

Integrated Justice System in an Unforeseen Contingency: Ensuring Compliance with Health Protocol in Bogor Regency

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Abstract

The government of West Java has applied discretion in interpreting the national disaster regulation through West Java Province Bylaw Number 5/2021. To ensure procedural justice for the society, the bylaw applies fines through a trial court of minor offenses against health protocols violators. The implementation of the bylaw is a manifestation of the theory of an integrated criminal justice system, which, to date, has only been carried out independently. However, in this case, there is an integration in achieving an objective of law enforcement, that is, the prevention of the spread of the pandemic. Thus, this study examines the implementation of the Bylaw involving Indonesian National Police and Civil Service Police in regulating the health protocol. This research uses descriptive qualitative methodology involving triangulation, literature reviews, interviews, and case studies. The results reveal that an integrated judicial system has been implemented and met its objective in ensuring public compliance to health protocols. Yet, a number of issues persists, including using quantitative performance metrics in identifying the target offenders, outdated paperwork methods, teleconferencing judicial processes that are hindered by the existing constitution, and dilemma in either imposing heavy fines or light fines in a society hit hard by an unseen contingency.

Keywords: bylaw, disaster management, health protocol compliance, integrated justice system, procedural justice

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INTRODUCTION

The Coronavirus Disease 2019 (COVID-19) pandemic is a condition that no person or nation in the world has ever anticipated, necessitating swift and appropriate government action. The best method to prevent the spread of COVID-19, according to global health experts, is to adopt healthy lifestyles and limit community activities. Primary public health strategies have emphasized non-pharmaceutical interventions (NPIs) in the early stages of addressing the COVID-19 pandemic. This has involved the strict implementation of physical distancing protocols, movement limitations, and lockdowns (Bayuna, Suasti & Syahputra, 2024). However, restrictions on community activities in the form of recommendations to maintain physical distance and prohibitions on social activities have caused disorder in society due to the unusual and sudden enforcement of these restrictions (Viner, et al., 2020). Research by McCarthy, et al. (2021) found that individuals react negatively to freedom restrictions, such

as wearing masks and maintaining a distance. However, disobedient individuals can be dealt with appropriately if the police institution prioritises procedural justice when enforcing health protocols. This is because the community desires police presence to enforce health protocols. It is also acknowledged that informing the public about the health risks police officers encounter during this pandemic can increase community support for law enforcement (Nix, Ivanov, & Pickett, 2021).

In March 2020, when the COVID-19 pandemic broke out in Indonesia, the government enacted Government Regulation No. 21/2020 regarding Large-Scale Social Restrictions or *Pembatasan Sosial Berskala Besar* (PSBB) in the Context of Accelerating COVID-19 Control. The continued spread of Covid-19 can trigger and worsen various socio-economic problems. Compliance and discipline in implementing health protocols are key to handling Covid-19 (Iswidodo, Firmanto, & Amin, 2021) Many parties, however, questioned the success of this PSBB based on its implementation and outcomes. After four months of implementation, there were 130,718 COVID-19 positive cases in Indonesia on August 12, 2020, with 5,903 deaths (BNPB, 2020). Andriani (2020) stated that the Indonesian government faced a dilemma in implementing the PSBB because the majority of Indonesians, who labour in the informal sector, were unable to implement one of the PSBB's clauses, namely work from home. Abhiyasa (2021) stated that the implementation of lockdown to combat the coronavirus could lead to a global food crisis. Therefore, when the second spike in COVID-19 cases occurred in Indonesia in January 2021, the Indonesian government decided to abandon the PSBB policy in favour of Imposing Restrictions on Community Activities or *Pemberlakuan Pembatasan Kegiatan Masyarakat* (PPKM). Significant differences exist between PPKM and PSBB. In PPKM, all policies are regulated from the central government to regional administrations, whereas in PSBB, the approach is from the bottom up. Therefore, Minister of Home Affairs Instruction No. 15/2021 stipulates that Regional Heads who fail to implement the provisions referenced in this instruction will face administrative sanctions ranging from two written warnings to provisional dismissal.

This instruction was a major pressure for regional leaders who have a large COVID-19 presence, one of which being West Java Province. West Java Province has the most residents in Indonesia; there are 4.575 positive cases every day in West Java, with Bogor Regency accounting for more than a quarter of these (1.478 cases) (Pikobar, 2021). The COVID-19 Task Force in West Java was spurred by this situation to follow up on the central government's policy on the deployment of Emergency PPKM to break the chain of spread of COVID-19 in West Java. Problems emerge when the existing legislation that can enforce the law during a pandemic, notably Law No. 4/1984 about Infectious Disease Outbreaks and Law No. 6/2018 concerning Health Quarantine, do not clearly establish legal punishments for violators of health protocols. In response to this issue, the Law of the Republic of Indonesia No. 30/2014 on Government Administration has provided a solution for Government Officials to apply discretion in taking action to support the smooth implementation of Government policy as long as they provide public benefits.

