



THE IMPACT OF THE COVID-19 PANDEMIC ON INFECTIOUS DISEASE CONTROL REGULATIONS IN INDONESIA

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ABSTRACT

The COVID-19 pandemic exposed critical fragilities within Indonesia's legal framework for infectious disease control, manifesting as regulatory fragmentation, overlapping jurisdictional authorities, and asymmetrical human rights protections particularly regarding compensation for vulnerable populations. This study analyses post-pandemic legal transformations, including Law No. 17 of 2023, which incorporates technological innovations yet retains significant gaps in constraining emergency powers and ensuring oversight mechanisms. Comparative analysis with Singapore, Hong Kong, and Thailand reveals divergent approaches to emergency authority delegation, legislative scrutiny, judicial review, and compensatory frameworks. This study utilises 15 primary legal sources. Additionally, 19 secondary legal materials, published between 2019 and the issuance of Presidential Decree of the Republic of Indonesia Number 17 of 2023 concerning the Declaration of the End of the Coronavirus Disease 2019 (COVID-19) Pandemic Status, are employed. Furthermore, five tertiary legal materials are used. These legal materials serve as the basis for examining the identified legal issues. The legal material analysis technique adopted in this study involves descriptive analysis, which includes expert opinions, conclusions, legal interpretations, and comparative legal analysis. The resurgence of COVID-19 in neighbouring states underscores the imperative for sustained preparedness. We recommend: (i) comprehensive statutory revisions; (ii) regulatory harmonisation; (iii) establishment of independent dispute-resolution mechanisms; (iv) enactment of robust health data protection legislation; and (v) enhanced surveillance and risk communication capacities. These reforms are fundamental to constructing a legally resilient, adaptive, and equitable system capable of mitigating future pandemic threats while balancing public health imperatives with constitutional safeguards.

Keywords: covid-19 pandemic; governance; health law; human rights; regulatory reform

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INTRODUCTION

Public health is a fundamental element of sustainable national development (Japar et al., 2024). From a legal and human rights (HR) perspective, health transcends mere absence of disease; it constitutes a constitutional right guaranteed by the Undang-Undang Dasar Negara Republik Indonesia 1945 (Tobroni, 2020). Article 28H (1) explicitly affirms every citizen's right to health services, prosperity, and habitation (Utama, 2024). This obligates the state to fulfil, protect, and respect health rights through holistic policies. Globally, the right to health is recognised in international instruments like the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Both emphasise state duties to ensure safe, affordable, and inclusive healthcare access (Januarsyah et al., 2023). However, this right is often threatened by infectious diseases (e.g., tuberculosis, HIV/AIDS, COVID-19), which can trigger multidimensional crises. Such diseases endanger individual lives and disrupt economic stability, social resilience, and national security. The COVID-19 pandemic, for instance, proved that non-adaptive health systems could paralyse national governance within months (Monardo, 2020).

As part of the global community, Indonesia faced severe challenges during the pandemic. The COVID-19 health crisis revealed legal system fragilities in responding to large-scale outbreaks (Dadek et al., 2023). The government implemented emergency policies like Large-Scale Social Restrictions (PSBB), partial lockdowns, and accelerated vaccination. Regulations such as Government Regulation in Lieu of Law (Perppu) No. 1 of 2020 and Home Affairs Ministry Regulation (Inmendagri) No. 25 of 2022 were issued to address legal voids. Yet, these policies often overlapped and created uncertainty, exemplified by jurisdictional conflicts over lockdown authority between the Central Government and Jakarta. Additionally, individual rights restrictions (e.g., vaccination mandates for public transport) sparked ethical debates between public interests and civil liberties.

Legally, Indonesia possesses regulatory frameworks like Health Quarantine Law No. 6 of 2018 and Health Law No. 36 of 2009 (Nasruddin & Haq, 2020). However, neither adequately addressed pandemic dynamics. For example, the Health Quarantine Law omitted economic compensation mechanisms for PSBB-affected communities, while the Health Law failed to accommodate urgent big data-based early-detection technology. Consequently, the government relied heavily on temporary, ambiguously interpreted emergency legal instruments. Post-pandemic, collective awareness emerged to reform the infectious disease control system via revising Health Law No. 36 of 2009 into Law No. 17 of 2023. This transformation is not merely technical (e.g., new regulations) but conceptually shifts paradigms from reactive approaches to evidence-based preventive policies. While the state must strengthen emergency powers for outbreak anticipation, fundamental public rights must remain protected. The central question arises: how to construct a legal system balancing public health emergencies with the rule of law and HR principles?

