

RESEARCH ARTICLE

# IMPLEMENTATION OF LOCAL REGULATION ON HEALTH PROTOCOL DURING COVID-19 OUTBREAKS IN PONTIANAK INDONESIA

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## ABSTRACT

The city of Pontianak is the entrance to various regions and is the heart of defense in West Kalimantan in preventing the Covid-19 virus, encouraging all regional heads to issue policies and rules to maintain the safety of the health of their citizens. Pontianak Mayor Regulation Number 58 of 2020 serves as a legal umbrella in an effort to prevent the spread of Covid-19. Become the basis of authority for the local government of Pontianak City in forming policies and regulations in the area. The role of the Pontianak city government in issuing policies and rules to break the chain of the spread of the Covid-19 virus. The efforts of the Pontianak city government to participate in assisting the central government program, which is the task of the national government in breaking the chain of the Covid-19 virus. This research is intended to analyze the law and policy concerning the Covid-19 handling in Indonesia, especially in Pontianak City. This research compared some laws and regulation both national and local regulation related to Covid-19 handling.

**Keywords:** *Covid-19 Handling; Law and Policy; Local Regulation; Health Policy*

## INTRODUCTION

Corona Virus Disease 2019 or Covid-19 as an infectious disease caused by a virus, which has a very fast spread throughout the world. COVID-19 (coronavirus disease 2019) is a disease caused by a new type of coronavirus, namely Sars-CoV-2, which was first reported in Wuhan, China on December 31, 2019. COVID-19 was first reported in Indonesia on March 2, 2020. Indonesia today really needs treatment as early as possible. Several steps have been taken by the Central Government and the City Government so that the disease outbreak that is now engulfing Indonesia does not spread widely, including implementing a Health Protocol policy. One of the duties of the government is to maintain the health and welfare of the people. After the issuance of the Health Protocol policy, many aspects of the economy were affected. Various efforts must be made by the government so that the community remains safe and maintains their health, so that various regulatory policies are carried out in community mobility activities to support the economic sector, education, and other sectors so that they can run in the midst of the Covid-19 virus pandemic.

The Regional Government of Pontianak City is a party that is in direct contact with the local community because Indonesia is a state of law, so in making the laws and regulations mentioned in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia ([The 1945 Constitution of Indonesia](#)).

According to Friedich Juluis Stahl, the characteristics of the rule of law (*Rechstaat*) are as follows: 1) the protection of human rights; 2) there is a separation of powers to guarantee these rights; 3) the existence of a government based on regulations (*wetmatigheid van bestuur*); 4) the existence of an administrative court that is free in disputes ([Ridwan, 2011](#)). So, in making local government regulations, the city of Pontianak must be based on the elements of the state of law, so it must pay attention to the provisions governing the authority in local government based on existing regulations.

In Article 18 of the 1945 Constitution, it is stated that the implementation of regional government is based on its authorities and responsibilities, so that it refers to existing regulations. Based on Article 18 paragraph (5) of the 1945 Constitution of the Republic of Indonesia, it is stated that regional governments carry out autonomy as wide as possible. its breadth, except in matters which are determined by law to be the affairs of the central government. The law that forms the basis of regional government as has been updated with some of its articles by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government.

Covid-19 in Indonesia is increasing day by day so public health must really be prioritized. So that the Regional Government in making regulations must pay attention to laws and regulations such as:

1. Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia;