According to Soesilo (1984), discretion can be divided into three distinct classifications. The first is the administrative discretion employed by local governments in interpreting and enforcing central government regulations while taking into account current conditions and local wisdom. The second is law enforcement's discretion in utilising limited available resources to achieve optimal impact, sometimes known as selective enforcement. Police agencies have a series of regulations that determine techniques and tactics in enforcing the law, but these rules cannot regulate all phenomena that occur in the field, so most actions taken by officers must rely on their personal judgement. Last is the judge's discretion in rendering a verdict in a given case. The judge's decision will allude to the section of the law or regulation that establishes the threat of punishment, if that section already contains guidelines that can be used as a benchmark for the minimum or maximum sentence for a violation of the law. However, when rendering a definitive decision, the judge may use his discretion or discretionary authority to assess a decision that is fair, certain, and advantageous to the accused lawbreaker (Harefa, 2020).

Departing from the discretionary authority given to government administration, the West Java COVID-19 Task Force decided to implement West Java Province Bylaw No. 5/2021 concerning Amendments to West Java Province Bylaw No. 13/2018 concerning the Implementation of Peace, Public Order and Public Protection. A bylaw, or Regional Regulation, gives each autonomous region's Regional Government the power to administer and enforce their own law in accordance with the local wisdom and characteristics of each region (Abdullah, 2005, p. 151). In implementing this bylaw, the government tries to ensure compliance with the health protocol by categorising disobedience as "violation" or minor offences as stipulated in Article 205(1) of the Criminal Procedure Code, with the aim of increasing the severity of sanctions as an effective way to enforce compliance (Raharjo, 2010, p. 189).

Minor crimes (*Tipiring*) are prohibited acts that do not pose a significant threat to public order or violate the human rights of others (trivial case). The purpose of establishing the Minor Criminal Acts Examination Procedure is to examine cases with simplified procedures in accordance with Chapter XVI (examination at judicial sessions), Section 6 (quick examination procedures), Paragraph 1: Procedure for examining minor offences. Research by Kusuma, et al. (2021) demonstrates the success of Batu City's implementation of Regional Regulation by implementing monetary sanctions to those who violate health protocol. It has been executed in accordance with the applicable laws and regulations in a measurable and proportional manner. In addition, it has a positive value because of its deterrent effect and because violators cannot profit from it.

Referring to Friedman's (2018) theory of law enforcement, the law has a function of social control in which it supervises and regulates the social environment in the public sphere. It also involves driving individuals to want to comply with the law. If a person or group disobeys or violates a law that has been agreed upon and established, that person or group will receive sanctions as a form of response to behaviour that deviates from the social order. In numerous psychological studies on behaviour

modification, it is stated that law enforcement will administer punishment to offenders. Punishment is one of several mechanisms used to increase desired behaviour and decrease undesirable behaviour (Gaza, 2012, p. 17). Punishment in the form of sanctions is intended to restore the social order's equilibrium when it has been disturbed by rule violations. The purpose purpose of sanctions is to prevent deviations or violations of social norms. Individuals who intend to deviate from the norm should avoid this prospect of punishment because it will result in their own suffering. (Kelana, 2014, p. 139). Jeremy Bentham, a philosopher who discovered utilitarianism, stated that the purpose of law and the real form of justice is the greatest happiness for the greatest number (Latipulhayat, 2015). As a result, the law pertains to everyone and affects the interests of numerous individuals and groups, not just a select few (Huijibers, 1984), In this case, despite the unconventional and coercive nature of the health protocol requiring individuals to wear masks, it is necessary to safeguard the rights of others to live a healthy life free from the risk of disease transmission.

Moreover, according to Gustav Radbruch (1978), there are three essential legal values that must be fulfilled: justice, certainty, and expediency. However, these three values have the potential to conflict with one another due to their contradictory components. There are times when the value of certainty conflicts with the value of benefits, such as when the law must be enforced despite causing more harm than good, or when the value of benefits conflicts with the value of justice, such as when the benefits provided are not equally equitable to all individuals who receive them. Tom Tyler sparked a Theory of Procedural Justice by assuring the achievement of the three fundamental legal values. According to Tyler (1988), procedural justice is the framework that law enforcement officials need to regard society as legal subjects in a fair and procedural manner.

Procedural enforcement of West Java Province Bylaw No. 5/2021 combines the role of the Indonesian National Police (Polri) as the spearhead of law enforcement during a pandemic, bolstered by the Civil Service Police (Satpol PP) as an assistant in carrying out policing functions in accordance with Article 3 of Law No. 2/2002 concerning the Indonesian National Police. Thus, Civil Service Police are authorised to perform policing duties in the technical field of regional administration and to serve as civilian investigators of regional laws. Wardhana (2020) discovered an overlapping situation between the INP and Civil Service Police in COVID-19 enforcement, but it has been temporarily ignored due to the contingency situation that is deemed more important to address for the sake of public safety, particularly in highly COVID-19-exposed areas like Bogor Regency. Based on data from the COVID-19 Task Force on 13 June 2021, Bogor Regency is the area with the lowest compliance with wearing masks in West Java, with a compliance rate of 48,14%, and the lowest compliance with maintaining a safe distance, with a compliance rate of 58,54% (Satgas COVID-19, 2021).



