



HUMAN RIGHTS AND POLICY AT THE MARGINS: EVALUATING SERANG CITY'S REGIONAL REGULATION NO.2 OF 2010 IN ADDRESSING LGBTQ+ REALITIES

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ABSTRACT

Serang City Regional Regulation Number 2 of 2010 concerning Prevention, Eradication, and Management of Social Diseases explicitly prohibits homosexual and lesbian acts and prohibits transgender people from engaging in sex work. The prohibition is framed as an act that violates public order and health, this regional regulation also reflects the moral panic over LGBTQ+ issues in Indonesia when there is no national law for LGBTQ+ status on any basis. The gap between regional moral regulations and human rights principles, along with reports of a growing underground LGBTQ+ community and increasing HIV cases in Serang, demands a policy evaluation regarding the effectiveness and implications of Serang City Regional Regulation Number 2 of 2010, and reframing the issue from the perspective of public policy and human rights, no longer a moral issue or "social disease". The evaluation is structured using Charles O. Jones' framework that assesses the political, organizational, and substantive dimensions of policy performance and is enriched with insights from the policy literature. The results of the study show that evaluations based on the political and substantive dimensions show regulatory failure and have not been effective in achieving the objectives of handling the LGBTQ+. Meanwhile, evaluations based on the organizational dimension are viewed positively. The LGBTQ+ receives more attention when viewed from a health perspective compared to morals and social contexts in Serang City. Evaluation notes require policy attention based on values and human rights because these two things are not the basis for the presence of this policy.

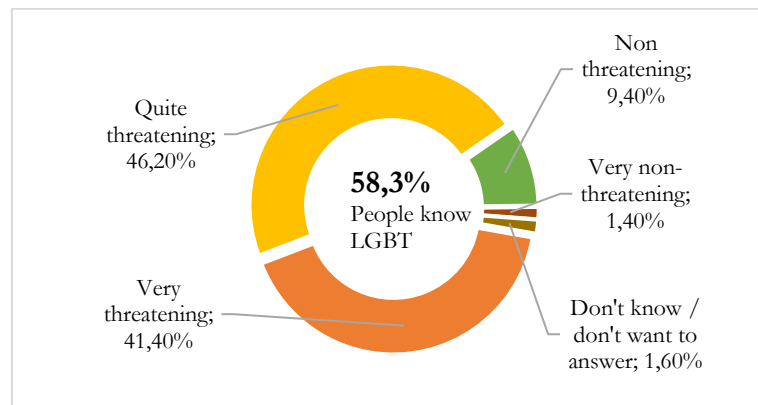
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A. INTRODUCTION

Lesbian, Gay, Bisexual, Transgender, Queer+ (LGBTQ+) is a phenomenon regarding sexual orientation, gender identity, gender expression, and human sexual characteristics within oneself and one's life. LGBTQ+ often characterizes differences in a person's views on two main aspects, sexual orientation and gender identity, based on traditional culture, namely heterosexuality (Octaviandika, 2019). Sexual orientation,

according to the American Psychological Association (2008), is described as a long-lasting emotional condition, romantic, and about a person's attraction to men, women, or even both. Meanwhile, gender identity is the way a person classifies themselves in society as female, male, or non-binary (third gender). (Amnesty International, 2021).

Figure 1. SMRC National Survey on LGBT 2016-2017



(Source: Saiful Mujani Research & Consulting, 2018)

SMRC's 2016-2017 national survey on LGBT found that 87.6% of Indonesians felt "threatened" by LGBT individuals and 81.5% also agreed that LGBT behaviour is prohibited by religion. These perceptions reflect the moral, religious, and cultural norms that are deeply rooted in the phenomenon. However, the same survey found that 57.7% agreed that the LGBT community has the right to exist in Indonesia and 50% believed that the government must protect them. This suggests that there is public recognition of the basic rights of the LGBTQ+ community, despite disagreements.

