-990 du 6 août 2015) was introduced as a form of progressive effort to reform the economic system which is perceived as too stiff and has hindered investment growth. This act was created with the goal of strengthening the competitiveness of their national economy through the deregulation of the labor sector, liberalisation of industry, and business and investment regulations reform.¹⁴ Although the Act was assembled within the legal framework based on the principles of efficiency and economic modernization, *Loi Macron* received harsh critics from labor unions and the political opposition. In the Act, certain points regulate the French Government's efforts in combating the economic crisis, including:

- a. The strengthening of financial sector regulations by introducing several important steps such as the controlling of short sales, regulation of the derivative market and rating agencies, strengthening and expansion of the scope of sanctions from rules and regulations.
- b. Formation of a council for regulating finance and systemic risk or called as the *conseil de régulation financière et du risque systémique*. This council was formed to more efficiently anticipate the risk faced by the financial sector and to more accurately coordinate France's role in the international forum and Europe which focuses more on financial regulation reform.
- c. Strengthening the power given to the financier *Autorité des marchés Prancis* and to the *Autorité de Contrôle Prudentiel Prancis*. To consolidate financial stability, this Article grants the head of the French Financial Market Authority (*Autorité des marchés financiers*) (AMF) the authority to implement emergency steps to limit negotiations in the financial market if an extraordinary situation occurs. The Act grants large power to the head of the AMF to prevent a repeat of the conditions they previously faced during the fall of 2008. Therefore AMF currently has the legal basis to implement extraordinary actions, however such actions must be temporary in nature (15 days with the possibility to extend up to 3 months). The instruction of the Government (*arrêté ministériel*) is required to extend such actions.

¹⁴ Ahmad Mulyadi, Sergei Biyukov, Sergey Chirun, 'President E. Macron and the French Political Crisis in the Aspect of the Legacy of Gaulism' (2024) 29 No. 4. Science Journal of VoISU. History. Area Studies. International Relations.[205-220].

- d. Supporting the economy - funding the economic recovery efforts that is regulated in section two of the Act. This section's goal is to reform the economic financing route in order to allow small and medium scale businesses and households to reap the benefits of this route, to facilitate the acceleration of France's economic recovery.

Loi Macron/Macron Law is an economic reform policy that is rather significant in France. Although it has a positive impact by deregulating and increasing investment, this Act also faced criticism on its impact to labor protection. *Loi n° 2015-990 année 2015 pour la croissance, l'activité et l'égalité des chances économiques* (Law no. 2015-990 of 2015 on the Growth, Activity, and Equal Economic Opportunity) as the regulation to accommodate Macron Law, has varying positive impacts and controversies in its implementation.

The positive impact of Macron Law from a legal perspective, reflects the shift in economic policies to a more liberal direction in the French legal system. However, the consequences of this shift cannot be separated from the complex political and social dynamics. *Firstly*, with the existence of Macron Law, the legal framework in France's economy became more flexible for investors, both domestic and foreign, to participate in the recovery of the French economic crisis. *Secondly*, to encourage a healthier competition in the legal and economic sector of France, including in terms of transportation and the legal profession. *Thirdly*, ensuring legal compensation by workers who have been impacted by the shift in labor regulation.¹⁵

The Macron Law, aside from having some positive impacts in its implementation, also has its critics and controversies. *Firstly*, the passing of the Act itself through the mechanism of Article 49.3 of the French Constitution gained significant criticism for the approach by the Government that is deemed too authoritative since it avoided the voting process in the parliament. *Secondly*, the Labor Union in France challenged several provisions they deem as weakening the protection of labor rights. *Thirdly*, the Political Opposition to the Government was worried of the long term legal implications, especially in regards to the deregulation which may decrease the state's role in the economy.

¹⁵ Sabine Saurugger & Fabien Terpan, 'Do Crises Lead to Policy Change? The multiple Streams Framework and The European Union's Economic Governance Instruments' (2020) Vol. 49 No. 1. Policy Science.[42].