Figure 1. Mask Usage Compliance Rate at the City/Regency Level in West Java (Satgas COVID-19, 2021)

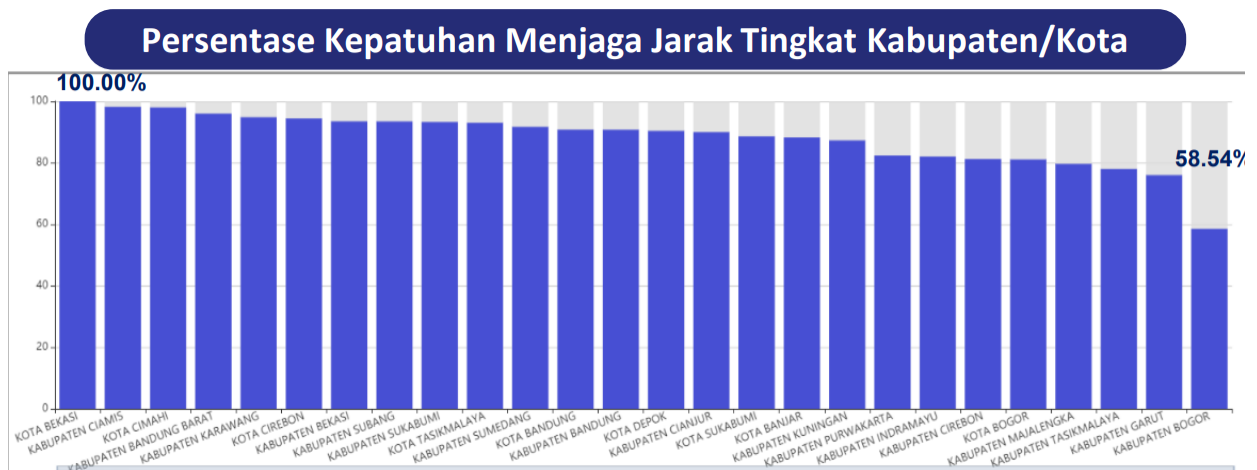


Figure 2. Social Distancing Compliance Rate at the City/Region Level in West Java (Satgas COVID-19, 2021)

Thus, this paper will explore the mechanism of COVID-19 health protocol enforcement as well as the challenges encountered in the Bogor Regency, and can therefore serve as a reference for law enforcement in times of social and health crises. This research also intends fill the gap in the literature regarding the use of local regulations as a tool for law enforcement and provide an analysis of the complications that arise when the use of the law conflicts with community compliance. Until now, the discourse on the discretion of law enforcement officers has only centered on the discretion in Article 18 of Law No. 2/2002, with a narrative of discretion that is always the same, namely “Police officers exercise discretion by diverting traffic in the opposite direction to alleviate congestion” (see Said, 2012; Priyantoko, 2016; Suparman, 2020). Though this is an example of proper discretion, it gave the impression that the discourse on discretion has no other form. Therefore, this research is novel or novel in its expansion of the concept of discretion, which is not only utilised by police officers in Indonesia,

but also possessed by all member of the criminal justice system. The government may work together with religious leaders, traditional leaders, police officers, and/or Indonesian National Armed Forces to make voluntary plus mandated quarantine successful (Setiati & Azwar, 2020)

While this study only focuses on one specific jurisdiction in Indonesia, it could reveal transferable insights into how the criminal justice system functions in the country, which has a unitary legal system based on centralized police, attorneys, and courts. Moreover, although bylaws signify the regional autonomy of provinces and cities/regencies in Indonesia, their authority is nonetheless bound by the structure of the Indonesian hierarchical legal system as delineated by Kelsen's model (Suhenriko, 2023). Consequently, the application of bylaws is intrinsically uniform, at least to some degree, both procedurally and contextually. The bylaw in focus, although applicable just in West Java, has parallel provisions in other provinces, as the COVID-19 pandemic constitutes an unforeseen contingency encountered by all regions in Indonesia. As a result, this research aims to conduct a descriptive analysis of compliance enforcement during disasters and contingencies by examining the role of regulatory implementation as a case study to elucidate broader patterns within Indonesia's criminal justice and sociolegal context.

METHOD

This study employs qualitative methods to collect in-depth data and opinions from research participants. Qualitative research can collect subjective information obtained by researchers; therefore, researchers must collect data from multiple sources so that it can be triangulated and analysed to explain phenomena in a general, comprehensive, and holistic manner (Creswell, 2016, p. 46). The study began with a literature review of COVID-19, law enforcement during the pandemics, and the criminal justice system role in the trial court of minor. The researcher then investigates legal sources in the form of statutes, decrees, and legal scholars' opinions, as well as legal studies. The researchers concluded by conducting open interviews with the Bogor District Civil Service Police, the General Duty and Criminal Investigation Unit of the Bogor Police Department, the Bogor Prosecutor's Office, and the Class 1A District Court in Cibinong.