2. Law Number 27 of 1959 concerning Stipulation of Emergency Law Number 3 of 1953 concerning the Establishment of Level II Regions in Kalimantan (State Gazette of the Republic of Indonesia of 1953 Number 9) As amended by Law Number 8 of 1965 concerning the Establishment of Level II Regions Tanah Laut, Tapin Level II Regions and Tabalong Level II Regions by amending Law Number 27 of 1959 concerning Stipulation of Emergency Law Number 3 of 1953 concerning the Establishment of Level II Regions in Kalimantan (State Gazette of the Republic of Indonesia of 1965 Number 51, Supplement to the Gazette of the Republic of Indonesia of 1965 Number 51, Supplement to the Sheet Republic of Indonesia Number 2756);
3. Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases (State Gazette of the Republic of Indonesia of 1984 Number 66, Supplement to the State Gazette of the Republic of Indonesia Number 4723);
4. Law Number 24 of 2007 concerning Disaster Management (State Gazette of the Republic of Indonesia of 2007 Number 66, Supplementary State Gazette of Indonesia Number 4723);
5. Law Number 36 of 2009 concerning Health (State Gazette of the Republic of Indonesia of 2009 Number 114, Supplement to the State Gazette of the Republic of Indonesia Number 5063);
6. Law Number 5 of 2014 concerning State Civil Apparatus (State Gazette of the Republic of Indonesia of 2014 Number 6);
7. Law Number 23 of 2014 concerning Regional Government (State Gazette of the Republic of Indonesia of 2014 Number 244, Supplement to the State Gazette of the Republic of Indonesia Number 5587) as amended several times, most recently by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government (State Gazette of the Republic of Indonesia of 2015 Number 58, Supplement to the State Gazette of the Republic of Indonesia Number 5679);
8. Law Number 30 of 2014 concerning Government Administration (State Gazette of the Republic of Indonesia of 2014 Number 292, Supplement to the State Gazette of the Republic of Indonesia Number 5601);
9. Law Number 6 of 2018 concerning Health Quarantine (State Gazette of the Republic of Indonesia of 2018 Number 128, Supplement to the State Gazette of the Republic of Indonesia Number 6236);
10. Government Regulation Number 49 of 1991 concerning Management of Outbreaks of Infectious Diseases (State Gazette of the Republic of Indonesia of 1991 Number 49, Supplement to the State Gazette of the Republic of Indonesia Number 3447);
11. Government Regulation No. 21 of 2008, concerning Disaster Management Implementation (Sheet Country Republic of Indonesia Year 2008 Number 42, Supplement to the State Gazette of the Republic of Indonesia Number 4528);
12. Government Regulation Number 53 of 2010 concerning Discipline of Civil

- Servants (State Gazette of the Republic of Indonesia of 2010 Number 74, Supplement to the State Gazette of the Republic of Indonesia Number 5135);
13. Government Regulation Number 88 of 2019 concerning Occupational Health (State Gazette of the Republic of Indonesia of 2019 Number 251, Supplement to the State Gazette of the Republic of Indonesia Number 6444);
  14. Government Regulation Number 21 of 2020 concerning Scaled Social Restrictions Great in the Context of Accelerating the Handling of Corona/ Virus Disease 2019 (COVID-19) (State Gazette of the Republic of Indonesia of 2020 Number 91, Supplement to the State Gazette of the Republic of Indonesia Number 6487);
  15. Presidential Decree No. 11 of 2020 concerning the Determination of the Corona Virus Disease 2019 (COVID-19) Public Health Emergency;
  16. Presidential Decree Number 12 of 2020 concerning the Determination of Non-Natural Disasters Spreading Corona Virus Disease 2019 (COVID-19) as National Disasters;
  17. Decree of the Minister of Health Number HK.01.07/Menkes/247/2020 concerning Guidelines for the Prevention and Control of Corona Virus Disease 2019 (COVID-19);
  18. Decree of the Minister of Health Number HK.02.01/Menkes/335/2020 concerning Protocol for the Prevention of Corona Virus Disease 2019 (COVID-19) Transmission in the Workplace of the Service and Trade Sector (Public Area) in Supporting Business Continuity;
  19. West Kalimantan Governor Regulation Number 110 of 2020 concerning the Implementation of Discipline and Law Enforcement of Health Protocols as an Effort for Prevention and Control of Corona Virus Disease 2019 (West Kalimantan Provincial Gazette of 2020 Number 110);
  20. Regional Regulation Number 13 of 2012 concerning Control of Infectious Diseases (Gazette Area Pontianak City Year 2012 Number 13, Supplement to the Regional Gazette of Pontianak City Number 114);
  21. Presidential Instruction Number 6 of 2020 concerning Discipline Improvement and Law Enforcement of Health Protocols in the Prevention and Control of Corona Virus Disease 2019;
  22. Instruction of the Minister of Home Affairs Number 4 of 2020 concerning Technical Guidelines for Drafting Regional Head Regulations in the Context of Implementing Discipline and Law Enforcement of Health Protocols as Efforts to Prevent and Control Corona Virus Disease 2019 in the Regions;
  23. Circular Letter of the Minister of Trade Number 12 of 2020 concerning Recovery of Trading Activities Conducted During the 2019 Corona Virus Disease Pandemic and New Normal;
  24. Mayor's Circular Letter Number 34/EKON-SDA/2020 concerning Implementation of the New Normal Guidelines for Health Protocols (New Normal) for Trade and Service Sector Activities (In Public Areas) in Supporting Business Continuity During the Corona Virus Disease 2019