This study aims to analyse transformations in Indonesia's infectious disease control legal system in response to COVID-19 dynamics and their implications for post-crisis health governance and rights protection. First, it examines regulatory and policy developments pre- and during the pandemic, focusing on structural weaknesses in existing frameworks: overlapping norms, implementation inconsistencies, and absent compensation mechanisms for affected communities. Second, it evaluates legal implications of post-pandemic emergency policies, including impacts on state authority, human rights, and intergovernmental coordination during crises. Through a holistic approach, this study also formulates policy recommendations to fortify adaptive, equitable legal systems that balance public health interests with constitutional rights protection. Thus, its contributions extend beyond enriching health law literature to providing a governmental roadmap for future infectious disease threats. This research holds academic and practical urgency. Theoretically, it addresses gaps in post-crisis health law reform literature, underexplored in Indonesian legal studies. Practically, its recommendations guide policymakers in drafting resilient, equitable, and HR-oriented regulations.

METHOD

This research is normative legal research, also referred to as doctrinal research, which involves a literature-based study by examining library materials relevant to the research object. The study employs a statute approach and a case approach. The method applied involves analysing legal norms through the identification of legal rules, principles, and doctrines in order to address the legal issues under consideration. As a type of normative legal research, this study examines written law from various perspectives, including theoretical, historical, philosophical, and comparative aspects. The approaches employed in normative legal research include the statute approach, the historical approach, and the conceptual approach. The sources of legal materials in this library-based legal research also known as

library research consist of primary, secondary, and tertiary legal materials. This study utilises 15 primary legal sources. Additionally, 19 secondary legal materials, published between 2019 and the issuance of Presidential Decree of the Republic of Indonesia Number 17 of 2023 concerning the Declaration of the End of the Coronavirus Disease 2019 (COVID-19) Pandemic Status, are employed. Furthermore, five tertiary legal materials are used. These legal materials serve as the basis for examining the identified legal issues. The legal material analysis technique adopted in this study involves descriptive analysis, which includes expert opinions, conclusions, legal interpretations, and comparative legal analysis. (Rosidi et al., 2024)

RESULT

Dynamics of Infectious Disease Control Regulations

Pre-COVID-19, Indonesia's legal framework relied on three instruments: Epidemic Law No. 4 of 1984 (limited to specific diseases like cholera), general Health Law No. 36 of 2009, and Health Quarantine Law No. 6 of 2018 (Hantoro, 2021). Though Law No. 6 of 2018 introduced modern tools like Large-Scale Social Restrictions (PSBB), its pandemic implementation exposed three structural flaws: absent cross-ministerial coordination mechanisms, no HR protection clauses during activity restrictions, and disproportionate sanctions for protocol violators. These findings align with the International Commission of Jurists' (2021) critiques of Indonesia's legal system vulnerability to global health crises (Arianto & Irawati, 2024). During the emergency phase (2020–2022), 19 temporary regulations were adopted, including Perppu No. 1 of 2020 and Inmendagri No. 25 of 2022. These caused significant legal fragmentation. For instance, overlapping Large-Scale Social Restrictions (PSBB) rules in Health Ministry Regulation (Permenkes) No. 9 of 2020 and Inmendagri No. 25 of 2022 imposed differing worship restriction standards. This inconsistency led to 63% of regional authority disputes (Putro & Purnomo, 2022) and violated legal certainty principles under the rule of law (Singh, 2021).

Post-Pandemic Legal Implications: Innovation vs. Vulnerability

Post-pandemic, Law No. 17 of 2023 became a milestone in Indonesia's health system transformation by adopting technology-based holistic approaches (e.g., integrating PeduliLindungi for epidemiological surveillance). However, it incompletely incorporated lessons from past emergency policy failures. For example, while adopting extraordinary measures (Radde et al., 2021) via "health emergency" clauses, Law No. 17 of 2023 omitted temporal limits and parliamentary oversight procedures, risking normalisation of excessive executive power. From an HR perspective, mandatory vaccination and PeduliLindungi health data tracking entrenched dichotomies between national security and individual privacy. Central Jakarta District Court Ruling No. 105 of 2021 affirmed that compulsory vaccination without specific legal basis contravened Article 28J of the 1945 Constitution. Ironically, 82% of vulnerable groups (informal workers, persons with disabilities) received inadequate compensation during PSBB, despite Supreme Court Ruling No. 99 PK/PDT/2022 recognising state liability for public losses. This confirms legal protection asymmetry in Indonesia's health policies (Herdiana, 2021).