Indonesia's legal landscape regarding LGBTQ+ rights is complex and marked by contradictions at both the national and local levels. The country does not have any articles in its legislation that recognize or disregard LGBTQ+ individuals. The Indonesian constitution does not explicitly criminalize but also enshrines equality and non-discrimination through the interpretation of an international treaty in the Yogyakarta Principal, which states that "everyone has the right to be free from discriminatory treatment based on any reason whatsoever" (Komnas HAM, 2015). In another landmark case in 2016, the Constitutional Court rejected a request to criminalize consensual LGBT behavior, leaving it to the legislature to regulate. Despite the country's stance, decentralization and regional autonomy have allowed local governments to issue regulations targeting LGBTQ+ individuals and communities. Some of these regulations are framed based on public order or "morality" because

they are deemed incompatible with the local culture and background, effectively criminalizing LGBTQ+ expression or activity. For example, Aceh Province through Qanun Number 6 of 2014, applies Islamic law and allows for caning for homosexual acts. Other regions, such as Pariaman City (West Sumatra) and Bogor City (West Java), have also issued regional regulations prohibiting same-sex relationships or “deviant” sexual behaviour. Some of these regional regulations create inconsistent policies, which often clash with the more secular and human rights-oriented national legal framework.

Serang City, the capital of Banten Province, is one of the local governments that has enacted anti-LGBTQ+ regulations. Serang City Regional Regulation Number 2 of 2010 concerning the Prevention, Eradication, and Management of Social Diseases (Regional Regulation No. 2 of 2010) contains provisions that specifically target LGBTQ+ behaviour and communities. Article 5 of this regulation prohibits anyone from engaging in homosexual or lesbian acts, labelling it a form of “sexual deviation” and a public health problem, while Article 6 prohibits transgender people from offering sexual services. The stated purpose of the regulation, as outlined in Article 2, is to maintain public order and the moral values of Serang society. The city has categorized LGBTQ+ sexual orientation and gender expression as a public nuisance or social disease (“social disease”). The regulation is intended to regulate what is seen as immoral behaviour and to prevent related problems such as prostitution and HIV/AIDS. On the other hand, this regulation combines homosexuality and transgender expression with issues such as prostitution and drug abuse under the umbrella of social problems.

Table 1. HIV Screening in Key Populations in Serang City in 2023

No.	District	Key Populations		
		Female sex workers	Gay	Transgender
1.	Serang	75	816	9
2.	Kasemen	-	-	-
3.	Walantaka	-	60	-
4.	Curug	-	26	-
5.	Cipocokjaya	-	298	1
6.	Taktakan	-	16	-
Total		75	1216	10

(Source: Serang City Health Department, 2024)

The implementation of related regulations does not make the objectives from the health side able to be met and resolved. Throughout 2023 there were 151 cases of HIV/AIDS in Serang City, and the number has continued to increase in recent years.

As many as 53% of the total cases, the cause is the key population, namely men who have sex with men, or 81 of the 151 HIV/AIDS cases in Serang City. The inability of regional regulations to handle public health issues related to the LGBTQ+, which is framed through policies based on morality, then appears in this case.

Moral panic supported by policies with a moral/religious basis above the principle of constitutional equality has not been sufficient to overcome the related phenomenon. Evaluating Regional Regulation No. 2 of 2010 is timely and important for several reasons. First, it allows an assessment of whether or not the policy has fulfilled its objectives and/or whether there are problems that later arise without being resolved. Second, further evaluation can explain the broader implications of the presence of local anti-LGBTQ+ regional policies on public health, social, and human rights. Third, this study discusses the gap in the literature, because while many scientific works discuss LGBTQ+ issues in Indonesia from a social or national legal perspective, only a few analyze specific regional policies intended to “address” related matters. These things are the basis for the main objective of this study to be carried out, namely to critically evaluate the effectiveness of Regional Regulation No. 2 of 2010 in dealing with the LGBTQ+ phenomenon from a public policy perspective.

The study was conducted by adopting Charles O. Jones (1991) policy evaluation theory as an analytical framework, which outlines that comprehensive policy evaluation needs to consider three dimensions of objectives: political, organizational, and substantive a policy. The political dimension assesses the benefits and political implications of a program or policy, how the policy is in line with the interests of policymakers, or how it influences their political objectives. The organizational dimension assesses the implementation process in terms of the support and capacity of institutions and implementing agencies. Including assessing the coordination and collaboration that occurs between institutions, resource allocation, and commitment within them. The substantive dimension assesses the extent to which a program or policy achieves its stated goals and objectives. For example, the policy reduces the targeted problem (in this case, LGBTQ+ activities or related issues) and produces greater benefits than costs or negative side effects. By structuring the analysis around these three aspects, the study ensures a holistic evaluation, not a one-dimensional critique.

Understanding the logic or rationale of policy underlying policy evaluation studies in the context of social regulation is obtained from several kinds of literature. Riswanda

(2024) argues that one must critically examine the dialectical reasoning behind policies, especially those related to controversial social issues. The main insight is a warning against policy responses that are merely moralistic or driven by panic, which is not sufficient to be used as a basis. Framing LGBTQ+ individuals as moral threats or as subjects of disease without a deeper policy rationale leads to shallow interventions. Instead, policy interventions are needed as a form of political correction, meaning that policymakers must address the structural and rights aspects of the issue rather than just its surface symptoms.