IV. ECONOMIC CRISIS RECOVERY EFFORTS BY THE ARGENTINE GOVERNMENT WITH LEGAL POLICIES

Argentina is a state with the 21st largest economy in the world, which is currently facing a financial crisis. Its currency, the Peso, has lost more than half of its value against the US Dollar throughout 2018. In June 2018, the Argentine Government turned to the IMF with the goal of financing its budget deficit. Beyond the resources of the IMF and an aggressive austerity plan, the Argentine Government continuously attempted to restore economic stability.¹⁶ Argentina has a long history with economic crises, where one is in relation to its foreign debt which defaulted eight times in total, since its independence in 1816. The current Argentine economic crisis is caused by the existence and the development of challenges which had been occurring for a long period. Argentina's increased dependency to external funding to finance its budget and an ongoing deficit transactions results in Argentina's vulnerability to change or shifts in availability of funding.¹⁷

It began in 2017, where many factors started to cause problems, one of them being the US Federal Reserve (The Feds) who increased their interest rate, decreasing investor's interest in Argentine bonds; the worst drought in 50 years; and the Argentine Central Bank resetting its inflation target which harmed the commodities sector significantly and caused the corrosion of agriculture export income.¹⁸ Investors began selling Argentine assets which gave pressure to the Peso. With a major portion of its debt in the Dollar, the Peso experienced depreciation which increased the value of its debt in Dollars. To increase investor's trust, the Argentine Central Bank and the Government announced a higher interest rate (increased to 40 percent) and fiscal reforms to cut the budget's deficit.¹⁹

Argentina is accustomed to facing economic crises over the last few decades. In addition, in the current pandemic times, a nation-wide quarantine policy has been

¹⁶ Akbar Hikmatul, 'Argentina: Antara Pemerintahan Militer, Krisis Ekonomi dan Demokrasi' (2006) Vol. 10 No. 2 Paradigma: Jurnal Masalah Sosial Politik dan Kebijakan.[160].

¹⁷ *Ibid.*

¹⁸ Adi Setiawana & Fitri Kartiasih, 'Contagion Effect Krisis Argentina dan Turki ke Negara-Negara Asia, Benarkah Terjadi?' (2021) Vol 21 No. 1 Jurnal Ekonomi dan Pembangunan Indonesia.[64].

¹⁹ *Ibid.*

implemented since last March. This condition caused the Argentine Government to default on their interest of USD 500 million and restructuring of their foreign bonds which reached USD 65 billion. In this case, the IMF stated for foreign creditors, Argentina's chance to propose leniency in the restructuring is still open. A vice-director to the IMF in the western hemisphere said "there is still room for Argentina in its efforts to increase payment to private creditors".

The Argentine economic crisis is triggered by political problems and the high rate of inflation, worsened with the drought experienced by Argentina. This drought caused crop failure, including corn and wheat. Meanwhile, the political crisis caused the Argentine stock market to decline. On the other hand, the abundance of currency in circulation also became the reason for the high inflation. Argentina's foreign reserves also declined sharply as a result of their effort to guard the stability of their exchange rate. Moreover, the poor performance of exports also caused a trade deficit. This situation caused international rating agencies to downgrade Argentina's debt and equity rating closer to default. The Argentine Government suddenly asked the IMF to liquidate the initial loan of \$ 50 billion (£37,2 billion) from the IMF in the midst of their worsening economic crisis. President Mauricio Macri said such steps are designed to fulfill the trust in the Argentine Economy. The Argentine Peso has lost more than 40% of its value against the US Dollar this year and inflation is rampant.²⁰

At the end of 2019, Alberto Fernandes was officially elected as the new President and promised to reignite economic growth. The election of Alberto Fernandes and his running-mate, former President Christina Fernandes de Kirchner, will be a major challenge for them. This is due to the Legacy of Macri which has caused Argentina to be intertwined in debt to the IMF which is still casting a shadow. As one of the largest economies in Latin America, it is not impossible to face other economic contractions. The current high rate of inflation becomes evidence that the current challenges faced by the Argentine Government are heavy.²¹

²⁰ BBC News, *Argentina asks IMF to release \$50bn loan as crisis worsens*, <https://web.archive.org/web/20181124220850/https://www.bbc.com/news/business-45350218>.

