

Law Enforcement of Social Distancing Violations and Their Implications Regarding Covid-19 Prevention As Regulated in Law Number 6 of 2018 Concerning Health Quarantine

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Abstract The COVID-19 pandemic is becoming an international threat. In order to overcome this, the Indonesian government has implemented a social distancing policy. However, the realization of the policies that exist to date has not run uniformly in relation to social distancing and social assistance that has not been received directly by the community. Therefore it is necessary to control the implementation process of policies that have been issued by the Government. This research is a normative legal research and empirical law with a normative juridical approach. The data obtained in this research is in the form of literature study and interviews. The data that has been collected is then presented in the form of descriptions which are arranged systematically following the flow of systematic discussion.

Keywords: Social Distancing Offenses, COVID-19 prevention, health quarantine

1. Introduction

Covid-19 is a disease whose cause is the Corona virus which attacks the respiratory tract. This disease was first detected in Wuhan, China. As it is known that SARS-Cov-2 is not a new type of virus [1]. However, in the scientific explanation a virus is capable of mutating to form a new genetic makeup, in short, the virus remains the same type and only changes uniformly. The reason for giving the name SARS-Cov-2 is because the corona virus has a close genetic relationship with the viruses that cause SARS and MERS [2].

It is known that the DNA from the SARS-Cov-2 virus has similarities to the DNA in bats. It is also believed that this virus emerged from the wet market in Wuhan, where many exotic Asian animals of various types are sold, even to maintain their freshness, some of them are slaughtered directly on the market so that they are bought fresh. Then this market is considered as a breeding ground for viruses due to the close interaction between animals and humans [3].

When the WHO was first declared a global pandemic on March 11, the number of infections worldwide had reached more than 121,000. Instead of Indonesia still feeling safe from the virus outbreak that has paralyzed some countries in the world, President Joko Widodo in early March, who had put the public in a comfort zone, had to admit defeat with reports of cases of Covid-19 caused by the virus. SARS-Cov-2 or better known as the Corona virus [4].

The Covid-19 pandemic has caused deep sorrow for the world community and Indonesian people. Currently, Indonesia is entering a critical period for the Covid 19 pandemic. Based on data published by the Ministry of Health of the Republic of Indonesia on April 6, 2020, at the world level, there are more than 1.4 million positive cases of Covid-19 which have resulted in 81,889 deaths. people as of April 8, 2020. As for the territory of Indonesia, there were 2,9564 positive cases of Covid-19 which caused 240 deaths. This data certainly makes us sad because it clearly shows the fact that the spread of Covid-19 is very aggressive.

For Indonesia, the government responded to warnings regarding the spread of Covid-19 with the following steps: 1) handling of positive patients with Covid-19; 2) prevention in the form of an appeal to the community

in the form of social distancing and maintaining cleanliness; 3) restrictions on imported commodities from China in the form of live animals based on Regulation of the Minister of Trade Number 10 of 2020 concerning the Temporary Prohibition of Importing Live Animals from the People's Republic of China; and 4) closing flights to and from other countries [5].

Until the explanation and handling procedures there were no problems, but it turns out that Covid-19 continues to spread widely and seems unable to be handled so that the Speaker of the DPR RI repeatedly reminded the government to immediately form a centralized national team for handling the corona virus outbreak (CNN) Indonesia, 2020). In addition, the lack of information has made people in various regions complain, confused and increasingly worried due to not getting safe and convincing services when they feel there are indications of exposure to the Covid-19 virus.

In Law Number 6 of 2018 concerning Health Quarantine (hereinafter referred to as the Health Quarantine Law). Where in the law has contained many things related to health quarantine, the authorized party determines public health emergencies, and so on. In the case of the spread of Covid-19, according to Law Number 6 of 2018 concerning Health Quarantine, the Government implements a social distancing policy.

