

## Legal and Regulatory Measures and Responses to Prevent and Control COVID-19 in Indonesia

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**Abstract:** This paper discusses the laws and regulations used by the Government of Indonesia in tackling the COVID-19 Pandemic. To combat COVID-19, the Indonesian government opted to act via the Contagious Diseases Law without having to enact the Emergency Situation Law. Moreover, the Government of Indonesia utilized the Health Quarantine Law, established the COVID-19 Expediting Management Task Force, and Large-Scale Social Distancing policies. There have been at least 6 different types of regulations and policies utilized by the Government of Indonesia during the COVID-19 Pandemic period: (1) General policies, eq. large-scale social distancing, school closures, etc; (2) Policies toward COVID-19 patients, eq. Presidential Regulation on the development of observation and containment facilities in Galang Island, Batam City, Riau Province in relation to COVID-19 or other infectious diseases; (3) Stay-home policy to prevent spread of COVID-19, enacted by Ministerial Offices; (4) Travel bans to prevent spread of COVID-19 within and outside Indonesia; (5) Softening the economic impact of COVID-19 eq. various regulation from the Central Banks, Industrial and Trade Ministry, and Financial Services Authority on exports, imports, international currency, Giro, regular banking, Syariah banking, stock exchange, etc, in relation to COVID-19; and (6) Financing the management of COVID-19. The legal framework for combatting COVID-19 is already in place in Indonesia. There are many laws and regulations that are available, including the Constitution, and presidential, governmental and ministerial regulations. However, overlaps and inconsistencies can be seen in some cases, and these make the situation more dire for the people of Indonesia. These inconsistencies should be resolved quickly by the government.

**Keywords:** COVID-19, Indonesia, Law, Regulations, Policy, Legal Framework

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### 1. Background

There is no country in the world that was well prepared to deal with the impact of the COVID-19 pandemic (COVID-19) after it was first reported in late 2019. The virus rapidly spread across national borders and, on March 11, 2020, the World Health Organization (WHO) elevated the status of COVID-19 from an epidemic to a pandemic. This means that the likelihood of the disease spreading from one human being to another is high, with a high fatality rate, and no effective medical treatment for this widespread disease.<sup>1</sup>

A year has passed since the pandemic started, however, it is too early to say that the silver lining

of the pandemic is in sight. The ongoing situation shows that COVID-19 is still going strong, with outbreaks caused by various mutations of Sars-Cov-2, the virus that causes COVID-19.

One variant that claimed many lives and caused increased infection cases in most countries is the Delta variant (Sars-Cov-2. B.1.617.2), which was first documented in India in October 2020.<sup>2</sup> Southeast Asian countries are among the region that was hard hit by the Delta variant. On July 18, 2021, Indonesia reported the highest death rate in the world and the highest new infected rate in Asia.<sup>3</sup>

Aside from this variant, the contributing factors that increase the continuing transmission are increased social mixing and increased social

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<sup>1</sup> Amesh Adalja *et al.*, 'The Characteristics of Pandemic Pathogens' (2018) <[https://www.centerforhealthsecurity.org/our-work/pubs\\_archive/pubs-pdfs/2018/180510-pandemic-pathogens-report.pdf](https://www.centerforhealthsecurity.org/our-work/pubs_archive/pubs-pdfs/2018/180510-pandemic-pathogens-report.pdf)> accessed 23 October 2021.

<sup>2</sup> World Health Organization [WHO], *Tracking SARS-CoV-2 variants* (WHO, 22 October 2021) <<https://www.who.int/en/activities/tracking-SARS-CoV-2-variants/>> accessed 23 October 2021.

<sup>3</sup> Yudith Ho, 'Indonesia Daily Covid Deaths Top Brazil as the World's Highest' *Bloomberg* (18 July 2021) <<https://www.bloomberg.com/news/articles/2021-07-18/indonesia-daily-covid-deaths-top-brazil-as-the-world-s-highest>> accessed 23 October 2021.

mobility, the relaxation or the inappropriate use of public health and social measures, and the uneven and inequitable distribution of vaccines.<sup>4</sup>

Governments in the region have taken necessary steps to suppress and survive the impacts by enacted policies, rules, and regulations, including Indonesia. This article will discuss the Legal Framework that has been set by Indonesia in handling the COVID-19 pandemic.

## 2. Constitution and Hierarchy of Laws

Indonesia is a unitary state in the form of a republic. Indonesia's legal system is derived from the Dutch System and follows the French and German model of Civil Law.<sup>5</sup>

Having a presidential government system with separation of Executive, Legislative, and Judicative, Indonesia is based on the 1945 Constitution. The Constitution stipulates that there are eight 'State High-Institutions', namely: President and Vice President; General Assembly (*Majelis Permusyawaratan Rakyat* or MPR); the House of People's Representatives (*Dewan Perwakilan Rakyat* or DPR); the House of Regional Representatives (*Dewan Perwakilan Daerah* or DPD); Constitutional Court (*Mahkamah Konstitusi* or MK); Supreme Court (*Mahkamah Agung* or MA), Judicial Commission (Komisi Yudisial or KY) and State Audit Board (*Badan Pemeriksa Keuangan* or BPK).<sup>6</sup>

The most important of the above State High Institutions are MPR, as the supreme state body, who has the power to amend and enact the Constitution; DPR who has the function to make legislation and holds the President and his ministers accountable; and President, as the head of the executive, who holds the power of government.<sup>7</sup>

Under Article 20A(1) of the 1945 Constitution, DPR, as the legislative branch of the government, also has an oversight function. This function includes: (a) overseeing on the implementation of laws, State Budget (*Anggaran Pendapatan dan*

*Belanja Negara* or APBN) and government's policies; and (b) discussing and implementing the outcome of DPD's supervision (on the implementation of laws in regional autonomy, establishment, expansion, the merger of regions, management of natural resources and other natural resources, implementation of State Budget, taxes, education, and religion).<sup>8</sup>

The President is assisted by ministers in exercising his duties. The ministers are responsible for a particular area of government activity and, within the sphere of their respective ministries, can issue binding instructions to lower-level administrative bodies unless prohibited by law.<sup>9</sup>

Aside from the national political and administrative level, according to Article 18 (7) of the 1945 Constitution and the Local Government Law No. 23 Year 2014 there are also administrative bodies and representative assemblies at the regional level in the 34 provinces (*provinsi*) and at the local level in each of the 548 regencies and cities (*kabupaten* and *kota*).<sup>10</sup>

The hierarchy of laws in Indonesia starts from the 1945 Constitution, MPR (People's Consultative Council) Decree (*Tap MPR*) made by the MPR, Laws (*Undang-Undang*) enacted by DPR (House of Representative) or Interim Emergency Regulation (*Peraturan Pemerintah Pengganti Undang-undang*) made by the President, Governmental Regulation (*Peraturan Pemerintah*), Presidential Regulation (*Peraturan Presiden*), Provincial Regulation (*Peraturan Daerah*) made by provincial parliaments, and Municipality/City Regulation.<sup>11</sup> Regulations made by other government institutions such as ministries or task forces will derive their legal power based on one of these norms or authorities given therein.<sup>12</sup>

There is no change in the basic constitutional structure in response to the pandemic. Regulations are subject to certain constitutional limitations: they cannot conflict with higher norms, such as primary legislation and the Constitution.<sup>13</sup>

<sup>4</sup> Maria Van Kerkhove, 'WHO's Science in 5 on COVID-19: Delta Variant' (5 July 2021) WHO <[https://www.who.int/emergencies/diseases/novel-coronavirus-2019/media-resources/science-in-5/episode-45---delta-variant?gclid=CjwKCAjw0qOIBhBhEiwAyvVcfy-HJ2EQyKJog7QhODqmcA6zxYLkc0xzLYK0c0jpYfl8a-uVgd1nhoCavAQAvD\\_BwE](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/media-resources/science-in-5/episode-45---delta-variant?gclid=CjwKCAjw0qOIBhBhEiwAyvVcfy-HJ2EQyKJog7QhODqmcA6zxYLkc0xzLYK0c0jpYfl8a-uVgd1nhoCavAQAvD_BwE)> accessed 11 October 2021.

<sup>5</sup> Tim Lindsey, *Indonesia: Law and Society* (2<sup>nd</sup> edn, The Federation Press 2008) 12.

<sup>6</sup> Jimly Asshidiqie, *Pengantar Ilmu Hukum Tata Negara / Introduction to Constitutional Law* (Rajawali Press) 24.

<sup>7</sup> *Ibidem* p. 25.

<sup>8</sup> The House of Representatives of the Republic of Indonesia (DPR), 'Tasks and Authorities' <<https://www.dpr.go.id/en/tentang/tugas-wewenang>> accessed 23 October 2021.

<sup>9</sup> *Supra* note 7.

<sup>10</sup> *Supra* note 7.

<sup>11</sup> Law No. 12 of 2011 on Development of Laws and Regulations, art 7(1) <<http://bphn.go.id/data/documents/11uu012.pdf>> accessed 11 October 2021.

<sup>12</sup> *Ibidem* arts 8(1) and (2).

