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Regulatory Challenges in Indonesian Aviation During COVID-19: A Legal Perspective

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ABSTRACT

The COVID-19 pandemic has devastated many of the world's aviation businesses, including Indonesia. In response to the spread of this pandemic, the Indonesian government has issued several laws that are inadvertently neglecting the aviation industry sector by failing to consider international aviation legislation and coordinating local policies. It is critical to examine the legal process for preventing COVID-19 and whether its provisions are suitable for the Indonesian aviation industry. This article aims to examine the anticipatory steps that might be taken by the government in hindering the spread of the pandemic in the future. This article uses doctrinal research with a focus on the statute and multidiscipline approaches and secondary data sources such as global, regional, and national legislations as well as articles and reports on the COVID-19 pandemic. This article requires that the regulatory-making process under domestic provisions be consistent from one location to another. This paper also suggests that the government should apply international recommendations and involve the airline industry to avoid huge losses due to this policymaking process.

Keywords: Aviation; Indonesia; COVID-19; Pandemic; Policy-making process

1. Introduction

The virus spreading as a result of human migration in 2020 is not the first time in history. SARS, H5N1, and MERS viruses are examples of spreading viruses that can occur through human movement. Aircraft, being the primary mode of transportation for international travel, can serve as a significant medium for the transmission of viruses. International Air Transport Association (IATA) figures, 4.4 billion people flew in 2018, with 22,000 cities connected by direct flights. Meanwhile, the Asia-Pacific region, which has a direct flying connection with China, has *a huge market share* in the world (37.1%). (1) For Indonesia, Soekarno-Hatta International Airport, placed near Indonesia's capital city of Jakarta, achieved third place as the airport transporting the most passengers in the Asia-Pacific region in 2018. (1) Indonesia alone has 340 airports (2) on various islands totaling over 17,000 islands.

In addition, all airline industry operations are required to comply with international civil aviation regulations. Hence, the regulations are closely related to the enforcement of international law, given the nature of air space and flight activities that cross the countries and nationalities of the countries involved such as passengers, crews, and authorities. (3) Furthermore, the imposition of the rule of law in civil aviation activities is determined by the jurisdiction of the State, which extends to its territorial boundaries, including land and sea. (4)

While the COVID-19 pandemic devastated the globe, including in Indonesia, every country released many domestic regulations as an anticipatory action. Large countries such as the United States of America and Indonesia faced significant challenges in drafting domestic laws, regulations, and policies during the pandemic. Indonesia specifically, in every province and region, has released numerous regulations to halt the spread of COVID-19 among air transport passengers arriving in their region. Consequently, this situation caused chaos in concerns for passengers to travel by air while the departure region did not have the same standards as the destination region. This raises the question of how regulators may collaborate with stakeholders and operators to design regulations while adhering to international regulations.

Since the Convention on International Civil Aviation (Chicago Convention 1944) was drafted and signed by its members, the nature and characteristics that allow disease transmission from one person to another have been a major issue in international civil aviation. Article 14 defines this clause as:

"[Each contracting State agrees to take effective measures to prevent the spread using air navigation of cholera, typhus (epidemic), smallpox, yellow fever, plague, and such other communicable diseases as the contracting States shall from time to time decide to designate, and to that end contracting States will keep in close consultation with the agencies concerned with international regulations relating to sanitary measures applicable to aircraft. Such consultation shall be without prejudice to the application of any existing international convention on this subject to which the contracting States may be parties.]"

As a main party to the Chicago Convention, member states bear the main responsibility for preventing the spread of infectious illnesses by air transportation. This statement is in line with the principles of the 1944 Chicago Conference as stated in

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Article 1 of the Chicago Convention, which emphasizes the nature of restricted air space and provides member countries complete authority to implement various aviation regulations in their own countries. As a result, airlines have more duties to deal with State and international rules' compliments and are also obliged to protect their passengers by portraying potential passengers. (5)

2. METHODOLOGY

This paper applies the normative juridical method to analyze and assess the compatibility of international law and domestic law to deal with the proliferation of COVID-19 in the Indonesian aviation industry, the connection to the legal-making process, and whether it is sufficient to do so. This paper uses aviation primary resources regulations (such as an international convention, national law, international standards, and recommendation practices) and secondary sources (books, journals, and online news reports). However, for this article, the policy's liability will not be explored.