After the data has been collected, it will be reduced by creating summaries, coding, tracing themes, forming clusters, composing memos, etc., in order to eliminate irrelevant data/information so that it can be presented as narrative text, diagrams, tables, and charts. In order to obtain a more precise comprehension, the data were examined and briefly questioned in the field notes in order to complete the review. Sugiyono (2015) added that research data must undergo validation to ensure its accuracy and reliability. This study utilized three validation strategies to ensure precision: confirmability to guarantee that data and findings remain unaffected by bias, transformability to ensure that findings are relevant in various contexts, and triangulation to cross-verify data through multiple sources and methods. Lastly, this research is limited to case studies of the implementation of West Java Province Bylaw No. 5/2021 as a tool for law enforcement against COVID-19 health protocol violators. It is known

that the implementation period of this Bylaw only lasts two months, thus, approaching this research using a case study can provide in-depth knowledge about the what, who, where, why, and how of this Bylaw's implementation.

RESULTS AND DISCUSSION

This research is conducted in Bogor Regency, which has an area of 2.988,20 km² and a population of 5.427.068 people. The majority of the population live in areas bordering Bogor City, Bekasi City and South Tangerang City. Meanwhile, the interior areas in the eastern and western parts of Bogor Regency are more dominated by hills and mountains which are tourist destinations on weekends and national holidays. This density has an influence on the spread of COVID-19 in Bogor Regency. Where after three months of the COVID-19 pandemic, the majority of areas that have become red zones (zones with active positive cases) are districts that have high population density. This is because most of these areas are commuters with higher mobility than fringe areas who work as subsistence farmers.

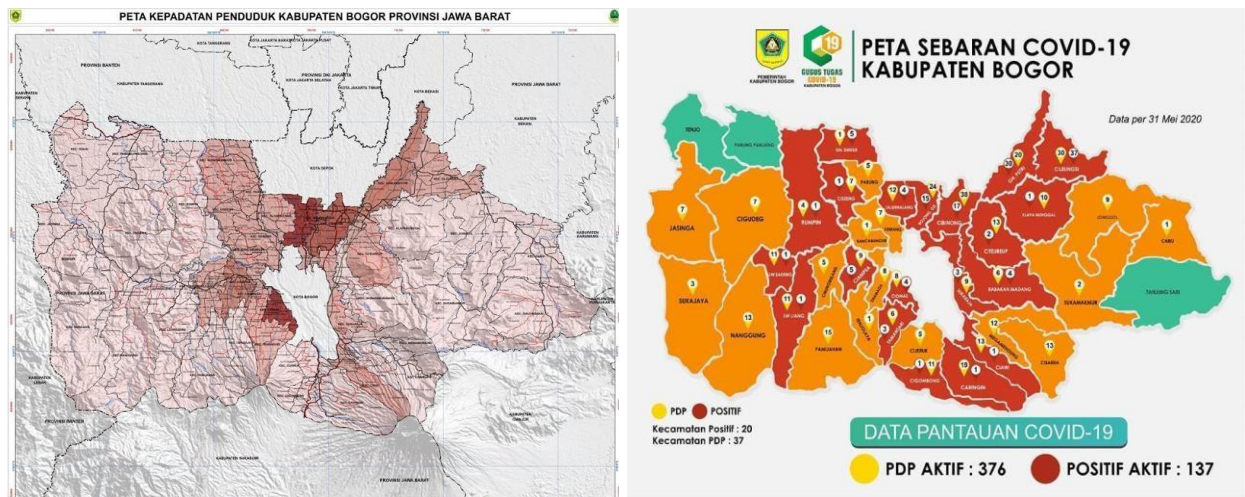


Figure 3. Map of Bogor Regency Comparing Population Density and COVID-19 Confirmed Cases as of May 31, 2020 (Satgas COVID-19, 2021)

In Bogor Regency, the criminal justice system is comprised of numerous institutions: Bogor Police Department (Polres Bogor) and Bogor Regency Civil Service Police as detectives and civilian investigators respectively, Bogor District Attorney as public prosecutor, Class IA District Court as judicial court, as well as Class IIA Cibinong Penitentiary and Class IIA Gunung Sindur Special Penitentiary serving correctional functions. The Bogor Police Department formed 6 (six) Task Force to follow up on the Telegram number: ST/2756/IX/Ops.2./2020 from the Chief of Police about Operation Aman Nusa II. Officers from Task Force II (Prevention) had the discretion to take action against health protocol violators, including push-up punishment, community service, and activities such as spending the night at a cemetery, due to the extremely low public compliance and awareness of the protocol (Cahyana, 2020). Coupled with the worsening spread of the COVID-19 pandemic caused by the Delta

variant, on March 15, 2021, the Governor of West Java issued Province Bylaw No. 5/2021.