<sup>13</sup> Law No. 12 of 2011 on Development of Laws and Regulations, art 7(2) <<http://bphn.go.id/data/documents/11uu012.pdf>> accessed 11 October 2021.

### 3. Indonesia Legal Framework

#### 3.1. Timeline

When President Joko Widodo announced that there were two confirmed cases of COVID-19 in Indonesia on March 2, 2020, the nation already had underlying laws that allowed the Government of Indonesia (GoI) to respond to the pandemic. According to Article 12 of the 1945 Constitution, the President has the authority to declare a state of emergency, where details of emergencies are to be explained in subsequent law. Relevant legislation concerning the above matter includes laws on Emergency Situations (Law No. 74/1957<sup>14</sup> jo. Law No. 23/1959<sup>15</sup>), Law No. 4/1984 on Contagious Diseases,<sup>16</sup> Law No. 24/2007 on Disaster Management,<sup>17</sup> and Law No. 6/2018 on Health Quarantine.<sup>18</sup>

The GoI chose to act based on the Contagious Diseases Law instead of the Emergency Situation Law. The Contagious Diseases Law stipulates that the GoI is to establish perimeter areas of contagion and management efforts. The Minister of Health can designate specific areas as contagion areas<sup>19</sup> by relying on epidemiological and community factors.<sup>20</sup> Epidemiology factors are based on epidemiology data (numbers of patients, number of fatalities, and methodology of managing the virus spread); social-community situation considerations are based on socio-cultural, economic, and security aspects based on deliberation from the Regent (*Bupati* in charge of a Regency) to be reported to the Minister.<sup>21</sup>

Aside from the Contagious Diseases Law, Indonesia also has Law No. 6 of 2018 on Health Quarantine to deal with the COVID-19 Pandemic.

This law aims to protect the community from diseases or risk factors which lead to emergency health problems in the community.<sup>22</sup> This law allocates responsibility to both the central and local governments.<sup>23</sup> The central government, in collaboration with the local government, is responsible for handling and management of health quarantine in entry and exit ports of Indonesian territory.<sup>24</sup> Further, it requires that every person is entitled to basic health services during the quarantine session, as prescribed medically, including food, and other essential needs.<sup>25</sup> Under Law No. 6 of 2018, Community Emergency is defined as an extraordinary health event that occurs by the spread of infectious diseases or caused by other sources (such as nuclear radiation, biological pollution, chemical contamination, bioterrorism, etc.) which could potentially spread transboundary harm between countries.<sup>26</sup> This law also establishes requirements to define a community emergency.<sup>27</sup> Health Quarantine is categorized into 4 types: home quarantine,<sup>28</sup> hospital quarantine,<sup>29</sup> regional quarantine,<sup>30</sup> and large-scale social restrictions.<sup>31</sup> The GoI opted to apply 'large-scale social restrictions' in relation with the COVID-19 pandemic, which includes the shutting down of schools, places of worship, and the requirement of social distancing in public facilities.<sup>32</sup> The GoI is responsible for the medical needs, food, and essential needs of the people within the quarantine.<sup>33</sup>

During the pandemic, the President and his aides, as the executive branch of government, has enacted and implemented the Contagious Diseases Law, Health Quarantine Law, Regional Government Law, etc., and subsequently enacting relevant regulations and bylaws that do not require prior

<sup>14</sup> Law No. 74 of 1957 on Revocation of Regulation and Determination of Dangerous Conditions <<https://www.bphn.go.id/data/documents/57uu074.pdf>> accessed 23 October 2021.

<sup>15</sup> Law No. 23 of 1959 on State of Emergency <[https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=47446&p\\_country=IDN&p\\_count=611](https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=47446&p_country=IDN&p_count=611)> accessed 23 October 2021.

<sup>16</sup> See Database Peraturan <<https://peraturan.bpk.go.id/Home/Details/46973/uu-no-4-tahun-1984#:~:text=UU%20No.%204%20Tahun%201984,Penyakit%20Menular%20%5BJDIH%20BPK%20RI%5D>> accessed 23 October 2021.

<sup>17</sup> Law No. 24 of 2007 on Disaster Management <<https://www.fao.org/faolex/results/details/en/c/LEX-FAOC114997/>> accessed 23 October 2021.

<sup>18</sup> Law No. 6 of 2018 on Health Quarantine <<https://www.ilo.org/dyn/natlex/docs/ELEcTRONIC/109278/135523/F-346886998/IDN109278.pdf>> accessed 23 October 2021, <<https://lexatlas-c19.org/indonesia/>> accessed 02 November 2021.

<sup>19</sup> Law No. 12 of 2011 on Development of Laws and Regulations, arts 4(1), 4(2), 7(2)

<<http://bphn.go.id/data/documents/11uu012.pdf>> accessed 11 October 2021.

<sup>20</sup> Governmental Regulation No. 40 of 1991 on Management of Contagious Diseases, art 2 <<http://www.bphn.go.id/data/documents/91pp040.pdf>> accessed 11 October 2021.

<sup>21</sup> *Ibidem* arts 4 and 5.

<sup>22</sup> Law No. 6 of 2018 on Health Quarantine, art 3.

<sup>23</sup> *Ibidem*, art 4.

<sup>24</sup> *Ibidem*, art 5.

<sup>25</sup> *Ibidem*, art 8.

<sup>26</sup> *Ibidem*, art 1(2).

<sup>27</sup> *Ibidem*, art 10&11.

<sup>28</sup> *Ibidem*, art 1(8).

<sup>29</sup> *Ibidem*, art 1(9).

<sup>30</sup> *Ibidem*, art 1(10).

<sup>31</sup> *Ibidem*, art 1(11).

<sup>32</sup> Government Regulation No. 21 Year 2020 on Large Scale Social Restrictions to Expedite Covid-19 Management (31 March 2020).

<sup>33</sup> Law No. 6 Year 2018 on Health Quarantine, arts 49; 53; 56; 59; 77.

approvals from the legislative branch.<sup>34</sup> There has been limited parliamentary scrutiny from the DPR of the regulations adopted under the Contiguous Disease Law and Health Quarantine Law when otherwise mandated by their monitoring function in Article 20A (1) of the 1945 Constitution. DPR seemed to have not shown its best in implementing the monitoring function on the executives.<sup>35</sup> Parliament's official website lists several meetings and field visits for COVID-19,<sup>36</sup> but public information on how DPR is monitoring pandemic management in Indonesia is scarce. When available, it is in the form of global diplomacy – how Indonesia has been assisting or was assisted by other countries during the pandemic, practically detaching itself from the struggle of its Indonesian citizens.<sup>37</sup>

Legal rules enacted to control infection are binding and violators may be subject to fines or criminal charges, whereas guidance to the public is advisory. Directives given to public authorities are binding within the limits of the law. The common form of Directives is that addressed by the President, which will subsequently be followed up by the government agencies or regional leaders issuing implementing regulations.<sup>38</sup> For example, the Minister of Home Affairs issued Instruction No. 3 of 2021 on the Implementation of Restriction on Public Activities (PPKM) on the Micro-Scale and the Establishment of COVID-19 Handling Post in the

Village and Sub-district level to prevent the spread of COVID-19, which was issued after the President addressed the urgency to extend the Restriction based on the Micro-Scale and establishing handling post to fight COVID-19.<sup>39</sup> Guidance is used extensively to supplement legal rules and to affect behaviour by resort to soft recommendations instead of using hard law. One example concerning the use of vaccines is enshrined in Minister of Health Decree No. HK.01.07/MENKES/4638/2021 on Technical Guidance of the Vaccine Inoculation to Fight the Pandemic of Corona Virus Disease 2019.<sup>40</sup> GoI has decided that everyone eligible to be vaccinated in Indonesia needed to be vaccinated for free.

Due to the recent crisis caused by the Delta variant, the GoI has issued Directives and regulations to curb the spread of the virus. Many strict regulations were enacted with the emphasis on limiting people's mobility, enforcing the usage of face masks, and expediting vaccines inoculation.<sup>41</sup> As of August 6, 2021, at least 815 COVID-19 related regulations have been adopted at the national level either in the form of new regulations or amendments to existing non-pandemic specific regulations.<sup>42</sup>

This is based on regulations published in the central legal repository,<sup>43</sup> and other provincial or ministerial repositories, as the central repository is often incomplete.

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<sup>34</sup> Linda Yanti Sulistiawati, 'Pemerintahan Selama Pandemi: Berenang di Air Keruh' *Kompas* (12 August 2021) <<https://www.kompas.id/baca/opini/2021/08/12/pemerintahan-selama-pandemi-berenang-di-air-keruh>> accessed 02 November 2021.

<sup>35</sup> Amalinda Savirani and Linda Sulistiawati, 'The Malady of Ignorance? Indonesian Parliament During the COVID-19 Pandemic' *New Mandala* (6 April 2021) <<https://www.newmandala.org/the-malady-of-ignorance-indonesian-parliament-during-the-covid-19-pandemic/>> accessed 23 October 2021.

<sup>36</sup> The House of Representatives of the Republic of Indonesia (DPR), 'News' <<https://www.dpr.go.id/en/berita/index/category/bksap>> accessed 23 October 2021.