This perspective is particularly relevant to the Serang regulation, which emerged from a moral panic about LGBTQ+ "social diseases" but may not have a strong evidence base. The literature suggests that critical evaluations should investigate whether the policy approach is an overreaction and/or what alternative approaches might be more effective. The point that is emphasized is that the discourse on human rights should be prioritized over moral panic in policy considerations. In practice, this means reviewing policies such as Regional Regulation No. 2 of 2010 through the perspective of constitutional rights and evidence or facts about the losses that occurred.

Local literature studies Specifically in Serang City and similar locations, literature on the LGBTQ+ phenomenon highlights the behavior of LGBTQ+ individuals in hostile environments and heterogeneous public attitudes. Rosadi et al. (2022) present a case study of homosexual men in Serang and find that due to strong social stigma, related individuals tend to keep their sexual orientation a secret and form underground networks. Personal factors (such as past trauma or individual psychological experiences) are also associated in this study as the cause of their sexual orientation, reflecting the public's common misconception that LGBTQ+ is something that "can be cured." Rahmawati and Riswanda (2022) explore how families in Serang can strengthen their resilience to "resist" LGBTQ+ influences. They argue that open communication and strong family ties can prevent family members from "deviating" to the LGBTQ+ lifestyle. Note that this study frames the view of LGBTQ+ as an external threat or contagious influence, which is a reductive understanding that is not supported by the scientific consensus on sexual orientation (which states that same-sex orientation is a natural variation, not the result of poor education). This local study shows the moral-religious paradigm that dominates policy discourse in Banten Province: solutions are sought in terms of preventing and suppressing LGBTQ+

behavior (through family awareness or moral education), rather than acceptance or protection of rights.

Socio-economic consequences to health perspectives outside the moral and legal contexts are also the basis for the studies conducted. A study by Badgett, Hasenbush, and Luhur (2017) entitled "LGBT Exclusion in Indonesia and Its Economic Impact" provides an empirical analysis linking human rights, social inclusion, and economic development. The report found that discriminatory treatment of LGBTQ+ people in Indonesia is likely to be detrimental to the country's economy. For example, the loss of human resources due to the discovery of forms of exclusion that can interfere with educational attainment, labor productivity, and public health, which ultimately hinders local and national development. Meanwhile, the health perspective looks further into LGBTQ+, which is linked to HIV/AIDS. Strong opposition then emerged simultaneously because this disease can infect anyone according to their human behavior and not their identity (Rainbow Current, 2020). Indeed, there are several key populations recognized based on the National Action Plan (RAN) for HIV/AIDS at higher risk, including Male Sex Male (LSL), transgender people, sex workers, injecting drug users, housewives, and babies. According to Badgett et al. (2017), the stigma about the association of these two things will cause low condom use, HIV testing, and treatment because of the assumption of "social disease" and encourage them to hide, which hinders health services. The literature shows that public health analysis needs to be considered, and policy approaches should be able to better understand and call for health management strategies rather than punitive actions against policy subjects.

Based on several literatures reviewed, it clearly shows that evaluating Regional Regulation No. 2 of 2010 requires a multidimensional approach. Jones, C.O. (1991) policy evaluation framework allows researchers to analyze the background and political support, organizational policy implementation, and substantive policy effectiveness. Meanwhile, critical insights from various literatures and academics, urge researchers to examine further a policy, whether it is a product of moral panic alone and ignores more rational and humane solutions. The human rights-oriented paradigm is a guideline for assessing each policy that needs to consider compliance with human rights standards. So that we can see the results of an evidence-based analysis of how anti-LGBTQ+ policies are implemented in Serang City and what their impacts are further in the future.

B. METHODS

The research method used to evaluate Regional Regulation Number 2 of 2010, especially regarding its approach to the LGBTQ+ phenomenon in Serang City, is qualitative. A qualitative approach is appropriate to apply because this study aims to capture nuanced insights into policy effectiveness, stakeholder perspectives, and contextual factors that are not easily measured and to know the intent of a policy (Dunn, W.N. 2018). Data collection was carried out through (1) analysis of documents and archives including the manuscript of Regional Regulation No. 2 of 2010, official reports from the Serang City Health Office (eg, HIV/AIDS case data), media articles, magazines, and relevant legal documents such as the Indonesian Constitutional Court decision No. 46/PUU-XIV/2016, and the Yogyakarta Principal international document. (2) In-depth interviews with various stakeholders with a total of 15 interviews conducted between mid-2024 and early 2025 (including, policy makers-implementers, the community through representatives of the local religious council, the media, academics, and LGBTQ+ representatives in Serang). (3) Observation.