3. RESEARCH RESULT

3.1. The Policy of Civil Aviation Law for Safety Standards

Standardization in international aviation safety and security is carried out by the International Civil Aviation Organization (ICAO). ICAO has a role to play in driving the safety and security of the world's civil aviation. In subsequent developments, ICAO played an essential role in creating civil aviation safety and security standards through various means and instruments such as regulation, mentoring, training, standard determination, and recommendations to each participating country.

For the countries participating in the Chicago Convention, the common standards for safety and security are essential. Any international foreign flight or domestic that will cross another country's territory or when conducting its domestic flights has no difficulty in its operation. Provisions to enhance the safety and security of civil aviation are enshrined in the preamble of the 1944 Chicago Convention:

> *"[...the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security.]"*

Air transportation is transportation that promotes the equality of standards of countries in its safe and secure operation, despite challenges posed by different legal jurisdictions. Although considered quite difficult to achieve, the minimum standardization will continue to be encouraged for the stakeholders of the Chicago Convention members and users of civil aviation services. This provision is established in the Chicago Convention on International Civil Aviation 1944, in Article 37:

> *"[Each contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways, and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.]"*

Moreover, this article emphasizes the importance of standard equality in regulations, procedures, and other factors that contribute to a high level of safety. Nevertheless, Article 38 of the Convention stipulates that if member states fail to meet the set standards of equality, they must promptly notify the ICAO Council, which will then inform other member states about the inequality.

Furthermore, technical requirements about these issues correspond to identical criteria defined in the Annex of the 1944 Chicago Convention, which are usually applied as Standard and Recommended Practices (SARPs).

The Annex, under Article 90 (a) of the Chicago Convention 1944, employs the words "shall be effective " to indicate the strong responsibility for implementing recommendations in international safety and security standards. This provision illustrated by Bin Cheng is construed by the necessity of the State to implement international provisions, which if member states do not agree to such international terms must obtain the approval of the majority of the Convention member states. (6)

However, standardization enables a country to cooperate with other countries, whether through legislation, policy, or implementation application, depending on its ability to adapt to international regulations. (7)

In contrast with underdeveloped countries, a country with excellent facilities and human resources, high standardization is very easy to apply. This condition is inversely proportional when the country does not have sufficient devices, lacks the quality of human resources, and high standardization is impossible to implement.

Respecting the sovereignty of a country as set out in Article 1 of the Chicago Convention 1944, countries that could not apply ICAO's standards should provide notification of differences in terms of compliance with their standards to the ICAO.(8) In the case of countries that do not notify the ICAO, the standard is considered to have or could be met by the country, and member states must implement and incorporate it into their respective legal systems and national policies.(8) Considering the aspect of state responsibility, "aviation safety" reflects a country's national ability to organize safe and secure air transportation systems.

In general, as written above, this standard's application is intended for the safety and security of aviation and automatically provides comfort for anyone as a service user. The nature of the fulfillment of this standard is general and comprehensive, which means that this standard covers many aspects of aviation operational safety, including safety and security to health. The application of this standard then dramatically impacts the preventive measures against the spread of COVID-19 through air transportation which has serious potential in terms of the spread of this deadly pandemic. Hence, safety standards for all civil aircraft operations that are regulated in the Chicago Convention and Annexes are not only concerned with the safety operation of

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the aircraft but also the safety of passengers as users of aviation services.

3.2. Global View of the Aviation Industry During the Pandemic

For the civil aviation industry, even if it is not the first time an infectious outbreak has brought down the industry while the spread of SARS, H5N1, and MERS viruses significantly contributed to the slump in the growth of the air transport business, no one imagines that the outbreak of the COVID-19 pandemic has more significant implications for the aviation business than in previous pandemics. Globally, the industry is experiencing an extraordinary decline in business based on a drastic drop in passenger numbers, flight traffic to a significant decline in trust to fly with commercial flight.

