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Law Enforcement against Health Protocol Covid-19 Violations in Indonesia

A Case Study of Decision Number: 173/PID.SUS/2021/PT.DKI

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ABSTRACT

The Corona Virus, or Covid-19, has spread throughout Indonesia since early 2019. This virus initially emerged in connection with an animal market in Wuhan, China. The spread of Covid-19 caused panic and anxiety among people worldwide. Cooperation from all communities is essential to prevent the virus from spreading further. In response, the Police in each region enforce rules based on the Chief of Police's recommendations. Law enforcement officers are directly involved in preventing the transmission of Covid-19. In carrying out their duties, the Police work in synergy with relevant agencies, the Indonesian National Army (TNI), religious leaders, and all levels of society. This research aims to examine police policies and government enforcement rules in preventing virus transmission. The study analyzes government regulations, police chief policies, and related legal sources. The findings are based on police legal regulations and government laws, implemented according to their roles and responsibilities. Law enforcement takes an active approach by promoting values and norms within communities, ensuring compliance, and addressing violations during their duties. These regulations still require discipline and transparency in handling information related to protocol violations during the pandemic.

Keywords: Covid-19, Law Enforcement, Sanctions

INTRODUCTION

Health is the most important aspect and the primary foundation for building the social and economic world for all human beings in their daily lives. Various diseases exist in many countries, and the emergence of the COVID-19 virus has further impacted global health. Initially, the virus appeared and spread across multiple countries. The terms "Corona" and "COVID-19" have become increasingly familiar in various communities, as people develop different understandings of the virus. To this day, COVID-19 remains a major topic of discussion due to the rising number of cases worldwide.

The World Health Organization (WHO) has classified COVID-19 as a pandemic, as it is a disease that can affect both animals and humans. Those infected may exhibit symptoms ranging from mild respiratory infections, such as the flu, to more severe illnesses like Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS). The condition can worsen significantly within two weeks, becoming up to 13 times more severe.

There are three main symptoms that indicate a person may be infected with COVID-19: fever (with body temperature exceeding 38°C), dry cough, and shortness of breath. Additional symptoms may include diarrhea, headaches (dizziness), loss of taste and smell, and skin rashes, although these may not always be visibly apparent.¹ These symptoms can appear within two days to approximately two weeks after infection. Since it is not easy to confirm COVID-19 symptoms through observation alone, accurate diagnosis requires medical testing, such as rapid tests and polymerase chain reaction (PCR) tests, which detect viral DNA.

Efforts to prevent and break the chain of virus transmission in Indonesia require strict discipline in all aspects, prioritizing public health and social well-being.² During the pandemic, enforcing "physical distancing" has been a crucial measure in reducing the virus's spread.³ Each local government mandates physical distancing in accordance with Government Regulation No. 21/2020 on Large-Scale Social Restrictions (PSBB) and Ministry of Health Regulation (Permenkes) No. 9/2020. The National Police play a vital role in implementing these regulations and ensuring compliance.

The role of the National Police in preventing virus transmission is highly significant, especially when cases rise and fluctuate based on community

¹ Syafrida Syafrida and Ralang Hartati, "Bersama Melawan Virus Covid 19 Di Indonesia," *SALAM: Jurnal Sosial dan Budaya Syar-i* 7, no. 6 (April 14, 2020): 495–508, <http://journal.uinjkt.ac.id/index.php/salam/article/view/15325>.

² Novita Maulida Ikmal and Machdian Noor, "Kebijakan Pemerintah Indonesia Dalam Penanganan Covid-19," *Jurnal Litbang Provinsi Jawa Tengah* 19, no. 2 (January 19, 2022): 155–167, <http://ejournal.bappeda.jatengprov.go.id/index.php/jurnaljateng/article/view/910>.

³ Eko Zulfikar, "Tindakan Preventif Atas Penyebaran Covid-19 Dalam Perspektif Hadis," *Diroyah : Jurnal Studi Ilmu Hadis* 5, no. 1 (September 30, 2020): 31–44, <https://journal.uinsgd.ac.id/index.php/Diroyah/article/view/8924>.

behavior. Enforcement measures, including sanctions or other legal actions, are regulated under government policies. The National Police act as the primary authority in enforcing these measures, ensuring that pandemic-related regulations are upheld in society.