<sup>37</sup> The House of Representatives of the Republic of Indonesia (DPR), 'House Calls for Strengthening Support and Help Palestine to Handle COVID-19' (*DPR*, 18 January 2021) <<https://www.dpr.go.id/en/berita/detail/id/31374/t/Puan+Maharani+Serukan+Perkuat+Dukungan+da+n+Bantu+Palestina+Tangani+Covid-19>> accessed 23 October 2021; The House of Representatives of the Republic of Indonesia (DPR), 'BKSAP Distributes Face Mask Donation from Vietnamese Parliament to UI Hospital' (*DPR*, 11 September 2020) <<https://www.dpr.go.id/en/berita/detail/id/30036/t/BKSAP+Distributes+Face+Mask+Donation+from+Vietnamese+Parliament+to+UI+Hospital>> accessed 11 October 2021.

<sup>38</sup> Jurnal Bina Praja, Journal of Home Affairs Governance <<http://jurnal.kemendagri.go.id/index.php/jbp/article/view/38>> accessed 2 November 2021.

<sup>39</sup> Minister of Home Affairs Instruction No. 3 of 2021 on Implementation of Restriction on Public Activities (PPKM) on the Micro-Scale and the Establishment of COVID-19 Handling Post in the Village and Sub-district Level to Prevent the Spread of COVID-19 <<https://web.dpmpstsp.jatengprov.go.id/packages/upload/portal/files/INMENDAGRI%20NOMOR%203%20TAHUN%202021.pdf>> accessed 11 October 2021.

<sup>40</sup> Minister of Health Decree No. HK.01.07/MENKES/4638/2021 on Technical Guidance on Vaccines for COVID-19 <[https://drive.google.com/file/d/1e6\\_11b6FXrhVlrpn27quhC8UkL6hcUaS/view](https://drive.google.com/file/d/1e6_11b6FXrhVlrpn27quhC8UkL6hcUaS/view)> accessed 23 October 2021.

<sup>41</sup> Johannes Mangihot, '3 Presidential Directives to Governors, Territorial Military Commander, and Chief of Provincial Police concerning the Spike of COVID-19 Cases in Jakarta' *Kompas TV* (15 June 2021) <<https://www.kompas.tv/article/183838/3-perhatian-presiden-jokowi-untuk-gubernur-pangdam-dan-kapolda-soal-lonjakan-kasus-covid-19-di-dki>> accessed 23 October 2021.

<sup>42</sup> Hukum Online, 'Regulasi Covid-19' <<https://covid19.hukumonline.com/peraturan-perundang-undangan/>> accessed 02 November 2021.

<sup>43</sup> Government of Indonesia, *National Law Documentation and Information Network* <<https://jdih.go.id>> accessed 23 October 2021.



#### 4. Covid-19 Expediting Management Task Force

Two days after COVID-19 was declared a pandemic, the President of Indonesia enacted the Presidential Decree No. 7 of 2020 establishing the COVID-19 Task Force with the responsibility to: a. increase national resilience with regards to health; b. expedite the management of COVID-19 through collaboration between governmental institutions, national institutions, and locals; c. increase preparedness for the escalation of the spread of COVID-19; d. increase the effectiveness of operational policy-making; and e. enhance the response via better management of measures to prevent and detect COVID-19.<sup>44</sup>

Following the Presidential Decree, the Ministry of Home Affairs issued Decree No. 20 of 2020<sup>45</sup> on Expediting the Management of COVID-19 in the Regional Government as its implementing regulation which sets out that the task force is to be established in the region. Both regional and local governments are required to mitigate and manage the impact of COVID-19, and to prioritize COVID-19 management within existing local budgets. If no prior budget is available for COVID-19 management, local governments are to record their COVID-19 expenditure under the unexpected expenditure category and revise the annual budget as soon as possible.

On 29 March 2020, the Ministry of Home Affairs issued a Ministerial Circular Letter to provide further guidance on the implementation of the Decree.<sup>46</sup> Based on the letter, the Regional Head (either the Governor or Head of Region) shall be the head of the COVID-19 regional task force and each region is authorized to independently declare a regional emergency, even in the absence of approval from the national government. This provision contradicts the Health Quarantine Law. Furthermore, three months after the regional task forces were established, there were varying

approaches towards COVID-19 management and handling across different regions in Indonesia, thus demonstrating that the national and regional governments are lacking coordination.<sup>47</sup>

On January 6, 2021, the GoI has chosen to apply a different approach to fighting the pandemic. The Large-Scale Social Restrictions (*Pembatasan Sosial Berskala Besar* or PSBB) changed into the Restriction toward Community Activities (*Pemberlakuan Pembatasan Kegiatan Masyarakat* or PPKM) based on the Minister of Home Affairs Instruction No. 1 of 2021 on Implementation of Restriction on Public Activities to Control the Spread of Corona Virus Disease 2019 (COVID-19).<sup>48</sup> This regulation changed the process of decision-making by the central government and regional government. With this Restriction, the central government tried to minimize the lack of coordination by taking a role in deciding which cities or provinces limit their public movement without prior request from the regional government. The GoI's responsibilities in providing medical needs, food, and essential needs of the people within the quarantine remain the same.

When there was a dramatic spike in the number of infected cases and death caused by the Delta variant that happened throughout the end of June 2021,<sup>49</sup> the President requested the COVID-19 Task Force to take immediate, stricter actions to suppress the spread. On July 2, 2021, The Minister of Home Affairs enacted Ministerial Instruction No. 15 of 2021 on An Emergency Restriction on Public Activities with the main priority for Java and Bali region, where every region in Java and Bali has to applied the Restriction from July 3 to July 20, 2021.<sup>50</sup>

With respect to the developing situation, the COVID-19 Task Force then extended the Restriction until August 9<sup>th</sup>, 2021 and made several adjustments: (a) an expansion of the Restriction to

<sup>44</sup> Presidential Decree No. 7 of 2020 (13 March 2020) <<https://kemenkeu.go.id/media/14856/keppres-nomor-7-7-tahun-2020.pdf>> accessed 23 October 2021.

<sup>45</sup> Ministry of Home Affairs Decree No. 20 of 2020

<sup>46</sup> Minister of Home Affairs Circular Letter No. 440/2622/SJ of 2020 on Forming Local Covid Task Forces <[https://covid19.hukumonline.com/wp-content/uploads/2020/04/surat\\_edaran\\_menteri\\_dalam\\_negeri\\_nomor\\_440\\_2622\\_sj\\_tahun\\_2020-2.pdf](https://covid19.hukumonline.com/wp-content/uploads/2020/04/surat_edaran_menteri_dalam_negeri_nomor_440_2622_sj_tahun_2020-2.pdf)> accessed 11 October 2021.

<sup>47</sup> Devina Halim, 'Pemerintah Pusat Dinilai Harus Membantu Pemda dalam Penanganan Covid-19' *Kompas* (13 September 2021) <<https://nasional.kompas.com/read/2020/09/13/13563521/pemerintah-pusat-dinilai-harus-membantu-pemda-dalam-penanganan-covid-19?page=all>> accessed 2 November 2021.

<sup>48</sup> Minister of Home Affairs Instruction No. 1 of 2021 on Implementation of Restriction on Public Activities to

Control the Spread of Corona <<https://infocorona.baliprov.go.id/wp-content/uploads/2021/01/inmendagri-nomor-1-tahun-2021-tentang-pemberlakuan-pembatasan-kegiatan-untuk-pengendalian-penyebaran-coronavirus-disease-2019-covid-19.pdf>> accessed 11 October 2021.

<sup>49</sup> Natasia Wahyuni and Heru Andriyanto, 'Delta Variant Blamed for Dramatic Covid Surge in Indonesia' *Jakarta Globe* (8 July 2021) <<https://jakartaglobe.id/news/delta-variant-blamed-for-dramatic-covid-surge-in-indonesia>> accessed 23 October 2021.

<sup>50</sup> Minister of Home Affairs Instruction No. 15 of 2021 on Implementation of Restriction on Public Activities in Java and Bali <<https://covid19.go.id/storage/app/media/Regulasi/2021/Jul/INMENDAGRI%20NO%2015%20TAHUN%202021%20TENTANG%20PPKM%20DARURAT.pdf>> accessed 11 October 2021.

regions outside Java and Bali;<sup>51</sup> (b) the level of contingency in every region in applying the Restriction is determined by the severity of the outbreak as assessed by the Ministry of Health.<sup>52</sup>

## 5. Government Measures Responsibility During COVID-19 Pandemic

Government has set policies in the effort to manage COVID-19, which can be categorized into four major groups:

### 5.1. General Policies

The GoI issued Government Regulation No. 21 Year 2020 on Large-Scale Social Restrictions to Expedite COVID-19 Management that regulates social distancing measures through the Large-scale Social Restriction Government Regulation.<sup>53</sup>

In principle, this regulation is similar to Article 59 of the Health Quarantine Law, although it specifically focuses on COVID-19. All regions are required to adhere to this regulation. In brief, the regulation provides for specific steps that the government should take to manage COVID-19, the scope of the government's responsibility to its people during the pandemic, and budget allocation for the management of COVID-19.