Regionally, referring to the growth of regional aviation before COVID-19, the Asia-Pacific market, according to the report of Inter VISTAS Consulting Inc. in 2015, ranks first in terms of flight growth worldwide, with Indonesia ranking among the top five, followed by China and the United States of America (USA). In the development of the global aviation industry, the Asia-Pacific region, compared to other regions, is the benchmark for the aviation industry's high development. This is because the highest economic growth and the number of people with human mobilization are in the region. (9)

According to the ICAO's report, the worldwide outbreak of COVID-19 had a negative impact on growth, resulting in a decrease of 28.4% in the first quarter of 2020. which equates to a decrease of 612 million passengers. (10) In terms of the overall decline per year, it was predicted that in the first year of the COVID-19 outbreak in 2020, there would be a decrease of 50.4% in growth compared to 2019 which was equivalent to a decrease in seat fulfillment of minus 71% and a decrease in passenger numbers to 1.5 billion passengers globally. (10)

Even though the world suffered tremendous losses, where the aviation industry was one of the most affected, in many cases in that situation, the aviation industry made a significant contribution to human rescue by transporting people from areas most afflicted by the spread of COVID-19 to areas that were considered safer. This activity could be observed in numerous airline companies that were still 'willing', at the beginning of the outbreak of Covid-19, to operate by evacuating people from affected areas to other safer areas, such as Batik Air that evacuated Indonesian Citizens (WNI) from China as the initial epicenter of the virus spread to Indonesia,(11) another evacuation involved Thai Lion, which transported Thai citizens from Indonesia.(12) In addition, several airlines especially Indonesian airline companies also open the opportunity to rent out their aircraft to help foreign nationals out of the territory of countries afflicted by Covid-19. Additionally, air transportation is used to deliver and distribute medical devices. (13)

Due to the possibility of future pandemic outbreaks, several airline companies worldwide have to have procedures to take several anticipation measures to reduce the impact of these extraordinary losses. Considering the impact of Covid-19 spread, most airline companies parked their aircraft and ceased operations, stopped the cost-of-service expenses, renegotiation *of aircraft leasing* payments, and reduced the salaries of directors and employees to support their workforce from directly pertained to the company's operations such as pilots, cabin crews, and non-operational employees at the management level.

Furthermore, to mitigate the impact of losses for airline companies, these measures were also used as a strategy to minimize the company's recovery burden after the end of the pandemic. The rise of the aviation industry will be very likely in the future; however, the significant financial burden during the pandemic is also a constraint to the rapid growth of airline companies. (14)

However, for many airline companies' reasons to survive the pandemic, the loss of trust of service users to travel by air is the most severe blow to the airline company's operations. Despite concerns about the spread of the virus through air transport, differences in rules between countries create inconvenience for international travelers. The absence of the same standards among countries as a prerequisite to international flights is likely to be understood by referring to the different pandemic conditions in each country. Therefore, the airline company's readiness to comply with the country's standards during crossings or groundings will affect the costs incurred by the airline company and the potential for significant legal issues.

During the plague of COVID-19 in Indonesia, the enforcement of different rules and procedures between one region to another has had a significant impact on the fear of passengers making domestic flights for visits to another region. In addition, passengers who are unaware of the varying rules between their arrival place and destination face the risk of being required to undergo isolation in the destination region. As a result, this condition leads to increased concerns and adds to the accountability process for airline policies and procedures. Being the primary actor responsible for transporting passengers to their destinations, airlines face increased costs and time consumption due to travel that does not meet expectations.

Today, the dissemination of COVID-19 has dropped to the lowest level on a global scale, a trend that has been replicated in Indonesia. However, it is not known how long the aviation industry will rise from its downturn to normal as before the COVID-19 outbreaks, especially in the Indonesia national aviation business. Nevertheless, the end of this pandemic is predicted to mark the beginning of global recovery for the aviation industry until 2038. Some aspects observed in the global aviation industry's growth are the economic recovery of the affected sectors, such as tourism and investment. In addition, some countries will focus on the recovery of the domestic economy before expanding business out of the country which indirectly affects the pattern of displacement of people travelling by air transport.

Even though the aviation industry suffered many losses in terms of its activities during the COVID-19 outbreaks, national and international policies also played a role in influencing the air transportation industry's growth rate.