This study aims to analyze the legal provisions imposed on violators and examine how legal actions were implemented against those who breached health protocols during the pandemic.

LITERATURE REVIEW

Based on legal and medical sources, Covid-19 was primarily transmitted through direct contact with infected individuals rather than through the air. Those at high risk of infection are individuals who have direct contact with patients. Preventing transmission is the most critical aspect of implementing health and community services. This virus spreads rapidly worldwide through physical contact, moist air, or contaminated objects that serve as transmission mediums. The regulations addressing Covid-19 in Indonesia include Minister of Health Regulation No. 19/2020 concerning Guidelines for Large-Scale Social Restrictions in Handling Covid-19, Minister of Health Regulation No. 18/2021 concerning the Implementation of Vaccinations as a Preventive Measure against the Covid-19 Pandemic, and Minister of Health Regulation No. 23/2021 concerning the Third Amendment to Minister of Health Regulation No. 10/2021 on Vaccination Implementation for Covid-19 Prevention.

The role of health workers includes legal certainty, which serves as an instrument to ensure their safety. The government must have the authority to assign health workers to handle the virus extensively. However, there is currently no legislation that guarantees legal certainty for health workers, despite the existence of Law No. 36/2014 concerning Health Workers. Implementing regulations and technical guidelines are still lacking. In light of these issues, this research explores several topics, including Covid-19 transmission prevention measures such as checking body temperature, spraying disinfectants or using hand sanitizers, wearing masks, maintaining social distance, and avoiding crowds. Temperature checks in public spaces restrict entry for individuals with temperatures above 37.5°C until they undergo a medical check-up.

Preventive actions in public spaces include limiting public transportation use to a maximum of two people per trip, maintaining at least a 1-meter distance from others, avoiding contact with public objects, washing hands before eating, and always wearing a mask outside. Legal regulations are also essential in providing community welfare through laws and regulations, establishing norms, and enforcing sanctions against violators. This research aims to provide insights into global prevention strategies to support government policies and focuses on the role of law enforcement in handling health protocol violations in Indonesia.

Legal protection is a fundamental right for everyone. It consists of “Protection” and “Law,” where protection refers to safeguarding individuals, and law refers to legally binding regulations. Criminal law is complex and has various interpretations. According to Notohamidjojo, law consists of written and unwritten coercive rules aimed at ensuring peace in social life. Soedarto states that criminal law is intended to impose suffering as a consequence for rule violations. Sanctions apply when criminal law norms are violated. These violations include civil violations with civil sanctions or penalties, administrative violations with administrative sanctions, and criminal actions with criminal penalties or imprisonment. The law establishes limits on human activities to foster respect, safety, and peace, while criminal law specifically aims to regulate conduct and maintain societal order.

Criminal law has two main elements: norms and sanctions. Its binding and coercive nature ensures compliance, and violations result in penalties proportional to the offense. According to Article 1365 of the Civil Code, any unlawful act causing harm obligates the perpetrator to compensate for the damage. Intentionality means that the suspect consciously commits an act. The Dutch Criminal Code defines “intentional” (*Opzet*) as knowing and wanting to perform a specific action. This study provides a legal framework for understanding the role of law in preventing Covid-19 transmission and ensuring public safety.

RESEARCH METHODOLOGY

This research uses a descriptive research method. Descriptive research is defined as a method used to describe existing phenomena as accurately as possible. The term “existing phenomena” includes not only current conditions but also those observed after a certain period of treatment. The author gathered sources on efforts to enforce the law against health protocol violators during the pandemic. This research is field research, conducted by collecting legal sources and information obtained directly or from internet media, categorized according to the theme. This study cites legal materials and sources, including legislation, government regulations, ministerial regulations, and decrees from various agencies relevant to the research discussion. The data were obtained from readings, analysis, notes, sub-field reports, libraries, and thesis results related to law enforcement against pandemic protocol violators. Additionally, legal materials that regulate individuals under existing laws and regulations were considered. The purpose of law sources is to gather doctrines, expert opinions, and perspectives from legal observers. Legal materials obtained were thoroughly examined by sorting theories that align with legal provisions and regulations related to enforcing health protocol regulations in Indonesia. These materials were then tailored to serve as case studies for written results, incorporating various

laws, government regulations, ministerial regulations, and local government policies aimed at suppressing the spread of the virus in affected regions.