(COVID-19) Pandemic in Cities Pontianak; and

25. Mayor's Circular Letter Number 39/EKON-SDA/TAHUN 2020 concerning the Implementation of Health Protocols Adapting to New Habits Towards a Productive and Free Society of Corona Virus Disease 2019 (COVID-19) in the Entertainment Services Sector, Organizing Wedding Reception Services, Recreational Parks and Fitness Centers (Fitness Centers) in Pontianak

The Pontianak city government in issuing policies and legal rules to break the chain of the corona virus so that its citizens stay healthy and avoid Covid-19, must pay attention to Law Number 12 of 2011 concerning the Establishment of Legislative Regulations. Some studies found that Covid-19 has been affected many sectors in Pontianak City, not only education and health sector, but also economic, law and culture. In some studies also confirmed that Covid-19 have a significant impact on the increase in cases of crime and violence (Sisca, 2020; Sampurno, 2020), Astariuani & Sudiarawan, 2021; Kurniasih, 2020; Pratiwi, 2021; Yunus & Rezki, 2020; Hanafi, et.al, 2020; Ristyawati, 2020; Darmawan & Armojo, 2020; Tuwu, 2020; Amrynudin & Katharina, 2020).

Based on the background of research, the basic questions arise for the local government of the city of Pontianak in making the policy of the regional regulation:

1. What is the basis for the formation of regional regulations in the context of prevention in order to break the chain of covid-19?
2. What actions are taken by regional heads in prevention to break the chain of covid-19?

## METHOD

In conducting research, the author uses the normative legal method by studying library materials or secondary data that will be examined (Soekanto & Mamudji, 2003). In this study, law is often interpreted as what is written in legislation or the law is interpreted as an action to change human behavior in life that is considered appropriate (Amiruddin & Asikin, 2006). The approach used is juridical, namely research using literature studies, with statutory regulations as the main material. So that through a qualitative approach in finding relevant data based on problems in the field. So that the data obtained must be analyzed in order to produce answers to the topic of the problem in a structured and accurate manner. So, in this study, it is able to contribute thoughts or input for readers, especially the government, both the central government and local governments in handling prevention in order to break the chain of covid-19.

## LOCAL REGULATION FOR HANDLING COVID-19: LEGAL EFFECTIVENESS ANALYSIS IN PONTIANAK CITY INDONESIA

During this pandemic, maintaining public health is highly prioritized by the government so that it is a welfare state. To carry out a welfare state regulation, it is a major obligation for the power holders to make an appropriate policy, so that people can get their rights. According to E. Utrecht, the state must actively participate in society, so that the government's job opportunities will be wider. State administration is entrusted with the obligation to organize public welfare (*bestuurszorg*)" (Utrecht, 1998). Seeing the necessity of policies issued in basic regulations according to the constitution in Indonesia, the discussion of this research is a basic analysis of regional government policies in participating in prevention to break the chain of the Covid-19 virus.