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Countries' policy to close their air space in entering foreign airlines to minimize the spread of COVID-19 through the arrival of foreigners in their countries is an example. Although it is possible under the stipulation of Article 1 of the Chicago Convention, a national protective policy has a profound impact on the operation of aircraft, preventing them from flying into or crossing the airspace of other countries. A protective attitude as a form of sovereignty of a country is very likely strengthened due to the government's policy to protect its country. However, the losses obtained by airline companies and related industries will have a huge impact, such as airports, hospitality, tourism, and others.(15)

3.3. International Policies Affecting the Global Aviation Industry Amid Pandemic

Over the international spread of COVID-19, to prevent further global transmission of the pandemic, the World Health Organization (WHO) emphasizes that aviation activities, such as airport operators, aircraft operators, airlines, and ground handling companies, afford guidance documents to crew and field staff on introducing signs or symptoms of COVID-19. Ground crews and people should be reminded of the precautions needed to hinder the spread of COVID-19. Maintaining distance, practicing hand hygiene, adhering to respiratory etiquette, ensuring environmental hygiene, proper waste disposal, wearing face coverings, avoiding contact with individuals exhibiting respiratory symptoms, and contacting medical authorities when signs or symptoms are present are all part of these precautions. Provision of masks for passengers with symptoms, and ensuring personnel's ability to wear and remove Personal Protective Equipment (PPE), including masks, gloves, and face coverings when in close proximity to individuals with symptoms. (16)

In preventing the spread of COVID-19 worldwide, ICAO also published guidelines that led to the formation of the Council's Aviation Recovery Task Force (CART). The Task Force provides guidance documents to ICAO member governments and aviation industry operators to facilitate recovery from the downturn caused by the COVID-19 pandemic. (17)

This particular team's product is the issuance of "Guidance for Air Travel through the COVID-19 Public Health Crisis" which consists of four guidance addressed to airports, aircraft, cabin crew, and cargo. It is expected that member countries will follow this guidance and guarantee consistency in handling to improve convenience for flying service users.

Therefore, ten principles must be put forward to deal with this pandemic, including:(18)

1. Principles of human protection: by performing harmonious but flexible actions;
2. Work as a team and show solidarity;
3. Ensuring connectivity;
4. Actively manage safety, security, and health risks;
5. Ensuring health care is related to safety and security systems;
6. Strengthen public trust;
7. Make a distinction between 'restart' and 'recovery';
8. Supporting financial assistance strategies for the aviation industry;
9. Ensuring sustainability;
10. Keep learning to improve resilience.

Furthermore, the COVID-19 pandemic has provided many lessons in standardizing aviation safety and security. Some differences in policy taken by authorities are considered very difficult for airline companies to adopt their requirements to the passengers when flying from one country to another.

In the face of such circumstances, the International Air Transport Association (IATA) has made periodic updates to the countries' policies to be known by its member participants before traveling to the destination countries. This step by IATA is referred to as the COVID-19 Government Public Health Mitigation Measures, (19) where IATA will provide a list of countries and policies that significantly impact travel by air transportation. Hopefully, the airline can anticipate the risks of its trip with various steps by providing information to prospective passengers who will travel to that destination.

Its study also said that the rise of the aviation industry can be carried out for a while: *First,* the government should allow its citizens to travel between countries and regions; *Second,* passengers must have the confidence to travel safely and securely and obtain what is expected at their destination.(20) To instill confidence in countries and service users, this provision is accompanied by the issuance of guidance on Aircraft Cleaning and Disinfection During and Post-Pandemic, ensuring that hygiene procedures onboard are enforced and standardized.(21)

In the development of travel practices, the country's policy of prohibiting its citizens from traveling abroad is not the sole reason for the decline in travel demand. The policy of banning citizens of other countries from entering its territory and the obligation to conduct isolation in the places provided by the destination country for a period of one to two weeks at its own expense make international travel exceedingly feared. In addition to the obligation as a prerequisite to undergo health tests such as *Rapid Test* and *Swab Test*, for example, which is passenger's privacy data will undoubtedly reduce the privacy and comfort of the passengers themselves. (22)

Under current civil aviation rules for safe and safe flight, the prevention of various infectious diseases and viruses such as COVID-19 is directed to Annex 9 and Annex 14 of the Chicago Convention 1944. Annex 9 is a provision governing airport facility for all flight activities of the aircraft that will take off until the end of the activities of a flight. This provision regulates many things, including aircraft, people, cargo, and other things in every airport activity. Annex 9 also regulates matters related to aircraft disinfection, documentation errors, search and rescue facilities, aircraft accident investigations, natural disasters for aviation rescue, and the implementation of international health rules.

The provisions in Annex 9 of Standard 8.12 emphasize that member states of ICAO participants follow the instruments issued by the International Health Regulation (IHR) which in

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practice, member states of WHO participants are also subject to the same. IHR aims to assist the international community prevent and respond to harmful risks to public health that are potentially transmitted across borders and threaten people all over the world.