²¹ Usman Tri Wahyudi, *Argentina: Antara Krisis dan COVID-19*, Kumparan, <https://kumparan.com/usman-tri-wahyudi/argentina-antara-krisis-1tq4FyhjXTc/full/gallery/1>.

The steps being taken by the Argentine Economy in encouraging bank loans by lowering requirements for the small and medium scale enterprises, giving regulations which limits ownership of Central Bank bonds by banks to accommodate loans for the small-medium scale enterprises, the temporary leniency of bank provision requirements, and the postponed bank account closures due to declined cheques and refusal of credit for companies with high wage tax arrears. This was proposed to the Government with the purpose of stabilizing the current economic state which is in a downturn.

Regional Governments also implemented an anti price gouging policy, that is the limitation on the price of staple foods, medications, and other staple goods alongside export limitation and centralization of basic medicines.²² Furthermore, the Argentine Government implemented currency control measures with the goal of stabilizing the money market. This policy was taken by the Latin American state's government as the economic crisis worsened. As a result, all companies must now apply for permission from the Argentine Central Bank to sell Peso and buy foreign currency in cases they wish to accommodate international bank transfers.²³

The Argentine Constitution is familiar with this issue, where there lies an exception mechanism to resolve an emergency/extraordinary situation, where it is stipulated in it by conventional means or by permanent means. In Article 4 of the Argentine Constitution states "The Federal Government provides for the expenditures of the Nation with the funds of the National Treasury, composed of the proceeds of export and import duties, the sale or lease of lands owned by the Nation, the revenues of the Posts, other taxes equitably and proportionally levied on the population by the National Congress, and of whatever loans and credit transactions Congress may order in case of national emergencies or for enterprises of national interest".

Meanwhile, the emergency situations as stated in the Constitution of Argentina include: war, domestic chaos, and economic crisis, where Article 76 of the Argentine

²² *Ibid.*

²³ Tommy Patrio Sorongan, *Muncul Lagi Negara Korban Krisis Ekonomi: Argentina*, CNBC Indonesia, <https://www.cnbcindonesia.com/news/20220708144735-4-354084/muncul-lagi-negara-korban-krisis-ekonomi-argentina>.

Constitution refers to “Public Emergency” to receive, in an extraordinary situation, legislative delegation to the executive in a determined amount of time according to the condition of delegation that is determined by congress.²⁴ Beyond Article 76 of the Argentine Constitution, there are two additional normative instruments to resolve a state of economic emergency, which are: legislative power by the president, delegated legislation and determination on needs and urgency. Since the two normative instruments have often been used even though it is not clearly stated in the Constitution of Argentina, the reform of the Argentine Constitution added such element with the purpose of limitation.²⁵

There are several types of legal rules that may be used to determine a stricter limitation on fulfillment of rights in a state of economic emergency. In principle, the Congress is the branch of Government that has the power to declare such a state of economic emergency. Under Article 76 of the Argentine Constitution, Congress also holds the power to delegate every power needed to end the economic crisis to the Executive branch. In cases where a state of economic emergency occurs and the requirements and urgency has been fulfilled, the Executive may use the powers stipulated in Article 99(3) of the Argentine Constitution and issue the decision for need and urgency.

In fact, during the constitutional debate in 1994, one purpose for reform was highlighted, to create a new balance between the operations of the three classic branches of government: Executive, Legislative, and Judicial.²⁶ And thus, to mitigate the presidential system, to strengthen the role of Congress, and to attain larger independence for the judiciary. Under such basis, the Supreme Court noted with firm words and firm Constitution, Argentina implemented limitations for the President as a general rule to pass rules which are legislative in nature, be it due to the President’s own motion (Article 99(3) of Argentine Constitution) or based on delegation made by the Congress (Article 76).²⁷

²⁴ Ricardo L. Lorenzetti, *Nunca más: Emergencia económica y derechos humanos* (A La Ley 2003). [44].

²⁵ Sebastian Ferreyra Romea, *Competition Law in Argentina: Uncertainties Beyond the Pandemic*, <http://competitionlawblog.kluwercompetitionlaw.com/2020/11/23/competition-law-in-argentina-uncertainties-beyond-the-pandemic/>.