### A. Formation of the Pontianak Mayor Regulation in the Prevention of Covid-19

The Pontianak City Government has a direct role in maintaining the health of the Pontianak City community within its government area. The task of the regional government is related to the livelihood of the people as the goal of the State based on the Preamble to the 1945 Constitution of the Republic of Indonesia. So that the responsibility of the regional government is very important and must be supported by policies taking into account a statutory rule that will be issued to prevent the spread of Corona Virus Disease 2019 (Covid-19) so that this policy can break the chain of the Covid-19 virus. Article 18 paragraph (7) of the 1945 Constitution of the Republic of Indonesia has regulated the procedures for implementing regional government, including: Who is government, and what is government? From these two meanings, government in a broad sense is all activities in the administration of the state carried out by a state that has the authority to exercise power to achieve goals. Meanwhile, government in a narrow sense is an activity carried out by the executive function in this case carried out by the president, ministers to the lowest bureaucracy (Chatim, 2006).

In Article 18 paragraph (7) of the 1945 Constitution of the Republic of Indonesia, it can be said that the function of regional government in carrying out their government must be supported by the laws that regulate it so that regional government regulations, as regulations for the implementation of regional autonomy within the regional government. Determination of areas that are considered to have to carry out Health Protocols or in other words social distancing by regional heads, is very important to pay attention to public health with the increasing outbreak of the corona virus in the regional environment.

Authority is an understanding that comes from the law in government, which can be carried out as a rule relating to authority in a government by public legal relations. Meanwhile, according to Bagir Manan, authority in legal language is not the same as power (*match*). Power is a right to do or not to do. In law, authority is a right and an obligation, the right means the power to regulate someone and which is an obligation in the power to run the government in a bond of government regulations as a whole (Ridwan, 2011, pp. 101-102). In line with the main objective of the rule of law, namely the principle of legality (*legaliteitbeginsel* or *het beginsel van wetmatigheid van bestuur*), based on the description above, it is clear that government authority comes from the laws and regulations.

The authority of the City and Regency regional governments based on Article 18 paragraph (6) of the 1945 Constitution is regulated as follows: "*Local governments have the right to stipulate regional regulations and other regulations to carry out autonomy and assistance tasks*" (The 1945 Constitution of Indonesia). In administering the government, the central government uses the principle of decentralization, assistant duties in accordance with statutory regulations. Local governments in administering government use the principle of decentralization and co-administration (Abdullah, 2005).

Based on the 1945 Constitution of the Republic of Indonesia as well as the Regional Government Law, we get an understanding of the regional regulations issued to prevent the spread of COVID-19 in the local government environment, the source of the authority is the decision, namely the authority obtained directly from the legislation, not based on the orders of the officials above. In addition, in making local government decisions, it is very clear in the laws and regulations (Art. 7 of Law Number 12 of 2011 concerning the Establishment of Legislation), namely:

1. Types and hierarchy of laws and regulations consist of:
  - a. the 1945 Constitution of the Republic of Indonesia;
  - b. Decree of the People's Consultative Assembly;
  - c. Laws/Government Regulations in Lieu of Laws;
  - d. Government regulations;
  - e. Presidential decree;
  - f. Provincial Regulations; and
  - g. Regency/City Regional Regulation
2. The legal force is binding as long as it is ordered by a higher Legislation in accordance with the meaning referred to in Article 8 paragraph (1) of Law Number 12 of 2011 concerning the Establishment of Legislation.

From the description above, it can be concluded that regional heads have the authority to implement policies regarding the implementation of health protocols, based on the needs and vigilance of the region. Thus, it is very effective if each region makes different regulations based on existing regulations so that from one province to another, to make policies that can save the health of its

citizens from the dangers of COVID-19.

## **B. The Role of Regional Heads in Efforts to Prevent the Spread of Covid-19**

The role of regional heads in the regions in making policies. As regulated in Article 9 of the Regional Government Law regarding the classification of government affairs, including: Paragraph (1), Government affairs consist of absolute government affairs, concurrent government affairs, and general government affairs; Paragraph (2), absolute government affairs as referred to in paragraph (1) are government affairs which are fully under the authority of the Central Government; Paragraph (3), concurrent government affairs as referred to in paragraph (1) are government affairs which are divided between the Central and Provincial and Regency/City Governments; Paragraph (4), concurrent government affairs that are handed over to the regions become the basis for the implementation of regional autonomy; Paragraph (5) Article 9 of Local Government Law, as an example of the application of basic authority to regulations and their role in handling cases of COVID-19, including the City Regional Government.