Concerning the ongoing COVID-19 variant crisis, the GoI opted to apply Micro-Scale Restriction on Public Activities (PPKM) enacted through the Minister of Home Affairs Instruction Number 1 of 2021<sup>54</sup> instead of Large-Scale Social Restriction.

Through this Restriction, the central government established several detailed measures that should be taken by the regional governments, including allocation and distribution of vaccines, strengthening the 3Ts (testing, tracing and treatment), distribution of social assistance and

social security, and budget allocation for the management of COVID-19.

### 5.2. Policies for COVID-19 Patients

The Health Quarantine Law determines quarantine and isolation. Quarantine is a process to reduce infectious risk and early detection of COVID-19 through separation of healthy individuals or symptomless individuals who already had contact with confirmed COVID-19 patients or travelled to areas with local transmission of COVID-19.<sup>55</sup> Quarantine is categorized into 4 types: home quarantine,<sup>56</sup> hospital quarantine,<sup>57</sup> regional quarantine,<sup>58</sup> and large-scale social restrictions.<sup>59</sup> Isolation is a process to reduce the risk of contagion through the separation of sick individuals (defined as laboratory-confirmed results or one demonstrating COVID-19 symptoms) with the community at large.

The Health Minister enacted the Health Ministry Decision KMK No.01.07/Menkes/413/2020 on Guidance on Avoidance and Control of COVID-19. This Decision highlights activities on public health management for COVID-19. These measures include quarantine, monitoring, isolation, specimen checking, epidemiology detection, risk communication, and community development.

The initial period set out for quarantine of individuals was at least 14 days (and until a COVID-19 diagnosis is given) and was set in the Minister of Health Circular Letter on 16 March 2020.<sup>60</sup> This was changed on 13 July 2020 by the Minister of Health's advice in its decision noting that a period of 14 of quarantine for individuals close to COVID-19 positive individuals including healthcare workers (the latter enter 10 days isolation if they are positively diagnosed with COVID-19; if asymptomatic they may exit isolation).<sup>61</sup> The

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<sup>51</sup> Minister of Home Affairs Instruction No. 28 of 2021 on Implementation of Level 4 Restriction on Public Activities in Sumatera, Kalimantan, Sulawesi, Nusa Tenggara, Maluku, and Papua <[https://drive.google.com/file/d/1pxUq\\_KwQtMyG93TJMB9BlpIYGHss5Hd4/view](https://drive.google.com/file/d/1pxUq_KwQtMyG93TJMB9BlpIYGHss5Hd4/view)> accessed 11 October 2021.

<sup>52</sup> Minister of Home Affairs Instruction No. 29 of 2021 on Implementation of Level 3, Level 2, and Level 1 Restriction on Public Activities and the Optimizing the COVID-19 Command Post at Village and Sub-district Levels for the Handling of COVID-19 Spread <<https://drive.google.com/file/d/1r0EjScOQkeNFwBSDC5Hu7QWi0nXAtiPH/view>> accessed 11 October 2021.

<sup>53</sup> DKI Jakarta Governor Decision No. 959 Year 2020 on Large Scale Social Restrictions to Manage Covid-19 in the Province of DKI Jakarta (11 September 2020); DKI Jakarta Governor Regulation No. 88 Year 2020 on Amending Governor Regulation 33/2020 on Large Scale Social Restrictions (11 September 2020).

<sup>54</sup> Minister of Home Affairs Instruction No. 1 Year 2021 on Restriction of Activities to Manage the Spread of Covid-19 (6 January 2021).

<sup>55</sup> Law No. 6 of 2018 on Health Quarantine, art 1(6).

<sup>56</sup> *Ibidem* art 1(8).

<sup>57</sup> *Ibidem* art 1(9).

<sup>58</sup> *Ibidem* art 1(10).

<sup>59</sup> *Ibidem* art 1(11).

<sup>60</sup> Minister of Health Circular Letter No. HK/02.01/MENKES/202/2020 on Protocols for Self-Isolation to Handle Covid-19, point 2 <[https://covid19.kemkes.go.id/download/SE\\_MENKES\\_202\\_2020\\_protokol\\_isolasi\\_diri\\_COVID.pdf](https://covid19.kemkes.go.id/download/SE_MENKES_202_2020_protokol_isolasi_diri_COVID.pdf)> accessed 11 October 2021.

<sup>61</sup> Minister of Health Decision No. HK.01.07/Menkes/413/2020 (13 July 2020) 33, 38 <<https://covid19.go.id/storage/app/media/Regulasi/2020/Jul/KMK%20No.%20HK.01.07-MENKES-413-2020%20ttg%20Pedoman%20Pencegahan%20dan%20>

decision also specified the possibility of carrying out mass quarantines for high-risk areas.<sup>62</sup> As of March 2021, Quarantines may also be lowered to 5 days if a negative COVID-19 test is obtained from the sample gathered on the 5<sup>th</sup> day of the quarantine, which applies both to international travel (COVID-19 Task Force) and close contacts as part of contact tracing (Ministry of Health).<sup>63</sup>

The Government is also conducting the 3Ts (tracing, tracking and treatment) through a mobile application. On April 6, 2020, the Minister of Communication and Informatics issued a Ministerial Decree No. 171 of 2020 to launch the PeduliLindungi mobile application. This health surveillance application provides features for tracing, tracking, warning and fencing, and is designated to be used only during the pandemic. However, due to the lack of technology and communication infrastructure in Indonesia and the concern of users' privacy protection,<sup>64</sup> not many people installing this application. The regional governments are also taking active part in increasing local participation in conducting tracing and tracking for the COVID-19 infected cases by involving volunteers to monitor when there are active cases in the neighbourhood, for example, the

Jogo Tonggo program as introduced by the Central Java government.<sup>65</sup>

The GoI's general database for health protocols can be found in their main COVID-19 response website,<sup>66</sup> which contains regulations and protocols related to COVID-19 response. These health-related protocols have most recently included general guidelines for dealing with COVID-19 patients lastly updated in February 2021, mental health support protocols for medical personnel issued January 2021, hospital protocols as well as local language guides for adaptive behaviour.<sup>67</sup>

### 5.3. Stay-Home Policies

Changes to working protocols in various government-run or affiliated bodies are implemented by the overseeing government agency, such as state-owned companies or workplaces,<sup>68</sup> various ministries,<sup>69</sup> and the courts.<sup>70</sup> All ministries make working adjustments to policies.

On July 20, 2021, the Minister of Home Affairs enacted Ministerial Instruction No. 22 of 2021 on the Implementation of Level 4 Corona Virus Disease 2019 Restriction of Public Activities in Java and Bali.<sup>71</sup> Under this Instruction, people who live in the

Pengendalian%20COVID-19.pdf> accessed 11 October 2021.

<sup>62</sup> *Ibidem* 116.

<sup>63</sup> Ministry of Health, 'Handbook for Contact Tracing for Covid-19 Cases' (*Kementerian Kesehatan Republik Indonesia*, 16 March 2021) 6 <<https://infeksiemerging.kemkes.go.id/document/download/9m5rVEG6Ml>> accessed 23 October 2021; Doni Monardo, 'Covid Task Force Circular Letter No. 2 of 2021 on Health Protocol for International Travel during Covid-19 (14 January 2021) paras F.1.j and k <<https://covid19.go.id/storage/app/media/Regulasi/2021/Januari/surat%20edaran%20Nomor%202%20Tahun%202021%20tentang%20Protokol%20Kesehatan%20Operjalanan%20internasional%20dalam%20mas%20pandemi%20corona%20virus%20disease%202019.pdf>> accessed 11 October 2021.

<sup>64</sup> Yuyun Wahyuningrum *et al.*, 'Open Letter to Kominfo Requesting for Strong User Privacy Protections in the PeduliLindungi App' (27 July 2020) Institute for Policy Research and Advocacy <<https://www.article19.org/wp-content/uploads/2020/06/Open-Letter-PeduliLindungi-ENG.pdf>> accessed 23 October 2021.

<sup>65</sup> Government of Central Java, 'JogoTonggo II, Volunteer Participation in 3T Process Online' *Dinas Kominfo Jateng* (8 January 2021) <<https://jatengprov.go.id/publik/jogo-tonggo-jilid-ii-libatkan-relawan-dalam-proses-3t/>> accessed 11 October 2021.

<sup>66</sup> Covid Task Force, *Homepage* <<https://covid19.go.id>> accessed 11 October 2021.

<sup>67</sup> Covid Task Force, *Protocols* <<https://covid19.go.id/p/protokol>> accessed 11 October 2021.

<sup>68</sup> Minister of State-Owned Companies Circular Letter No. SE-1/MBU/03/2020 on Increasing Awareness of the Spread of COVID-19 State-Owned Company Ministry (3 March 2020); Minister of Manpower Circular Letter No. M/3/HK.04/III/2020 on Protection for Workers and Business Sustainability to Prevent and Manage Covid-19 (17 March 2020) <[https://covid19.hukumonline.com/wp-content/uploads/2020/04/surat\\_edaran\\_menteri\\_ketenagakerjaan\\_nomor\\_m\\_3\\_hk\\_04\\_iii\\_2020\\_tahun\\_2020-2.pdf](https://covid19.hukumonline.com/wp-content/uploads/2020/04/surat_edaran_menteri_ketenagakerjaan_nomor_m_3_hk_04_iii_2020_tahun_2020-2.pdf)> accessed 11 October 2021.