The prosecution of individuals who violate health protocol is a coordinated effort involving all components of the criminal justice system. This joint operation is conducted routinely every day, beginning with patrols to search for health protocol violations involving masses or business actors. If a violation is found, the investigator will conduct a trial of minor offence examination, and the violator will be ordered to appear in court at a specified time. Then, during the trial, the suspect will appear before the court for a quick trial, at which time the court will decide on the offender's sentence and sanctions in accordance with West Java Province Bylaw No. 5/2021. The offender is then required to pay a fine to the District Attorney's Office, where it will be transferred to the state treasury. This Covid-19 era requires the bureaucracy to optimize the use of technology, information and communication in all matters in the government sector (Taufik & Warsono, 2020) In addition, the Bogor Police Department reported the results to the West Java Provincial Police, which ranked each department based on the number of trials conducted and the number of fines collected from individuals and businesses.

Screening of Health Protocol Violator

Task Force II Patrol Team received input from Task Force I (Detection) regarding locations susceptible to the spread of COVID-19 as well as reports from the public via the National Police 110 call centre regarding the presence of masses in determining the location for the target operation. As, the size of the Bogor Regency makes it challenging for Task Force II officials to enforce health protocols in all areas. In response, law enforcement officials have discretionary authority in the form of selective enforcement in order to maximize results with limited resources (White & Perrone, 1997). Determining the location of the justice patrol's targets is a form of discretionary selective enforcement, as the limited number of patrol officers cannot carry out enforcement in every corner of Bogor Regency. Typically, the Task Force conducts three joint patrols every day, beginning at 10:00 AM during peak morning rush hour, 15:00 PM during the height of afternoon activity, and 21:00 PM to enforce night curfew. Nevertheless, a single joint-patrol activity can only reach one of Bogor's 41 District, with each Police Sector conducts a smaller-scale patrol within its jurisdiction. Therefore, the commander of the General Duty Unit, as the leader of Task Force II, must exercise the utmost discretion when designating patrol objectives to prevent crime displacement, in which offenders avoid areas the Task Force intends to patrol on a given day.

Collazos, et al. (2021) hypothesized that crime or offence displacement could be resolved by integrating horizontal and vertical level patrol and surveillance. However, Task Force II only conducts patrols as a formality in order to meet daily objectives. During an interview, the commander of the General Duty Police admitted the leadership's quantitative performance indicator targets prevented Task Force II from employing selective enforcement discretion to target the most dangerous offenders, rather than focusing on the areas closest to the Police Department and the same target on every patrol in order to reach the target number. As a result, there was no coordination between the regency and district patrol

teams, so some areas were never even visited by law enforcement. It is known that quantitative performance indicators have a negative impact on police-community relations and the ability of officers to carry out their duties effectively. It is also plausible that public tolerance may reach a breaking point, resulting in more open hostility towards the police, as officers are forced to compete for the most arrests without considering the enforcement's effect on society (Murray, 2014). Therefore, in every patrol, the Task Force II lacks a priority scale and appears to be "looking around" just to get the patrol over with.

Before the enforcement of the bylaw, Abdi (2020) suggested that Task Force II's actions were deemed excessive and did not serve as a deterrent to the community at the beginning of PPKM implementation. Due to the absence of a set of legal parameters governing the assigned punishment, interpretation for officers may violate the provisions of the Convention against Torture, which was approved by the General Assembly of the United Nations. In the end, law enforcement of health protocols provided by the bylaw through fines had a greater impact on public compliance than the application of sanctions without a legal foundation, such as push-ups, social work, and unconventional sanctions, such as spending the night in a cemetery. This is due to the fact that the cost of perpetrating a violation is not proportional to the benefits obtained, namely crowding, so customers will think twice about violating the health protocol (Durlauf & Nagin, 2011).

With fines as a deterrent to violations, early presumption of Police Contact perpetually confrontational, as the officer is presumed to enforce the law with force, with the impending anxiety of a punishment outcome following the police confrontation (Quinton, 2011). Thus, the first contact between a police officer and an alleged offender is always preceded by suspicion or the principle of presumption of guilt, where a police officer's instinct compels him to evaluate the suspect as a possible violator. However, in the case of PPKM patrols in Bogor Regency, where legal subjects are treated fairly and in accordance with procedure, both offenders and the innocent view Task Force II as legal entities that have control over law enforcement and regard the civilian with respect. Interviews with the Head of Operational Affairs of the General Duty Unit and the Commander of the Civil Service Police Company revealed that no resistance is encountered during the enforcement of the Bylaw. Alluding to Tyler's (1988) idea that a person who is treated fairly and in accordance with procedure is more likely to comply with any decision made by law enforcement, even if the decision is against him.