The cooperation of international institutions such as WHO and ICAO has a vital role in which WHO will determine the level of risk in providing the necessary health information and measures. In these circumstances, the national authority has a crucial role to play in being responsible for the national response. Airport operators and airlines as important actors must coordinate effectively with these health authorities. (23)

ICAO's role is to coordinate and provide guidance and information, develop strategies, effective mitigation, and a timely and proportionate response from national health authorities, and various aviation community stakeholders. The ICAO also seeks to reduce the likelihood of a country carrying out strict requirements to reduce the risk of spread, but on the other hand, easing due to threats to those countries is different. Different approaches can lead to confusion regarding the risks faced by the public during travel. (23)

Standard 8.15 and Recommended Practice 18.15.1 of Annex 9 emphasize the importance of health protection for passengers and cabin crew to prevent disease spread during international travel, which is an integral element of air travel and ensures timely implementation and cost efficiency.

Standard 8.15 also demands that pilots flying aircraft suspected of carrying infectious diseases report the above to *Air Traffic Controller* (ATC) officers for further information to pass on to public health authorities in the destination area. This standard includes assisting cabin crew with the process of making records for cases suspected of infectious diseases including further evaluation if someone has a fever (with a temperature of 38°C/ 100°F or more) by having certain signs or symptoms such as appearing unhealthy, persistent cough, respiratory disorders, *diarrhea, persistent vomiting, skin rash, bruising* or bleeding without prior injury or suspicious confusion. In its appeal, the ICAO urged countries to enforce Standard 4.7, which pertains to the use of modern screening tools or techniques for inspecting goods and travelers. (24)

Note 2 of Standard 8.15 in the case that the pilot informs that there is an infectious case on board, the pilot needs to follow additional protocols and procedures as a legal requirement related to health in the country of departure or destination country.

Furthermore, in the case of a State-issued policy that mandates health control cards (as specified in Standard 8.15.1), they are designed to assist the Public Health Authority in managing health procedures for tracking such passengers.

In general, Annex 9, specifically under standard 8.16, requires all countries to create a national flight plan to prepare for infectious diseases that pose a public health risk or health emergency, which can garner international attention.

3.4. Indonesia National Policies Affecting the National Aviation Industry

In response, to the transmission of COVID-19, the Government of Indonesia issued Presidential Decree No. 7 of 2020 which was later changed to Presidential Decree Number 9 of 2020 concerning the Task Force for the Acceleration of Handling COVID-19. The task force, whose position is directly under Article 1, has the task of providing direction to the Executive in implementing the acceleration of conducting COVID-19 as stated in Article 5, monitoring and evaluating the implementation of the acceleration of handling COVID-19. The duties of Executors as stated in Article 6 are:

a. establishes and implement an operational plan to accelerate the handling of COVID-19;
b. coordinate and control the implementation of COVID-I9 handling acceleration activities;
c. supervises the implementation of the acceleration of handling COVID-19;
d. deploys resources for the implementation of activities to accelerate the handling of COVID-19;
e. report the implementation of the acceleration of handling COVID-19 to the President and Advisor.

In carrying out its mandated duties in handling COVID-19, the task force's position with other government agencies is not clearly explained. Nevertheless, the Task Force is a part of the State organization under the National Disaster Management Agency (BNPB). The Task Force is tasked with coordinating with other government agencies, as indicated in the composition of the Task Force membership in Presidential Decree No. 7/2020, mentioning the Coordinating Minister for Human Development and Culture, Coordinating Minister for Political, Legal, and Security Affairs, Minister of Health, and Minister of Finance as a director in the Task Force. The executive includes the Chairman, who is the Head of the National Disaster Management Agency, as well as the Vice-Chairmen, who are the Assistant Operations Commander of the Military and the Assistant Operations Chief of the Indonesian Police. The membership, as stated in Article 8, consists of representatives from the relevant ministries involved in handling COVID-19.

The organizational structure and the positions of the parties involved in the Task Force have an impact on the nature of the rules and the extent of their implementation. This impact becomes evident when the Task Force's rules intersect with government agencies that have direct policies related to tasks performed by ministries. It is Presidential Decree Number 9/2020 that revises the composition in the organization of the Task Force by involving more government officials at the ministerial level.