RESULT AND DISCUSSION

Law Understanding against Covid-19

Law is a broad and multifaceted field in terms of its dimensions. It regulates all aspects of life in society worldwide, which continue to develop and advance.

The definition of legal provisions is widely discussed both generally and in various aspects. According to C.S.T. Kansil, law creates discipline in society, maintaining security and self-control in social life. R. Soeroso defines law as a set of regulations established by authorities to regulate social discipline. Law includes commands, prohibitions, and coercion, imposing legal sanctions on violators.⁴

Examples of national law include regulations applicable within a country. There are both positive laws and laws that are aspired to. Based on content, law is categorized as private or public. In terms of existence, it is classified as objective or subjective. By nature, law is both coercive and regulatory. Law is also divided into two aspects based on its function: regulating interests and relationships through orders and prohibitions. Additionally, based on its source, law is derived from legislation, customs, treaties, jurisprudence, and legal doctrine.

Definition of Violation

According to Bambang Poernomo, a violation is referred to as “politic-on-recht,” while a crime is “crimineel-on-recht.” From a political-on-recht perspective, a violation is an act that does not comply with the prohibitions or requirements determined by state authorities.

Regarding the meaning of violation according to Bambang Poernomo, disciplinary violations within the police force are regulated under Article 1, Number 4 of Government Regulation No. 2/2003 concerning Disciplinary Regulations for the Indonesian National Police. A violation of disciplinary regulations is defined as any word, writing, or act by a police officer that contravenes these regulations.

A statutory offense is an act that directly contradicts provisions explicitly stated in criminal law, regardless of whether it aligns with the community's legal awareness. The Criminal Code (KUHP) distinguishes between crimes and violations. Crimes are listed in Book II of the Criminal Code, while violations are covered in Book III. This distinction is based on the following principles:

1. Crimes carry more severe sanctions than violations.
2. Attempts to commit a crime are punishable, whereas attempts to commit a violation are not.

⁴ Sherly Adam et al., “Penegakan Hukum Terhadap Pelanggaran Protokol Kesehatan Yang Dilakukan Masyarakat Pada Masa Pandemi Covid-19 Di Kota Ambon,” *SASI* 27, no. 2 (June 5, 2021): 230, <https://fhukum.unpatti.ac.id/jurnal/sasi/article/view/441>.

3. The statute of limitations for criminal acts is longer than for violations.

Legal Basis for Covid-19 Handling Policy

A legal rule can be considered good when it meets the following criteria: it is globally applicable, publicly announced, not retroactive, formulated in an understandable manner, and aligned with its implementation.

The principle of equality before the law ensures that every individual is treated equally without exception. This principle operates within laws that are general and singular in nature, serving as a bridge between social dimensions and contemporary societal phenomena.

In the context of legal protection for citizens, moral law serves as a legal reference that safeguards individuals from government overreach. Within this framework, procedural guidelines are established to ensure that laws align with religious values. Additionally, liberation involves treating all human beings equally and without discrimination, fostering peace.

Regarding the government's legal framework for managing stable state finances during the pandemic, there is a significant opportunity to minimize abuses of authority. This framework also provides legal protection for the government in case of errors during law implementation.

The Integrity of Covid-19 Handling Policy

The prophetic science emphasizes an important position in transcendence after humanization and liberation. Transcendence aims to establish this value as a fundamental part of the civilization-building process. It serves as an effort to guide the life goals of all human beings toward a meaningful existence. The divine values empower humans to recognize the significance of their ancestors and encourage them to uphold human values, ultimately leading to the noble values of divinity.

General Understanding of Indonesian National Police Roles

The Definition of Police

The police have various concepts regarding their roles and performance. In Indonesia, the term "police" originates from the Greek word *politeia*, meaning to protect the community, achieve national goals, and defend against corrupt and greedy state officials.