## **CONCLUSION**

From the results of the study, it can be concluded that the formation of regional head regulations, in overcoming the spread of the covid-19 virus, comes from decisions, based on direct authority from the 1945 Constitution and the Regional Government Law. The regional head regulation, in breaking the chain of the spread of COVID-19, is to carry out government affairs that have been mandated by law to assist general government affairs which are the responsibility of the central government. In order for the prevention of the spread of COVID-19 to run well, strict action must be taken according to its authority based on the laws and regulations, but unfortunately the number of victims infected with the corona virus is increasing. While there are still many people who have economic impacts that have not yet received equal distribution of their needs, the author's advice to the government must be further improved regarding the need for medical equipment in various health services, especially for health services that directly handle cases of COVID-19, as well as providing assistance that is needed. targeted at the community and Micro, Small and Medium Enterprises actors who are also economically affected by the implementation to continue to pay attention to the "*Health Protocol*".

## SUGGESTION

The Pontianak mayor's regulation must be implemented properly, in the field there are still many Pontianak City people who do not comply with health protocols and use masks, as stipulated in the Pontianak mayor's regulation Number 58 of 2020 It is necessary to pay attention to the foundation in the formation of the legislation so that the community is able and able to implement it , not only afraid of officers or not being fined, but because these regulations are to keep people's health safe from the virus and can break the chain of the covid-19 virus. The role of the government in handling the Covid-19 case needs to be further enhanced, so that this outbreak does not continue to be a fear in the community, because until now the Covid-19 case has not disappeared in Indonesia.

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### **Laws and Regulations**

Undang-undang Dasar Republik Indonesia Tahun 1945

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- Undang-Undang Nomor 4 Tahun 1984 tentang Wabah Penyakit Menular (Lembaran Negara Republik Indonesia Tahun 1984 Nomor 66, Tambahan Lembaran Negara Republik Indonesia Nomor 4723);
- Undang-Undang Nomor 24 Tahun 2007 tentang Penanggulangan Bencana (Lembaran Negara Republik Indonesia Tahun 2007 Nomor 66, Tambahan Lembaran Negara Indonesia Nomor 4723);
- Undang-Undang Nomor 36 Tahun 2009 tentang Kesehatan (Lembaran Negara Republik Indonesia Tahun 2009 Nomor 114, Tambahan Lembaran Negara Republik Indonesia Nomor 5063);
- Undang-Undang Nomor 5 Tahun 2014 tentang Aparatur Sipil Negara (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 6);
- Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 244, Tambahan Lembaran Negara Republik Indonesia Nomor 5587) sebagaimana telah