In the legal paradigm in Indonesia, social distancing has a legal basis in the form of Law Number 6 of 2018 concerning Health Quarantine. Health Quarantine according to Law no. 6 of 2018 is an effort to prevent and prevent the exit or entry of diseases and / or public health risk factors that have the potential to cause a public health emergency.

The implementation of social distancing is actually an effort of the existence of a Health Emergency [6]. Public Health Emergency is a public health incident of an extraordinary nature characterized by the spread of infectious diseases and / or events caused by nuclear radiation, biological pollution, chemical contamination, bioterrorism, and food that causes health hazards and has the potential to spread across regions or across countries [7]. In Law No. 6 of 2018 the response to health emergencies includes home quarantine, hospital quarantine, Regional Quarantine and what is now being initiated by the President is large-scale social restrictions.

The Covid-19 case, which is a global pandemic, has clearly raised concerns from various groups, especially the public. Public concern is getting worse by seeing the fast spike in cases, and seeing the lack of readiness in several areas that are vital enough to “fight” the corona virus. So with that, the public demands that the government be able to provide protection, in accordance with the mandate of the 1945 Constitution. One form of protection that can be provided by the Central Government and Regional Governments is a policy to respond to the Covid-19 case [8].

However, policies issued by the central and regional sectors often experience “overlapping” or in other words, differ. This is seen as a lack of clear coordination between the Regional Government and the Central Government. On the other hand, the Regional Government is the public official who is closest to the people in the area, so that the Regional Government is more aware of the needs and characteristics of the region. However, on the other hand, there are rules in Law no. 6/2018 implies that the Central Government has the authority to issue a health emergency policy. So, this has resulted in the implementation of policies to address the Covid-19 being quite complicated. Even though the case currently being faced by the community is a virus that has claimed many lives. However, This complexity is quite relieved by the existence of a firm statement from President Jokowi regarding the social distancing policy he has chosen. However, by looking at the process of determining social distancing in an area, it is feared that social distancing will only become a piece of policy, without uniform implementation in all regions. If this happens, it will have a very fatal impact, namely the slow pace of the Government to handle the Covid-19 case. without a uniform implementation across the region. If this happens, it will have a very fatal impact, namely the slow pace of the Government to handle the Covid-19 case. without a uniform implementation throughout the region. If this happens, it will have a very fatal impact, namely the slow pace of the Government to handle the Covid-19 case.

In addition, the legal instruments issued along with the implementation of social distancing have not yet become a bright spot for all the question marks created by the current situation in society. Like other policies related to the implementation of social distancing operations by various groups and community rights as long as there is a social distancing policy that has not been included in the legal instrument. Likewise, the realization of policies that have not yet been implemented uniformly with regard to social distancing and social assistance that have not been received directly by the community. So, we need to guide, control and monitor together the implementation process of policies that have been issued by the Government. This is

because the best possible regulation is a realized regulation.

Based on this description, the authors are interested in analyzing more deeply related to the use of research entitled "Law Enforcement of Social Distancing Violations and Its Implications Related to Prevention of Covid-19 as Regulated in Law Number 6 of 2018 on Health Quarantine".

Research Theory and Frameworks

Law enforcement

Law enforcement is the process of making efforts to uphold or function legal norms in a clear manner as a guide for behavior in traffic or legal relations in public and state life [9]. From the point of view of the subject, law enforcement can be carried out by a wide range of subjects and can also be interpreted as law enforcement efforts that involve all subjects.

Law enforcement is an effort to bring ideas about justice, legal certainty and social benefits into reality [10]. Criminal law enforcement is an effort to realize ideas about petty in criminal law in legal certainty and social benefits into legal realities in legal certainty and social benefits into legal realities in every legal relationship [11].

According to Satjipto Rahardjo, law enforcement is an effort to bring ideas and concepts into reality. Meanwhile, according to Soerjono Soekanto, conceptually, the essence of the meaning of law enforcement lies in the activity of harmonizing the relationship of values outlined in solid rules and the final attitude to create, maintain and maintain social peace [12].