Rapid Examination of Health Protocol Violation

When the patrol team encounters health protocol violators, these individuals will be brought before the Civil Service Police Civilian Investigator serving as Task Force VI (Enforcement) to investigate minor criminal acts. Rapid examination is conducted by filling out a minor crime document comprised of five layers of color-coded sheets according to their designation. In reality, however, the Bogor Regency Civil Service Police could not conduct investigations into provincial governor-drafted bylaws. This is because in Government Regulation No. 16/2018 concerning Civil Service Police, the Provincial Civil Service Police is accountable to the Governor, whereas the City/Regency Civil Service

Police is accountable to the Mayor/Regent. Therefore, there is a void in the jurisdiction where the legal substance to be upheld lacks a valid legal structure. As a means of resolving this issue, the National Police, whose detectives can also examine certain bylaws, have to step in to fill the jurisdictional void left by the absence of this authority.

The day-to-day implementation of criminal justice in Indonesia is not yet integrated as each legal structure remains focused on its primary function without ensuring continuity throughout the entire judicial process (Muladi, 1995). For instance, the detective or investigator is tasked with conducting investigations and compiling case files, but after transferring the files to the prosecutor's office, the detective's role appears to end. Similarly, the court's role begins only when there is a prosecution, not during the initial investigation, unless for the approval for certain coercive measures, such as confiscation and search warrant. This study found, however, that the application of West Java Province Number 5/2021 has demonstrated that the criminal justice system in Indonesia can also be administered in an integrated manner, where each component of the legal structure cooperates in assisting and monitoring the primary responsibilities of the others. Like this example, the Bogor Police Department's detective was able to complete the gaps in the legal structure created when the Civil Service Police was unable to perform its investigation duties due to differences in jurisdiction. In this instance, the leaders of Bogor Regency were able to find a solution by collaborating on the implementation of an integrated criminal justice system that was approved by all agencies comprising the legal system.

Though technical problems are still found in rapid examination and courts of minor offence. Members of the Task Force VI and judges during trials have been burdened by the manual use of rapid examination sheet because the material used cannot be read on the judge's copy sheet. This may appear to be a minor issue, but it is detrimental because the detectives who conducted the field examination were largely unable to attend the trial due to the demands of their main daily responsibilities. As a result, the prosecution was handled by other detectives who were not present when the violation occurred. Both the judge and detectives who were interviewed confessed that they had to release more than half of the defendants because neither could identify the alleged infraction. After the Task Force VI conduct a rapid examination, the detective seizes the offender's identity in the form of an identification card, driver's license, or other form of identification. The violator is then given the red sheet to bring to the court for the minor offence.

Trial for Minor Offense

The trial for health protocol violators were attended by a single judge and a secretary from the Cibinong Class IA District Court, detectives acting as public prosecutors, and members of the Bogor District Prosecutor's Office serving as fine executors. Unfortunately, due to the accelerating spread of the COVID-19 cases, The Minister of Home Affairs released Instruction No. 15/2021 concerning PPKM that mandates key government sectors who offer public services may only employ a maximum of 25% office staff. Sirait (2021) also reported that the Cibinong Class IA District Court has experienced a large

outbreak of COVID-19 among its staff, necessitating a lockdown and the district court being strictly quarantined off limits. As a result, the three members of Bogor Regency integrated criminal justice system decided to hold virtual trials in accordance with Supreme Court Regulation No. 4/2020 on Administration of Criminal Case Trials in Electronic Courts, as the Cibinong Class IA District Court has used teleconference technology successfully in past criminal trials. It is also convenient for defendants who reside far from the District Court in Cibinong, as trials are agreed to be held in the nearest Police Sectors within each District.

Using the rapid examination method to enforce health protocol infractions has accelerated and reduced the workload of investigators. This is due to the fact that, unlike in conventional case investigations, investigators are only required to complete out an examination form. In addition, the trial of minor offences using an online mechanism has brought about a number of advantages. First, trials can be held swiftly and with certainty to demonstrate to the public that health protocol regulations are governed by legal certainty. Both trials were conducted efficiently because out-of-town defendants did not have to travel a great distance to the courthouse, but rather to the nearest Police Sector. The virtual trial demonstrates to the public that health protocol regulations will be enforced even during a state of confinement and employee restrictions.

However, there is an issue on the legitimacy of the court, as the Indonesian Criminal Code Procedure clearly specifies that it is necessary for the defendants to appear before the court and its apparatus. There is ongoing debate, however, regarding whether “appear” refers to a physical or could also be virtual appearance (Ardhiansyah, 2021). This questions the legitimacy teleconference trials as there are currently no regulations that can interpret electronic presence as equivalent to physical presence. While Supreme Court Regulation No. 4/2020 regulates teleconferencing for judicial criminal matters, it has not yet regulated proceedings with other procedures such as civil court, state administration court and rapid procedural examinations used to enforce bylaws. As a consequence, the trial for enforcing West Java Province Bylaw 5/2021 was unable to utilise the e-litigation system, which can actually ensure transparency and efficiency in the course of proceedings and payment of decisions (Narassati, Pamungkas, & Elthania, 2021). The judge interviewed even stated, “...*luckily enough, it has not crossed the defendant’s mind to bring this matter (virtual court) to the Supreme Court*”.