The collected data were analyzed using a qualitative approach based on Charles O. Jones (1991) three-purpose policy evaluation guideline (political, organizational, substantive). The Political dimension concerns the intent behind the policy (e.g., political reasons and specific political interests), political support, media, and broader political implications. The Organizational dimension concerns implementation, emphasizing the roles of each implementing agency, coordination, collaboration, resources including budget, and findings of issues or challenges that occur. The Substantive dimension concerns effectiveness and emphasizes policy objectives, implications or impacts, public health, and social change in society.

C. RESULT AND DISCUSSION

Serang City is one of the areas in Banten Province as a division area from Serang Regency. The legal basis for the establishment of Serang City is based on Law Number 32 of 2007 concerning the Establishment of Serang City in Banten Province, which was enacted on August 10, 2007. Approximately 3 years after the establishment of Serang City, Serang City Regional Regulation Number 2 of 2010 concerning Prevention, Eradication, and Control of Community Diseases was established as one of the legal bases in Serang City. This regulation was made to create public order

through guaranteeing legal certainty, by prohibiting activities that are included in the category of community diseases in the area.

Political Evaluation

Regional Regulation No. 2 of 2010, in dealing with LGBTQ+ from a political perspective, is seen more as a policy based on certain interests and symbolic drives than practical policy considerations. This regulation was made and introduced to the public shortly after Serang became a municipality. The symbolic drive and interest base are framed through a regional moral policy that was made with the aim of "regulating community behavior to create public order, security, health, and values that live in society." Meanwhile, the political benefits of this policy are very minimal and smaller than the potential political risks that arise. The support of policymakers together with local religious authorities is its main role; on the other hand, the media is also involved by participating in socializing the related policy at that time. Politically, this policy can be used as a tool, asset, and/or performance report as a claim of "solution" to the problem of regional morals.

The policy, which has been implemented for more than 14 years, has not shown significant developments in terms of political implications for LGBTQ+. Given that, until this study was conducted, there had been no updates or revisions to the related policy since 2010. The lack of policy success and its relevance in terms of politics and for LGBTQ+ was then questioned due to political neglect after the regulation was passed. Especially when looking at the current situation and conditions in Serang City, the LGBTQ+ group is growing, and most of them live in groups. In other words, the moral and religious panic that was the basis for the policy, in fact, only occurred significantly in the early stages of the policy being enacted.

Morals, religion, and culture in Serang City prohibit and disapprove of all forms of LGBTQ+ behaviour. Meanwhile, the intent, purpose, and final impact of the ban based on the regional regulation are still in a "grey area," or there are loopholes and weaknesses in the regulation. One of them is related to the target group (LGBTQ+), who will continue to feel like victims of the presence of the policy. This is feared to be a "boomerang" for the Serang City Government because the policy that was originally intended to regulate several things, including LGBTQ+, can actually be a threat in the form of problems that arise in the social life of its people.

In short, politically, Regional Regulation No. 2 of 2010 provides an initial advantage in easing moral panic through regional authority, which is substantially

unknown whether the related policy can improve the welfare of the public or the groups that are the subjects. The stagnation and neglect that have emerged at this time are a reflection of the inability of local governments to overcome it. At the same time, it strengthens to the argument that relying on moral panic is a short-term strategy; without adapting to "political correction" that takes into account rights and evidence, the policy may ultimately fail in the political arena (Riswanda, 2024).

Organizational Evaluation

The organizational aspect of this evaluation assesses how well relevant institutions in Serang have implemented Regional Regulation No. 2 of 2010 and what their capacity is to enforce or support the policy. Key institutions involved include Satpol PP (Public Order Police), which is the frontline enforcer conducting raids or inspections; the Serang City Health Office, which is indirectly involved because the regulation touches on public health issues (HIV/AIDS surveillance in key populations); the Social Service, which may handle rehabilitation or counseling for those caught; and the Regional Police (Polres) when legal action is required. In addition, the city religious council and community organizations play an advisory or supporting role in enforcing moral order, although they are not official implementers.