According to Soejono Soekanto, law enforcement does not merely mean the implementation of legislation. Even though in Indonesian reality the tendency is like that. So that the notion of law enforcement is so popular. There is even a tendency to interpret law enforcement as the implementation of court decisions. This narrow definition clearly contains weaknesses, because the implementation of laws and regulations. Invitations or court decisions, can actually disturb peace in the community. Law enforcement is carried out in accordance with the applicable legal system, namely through punishment which aims to prevent criminal acts from being committed by upholding legal norms for the protection of the community; resolve conflicts arising from criminal acts; restore balance; bring a sense of peace to the people; socialize by providing guidance so that they become good people and free the guilt of the convict [13].

Legal Implications

According to Islamy in his book The Principles of State Policy Formulation "Implications are everything that has been produced by the policy formulation process" [14]. In the Big Indonesian Dictionary (1998: 114) implication is defined as a direct result or consequence of the findings of a study, but in language it means something that has been summed up in it [15].

Based on some of the opinions above, what is meant by the implications in this research is a result that occurs or is the result of an event, namely the legal implications of social distancing policies related to the prevention of Covid-19 as regulated in Law Number 6 of 2018 concerning Health Quarantine.

Social Distancing

According to Dr. Steven Goundor, MD as an infectious disease specialist, revealed that social distancing is an appeal that instructs the public to avoid crowds [16]. However, now the term social distancing is replaced by the term physical distancing due to the inaccurate interpretation of the term social distancing [17].

Covid-19

Covid-19 is a disease whose cause is the Corona virus which attacks the respiratory tract. This disease was first detected in Wuhan, China [18]. As it is known that SARS-Cov-2 is not a new type of virus [19]. However, in the scientific explanation a virus is capable of mutating to form a new genetic makeup, in short, the virus remains the same type and only changes uniformly. The reason for giving the name SARS-Cov-2 is because the corona virus has a close genetic relationship with the viruses that cause SARS and MERS. It is known that the DNA from the SARS-Cov-2 virus has similarities to the DNA in bats. It is also believed that this virus emerged from the wet market in Wuhan, where many exotic Asian animals of various types are sold, even to maintain their freshness, some of them are slaughtered directly on the market so that they are bought fresh. Then this market is considered as a breeding ground for viruses due to the close interaction between animals and humans [4].

2. Research methods

This research is a normative legal research and empirical law, namely research conducted by collecting legal materials, both primary, secondary and or tertiary. In order to get answers or solutions to problems (legal issues) that have been formulated. The approach in research is more normative juridical in addition to that it requires an empirical side by recording data in the field, especially to answer practice in the field. The data obtained from this library research is secondary data. Secondary data obtained from:

1) The primary legal materials that are binding include Law Number 36 of 2009 concerning Health and Law Number 6 of 2018 concerning Health Quarantine.

2) Secondary legal materials which function to provide explanations or further information regarding primary legal materials such as articles on several internet sites; Related books are writings, opinions of legal experts, articles, literature related to health problems in the Covid-19 pandemic and others that are relevant to research.

3) Tertiary legal materials which are used as supporting material to provide instructions or explanations related to primary and secondary legal materials such as dictionaries, encyclopedias, and other works related to and complementary in research on law enforcement of social distancing violations and their implications related to the prevention of Covid. -19 as stipulated in Law Number 6 of 2018 concerning Health Quarantine.

The data obtained in this research is in the form of literature study and interviews. The data that has been collected is then presented in the form of descriptions arranged systematically following the flow of systematic discussion. Data analysis is done deductively by drawing conclusions from a general problem to the concrete problems faced.

3. Discussion

Challenges in the dynamics of legal events that occur especially in Indonesia are challenges for the state in its position as a rule of law. The application and enforcement of the law are elements of the legal system which are to be continuously addressed, in order to create a legal position in a state of law and benefit the interests of society, nation and state.