The Imposition of Sanctions for Health Protocol Offenders

The judge's decision for the violator is based on the penalties stipulated in West Java Province Bylaw No. 5/2021, which is formulated to be very costly on the basis of high social costs if exposed to COVID-19 and the aim of modifying human behaviour so that individuals think rationally about high fines. In formulating fines in the form of effective violation tickets, Sun (2011) along with Hummel (2015) argue that fines must make violators aware that there are social costs in violating these rules, can remind the public continuously that the regulations it is required to obey, and is implemented based on the assumption that people tend to disregard the existing rules.

The government of West Java specifies a hefty fine for the violation of health protocols: a minimum of Rp. 5.000.000 (\$340) and a maximum of Rp. 50.000.000 (\$3,400). In practise, however, most of the violators who were stopped and brought to trial were impoverished individuals who held their gatherings in food stalls rather than upscale restaurants. The judge interviewed felt that even the bylaw's minimum penalty could be equivalent to or greater than the violator's monthly income. Therefore, the District Court judges had the discretion to reduce the punishment for individual offenders and food stall owners to less than 100.000 rupiah, but they did not reduce the fine for factories and offices. In order to guarantee legal justice, the judge has deviated from statutory provisions by imposing fines below the minimum limit. As the adoption of this discretion is a manifestation of the conflict between the three legal values, where adhering to legal certainty has injured legal justice for society (Radbruch, 1978). This can be seen in cases in other West Java jurisdictions where the District Court did not exercise discretion in imposing a fine lower than the statute, such as the case of an impoverished porridge vendor in Tasikmalaya City who was imprisoned because he could not pay even the Rp. 5.000.000 (\$340) minimum fine (Nugraha, 2021). On the other hand, employing discretion to reduce the fine below the minimum limit also results in a lack of clear guidelines for how much the penalty for health protocol violations should be.



Figure 4. Number of Fines Averaged for Individual Health Protocol Violations in Rupiah
(Compiled by the Researchers, 2022)

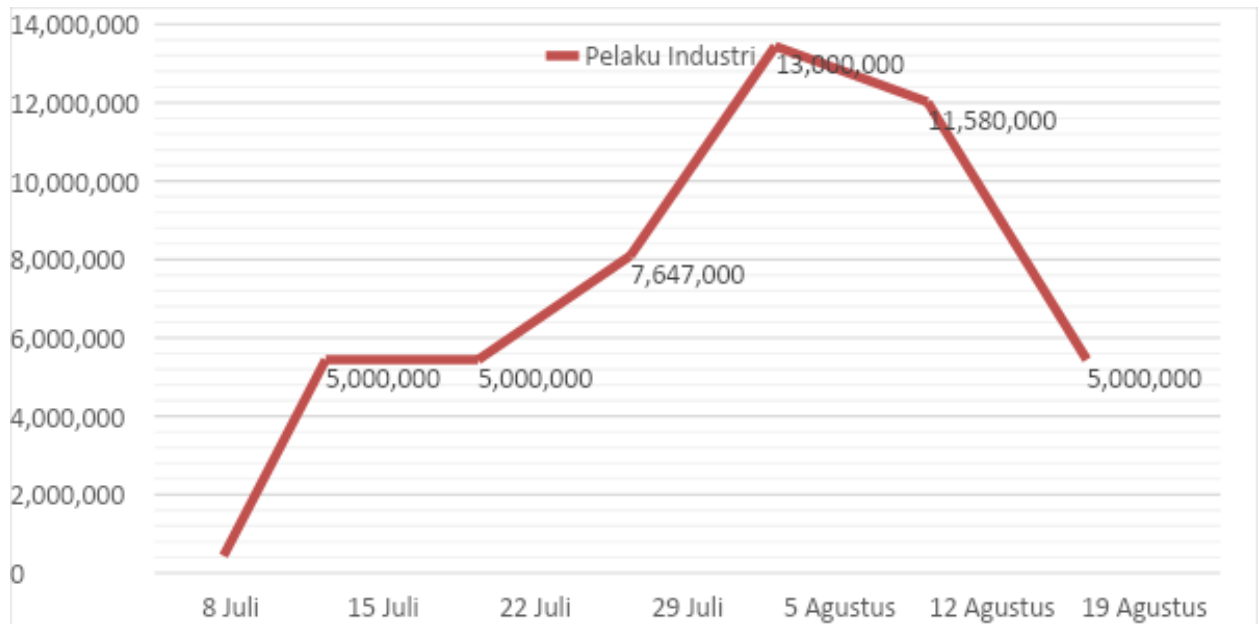


Figure 5. Number of Fines Averaged for Industries and Business Health Protocol Violations in Rupiah (Compiled by the Researchers, 2022)