²⁶ Daniel A. Sabsay & Cristián H. Fernández, *El fomento de las industrias y la emergencia económica* (D La Ley 886 2016).[15].

²⁷ *Ibid.*

The two sections have declared principles, and also stated the conditions or limitations in which the President has extraordinary authority to conduct legislative function. The wording in the Constitution (Article 99(3) and Article 76) clearly mirrors the decision taken by the 1994 Constitution, on the other hand, maintaining the general principles of legislative power conducted by the President as standard practice and in another sense, to introduce further specifications on the extraordinary conditions which may occur. The definition of general rules and extraordinary cases in the same Constitution, and the procedures that are eventually adopted to ensure the correct operations of the two, is a correlation between two fundamental goals of the constitutional considerations: presidentialism mitigation, and much more. Effective operations by the Federal Government. The most concrete regulation regulating economic emergency in Argentina is Law 25.156, on Protection of Competition National Decree 1.019 of 1999, which regulates national economic policies to ensure market functions, ensure free competition and sanctions which are limitory in nature, distort competition or abuse of market position by means that is able to influence public economic interest.²⁸

V. THEORETICAL ANALYSIS AND COMPARISON WITH INDONESIA

Based on the discussions on the economic crises of France and Argentina, and their efforts in tackling their respective economic crises, the policies issued by the French and Argentine Government is in accordance with Tom Ginsburg and Mila Versteeg's Statutory Authorization theory, where the Statutory Authorization approach is based on the giving of power that is derived from Law.²⁹ According to Ferejohn and Pasquino, in comparison with the constitutional emergency regime, this model has certain specific measures that are able to control the probability of abuse, since the checks and balances system continues to operate.³⁰ Firstly, guaranteeing legislative participation, since the legislative has to appoint the additional powers that will be given to the executive. Secondly, and

²⁸ Martin Guzman, 'An Analysis of Argentina's 2001 Default Resolution' (2020) Vol (62) Comp Econ Stud.[722].

²⁹ Tom Ginsburg & Mila Versteeg, 'The bound executive: Emergency Powers During the Pandemic' (2021) Vol 19 No. 5, I.CON.[1499].

³⁰ *Ibid.*

perhaps more essential, since the constitutional framework continues to exist, the actions of the executive is under the scrutiny of the judiciary. This means, courts are able to study whether the constitutional right limitation is needed and proportional, and whether it was issued or passed properly.

France and Argentina in their efforts to resolve their respective economic crises, implemented the concept of Statutory Authorization, where for the case of France, the Law grants exceptional power to the head of the AMF to prevent the recurrence the situation it experienced in the Fall of 2008 when deciding to suspend the selling of short securities in the financial sector without being in the position to depend on a specific laws and regulations on the matter. In this case, France granted power in the emergency situation through Law, specifically the Macron Law, in the first section of the Law with the purpose of strengthening financial sector regulations and therefore the Law introduced several essential steps, such as short sales, derivative market and rating agencies regulation, strengthening and broadening of the scope of sanctions from laws and regulations. As a legal policy with the purpose of accelerating economic growth, *Loi Macron* mirrors a shift from strict regulation to a more open and competitive system. However, in its implementation, this law is not free from controversies and criticism, especially in the labor protection aspect and in the passing mechanism which is seen as less democratic. As such, *Loi Macron* becomes a concrete example on how changes to economic policy must always be studied in its liberalization and social rights protection under the fair and continuity legal principle.

However, for the case of Argentina, there is specific mention of emergency situations in the Argentine Constitution which consists of: war, domestic chaos, and economic crisis, where Article 76 of the Argentine Constitution refers to “Public Emergency” to receive, in extraordinary situations, legislative delegation to the executive with a specific period of time to conduct it and in accordance with the conditions of delegation set by Congress. Furthermore, in Law 25.156, on Protection of Competition National Decree 1.019 of 1999, which regulates national economic policies to ensure market function, fair competition and sanctions which are limitory in nature, distort competition or abuse of market position with means that may affect public economic interest. Additionally, the

regional governments implemented anti price gouging policies, which is the limitation of the price of staple goods, medications and other essential goods, alongside export limitation and centralization of essential medications.