The involvement of multiple ministers in the Task Force membership indicates that the legal products issued by the Task Force hold a higher 'hierarchical position' compared to ministerial bodies. This is evident as ministers who lead their respective ministries also become members of the Task Force. Furthermore, the position of governors in Indonesia impacts the requirement that local regulations to control COVID-19 must be

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in accordance with and aligned with the policies issued by the Task Force.

Although the Task Force body is not listed in the structure of national legislation regarding the position and nature of legal products, the Ministry issues technical policies in the Ministerial Decree, which later impacts the control of COVID-19 within the Ministry. These policies must align with and not contradict the rules set by the Task Force body.

In addition, at the first spread until the peak spread of Covid-19, there were several national policy issues at the Ministry level connected to the COVID-19 pandemic that had a significant impact on the pace of the national aviation industry, including:

a. Suspending all flights from/to China according to the Ministry of Transportation decision in AU.008/I/16/DJPU.Dau-2020.

b. Suspension of visa-free visits, visas, and the issuance of compelled state resident permits for China nationals under the Ministry of Justice and Human Rights Regulation Number 3 of 2020;

c. Constraints on aviation transport apply not only to humans but also to goods. According to a circular letter from the Ministry of Transportation Number 01 of 2020, which supervises more cargo aircraft service from China. This policy has an indirect impact on the amount of commodities manufactured in Indonesia by China;

d. Temporary suspension of visa-free entrance and visit visas for foreigners who have resided in China during the previous 14 days under Ministry of Justice and Human Rights Regulation Number 7 of 2020;

e. Prohibition on foreigners entering and transiting Indonesia who have visited specific places such as a) Tehran, Qom, Gilan in Iran; b) Lombardi, Veneto, Emilia Romana, Marche, Piedmont in Italy; and c) Daegu and Gyeongsangbuk-do Province in South Korea under the Ministry of Foreign Affairs policy 00657/WN/03/2020/66/10;

f. Requirement for travelers from Iran, Italy, and South Korea to have health certificates;

g. Other policies such as from the Ministry of Foreign Affairs D/0063/03/2020/64 dated 17 March 2020, state:

1. Visa-free visits, visa on arrival, and visa-free service/diplomatic from all nations are suspended;
2. Foreigners who have visited the following states in the previous 14 days are barred from entering or transiting: China, Iran, Italy, Vatican City, Spain, France, Germany, Switzerland, United Kingdom, and South Korea (Daegu City and Gyeongsangbuk-do Province); and
3. All migrants must fill out a Health Alert Card (HAC) upon arrival.

h. Temporary prohibition on travelers entering/transiting in the territory of Indonesia and declaring a willingness to be quarantined for 14 days under the Ministry of Justice and Human Rights Regulation Number 11 of 2020;

i. The Ministry of Transportation Regulation No. 18 the Year 2020 on transportation control to halt the spread of COVID-19 in the form of:

1.Airport time slot reduction based on review;
2.Passengers are limited to a maximum of 50% of the aircraft's capacity by physical distancing; and
3.Tariff upper limit adjustment based on legislative provisions.

j. The cessation of domestic aircraft operations from April 24th to June 1st, 2020 under the Ministry of Transportation issued PM 25 the Year 2020.

Those policy issues impact the airline's operation, and some regional policies issued by local governments do little to provide a significant polemic for the operational and sustainability of domestic airlines. Different Local Government Policies in each region create confusion, fear, and additional costs for passengers and business plans for airline operations.

For airport operations, legally speaking, regional or local policies do not impact airports' operations. This view was because an airport's operation is determined by its central policy, not by the local government's policy. Airports also do not have the authority to prohibit a person from traveling, and only the airline has the authority to refuse passengers to fly on its fleet of aircraft.

However, the closure of access to the entry or exit of people entering or leaving an area traveling by air transport will impact passenger buildup and the smooth operation of airlines based at the airport. One of the local government policies that are quite hit by air transportation is when the Jakarta Regional Government enacts a protocol of tightening Large-Scale Social Restrictions (PSBB) where every citizen who wants to enter or exit the DKI Jakarta area must have an Entry Permit (SIKM). This policy affects passengers who face difficulties in traveling to their final destination in the DKI Jakarta area and who have just landed at Soekarno-Hatta and Halim Perdana Kusuma airports. In specific for Halim Perdana Kusuma airport, through the SE Directorate General of Transportation Air Transportation, Number 32 the Year 2020 stipulates that only Soekarno - Hatta Airport is opened for scheduled commercial flights in Jakarta and the surrounding area.