Findings show that organizational support for the regulation is high in principle but mixed in practice. For example, Satpol PP has taken over field enforcement and helped socialize the regulation; the Health Department has started to include LGBTQ+ in their outreach (especially for HIV testing); and the Social Service frequently holds community discussions on "social disease prevention" involving target groups. This shows that bureaucratic compliance with the policy has been achieved and no agency has openly refused to implement it, and in fact, many have created programs around it. The budget for implementing the regional regulation (perda) has also been fully obtained, as it is included in the 2023 Serang City Satpol PP work plan. This Local Regulation is included in the category of regulations on order, cleanliness, and beauty (K3). This further shows that the region allocates more funds for patrols, inspections, and other related activities every year, while also showing that the implementation of the regulation is included in the routine operations of Satpol PP.

Coordination, collaboration, and effectiveness between organizations do not always occur in their implementation. Although each agency carries out its duties and functions, collaboration usually only occurs during operations involving many agencies, such as joint raids involving Satpol PP, police, and health workers.

Ultimately, outside of these activities, relationships, and cooperation between agencies rarely occur because each agency has its priorities that cannot be intervened in by the other. Misalignment then arises, and this can lead to situations where one government agency can undermine another government agency. This is not an intentional policy design but rather the result of various agencies carrying out their duties and functions without strategy and sustainability between agencies.

The capacity of the organization in terms of resources and training also shows strengths and weaknesses. The strength is marked by support for the budget and organizational support that allows the expansion of the institution in terms of its scope to be wider and more focused on preventing and overcoming its policies. Meanwhile, the weakness is seen from the difficulty of officers in identifying LGBTQ+ behaviour, which is also limited by the lack of clear standard operating procedures (SOP) on the LGBTQ+ aspect. The regulation does cover a variety of "social diseases" and is not just about LGBTQ+, but the facts show that control and enforcement activities targeting LGBTQ+ tend to be lower than other discourses. This reflects the deprioritization of LGBTQ+ enforcement that is currently occurring due to difficulties in the field and sensitivity aspects. In other words, the regulation is not fully implemented as written, and the LGBTQ+ provisions recorded are nothing more than a means of threats, deterrents, and/or symbolic statements.

The organizational evaluation ultimately revealed a committed but disjointed and incomplete implementation structure. All agencies were "doing their part" according to the regulations, but the lack of ongoing collaboration and inherent enforcement challenges limited the scope of the policy. LGBTQ+ issues span legal, social, and health domains, requiring a broader cross-sectoral strategy. Therefore, to address the LGBTQ+ phenomenon, one or the government cannot simply issue a policy and expect routine enforcement to suffice. Capacity building, community engagement, and inter-agency strategies will be needed in a more effective model.

Substantive Evaluation

The main objective stated in Regional Regulation No. 2 of 2010 is to eradicate or reduce LGBTQ+ behavior in Serang City in order to uphold public order and public health. Substantively, has the presence of LGBTQ+ individuals or activities decreased because of the regulation? Has the regulation reduced public health problems (such as HIV transmission) associated with LGBTQ+ behavior? And are there any

unintended impacts on society? These questions then become the discourse of this dimension.

Table 2. Findings of the LGBT Group in Serang City

No.	Groups	Source	
		Mass Media (2022)	Health Department (2024)
1.	Lesbian	456	-
2.	Gay	967	1216
3.	Bisexual	-	1
4.	Transgender	62	10
5.	Etc.	-	-
	Total	1485	1227

(Source: Secondary Data, 2024)

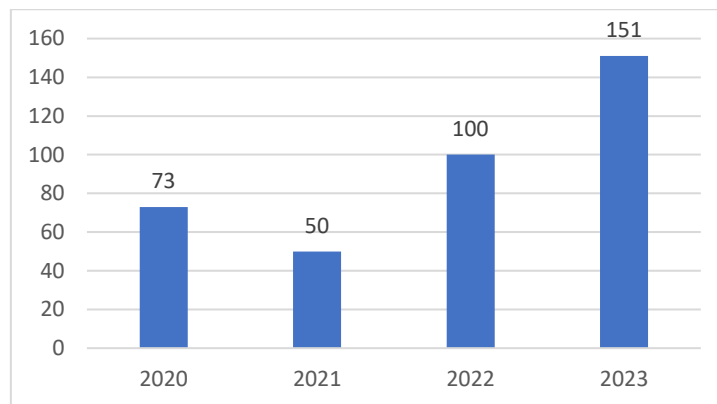
The data presented in Table 2 provides a quantitative overview of the presence of LGBTQ+ individuals in Serang. Media information and investigations in 2022 to health department records or archives in 2024. Although these figures do not cover everyone, the number is quite large and increasing. In total, at least around 1227 people were identified in the 2024 records as part of the LGBTQ+ community. This number is equivalent to 0.2% or more of the city's population of around 700,000, and the number could be higher. This shows that LGBTQ+ people have not disappeared under the regulation. Even on social media networks that are not controlled by the local government, the LGBTQ+ community is more massively found and communicates there.