With the stipulation of the Community Emergency Conditions, then through the PP, the government then set the PSBB policy. Hierarchy of laws and regulations, PP. 21/2020 was formed based on the norms stipulated in Article 60 of Law No. 6/2018 on Health Quarantine (Health Quarantine Law). Regarding the purpose of the PSBB, the General Provisions of the law explain: "Large-scale Social Restrictions (PSBB) are restrictions on certain activities of residents in an area suspected of being infected with a disease and / or contamination in such a way as to prevent the possibility of spreading disease or contamination".

In Indonesia, the DKI Jakarta Province as the State Capital is one of the areas where people have the most cases of Covid-19. As of May 18, 2020, there were 6,010 positive people for Covid-19 and as many as 483 people died [20]. Even far earlier, as of April 9, 2020, the number of positive Covid-19 in DKI Jakarta had reached 1,632 people and the death toll was 149 people [21]. This has led the DKI Jakarta Provincial Government to implement Social Distancing and Physical Distancing and even implement Large-Scale Social Restrictions (PSBB), which are now being followed by other regions in Indonesia.

Human mobility is one of the factors that has helped accelerate the spread of the Covid-19 virus. In China, until 23 January 2020 - before Wuhan declared its lockdown status - most of the reports regarding the initial cases of Covid-19 came from Hubei Province (81% of all cases at that time), while the majority of cases reported were outside the City. Wuhan generally has a travel history from that city. The time it takes for symptoms to appear and being identified as infected with Covid-19 provides an opportunity for the virus to be able to transmit from one person to many other people in different locations. As a result, this virus spread rapidly to various other countries. The policies in question include restrictions on the entry of people from countries affected by Covid-19, flight suspension, visa restrictions, border closings, and quarantine. The implementation of these various policies can of course disrupt the traffic of human mobility at the regional and international levels. Meanwhile, at the domestic level, governments in various countries have also started implementing lockdown policies which also focus on limiting the space for the existing people to move. An important question that then arises is what kind of mobility restriction policy is being issued and what impact has and may arise as a result of the restriction. governments in various countries have also started

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The PSBB policy is only one of the options in order to mitigate risk factors in areas in a Public Health Emergency. Other options include home quarantine, regional quarantine, or hospital quarantine. Which steps taken by the government must be based on epidemiological considerations, threat magnitude, effectiveness, support resources, technical operations, economic, social, cultural and security considerations. The official authorized to determine this is the minister who holds government affairs in the health sector (Minister). PSBB is part of the Public Health Emergency response which aims to prevent the spread of an ongoing disease between people in a certain area.

Article 59 of the Health Quarantine Law stipulates that PSBB measures include at least: a) school and work vacations; b) Restriction of religious activities; and / or c) Restrictions on activities in public places or facilities. In addition to the actions stipulated in the law, the PP related to PSBB further regulates that "with the approval of the Minister in charge of health affairs, the Regional Government can carry out PSBB or impose restrictions on the movement of people and goods for a particular province or regency / city. "

The government in determining the PSBB in the form of "school and workplace holidays and restrictions on religious activities" must still consider the needs of education, work productivity, and community worship. Meanwhile, the PSBB in the form of "limiting activities in public places or facilities" must pay attention to the fulfillment of the basic needs of the population ". The implication of this regulation is that the government will of course be very selective in determining PSBB in certain areas, especially for PSBB in the form of activities in public places or facilities.