Legal System Reform Recommendations

After diagnosing regulatory weaknesses, this study recommends four legal reforms:

1. Revise Law No. 6 of 2018 to include epidemiological risk-based central-regional coordination mechanisms and economic compensation clauses (as in South Korea's Public Health Emergency Act).
2. Harmonise 12 sectoral regulations via a Health Law Reform Commission involving academics, legal practitioners, and civil society to ensure HR non-regression.
3. Establish specialised health tribunals for rapid emergency policy dispute resolution,

modelled on India's Health Tribunal, which reduced case burdens during pandemics.

4. Draft Health Data Protection Legislation integrating privacy by design and algorithmic transparency (per EU GDPR) to prevent surveillance data misuse. These aim to create adaptive, equitable legal frameworks for future health threats.

Contextual Case Studies

Two empirical cases reinforce findings on law enforcement disparities and regulatory gaps:

1. A 2021 PSBB violation in Medan showed inconsistent enforcement: officials dispersed public gatherings but permitted political crowds (Lusianawati, 2020). This reflects weak technical guidelines in Permenkes No. 9 of 2020, which omitted "public interest" criteria for enforcement discretion.
2. A mandatory vaccination dispute revealed unclear medical exemption criteria in Permenkes No. 10 of 2021 (Wicaksana & Yustiawan, 2023). Central Jakarta District Court Ruling No. 105 of 2021 held that compulsory vaccination without specific legal basis violated *lex specialis derogat legi generali*, failing WHO informed consent standards. Both cases demonstrate the urgency for evidence-based, participatory health law reform.

Global Legal Theory Integration

These findings align with global debates on balancing health security and HR. The Siracusa Principles (1984) (Lhutfiah, 2022) mandate that health emergency HR restrictions meet necessity, proportionality, and temporariness criteria. However, Indonesia's PSBB policies often ignored proportionality (e.g., blanket religious activity bans without considering health protocol alternatives). Comparatively, Singapore implemented Circuit Breaker (2020) with fortnightly parliamentary evaluations (I-Pei Chen et al., 2020), while Malaysia established a Special Committee on Pandemic Management for policy accountability (Ang et al., 2021). Indonesia's lack of similar models reveals lags in adopting global good governance standards.

Academic Contribution Analysis

This study offers three original contributions to health law literature:

1. It identifies regulatory fragmentation as the root problem in Indonesia's infectious disease control—a perspective unexamined in prior studies (Marsanti et al., 2022).
2. It introduces algorithmic accountability in health surveillance technology contexts, filling gaps in digital constitutionalism theory dominated by Global North research (Zuboff, 2022).
3. Findings on HR protection asymmetry for vulnerable groups enrich health equity discourse by linking it to national legal frameworks, unlike prior socioeconomically focused studies (Choiruniza, 2022).

Global Policy Implications

Findings are relevant to the 2030 Sustainable Development Goals (SDGs), particularly Target 3.d (strengthening global health response capacity) and Target 16.6 (developing accountable institutions). Regulatory harmonisation aligns with the Global Health Security Index, emphasising legal coherence as a health resilience pillar (Vinuesa et al., 2020). Adopting GDPR standards in Health Data Protection Legislation could also improve Indonesia's Privacy International Index ranking (currently 64th of 100 nations) (Disemadi et al., 2023).

Quantitative Analysis Enhancement

To strengthen arguments, quantitative data from credible sources is included:

- 72% of regional PSBB violations resulted from normative ambiguity (Saidah, 2020).

- 58% of health workers reported absent legal protection during the pandemic (Aktariyani & Trisnantoro, 2020).
- Comparative data shows Indonesia's mandatory vaccination rejection rate (23%) exceeded Malaysia's (15%) and Singapore's (8%) (Pramesti et al., 2022), confirming the need for participatory, inclusive regulations.

CONCLUSION

Indonesia's infectious disease control legal system faced structural challenges during COVID-19: regulatory fragmentation (19 overlapping emergency policies), implementation inconsistencies, and weak HR protections. Policies like PSBB and mandatory vaccination often disregarded proportionality and legal certainty, causing 63% of regional authority disputes and protection asymmetry for vulnerable groups (82% uncompensated). Post-pandemic Law No. 17 of 2023 introduced technological innovations but failed to temporally limit emergency powers or ensure parliamentary oversight. Comparisons with Singapore, Malaysia, and Thailand reveal Indonesia's lag in health governance, while regional COVID-19 resurgences confirm preparedness urgency. Global impacts include impeded SDG Targets 3.d and 16.6 and low health data protection rankings (64th of 100 nations).

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