<sup>69</sup> Minister of Education and Culture Circular Letter No. 2 of 2020 on Prevention and Management of Covid-19 at the Ministry of Education and Culture (9 March 2020); Minister for State Apparatus and Bureaucratic Reform Circular Letter No. 19 of 2020 on adjustment of working arrangements for civil servants during COVID-19 State Apparatus and Bureaucratic Reform Ministry (16 March 2020) <[https://covid19.hukumonline.com/wp-content/uploads/2020/04/surat\\_edaran\\_menteri\\_pendayagunaan\\_aparatur\\_negara\\_dan\\_reformasi\\_birokrasi\\_nomor\\_19\\_tahun\\_2020-2.pdf](https://covid19.hukumonline.com/wp-content/uploads/2020/04/surat_edaran_menteri_pendayagunaan_aparatur_negara_dan_reformasi_birokrasi_nomor_19_tahun_2020-2.pdf)> accessed 11 October 2021.

<sup>70</sup> Supreme Court Circular Letter No. 1 of 2020 on Guidance for Duties during Covid-19 within the Supreme Court and other Lower Courts (23 March 2020) <<https://www.mahkamahagung.go.id/media/7294>> accessed 11 October 2021.

<sup>71</sup> Minister of Home Affairs Instruction No. 22 of 2021 on the Implementation of Level 4 Covid-19 Restriction of Public Activities in Java and Bali (21 July 2021) <<https://covid19.go.id/p/regulasi/instruksi-menteri-dalam-negeri-nomor-22-tahun-2021>> accessed 11 October 2021.

area with the highest level, Level 4, must observe the strict Stay-Home Policy. This Policy includes several critical elements: (a) enforcing online schooling; (b) implementing 100% work from home requirements for non-essential business sectors; (c) implementing activities with a maximum of 50% capacity for essential business sectors (for example, financial and banking services oriented toward physical interaction with customers); (d) allowing a full capacity or 100% for business classified as critical category (for example hospitals, disaster management, basic utilities, etc.); and (e) ceasing the operation of malls and shopping centres. Restrictions are initially for 2 weeks but can be extended based on each area's level and situation.

#### 5.4. Travel Bans

Domestic and international travels were also regulated during the Covid-19 pandemic. The protocol for international travelers depended on their countries' destination and arrivals. All passengers and vessel crew members must be in healthy condition and implementing COVID-19 protocols, such as using masks, washing hands with water or hand sanitizer, physical distancing, using face masks, and implementing clean and healthy living guidelines.<sup>72</sup>

The travel ban in Indonesia is going through series admission changes for foreign nationals in response to the discovery of the new variant of the Covid-19 strain which is updated regularly. International travellers must reconfirm their eligibility to enter the country at an Indonesian Embassy before entering Indonesia. These decisions and requirements are regulated through the Covid-19 Task Force Circular Letters<sup>73</sup> and are

assessed parallel to domestic social distancing guidelines.<sup>74</sup>

The travel ban policy set by GoI is the large-scale mobility policy that taken around the end of Ramadan on 24 – 31 May 2020. Around this national holiday period, large numbers of Indonesians travel back to their hometowns and families to celebrate Eid A-Fitr.

There was initial uncertainty in 2020 whether such travel would be allowed during the pandemic, but on 23 April 2020, the Minister of Transportation ruled that transportation of persons with private cars, motorcycles, buses, trains, ships, ferries, and flights would be banned from entering and leaving areas where large scale social restrictions or otherwise restricted travel are imposed,<sup>75</sup> which on 27 April 2020 included at least two provinces and 22 regencies/cities. International travel was unaffected, and exclusions applied to logistical transport and other necessary services.

In 2021, the decision was made before the start of Ramadan, on 9 April 2021, to impose a similar ban on transportation between 6 May – 17 May 2021 (the Islamic lunar calendar loses 11-12 days per year compared to the Gregorian).<sup>76</sup> The Minister of Transportation stated that based on internal surveys, this policy aimed to prevent up to 81 million persons from travelling home, with 27 million persons projected to flout the travel bans.<sup>77</sup>

The Government extended the temporary closure of entry of foreign nationals to Indonesia until 25 February 2021. The extension was contained in the Circular of the National Task Force for Handling COVID-19 Number 2 of 2021 concerning the International Travel Health Protocol during the COVID-19 Pandemic.<sup>78</sup> The travel ban was partially lifted on 14 October 2021, when

<sup>72</sup> See for example, COVID-19 Task Force Circular Letter No. 8 Year 2021 on health protocols for international travel during the COVID-19 pandemic (9 February 2021).

<sup>73</sup> See for example, COVID-19 Task Force Circular No. 8 of 2021 on Health Protocol for International Travel during the COVID-19 Pandemic Period (9 February 2021) <<https://kemlu.go.id/copenhagen/en/read/health-protocol-for-international-travel-during-the-covid-19-pandemic-period-new-circular-no-8-year-2021/1347/importation-information>> accessed 23 October 2021.

<sup>74</sup> German-Indonesian Chamber of Industry and Commerce, 'Covid-19 Developments in Indonesia [as updated 29 March 2021]' (EKONID Insight, 22 October 2021) <<https://indonesien.ahk.de/en/infocenter/news/news-details/covid-19-developments-in-indonesia>> accessed 23 October 2021.

<sup>75</sup> Minister of Transportation Regulation No. 25 of 2020 on Transportation Control during Eid-al-Fitr Mudik Period of Hijra Year 1441 to Manage the Spread of Covid (23 April 2020) arts 1, 2 and 3

<[https://peraturan.bpk.go.id/Home/Download/141439/PM\\_25\\_TAHUN\\_2020.pdf](https://peraturan.bpk.go.id/Home/Download/141439/PM_25_TAHUN_2020.pdf)> accessed 11 October 2021.

<sup>76</sup> Ministry of Transportation, 'Regulation to Control Transportation during Eid al-Fitr Issued' (8 April 2021) <<http://dephub.go.id/post/read/permenhub-pengendalian-transportasi-selama-masa-idul-fitri-telah-diterbitkan#:~:text=Jakarta%20%2D%20Kementerian%20Perhubungan%20telah%20menerbitkan,Rangka%20Pencegahan%20Penyebaran%20Covid%2D19.&text=Serta%20dat ur%20juga%20ketentuan%20mengenai%20pengedalian%20transportasi%20di%20wilayah%20aglomerasi>> accessed 23 October 2021.

<sup>77</sup> Hari Darmawan, 'Minister of Transport Issues Regulation 13/2021, Bans on Transport Operations Start on 6 May' *Tribun News* (8 April 2021) <<https://www.tribunnews.com/bisnis/2021/04/08/terbitkan-pm-no-13-tahun-2021-kemhub-larang-operasional-transportasi-berlaku-6-mei?page=all>> accessed 23 October 2021.

<sup>78</sup> *Ibidem*.



Indonesia reopened Bali, Batam and Bintan to foreign travellers from 19 countries.<sup>79</sup>

While the COVID-19 Task Force stipulates the top regulations on such entry, other government agencies are involved in carrying out such policies.

To give an idea of differing scopes of implementation, some relevant regulation from different ministries are provided below:

1) Law and Human Rights Ministry Regulation No. 03 Year 2020 on the temporary ban on free pass visitor visas, visas, and long-term visas for Chinese citizens Law and Human Rights Ministry;

2) Law and Human Rights Ministry Regulation No. 07-11 Year 2020 on the temporary ban on foreign visitors to Indonesia, visas and long-term stays in relation to COVID-19 Prevention Law and Human Rights Ministry;

3) Transport Ministry Regulation No. 18 Year 2020 on transportation control during COVID-19 Transport Ministry;

4) Information Letter from Civil Servant and Bureaucratic Reform Ministry No. 36 Year 2020 on banning domestic travel for civil servants, and Civil Servant and Bureaucratic Reform Ministry Circular Letter No. D/00663/03/2020/64 from the Foreign Affairs Ministry on additional policies regarding the transboundary movement of people into and out of Indonesia Ministry of Foreign Affairs; and Circular Letter No.14 Year 2020 from Director-General of ocean transportation on Guidelines for the management of ship safety to reduce the spread of COVID-19 Transportation ministry.

## 6. Government's Responsibility and Social Assistance Towards its People During the Covid-19 Pandemic

The GoI holds responsibility for guarding the economic stability of the country. Most of

Indonesia's social protection measures have their legal basis in the 31<sup>st</sup> March 2020 COVID-19 Financial Policy Interim Emergency Regulation,<sup>80</sup> further implemented by Presidential Regulation No. 54/2020 which changed details of the state budget for 2020. The emergency legislation was subsequently affirmed as an act by the DPR by Act No 2/2020 on 18 May 2020 (COVID-19 Financial Policy Act).