According to the data collected and analysed by the researcher concerning the average verdict for penalties of individual and corporate health protocol violations, the average verdict varies from week to week. In an interview with one of the judges, he stated, *“Every day the economic situation of the people worsens, but every week the Bogor Regent grants operational privileges to business actors, so it is ‘outrageous’ if they continue to commit violations”*. The absence of agreed guidelines in regulating discretionary power has created disparities in the judge's decisions (Zulfa, 2011, p. 305). As well as in using discretion to decide fines, judges are in a dilemma position; between having to choose between imposing high fines to ensure compliance but injuring the people’s economy, or imposing low fines for the benefit of society but not achieving compliance with these regulations. This happens because it is based on the theory of rational action (Cornish & Clarke, 2014), a person can be prevented from hurting others by establishing punishments for certain actions. With these two theories, Durlauf & Nagin (2011) expect potential offenders to compare the expected benefits of committing the crime with the benefits of not committing the crime. So, the application of severe punishment hypothesizes that if law enforcement increases the cost of committing a crime drastically, then people will not commit a crime. A similar failure occurred in the regulation of waste disposal in Poland. According to Rohlf, regulations on waste disposal in Poland have failed because fines for pollution to factories amount to only a fraction of the cost of treating the waste, which makes it much cheaper for companies to pay only the penalties for pollution (Rohlf, 1990, p. 105). As a result, reducing the sanctions for individuals leads to an increase in health protocol violations, as the penalties become more manageable. According to the Head of Operational Affairs for the Criminal Investigation Unit, *“when the judge began issuing smaller fines,*

the number of violators increased, perhaps because their profit from opening was greater than the minuscule fine”.

Following the judge's decision, the violator pays the fine to the prosecutor's office as the executor, and the prosecutor issues a receipt as proof of payment, along with the confiscated identity card. In accordance with the Attorney General of Indonesia's Circular Letter No. SE-009/JA/9/1983, the District Attorney's officer tasked with accepting payment of penalty fines in this bylaw is appointed by the Head of the Bogor District Attorney's Office. Executors of fines who are in charge of depositing fine proceeds may also request that the Regent provide premiums to law enforcement officials in order to provide incentives for law enforcement officers who have been active in enforcing sentences and contributing to state revenues. As a form of accountability and checks and balances amongst law enforcement authorities, the fine procedure concludes with the executor making a report of the execution of the fine, and forwarding it to all elements of the Bogor Regency integrated criminal justice system.

CONCLUSION

In the past, the concept of an integrated criminal justice system in Indonesia has not been fully achieved, as each law enforcement agency, namely the Police, the Prosecutor's Office, and the Courts, has frequently acted independently with its own particular objectives. In the case study of the implementation of West Java Province Bylaw No. 5/2021, however, it was demonstrated that law enforcement components can work together to administer an integrated criminal justice system with a single objective: increasing public compliance regarding health protocols and preventing the spread of COVID-19 from social activities. From the beginning of the detection process, through examinations, trials, and the imposition of penalties for health protocol violators, the integrated criminal justice system is implemented with the continuity of the all the criminal justice system agencies. This coherence has been instrumental in achieving the objective of implementing West Java Province Bylaw No. 5/2021, but with due regard for the legal due process guaranteed by checks and balances in each agency's process. Therefore, it is suggested that other criminal courts follow the manner of implementing this regional regulation by expanding the extent of coordination and collaboration from the Provincial/City/Regional Leaders Forum to law enforcement institutions nationwide. With a system of checks and balances between agencies, the ultimate goal is for law enforcement in Indonesia to work towards a single, completely coordinated endeavour.

SUGGESTION

In response to the impediments encountered in Bogor Regency during the implementation of West Java Province Bylaw No. 5/2021, the author made several recommendations. First, to enhance vertical coordination between regency and district patrol teams, as well as horizontal coordination with patrol teams from other regency or provincial jurisdictions, in order to prevent the displacement of health protocol violators. In addition, it is essential not to implement quantitative performance indicators

because doing so would compromise the discretionary priority standards of patrols. While it is suggested that qualitative standards be applied so that the patrol team can enforce health protocols on more dangerous targets with the greatest potential to disseminate COVID-19. Second, the Provincial Government must issue a directive regarding the application of provincial bylaw by the Regency Civil Service Police. In order to increase the number of investigators who can enforce the bylaw, it is also necessary to grant certification to uniformed police officers as detectives for minor offence. Third is to implement the digitalization of the examination system for minor offences and traffic offenders in order to eliminate the need for physical examination documents, which have proved to present quite a number of shortcomings. Fourth, the establishment of clear statutes that accommodate teleconference trials so that trials can be conducted with clear legal validity and without ambiguities. In addition to establishing rules for the use of e-court and e-litigation systems for expedited trial proceedings in order to assure public transparency. Lastly, providing a guideline that may guide and regulate the discretion of judges' decisions to ensure consistency and proportionality in the imposition of disciplinary sanctions on fines. in any newly established "space" resulting from the sociological transformation of our time.

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