This is a failure of the regulation because the policy objectives in dealing with LGBTQ+ behavior have not been achieved, namely by regulating homosexuals, lesbians, and transgenders according to the regional regulation. The term "iceberg phenomenon" reflects the lives of LGBTQ+ people, which are mostly hidden below the surface of the community environment in general and are only occasionally seen in certain places, such as public gathering places and/or through health facilities. Furthermore, Rosadi et al. (2022) have stated that what is known or seen is likely to be a small part of what exists. The existence of law enforcement allows related communities to interact more closely and confidentially so that they can still live in a private sphere.

LGBTQ+ in Serang City in general is always associated with HIV/AIDS health issues in the context of "social diseases" according to the Regional Regulation. The finding of this association is one of the weaknesses of the policy because it is

discriminatory against the subject of the policy. Health service data shows an increasing trend in HIV/AIDS cases from 2020 to 2024.

Figure 2. Graph of HIV/AIDS Case Findings in Serang City 2020-2023



(Source: Serang City Health Department, 2023)

Considering the presence of the policy since 2010, the expectation is that health problems due to related behavior should show a decline because it is used as a deterrent. Of the 151 cases in 2023, 81 cases (53%) occurred in individuals who reported same-sex sexual behavior (men who have sex with men, transgender women, and possibly bisexual men). The finding of this correlation is also a health alarm regarding the dangers of sexually transmitted diseases in society, and society is aware of the risks associated with every sexual behavior they do. These two related things combined also underline the weakness of the policy theory.

The assumption is that regulating LGBTQ+ according to the regional regulation can reduce HIV transmission. HIV transmission cannot only be prevented through "moral" policies, which prohibit their behavior. What happened was that instead of reducing HIV, the regulation focused on other things, including criminalizing the related subjects. The link between HIV and LGBTQ+ is a new note on the need for a strategy and recommends the urgency of creating special regulations or programs for preventing HIV/AIDS in Serang. The evaluation shows that the local government is considering special regulations for HIV because Regional Regulation No. 2 of 2010 does not adequately discuss access to health.

The social impact and substantive consequences are also considered more broadly. The evaluation shows that the stigma and discrimination that go hand in hand with the presence of policies are not followed by their level of effectiveness in dealing with LGBTQ+. Especially in terms of the community that still exists and runs "underground." The social friction that occurs can push the LGBTQ+ community into

minority mental stress, which is the responsibility of the state to handle. This reflects what Riswanda (2024) said about "social exclusion that burdens the state," because if a group of citizens are alienated, it can cause social problems that ultimately become losses for society. In addition, regarding the implications for the economic sector, the evaluation shows that LGBTQ+ in Serang City emerged and was caused by one of the economic factors. More broadly, if this stigma and discrimination continue, it is possible that economic friction will occur.

Evaluation ultimately also assesses substantively the alignment of goals and values. The regulations made are intended to protect public order, security, health, and moral order. Unfortunately, evidence shows that the regulations do not protect both. Stigma and discrimination make policies inconsistent with human rights values, which are important benchmarks today. A substantive perspective beyond what Jones describes needs to consider justice and rights as part of the policy outcomes themselves. This is in line with research by Riswanda and others who describe the need for social policies to respect new values, especially about diversity and inclusivity. In the case of Serang City, policy instruments still adhere to classical values, so that they are substantially behind the development of social norms that occur.

D. CONCLUSION

Evaluation of Serang City Regional Regulation Number 2 of 2010 which prohibits LGBTQ+ behavior under the guise of preventing social diseases, shows that the policy has not met the expected goals and needs to be reviewed immediately. Policy analysis through Charles O. Jones three perspectives shows that based on the political dimension, politically, the regulation has so far provided more symbolic value than real benefits. The organizational dimension states quite positively about its commitment and institutions. And in the substantive dimension, Regional Regulation No. 2 of 2010 failed to achieve its main goal of reducing the prevalence of LGBTQ+ behaviour and has not been able to be used as a tool for prevention or protection of public health in Serang City. This is based on the absence of consideration of values that have developed further and are non-discriminatory.

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