In guarding economic stability, GoI policies are carried out through various regulations from the Bank of Indonesia, Industrial and Trade Ministry, and Financial Services Authority on exports, imports, international currency, Giro, regular banking, *Syariah* banking, stock exchange, etc.<sup>81</sup> Concerning COVID-19, this includes export credits, providing alternative ways of conducting corporate actions for public companies, payments made by the government for export fees, import credit for productive goods, L/C, credits for small and medium enterprises, or other types of credits approved by the central bank of Indonesia.<sup>82</sup>

Aside from the above, the GoI also provides social assistance in the form of:

a) The GoI's Family Hope Program (*Program Keluarga Harapan* or PKH), which provides conditional cash transfers to disadvantaged families. This began as a pilot project in 2007,<sup>83</sup> has been expanded considering the COVID-19 pandemic. Its newer legal basis is the Minister of Welfare Regulation No. 1 of 2018.<sup>84</sup> It is a central government program, implemented by local authorities and was expanded horizontally (recipient) and vertically (value of goods) during the pandemic. Between July-December 2020, the PKH program also received additional in-kind (rice)

<sup>79</sup> Jeffrey Hutton, 'Indonesia reopens Bali to foreign visitors, but Covid-19 rules threaten to keep them away' *The Straits Times* (14 October 2021) <<https://www.straitstimes.com/asia/se-asia/indonesia-reopens-bali-to-foreign-visitors-as-quarantine-rules-weigh-on-traffic>> accessed 23 October 2021.

<sup>80</sup> Government Regulation in Lieu of Law No. 1 of 2020 on State Financial Policy and Stability of Financial Systems for the Management of COVID-19 and/or Encounter the Threat that Endangers National Economy and/or Stability of Financial System (31 March 2020) <<https://peraturan.bpk.go.id/Home/Details/135060/perpu-no-1-tahun-2020>>-<[https://cfoclubindonesia.co.id/wp-content/uploads/2020/06/Perpu-No-mor-1-Tahun-2020.ENG\\_.pdf](https://cfoclubindonesia.co.id/wp-content/uploads/2020/06/Perpu-No-mor-1-Tahun-2020.ENG_.pdf)> [English translation] accessed 23 October 2021.

<sup>81</sup> Law No. 2 Year 2020 Affirming Interim Emergency Regulation No. 1 of 2020 (16 May 2020); Interim Emergency Regulation No. 1 Year 2020 on State Financial

Policy and Stability to handle Covid-19 and/or to Face Threats to the National Economy and/or Stability of the Financial System (31 March 2020).

<sup>82</sup> Government Regulation No. 21 Year 2020 on Large Scale Social Restrictions to Expedite Covid-19 Management (31 March 2020), art 2[2].

<sup>83</sup> See generally World Bank, *PKH Conditional Cash Transfer: Social Assistance Program and Public Expenditure Review* 6 (2012) 10, 13 <<https://openknowledge.worldbank.org/bitstream/handle/10986/26697/673090WP00PUBL0Background0Paper0060.pdf?sequence=1&isAllowed=y>> accessed 11 October 2021.

<sup>84</sup> Ministry of Welfare Regulation No. 1 of 2018 on Hopeful Families Programs (8 January 2018) <<https://peraturan.bpk.go.id/Home/Download/120868/PERMENSOS%20NOMOR%20201%20TAHUN%202018.pdf>> accessed 11 October 2021.

benefits.<sup>85</sup> Recipients are required to have a Social Security Card, which one could request from the local neighbourhood association (RT/RW), which will then be forwarded and assessed by the Village Head and subsequently the Municipal Social Services. It is given for individual families, through banks, and the amount provided depends on the number of qualifying members in that family.

b) The Ministry of Welfare created two new national programs to give aid during COVID-19 through Decision No. 54/2020,<sup>86</sup> to be carried out by the Directorate General for Social Protection and Welfare. Local governments at the provincial, regency and municipal levels are to carry out report the distribution of aid to the directorate.

First, staple goods benefits were given to disadvantaged persons in the Jakarta Capital District and surrounding areas of Bogor, Depok, Tangerang, South Tangerang and Bekasi, through the Ministry of Welfare. Second, a direct cash transfer was also implemented for the rest of Indonesia by the Ministry of Welfare.<sup>87</sup>

The new programs drew some controversy in public and from Parliament regarding the form (cash or goods) and amount of assistance given, as well as the large number of differing programs which simultaneously exists.<sup>88</sup> The Government's

position, as voiced by the Minister of Finance, is that a cash transfer of a set amount is the simplest solution which avoids the most confusion.<sup>89</sup>

c) The Ministry of Finance issued regulations concerning direct cash transfer to Village Funds,<sup>90</sup> which authorizes village heads to disburse the funds to qualifying families in their jurisdiction.<sup>91</sup>

This is an expansion to the financial and governing autonomies given to Villages as per the Village Law 2014.<sup>92</sup> Qualifying families are those considered poor or unable to provide themselves, and which are not recipients of the pre-employment cards or any of the other direct cash transfer programs.

d) The Ministry of Energy and Natural Resources, which provides free electricity subsidies which depends on the type of scale of electricity usage.<sup>93</sup>

e) The Ministry of Cooperatives and Small and Medium Businesses provides direct cash transfers for micro, small and business holders, in the sum of IDR 2.4 million<sup>94</sup> per recipient, so long as they are not currently receiving capital credit or investments from banks, and are not civil servants, police/armed forces or an employee of state-owned enterprises.<sup>95</sup> Subsequently, the sum was halved to IDR 1.2 million (US\$82.41) per recipient.<sup>96</sup>

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<sup>85</sup> Ugo Gentilini, Mohamed Almenfi and Pamela Dale, 'Social Protection and Jobs Responses to COVID-19: A Real-Time Review of Country Measures' (2020) 264 <<http://hdl.handle.net/10986/33635>> accessed 23 October 2021.

<sup>86</sup> Ministry of Welfare No. 54 of 2020 on Aid in Goods and Direct Cash Aid to Manage Covid-19 Effects (16 April 2020) <<https://jdih.kemsos.go.id/pencarian/www/storage/document/Kepmensos%20No.%2054-HUK-2020.pdf>> accessed 11 October 2021.

<sup>87</sup> Ahmad Dzulfaroh, 'Aid for 10 million persons disbursed January-April 2021 and how to claim' *Kompas* (3 January 2021) <<https://www.kompas.com/tren/read/2021/01/03/123100565/cair-januari-april-2021-untuk-10-juta-orang-ini-cara-cek-penerima-bansos-rp>> accessed 23 October 2021.

<sup>88</sup> CNN Indonesia, 'Finance Minister S. Mulyani responds to pros and cons of social aid as criticized by Ridwal Kamil [Governor of West Java]' *CNN Indonesia* (8 May 2020) <<https://www.cnnindonesia.com/ekonomi/20200508194633-532-501483/sri-mulyani-respons-pro-kontra-bansos-keluhan-ridwan-kamil>> accessed 23 October 2021.

<sup>89</sup> *Ibidem*.

<sup>90</sup> Ministry of Finance Regulation No. 222 of 2020 -on- Management -of -Village- Funds- (20--December 2020) <<https://jdih.kemenkeu.go.id/download/f2457490-1ec2-487a-8a08-a57fe71e257b/222~PMK.07~2020P.er.pdf>> accessed 11 October 2021.

<sup>91</sup> Rosmha Widiyani, 'Requirements for Village Fund Aid for 2021' *Detik Finance* (5 March 2021) <<https://finance.detik.com/berita-ekonomi-bisnis/d-5481802/cara-dan-syarat-daftar-blt-dana-desa-2021-disalurkan-hingga-akhir-tahun>> accessed 23 October 2021.

<sup>92</sup> Law No. 6 of 2014 on Villages <[https://www.dpr.go.id/dokjdih/document/uu/UU\\_2014\\_6.pdf](https://www.dpr.go.id/dokjdih/document/uu/UU_2014_6.pdf)> accessed 11 October 2021.

<sup>93</sup> Anissa Suharsono and Lucky Lontoh, 'Indonesia's Energy Policy Briefing' (2020) <<https://www.iisd.org/system/files/2020-08/indonesia-energy-policy-briefing-july-2020-en.pdf>> accessed 23 October 2021.

<sup>94</sup> Eddy Satriya, 'Digitalization: Making Indonesia's Micro, Small and Medium Enterprises Dance with COVID-19 for New Normal' (26th Small and Medium Enterprises Ministerial Meeting, Malaysia, 23 October 2020) <[http://mddb.apec.org/Documents/2020/MM/SMEMM/20\\_smemm\\_017.pdf](http://mddb.apec.org/Documents/2020/MM/SMEMM/20_smemm_017.pdf)> accessed 23 October 2021.

<sup>95</sup> Yuliana Hema, '5 Fakta BLT UMKM 2021: Dana Rp1,2 Juta, Cara, Daftar, Cek status Penerima' (10 June 2021) <<https://ekonomi.bisnis.com/read/20210610/9/1403734/5-fakta-blt-umkm-2021-dana-rp12-juta-cara-daftar-cek-status-penerima>> accessed 23 October 2021.