The policy of banning entering Papua was also enforced by the local government of Papua Province in response to the initial spread of this pandemic, even though the central government's policy determined airport operations. Moreover, Sentani airport operations were closed in response to the policies of the Papua Provincial Government. Another area that also urges different procedures determined by the Local Government is a letter of request from the Surabaya City Local Government requesting the operation of Juanda airport in Sidoarjo to ensure that the aircraft's passengers will enter the Surabaya area to conduct bathing activities at the airport. (25)

Elsewhere, there is a policy of the Local Government of East Kalimantan Province that prohibits the operation of Batik Air airline companies from flying to their territory, after it is known that some passengers transported by the airline company carry passengers who have been detected positive for COVID-19

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after a random inspection of passengers landing at airports in East Kalimantan.

The absence of authority, the extent of authority, and the participation of aviation industry actors in policymaking, particularly in the region, the airline corporation as a commercial operator, and being extremely exposed to legal and operational consequences.

The dissolution of the Task Force handling the acceleration of COVID-19 on 20 July 2020, to further transform into the Covid-19 Handling and Economic Recovery Committee through Presidential Regulation Number 82 of 2020 provides changes in how policies to handle the spread of COVID-19 are focused. Through its name, this Presidential Regulation signifies the idea that pandemic control must also coincide with the economic recovery affected. Structurally, this Committee's organization, according to Article 1, consists of the Policy Committee, the Task Force on Handling COVID-19, and the National Economic Recovery and Transformation Task Force. (26)

3.5. Indonesia's Domestic Policy Relates to International Terms

As a participating country in the 1944 Chicago Convention, Indonesia has an international obligation to fulfill the Convention's contents, including the technical provisions of the standard and recommended practices (SARPs) contained in its Annex. As mentioned earlier, the Annex has arranged many things related to the handling of disease transmission in air transportation, for the next participating countries to develop guidelines for how participating countries' national policies are developed while taking into account the real situations of the participating countries.

Jiefang Huang says the obligation to implement SARPs' provisions is an international obligation that is universal and must be adhered to as a whole and concern for each country. (27) The above circumstances ultimately have similarities to the nature of *Erga Omnes'* obligations in international law, which is to realize the common interest of its countries(27) for the benefit of all mankind.(27)

Although international provisions (SARPs) technically govern the handling of infectious diseases for air transport, the ICAO recognizes that policy differences in each country may occur. Here ICAO has a role in bridging the differences and conveying them to other participating countries. As for the participating countries and being obligated to report on the development of compliance in their safety and security countries should also ensure the similarity of rules as stipulated in SARPs.

Facing the transmission of the COVID-19 pandemic, Indonesia prioritizes national regulations regarding policymaking flight operational arrangements. This step is related to aviation policy products such as Circular Letter Directorate General of Civil Aviation No. 32 of 2020 concerning Operational Guidelines for Air Transportation for the Implementation of Travel Restrictions for People to Accelerate the Handling of Corona Virus Disease 2019.

Although the government has employed international provisions in the operation of national aviation, this type of application is still not observed in the Indonesian legal system, especially in terms of policy formation pertaining to preventing the spread of COVID-19 pandemic. Policymaking referrals for national aviation are still dominated by national policies, preventing the spread of COVID-19 based on more specific rules governing the regulations on handling COVID-19.

4. CONCLUSION

In line with the outbreak of the COVID-19 pandemic around the world, the aviation industry has formulated many rules that are included in the Standard and Recommended Practices (SARPs) to prevent the transmission of this virus through air transportation by encouraging countries participating in the 1944 Chicago Convention to make their national policies or regulations in line with the provisions in international law. This act is nothing but a considerable gap between countries that negatively affect flight operations worldwide Regarding Indonesia itself, the national policy for addressing the spread of the COVID-19 pandemic, particularly its impact on air transportation, the integration of international guidelines is not apparent in the various rules Instead, it refers to the national provisions that are on it.

DECLARATION OF INTEREST STATEMENT

The authors report there are no competing interests to declare.

DATA AVAILABILITY

No data is available in the manuscript. Data included in article and references.

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