- diubah beberapa kali terakhir dengan Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua Atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah (Lembaran Negara Republik Indonesia Tahun 2015 Nomor 58, Tambahan Lembaran Negara Republik Indonesia Nomor 5679);
- Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 292, Tambahan Lembaran Negara Republik Indonesia Nomor 5601);
- Undang-Undang Nomor 6 Tahun 2018 tentang Keekarantinaan Kesehatan (Lembaran Negara Republik Indonesia Tahun 2018 Nomor 128, Tambahan Lembaran Negara Republik Indonesia Nomor 6236);
- Peraturan Pemerintah Nomor 49 Tahun 1991 tentang Penanganan Wabah Penyakit Menular (Lembaran Negara Republik Indonesia Tahun 1991 Nomor 49, Tambahan Lembaran Negara Republik Indonesia Nomor 3447);
- Peraturan Pemerintah Nomor 21 Tahun 2008, tentang Penyelenggaraan Penanggulangan Bencana (Lembaran Negara Republik Indonesia Tahun 2008 Nomor 42, Tambahan Lembaran Negara Republik Indonesia Nomor 4528);
- Peraturan Pemerintah Nomor 53 Tahun 2010 tentang Disiplin Pegawai Negeri Sipil (Lembaran Negara Republik Indonesia Tahun 2010 Nomor 74, Tambahan Lembaran Negara Republik Indonesia Nomor 5135);
- Peraturan Pemerintah Nomor 88 Tahun 2019 tentang Kesehatan Kerja (Lembaran Negara Republik Indonesia Tahun 2019 Nomor 251, Tambahan Lembaran Negara Republik Indonesia Nomor 6444);
- Peraturan Pemerintah Nomor 21 Tahun 2020 tentang Pembatasan Sosial Berskala Besar dalam Rangka Percepatan Penanganan Corona\ Virus Disease 2019 (COVID-19) (Lembaran Negara Republik Indonesia Tahun 2020 Nomor 91, Tambahan Lembaran Negara Republik Indonesia Nomor 6487);
- Keputusan Presiden Nomor 11 Tahun 2020 tentang Penetapan Kedaruratan Kesehatan Masyarakat Corona Virus Disease 2019 (COVID-19);
- Keputusan Presiden Nomor 12 Tahun 2020 tentang Penetapan Bencana Non Alam Penyebaran Corona Virus Disease 2019 (COVID-19) Sebagai Bencana Nasional;
- Keputusan Menteri Kesehatan Nomor HK.01.07/Menkes/247/2020 tentang Pedoman Pencegahan dan Pengendalian Corona Virus Disease 2019 (COVID-19);
- Keputusan Menteri Kesehatan Nomor HK.02.01/Menkes/335/2020 tentang Protokol Pencegahan Penularan Corona Virus Disease 2019 (COVID-19) di Tempat Kerja Sektor Jasa dan Perdagangan (Area Publik) dalam Mendukung Keberlangsungan Usaha;
- Peraturan Gubernur Kalimantan Barat Nomor 110 Tahun 2020 tentang Penerapan Disiplin Dan Penegakan Hukum Protokol Kesehatan Sebagai

- Upaya Pencegahan Dan Pengendalian Corona Virus Disease 2019 (Berita Daerah Provinsi Kalimantan Barat Tahun 2020 Nomor 110);
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- Instruksi Presiden Nomor 6 Tahun 2020 tentang Peningkatan Disiplin dan Penegakan Hukum Protokol Kesehatan Dalam Pencegahan dan Pengendalian *Corona Virus Disease 2019*;
- Instruksi Menteri Dalam Negeri Nomor 4 Tahun 2020 tentang Pedoman Teknis Penyusunan Peraturan Kepala Daerah Dalam Rangka Penerapan Disiplin dan Penegakan Hukum Protokol Kesehatan Sebagai Upaya Pencegahan dan Pengendalian *Corona Virus Disease 2019* di Daerah;
- Surat Edaran Menteri Perdagangan Nomor 12 Tahun 2020 tentang Pemulihan Aktivitas Perdagangan yang Dilakukan Pada Masa Pandemi *Corona Virus Disease 2019* dan *New Normal*;
- Surat Edaran Walikota Nomor 34/EKON-SDA/2020 tentang Penerapan Protokol Kesehatan Pedoman Normal Baru (*New Normal*) Aktvitas Sektor Perdagangan dan Jasa (Pada Area Publik) Dalam Mendukung Keberlangsungan Usaha Pada Masa Pandemi *Corona Virus Disease 2019* (COVID-19) di Kota Pontianak;
- Surat Edaran Walikota Nomor 39/EKON-SDA/TAHUN 2020 tentang Penerapan Protokol Kesehatan Adaptasi Kebiasaan Baru Menuju Masyarakat Produktif dan Bebas *Corona Virus Disease 2019* (COVID-19) Sektor Jasa Hiburan, Jasa Penyelenggaraan Resepsi Pernikahan, Taman Rekreasi dan Pusat Kebugaran (Fitness Center) di Kota Pontianak.