In Indonesia, the Covid-19 pandemic which was experienced globally did not only result in a medical crisis, but also an economic crisis. Therefore, the government in both the central and national levels issued varying policies to limit the spread of COVID-19 and policies which aimed at mitigating the social and economic impact of this pandemic.³¹ However, the implementation of such policies must be observed and requires evaluation to understand its efficacy. An effort by the Government in resolving the effects of the Pandemic is by formulating the *Pemulihan Ekonomi Nasional* (PEN) program.³² The PEN Program is a part of extraordinary policy. The rapid and rampant spread of COVID-19 created a medical crisis (29 February 2020) in Indonesia, thus needing PERPU 1/2020 (Emergency Law no. 1 of 2020) to handle the COVID-19 pandemic and/in an effort to face the threat of financial system stability or the economy which is then passed as UU 2/2020 (Law no. 2 of 2020).

Law no. 2 of 2020 provides a legal basis for the Government to carry out extraordinary steps in handling the Pandemic and its impacts, including in the aspect of state finances. A form of implementation of this regulation is the flexible allocation of the state budget for the health sector, social protection, and support to the business sector, especially micro, small, and medium scale enterprises. In the context of social protection, the Government strengthened several support programs including the *Bantuan Langsung Tunai* (BLT) (direct cash support) program, Pre-employment Card, and incentives for workers and BPJS Ketenagakerjaan participants which have been affected by the pandemic. BPJS Ketenagakerjaan, as the public legal entity in charge of guaranteeing social security for workers, also participated in the implementation of this policy through contribution relaxation for participants and the giving of additional benefits to lighten the weight on

³¹ *Badan Kebijakan Fiskal (Kementrian Keuangan Republik Indonesia), Atasi Krisis Akibat COVID-19: Pemerintah Responsif Rumuskan Program Pemulihan Ekonomi Nasional*, 2020, <https://fiskal.kemenkeu.go.id/baca/2020/06/06/154235339108256-atasi-krisis-akibat-pemerintah-responsif-rumuskan-program-pemulihan-ekonomi-nasional>.

³² *Ibid.*

workers affected by the pandemic.³³

Additionally in an effort to maintain the stability of the financial system, the Government alongside Bank Indonesia (the central bank of Indonesia) and Otoritas Jasa Keuangan (OJK) (Financial Services Authority) issued several policies, such as credit restructuring and interest subsidies to support the business sector to survive in the midst of outstanding economic pressure. These steps were expected to accelerate national economic recovery and maintain people's welfare during the crisis.³⁴ However, the efficacy of the implementation of such policies cannot be separated from challenges in the field, such as the limitation of the budget, bureaucracy bottlenecks, and the compliance of the people in implementing health protocols and taking advantage of the given support. Thus, periodic evaluation in regards to the PEN policy becomes crucial to ensure the relevancy of steps taken and to give optimal benefits for the people and the economy as a whole.

Such policies are in accordance with Tom Ginsburg and Mila Versteeg's Statutory Authorization theory, where the power is given by law. Aside from Statutory Authorization, when seen from the decision to issue policies in response to the conditions caused by the Covid-19 pandemic, then the dominant model utilized by Indonesia is legislative model decision, which is the activation of the state of emergency that is based on law.³⁵ This decision is marked by the issuance of Keputusan Presiden Nomor 11 Tahun 2020 tentang Penetapan Kedaruratan Kesehatan Masyarakat Corona Virus Disease 2019(Covid-19) (Presidential Decree no. 11 of 2020 on the Declaration of Public Health Emergency Covid-19) which activated Undang-Undang Nomor 6 Tahun 2018 tentang Kekarantinaan Kesehatan (Law no. 6 of 2018 on Health Quarantine) which was followed by the issuance of Keputusan Presiden Nomor 12 Tahun 2020 tentang Penetapan Bencana Nonalam Penyebaran Corona Virus Disease 2019 (Covid-19) sebagai Bencana Nasional (Presidential Decree no. 12 of 2020 on the Declaration of Covid-19 Spread Unnatural

³³ *Ibid.*

³⁴ Ulfa Puspa Wanti Widodo & Mutiara Rachma Ardhiani, 'Efektivitas Program Pemulihan Ekonomi Nasional Bagi Pertumbuhan Ekonomi Indonesia' (2022) Vol 6 No. 2 Owner: Riset Dan Jurnal Akuntansi. [2119].