Article 1 of Law No. 2/2002 on the Police defines the term "police" in two ways: as a function and as an institution. In terms of function, Article 2 of the same law states that the police serve as one of the government's functions in maintaining security and public order, enforcing the law, and protecting the community.

Duties and Authorities of the Police

The main tasks of the National Police of the Republic of Indonesia are regulated in Article 13 of Law No. 2/2002. This article categorizes the National Police's duties into three main classifications: maintaining security and public order, enforcing the law, and providing protection and services to the community.

According to Soedjono Dirdjosisworo, discipline is a controlled environment designed to create a safe and peaceful society. It also serves as a parameter and guide for individuals in social life.

Law Enforcement of Health Protocols Violators

Based on Presidential Instruction (INPRES) No. 6/2020 regarding the enforcement of health protocols in a disciplined manner and compliance by all relevant parties, this instruction specifically directs the National Police to support and supervise the implementation of health protocols. The National Police also cooperate with the Indonesian National Armed Forces (TNI) and local governments (PEMDA) in conducting patrols. In addition, they provide guidance to the community to encourage public participation in preventing the spread of the Covid-19 virus and enforce the law against violations of health protocols.

The success of the PSBB regulation depends on individual obedience, awareness, and discipline.⁵ The involvement of the National Police is crucial in ensuring the regulation is effectively implemented. During the pandemic, the Police play a vital role in setting boundaries and preventing individuals from gathering. However, the existence of legal rules for enforcing health protocols does not directly translate to optimal implementation. Currently, violators of health protocols only receive administrative sanctions and social work penalties, as stipulated in Article 14 of DKI Jakarta Governor Regulation No. 41/2020. These sanctions have yet to create a strong deterrent effect.⁶

Law Enforcement during PSBB (Large-Scale Social Restrictions)

Starting in June 2020, the government implemented transitional PSBB in several red zone areas, including Jakarta and East Java, despite the surge in case numbers.⁷ In enforcing this regulation, the National Police carried out duties similar to their main responsibilities as outlined in Law No. 2/2002 concerning the Police. Article 2 of this law states that one of the Police's roles is to function as

⁵ I Wayan Wiryawan, "Kebijakan Pemerintah Dalam Penanganan Pandemi Virus Corona Disease 2019 (Covid-19) Di Indonesia," *Prosiding Webinar Nasional Universitas Mahasaraswati Denpasar 2020* (2020): 179–188.

⁶ Denico Doly, "Law Enforcement Implementation of Health Protocol in Shopping Centers" 13, no. 9 (2021).

⁷ Helen Andriani, S.Si, Apt, M.Sc, Ph.D, "Effectiveness of Large-Scale Social Restrictions (PSBB) toward the New Normal Era during COVID-19 Outbreak: A Mini Policy Review," *Journal of Indonesian Health Policy and Administration* 5, no. 2 (May 10, 2020), <http://journal.fkm.ui.ac.id/ihpa/article/view/4001>.

part of the state government in maintaining security, public order, community protection, law enforcement, and public service.

CONCLUSION AND SUGGESTION

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In handling the police environment, the police have the duty and authority to handle cases. When a case requires court action, the police delegate it to the prosecutor's office for further processing. The prosecutor's office then determines whether the defendant is guilty or not, with the final decision made in court. Once a case reaches the court, the police's duties are considered complete, and the case is transferred to other law enforcers, namely the Public Prosecutor and the Judge.

Each law enforcement officer has a distinct role: the Public Prosecutor presents charges and indictments, while the Judge delivers the final verdict based on the trial results. According to court decisions at both the first level and appeals, each case follows its own policies to reach a verdict. This ensures that all individuals receive their rights and justice in accordance with Pancasila, as long as they adhere to applicable regulations.

Suggestion

Ensuring equal participation from all levels of society in Covid-19 prevention is essential. Without support from the community and the police, efforts to eradicate the virus cannot achieve maximum results. Public awareness is crucial in preventing the spread of the virus, not only for the police but for everyone. The police must also take firm action by imposing sanctions on violators.

The lack of community participation in controlling the virus and the shortage of officers enforcing health protocols make it difficult to manage large gatherings, especially when participants outnumber the officers. When religious activities take place during a pandemic, they can pose risks to public health and create inconsistencies between religious practices and public safety expectations.

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