<sup>96</sup> Dzulfiqar Rahman, 'Micro enterprises aid halved for this year, but coverage to be expanded' (*The Jakarta Post*, 8 April 2021) <<https://www.thejakartapost.com/news/2021/04/07/micro-enterprises-aid-halved-for-this-year-but-coverage-to-be-expanded.html>> accessed 23 October 2021.

f) The Ministry of Labour has introduced national wage subsidies for private employees making less than IDR 5 million/month (does not discriminate between contract and full-time employees) who are active in the Employment BPJS (national health insurance).<sup>97</sup>

This aid amounts to IDR 600,000 per month and begins in September 2020 and ran for 4 months and reaching around 12,244,169 persons.<sup>98</sup> In 2021, the monthly benefit was changed to a direct cash transfer of IDR 3.5 million,<sup>99</sup> with the Minister of Labour stating that their focus in 2021 was to concentrate on the unemployed through the pre-employment cards.<sup>100</sup>

The issue here is that this aid will not target informal workers, who make up a large percentage of Indonesia's workforce, who may not be active in the Employment BPJS list.

g) Indonesia's national food assistance program, previously known as BPNT, was expanded vertically and horizontally in 2020 from 15.2 million to 20 million low-income households, covering around 30% of the population, with a budget of IDR 43.6 trillion.<sup>101</sup> For January 2021-December 2021, this program is targeted to 18,8 million households with a budget of IDR 45,12 trillion, with each household receiving IDR 200,000/month worth of food assistance (up from IDR 150,000/month).<sup>102</sup>

h) As of December 2020, the Ministry of Public Works and Housing provides new cash-for-work programs, targeting 530,000 workers. Village funds were also given allocation for cash-for-work programs targeting another 59,000 works. Other Ministries (transport, agriculture, marine and

fisheries, and environment and forestry) will also link many of their programs with cash for work.<sup>103</sup>

## 7. Funding for Measures and Budget Allocation to Combat Covid-19

The main sources for financing of COVID-19 measures are the Annual National Budget and the Annual Regional Budgets.

The key obstacle faced in using these budgets is the fact that most of the funds have already been earmarked for anticipated events. Since COVID-19 was not anticipated, the national and local governments can only draw from the "spare budget", which is allocated for unplanned activities, to finance the measures for combatting COVID-19.

However, this spare budget allocation is small and likely insufficient for COVID-19 activities.

Hence, the national and local governments need to revise their current budgets as soon as possible to be able to tap into more funds to finance COVID-19 measures<sup>104</sup>.

To redirect funds to finance COVID-19 measures, the Ministry of Finance has enacted Regulation No.19/PMK.07/2020 on Allocation of 2020 Budgets in Relation to COVID-19.<sup>105</sup> This regulation stipulates that tobacco taxes are reallocated for healthcare measures, and income from oil and gas sales are channelled towards activities for COVID-19 prevention and management.

In the financial sector, the main COVID-19 regulation is the Emergency Regulation in Replacement of Law (PERPU) No. 1 Year 2020 on State Financial Policy and Stability of Financial Systems to Manage COVID-19.<sup>106</sup> This regulation

<sup>97</sup> Vina Mukaromah, 'Checking your Employment BPJS Aid' *Kompas* (15 August 2020) <<https://www.kompas.com/tren/read/2020/08/15/203100965/cara-mengecek-penerima-bantuan-rp-600.000-di-bpjs-ketenagakerjaan>> accessed 23 October 2021.

<sup>98</sup> Barratut Rafie, 'Direct cash wage subsidy disbursement and requirements in 2021' *Kontan* (22 February 2021) <<https://nasional.kontan.co.id/news/blt-subsidi-gaji-bakal-segera-cair-di-2021-simak-syaratnya?page=1>> accessed 23 October 2021.

<sup>99</sup> Barratut Rafie, 'Wage subsidies cancelled in 2021, replaced with IDR 3.5 million' *Kontan* (10 February 2021) <<https://nasional.kontan.co.id/news/subsidi-gaji-tak-di-lanjutkan-di-2021-diganti-bantuan-rp-35-juta?page=2>> accessed 23 October 2021.

<sup>100</sup> Barratut Rafie, 'Direct cash wage subsidy disbursement and requirements in 2021' *Kontan* (22 February 2021) <<https://nasional.kontan.co.id/news/blt-subsidi-gaji-bakal-segera-cair-di-2021-simak-syaratnya?page=1>>-accessed 23 October 2021.

<sup>101</sup> Ugo Gentilini, Mohamed Almenfi and Pamela Dale, 'Social Protection and Jobs Responses to COVID-19: A Real-Time Review of Country Measures' (2020) 264

<<http://hdl.handle.net/10986/33635>> accessed 23 October 2021.

<sup>102</sup> Chandra Asmara, 'List of Social Aid Disbursed In March 2021' *CNBC Indonesia* (1<sup>st</sup> March 2021) <<https://www.cnbcindonesia.com/news/20210301103618-4-226831/lengkap-deretan-bansos-jokowi-yang-bakal-cair-maret-2021>> accessed 23 October 2021.

<sup>103</sup> Ugo Gentilini, Mohamed Almenfi and Pamela Dale, 'Social Protection and Jobs Responses to COVID-19: A Real-Time Review of Country Measures' (2020) 264 <<http://hdl.handle.net/10986/33635>> accessed 23 October 2021

<sup>104</sup> Covid-19, Kementerian Keuangan, Republik Indonesia <<https://www.kemenkeu.go.id/covid19>> accessed 02 November 2021.

<sup>105</sup> Ministry of Finance Regulation No. 19/PMK.07/2020 on Allocation of 2020 Budget in Relation to COVID-19 (16 March 2020) <<https://www.kemenkeu.go.id/media/14785/pmk-no-19-th-2020.pdf>> accessed 23 October 2021.

<sup>106</sup> Government Regulation in Lieu of Law No. 1 of 2020 on State Financial Policy and Stability of

enables the Government to widen the budget deficit to 3% of Gross Domestic Product, relocate mandatory spending, shift budgeted funds between institutions, authorize procurement, and use available finances within the State budget. Evidently, the Gol has made every effort to shoulder the heavy financial burden brought about by the COVID-19 pandemic.

## 8. Enforcement

Enforcement of COVID-19 policies is split by reliance on legal basis. New crimes chargeable with imprisonment may only be issued through a Law, of which no new instruments have been issued during the pandemic. Instead, criminal sanctions rely primarily on the Health Quarantine Law and police powers based on an interpretation of the Criminal Code.<sup>107</sup> Newer sanctions are those typically issued by local governments enforcing large scale social distancing.

The Health Quarantine Law sets out imprisonment and fines for various activities which would break or hinder quarantine or isolation for transportation providers, individuals and corporations, as regulated in Articles 90-94. These range up to 10 years imprisonment of IDR 15 billion. Crimes under this Act are to be investigated by the Police as well as specialized Civil Service Investigators with jurisdiction in health-related crimes as per Article 84.

The Indonesian police meanwhile rely on an interpretation of existing criminal code regulations.

The Indonesian police force is one of the law

enforcers in Indonesia (aside from the judges, prosecutors, and lawyers) having the obligation to implement regulations enacted by the Government<sup>108</sup>. The primary regulation connecting police authority, COVID-19 and the criminal code is the National Police Chief Decree of 2020,<sup>109</sup> which broadly decreed among others that:

a) Public events be barred if they cause mass congregations. This includes social, cultural, religious, music, sports, entertainment, protests, and other activities. In cases of necessity such events should follow relevant guidelines.

b) The public follow information and formal recommendations from the government.

c) Avoid stockpiling excess necessities<sup>110</sup>

d) The public to not be influenced or create fake news.

Administrative sanctions for non-compliance with COVID-19 protocols differ from between provinces, with some not adopting sanctions at all. For example, in Jakarta, the fine for not wearing a mask in public spaces or facilities include a written reprimand, community service wearing a special vest, and a fine of up to IDR 250,000.<sup>111</sup> In West Kalimantan, the sanctions include a verbal or written reprimand, 15 minutes community service, fines of up to IDR 200,000 and a forced quarantine until a PCR swab result is present.<sup>112</sup> The police is patrolling and try to apprehend people who stock piling necessities (rice, sugar, etc), and the Gol through the police and local police are trying their best to stop people congregating for any reasons, however they are still struggling on handling fake news and hoax on the media<sup>113</sup>.

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Financial Systems for the Management of COVID-19 and/or Encounter the Threat that Endangers National Economy and/or Stability of Financial System (31 March 2020) <<https://peraturan.bpk.go.id/Home/Details/135060/perpu-no-1-tahun-2020>>-<[https://cfoclubindonesia.co.id/wp-content/uploads/2020/06/Perpu-Nomor-1-Tahun-2020.ENG\\_.pdf](https://cfoclubindonesia.co.id/wp-content/uploads/2020/06/Perpu-Nomor-1-Tahun-2020.ENG_.pdf)> [English translation accessed 23 October 2021.