³⁵ Fitra Arsil & Qurrata Ayuni, 'Model Pengaturan Kedaruratan dan Pilihan Kedaruratan Indonesia Dalam Menghadapi Pandemi Covid-19' (2020) Vol 50 No. 2 Jurnal Hukum & Pembangunan.[442].

Disaster as a National Emergency) which activated Undang-Undang Nomor 24 Tahun 2007 tentang Penanggulangan Bencana (Law no. 24 of 2007 on Disaster Management).

The activation of the two Laws specifically wants to manage the emergency from the public health perspective and the aforementioned unnatural emergency is in line with Ginsburg and Versteeg's statement as "*the use of existing legislation dealing with public health or national disasters*" or as referred to by Ferejohn and Pasquino as the legislative model.³⁶ This Approach shows that the Government relies on existing legal instruments to respond to the crisis, ensuring the legitimacy of their policies within the applicable legal framework and strengthening inter-agency coordination in managing the pandemic.

In this context, the utilization of existing regulations provides a stronger legal basis when compared with an *ad-hoc* approach or reactive policies. The existence of mature legal instruments allows the Government to act without going through a lengthy legislation process, resulting in the ability to respond swiftly and effectively. In addition, this approach also reflects the Government's effort in maintaining the balance of interest between public health and the principles of democracy, where the policies taken are still under control of the law and the check and balance mechanism.

Furthermore, the utilization of existing legal instruments strengthens the legitimacy of government actions in the eyes of the public and other bearers of interest. With a clear legal basis, the implemented policies have legal certainty, decreasing the probability for legal challenges, and increasing compliance by many parties. This approach also coordinates a more effective coordination between the Central Government, Regional Government, and other related sectors in jointly managing the emergency situation.

VI. CONCLUSION

The handling or management of economic crises by states around the globe is done through varying policies that are tailored to their respective conditions and legal system. France, Argentina, and Indonesia are examples of states which face economic crises with differing approaches but with the common utilization of Statutory Authorization

³⁶ *Ibid.*

mechanism.

in France, Macron Law (Law no. 2015-990) aims to increase the competitiveness of the economy through market deregulation and labor reforms. This Law gives the French Government authority to accelerate economic growth. Argentina managed its economic crisis with Article 76 and Article 99 (3) of the Argentine Constitution as its legal basis, which allows for emergency actions through Law No. 25.156 on Protection of Competition and National Decree 1.019 of 1999. This policy focuses more on the protection of business competition and state intervention in an urgent economic situation. Indonesia faced its crisis due to Covid-19 through the *Pemulihan Ekonomi Nasional* (PEN) Program, which is based on Undang-Undang No. 2 Tahun 2020 tentang Penetapan Perppu No. 1 Tahun 2020 menjadi Undang-Undang (Law no. 2 of 2020 on the Passing of Emergency Law no. 1 of 2020 into Law.) This policy gives broad authority to the Government to take economic steps to protect national stability.

This policy gives broad authority to the Government to protect economic stability. Aside from Statutory Authorization, Indonesia also adopted the Legislative Model, whereby as explained by Tom Ginsburg and Mila Versteeg, is a model where emergency policies remain under the scrutiny or supervision of the legislative. As such, although each states has varying approaches, the three demonstrates how power given by law (Statutory Authorization) becomes a main instrument in facing an economic crisis, be it through economic deregulation such as in the case of France, protection of business competition such as in the case of Argentina, or fiscal and monetary stimulus such as in the case of Indonesia. In addition, government policies also include the acceleration of economic digitalization, strengthening the micro, small, and medium-scale enterprises ecosystem, and increasing funding access for the informal sector.

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