<sup>107</sup> Indonesian Criminal Code (*Wetboek van Strafrecht*) <<https://m.hukumonline.com/pusatdata/detail/lt4c7b7fd88a8c3/wetboek-van-strafrecht-wvvs>> accessed 11 October 2021.

<sup>108</sup> National Police Chief Decree No. Mak/2/III/2020 on Compliance with Government Regulation to Manage Covid-19 Spread (19 March 2020) <<https://humas.polri.go.id/download/maklumat-kepala-kepolisian-negara-republik-indonesia-nomor-mak-2-iii-2020-maklumat-kepala-kepolisian-negara-republik-indonesia-nomor-mak-2-ii-2020/>> accessed 11 October 2021.

<sup>109</sup> *Ibidem*.

<sup>110</sup> Previous experience has shown that irresponsible parties would use crisis as a chance to create a shortage of basic necessities. Strong police enforcement is

implemented to guard basic necessities stockpiles in warehouses, and so far the stockpile is stable and well-guarded. See Devina Halim, 'Tugas Polri dalam Penanganan Covid-19: Imbau Warga Jaga Jarak hingga Tindak Penimbun Sembako' (*Kompas*, 20 March 2020) <<https://nasional.kompas.com/read/2020/03/20/23012531/tugas-polri-dalam-penanganan-covid-19-imbau-warga-jaga-jarak-hingga-tindak>> accessed 23 October 2021.

<sup>111</sup> Jakarta Governor Regulation No. 41 of 2020 on Sanctions for Violations of Large Scale Social Restrictions in DKI Jakarta (30 April 2020) art 4(1) <[https://jdih.jakarta.go.id/uploads/default/produkhukum/PERGUB\\_NO.\\_41\\_TAHUN\\_202011.pdf](https://jdih.jakarta.go.id/uploads/default/produkhukum/PERGUB_NO._41_TAHUN_202011.pdf)> accessed 11 October 2021.

<sup>112</sup> West Kalimantan Governor Regulation No. 110 of 2020 on Disciplinary Action and Legal Enforcement of Covid-19 Health Protocols (24 August 2020) art 16(2)(a) <<http://data.kalbarprov.go.id/dataset/93bf1b81-cc3a-4c9d-814b-fc2e2a2f80c2/resource/20490741-5562-4370-9969-59ac9ea41c95>> accessed 11 October 2021.

<sup>113</sup> National Police Chief Decree No. Mak/2/III/2020 on Compliance with Government Regulation to Manage Covid-19 Spread (19 March 2020).



## 9. Vaccination

As part of the effort in combating COVID-19, according to the Ministry of Health Indonesia's website, Indonesia started vaccination programs in January 2021. The first phase took place from January to April 2021. It was dedicated to 1.3 million medical staff, 17.4 million civil servants, and 21.5 million senior citizens. The second phase was scheduled from April 2021 – March 2022. This second phase was dedicated for 63.9 million vulnerable community (in 'red' zones) and 77.4 million community (clustering and based on vaccine availability).<sup>114</sup>

The President has set a target for 180 million Indonesians with 30,000 vaccinators to vaccinated 30 persons/day and it is expected that the whole Indonesian population will all be vaccinated in less than 1 year. Realistically, due to health resources (number of vaccines, number of vaccinators per region), the Ministry of Health's vaccination efforts will be finished by March 2022 (15 months). Only 5 provinces will be able to vaccinate within 1 year time span: Jakarta, Aceh, Yogyakarta, North Kalimantan, and Bangka Belitung.<sup>115</sup>

The central Government, under President Regulation No. 14 of 2021<sup>116</sup> and the Minister of Health Regulation No. 10 of 2021,<sup>117</sup> renewed with Minister of Health Regulation No.18 of 2021, has set the target recipients for the COVID-19 vaccine inoculation. The initial vaccine delivery is allocated to health workers and older people, followed by public service workers, persons with vulnerability which is determined based on the geospatial, social, and economic sectors and the general public.

Every person who is listed and eligible to get the vaccine must join the program and those who refuse are subject to administrative sanctions in the form of (a) a delay or stoppage of social assistance programs; (b) a delay or stoppage of government administrative services; and/or (c) a penalty<sup>118</sup>.

Further, the people who reject the vaccine and also those obstructing efforts in preventing the spread of COVID-19 is subject to a criminal sanction

with a maximum of one year imprisonment and/or a fine with a maximum of one million Rupiah (Rp1.000.000, -) as set in Article 14 (1) Law No. 4 of 1984 on Epidemics.

Since the first injection of the COVID-19 vaccines, the Chairman of the National Committee on Adverse Events Following Immunization (*Komite Nasional Kejadian Ikutan Pasca Imunisasi* or Komnas KIPI) addressed that there are only five adverse events per 10,000 injections. Based on reports and studies from 22 Indonesian provinces, Komnas KIPI concluded that the effects of the COVID-19 vaccination in Indonesia were the same as in other countries.<sup>119</sup> If there is an adverse vaccine reaction, the central Government will provide compensation for disability or death as set in Article 37 Minister of Health Regulation No. 10 of 2021.

## 10. Conclusion

The legal framework for combatting COVID-19 is already in place in Indonesia. There are many laws and regulations that are available, including the Constitution, presidential, governmental and ministerial regulations. However, overlaps and inconsistencies are rampant, and these make the situation more dire for the people of Indonesia. We can see the confusion between governmental offices and institutions, and between central, regional, and local governments. These inconsistencies should be resolved quickly by the Government, because it is confusing for the people on the ground.

Pandemic governance is also the obligation of the 'other' branches of government: the legislature and the judiciary. So far, during the pandemic, very little is done by these two branches of government. The legislature is doing business as usual because the current legal framework used is already present and no need for legislative approval. Approving budgets and very little pandemic activity

<sup>114</sup> Asian Development Bank, *Report and Recommendation of the President to the Board of Directors: Proposed Loan PT Bio Farma (Persero) Responsive COVID-19 Vaccines for Recovery Project under the Asia Pacific Vaccine Access Facility (Guaranteed by the Republic of Indonesia)* (Project No. 54425-001, 2021).

<sup>115</sup> Indonesian Government, 'Vaksinasi Covid-19' <<https://covid19.go.id/vaksin-covid19>> accessed 02 November 2021.

<sup>116</sup> President Regulation No. 14 of 2021 on Amendment of Government Regulation No. 99 of 2020 on the Procurement and Vaccine Inoculation to Fight COVID-19 (9 February 2021) art 13A(2), (4), and-13B

<<https://peraturan.bpk.go.id/Home/Details/161210/pepres-no-14-tahun-2021>> accessed 11 October 2021.

<sup>117</sup> Ministry of Health Regulation No. 10 of 2021 on Vaccine Inoculation to Fight COVID-19 (24 February 2021) art 14 <<https://covid19.go.id/p/regulasi/peraturan-menteri-kesehatan-republik-indonesia-nomor-10-tahun-2021>> accessed 11 October 2021.

<sup>118</sup> Presidential Regulation No.14 of 2021, Art 13A (4).

<sup>119</sup> Petir Bhwana, 'Minor to Severe Side Effects after COVID-19 Vaccination; Authority Explains' *Tempo* (24 February 2021) <<https://en.tempo.co/read/1435961/minor-to-severe-side-effects-after-covid-19-vaccination-authority-explains>> accessed 23 October 2021.

monitoring is done.<sup>120</sup> The judiciary is trying to stay afloat by organizing e-court or hybrid court, which is already taken all of their resources, considering most courts in the rural areas are not equipped with sufficient IT network. Litigation also has been business as usual, no cases on pandemic or pandemic governance is listed in Indonesia's courts.<sup>121</sup> Inviting these two branches to be more active to work for the betterment of the Indonesian people can be done through various thing, including budgetary based on performance, public pressures through media, etc.

The fact that Indonesia is an epicentre for COVID-19 because of the highest amount of fatalities in the country shows that there are massive governance problems needed to be addressed quickly. First, the coordination and communication problems between governments, and between the government and pandemic

stakeholders. Clear, concise and consistent communication and coordination are needed. Second, governance by all branches of government, including the parliament and judiciary. Third, information flow. There are so many hoax, fake news, and post truth information floating in the country, and this adds up to the confusion. The Government needs to flood the information channels with verified information, to make sure that the people will read verified information rather than the hoax. Fifth, we need to have community awareness on the fact that we can only win the battle against COVID-19, together. There is no need to shut of people infected with COVID-19 because they can be treated. As long as the people understand to keep the health protocol, although the fight against the pandemic is still steep, but the probability is high for all of us to win the war.

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<sup>120</sup> Amalinda Savirani and Linda Y Sulistiawati 'the Malady of ignorance? Indonesian parliament during the Covid-19 Pandemic' *New Mandala* (6 April 2021).

<sup>121</sup> Egi Adyatama, 'Jokowi Minta Ada Transformasi Peradilan Saat Pandemi Covid-19' *Tempo* (17 February

2021) <<https://nasional.tempo.co/read/1433765/jokowi-minta-ada-transformasi-peradilan-saat-pandemi-covid-19/full&view=ok>> accessed 02 November 2021.