Technically, the implementation of the PSBB is proposed by the regional head to the minister. The Minister then set the PSBB after taking into account the considerations of the Chief Executive of the Task Force for the Acceleration of Handling Covid-19. In this case, the Chief Executive of the Task Force can also propose to the minister to carry out PSBB in certain areas. If the proposal is accepted, the regional head in the region is obliged to implement the PSBB. In addition, with the stipulation of Covid-19 as a type of disease that causes a Public Health Emergency, it also has implications for criminal law enforcement. Anyone who does not comply with or obstruct the implementation of the PSBB can be charged with criminal sanctions. This is of course different from the previous conditions,

Article 93 of the Health Quarantine Law states that "Every person who does not comply with the implementation of Health Quarantine (including in this case PSBB) and / or obstructs the implementation of Health Quarantine so as to cause a Public Health Emergency will be sentenced to imprisonment of 1 (one) year and / or a maximum fine of Rp. 100,000,000.00 (one hundred million rupiah) ". This also means that the Indonesian National Police (POLRI) is obliged to take measures to combat criminal acts against these acts.

Law Number 6 of 2018 concerning Health Quarantine, in particular Article 93, already regulates the rules for violators of large-scale social restrictions (PSBB) providing the threat of criminal sanctions of up to 1 (one) year and / or a maximum fine of Rp. 100,000. 000.00 (one hundred million rupiah) Apart from Article 218 of the Criminal Code, it is stated that there is a maximum imprisonment of four months and two weeks or a maximum fine of nine thousand rupiahs for anyone when the people arrive in a crowd deliberately not leaving immediately after being ordered three times by or on behalf of the competent authority. The government then followed up on this by issuing Government Regulation (PP) Number 21 of 2020 concerning Large-Scale Social Restrictions (PSBB). Therefore, when the Government Regulation has been officially issued, then the police, as mandated by the President, explicitly take measures to enforce the law for violators. This means that prevention of the Covid-19 pandemic outbreak must be done by providing criminal sanctions for people who commit violations. Through the Chief of Police's Declaration Number Mak / 2 / III / 2020 concerning Compliance with Government Policies in Handling the Spread of the Corona Virus, then the police took steps to secure people who did not comply with the rules regarding the PSBB [23].

However, in implementing it in the field, the POLRI is certainly expected to continue to prioritize preventive measures and uphold the values of Human Rights (HAM) in prosecution. Incidents in other countries that show violence by unscrupulous law enforcement officers against the community in carrying out control related to the spread of Covid-19 are very concerning and need to be anticipated from an early

age. The National Police Chief is expected to be able to specifically provide direction to his staff regarding prosecution procedures, investigation and investigation of criminal cases related to the implementation of Health Quarantine.

The House of Representatives (DPR) can also play a role in guaranteeing the fulfillment of community rights related to the PSBB policy. As an institution that has a supervisory function, the DPR needs to coordinate with the government so that community rights related to the fulfillment of basic needs can be guaranteed when implementing the PSBB [24]. Likewise, the monitoring of POLRI's performance in carrying out public enforcement and public order measures in the context of implementing law enforcement against violations of the administration of health quarantine.

4. Conclusion

The policies in question include restrictions on the entry of people from countries affected by Covid-19, flight suspension, visa restrictions, border closings, and quarantine. A policy in determining an act that is not originally a criminal act (not being convicted) becomes a criminal act (an act that can be convicted). Challenges in the dynamics of legal events that occur especially in Indonesia are challenges for the state in its position as a rule of law. This concept, which has a philosophical basis, requires further explanation, so that it will appear more concrete.

Law Number 6 of 2018 concerning Health Quarantine, in particular Article 93, has regulated the rules for violators of large-scale social restrictions (PSBB) providing the threat of criminal sanctions for a maximum of 1 (one) year and / or a maximum fine of IDR 100,000,000. 00 in addition to Article 218 of the Criminal Code, it is stated that there is a maximum imprisonment of four months and two weeks or a maximum fine of nine thousand rupiahs for anyone when the people come together, deliberately not leaving immediately after being ruled three times by or on behalf of the competent authorities. The government then followed up on this by issuing Government Regulation (PP) Number 21 of 2020 concerning Large-Scale Social Restrictions (PSBB). They were sentenced to two months in prison and a fine of Rp. 800 thousand to Rp. 3 million by the Pekanbaru District Court Panel of Judges. This is the first case that PSBB in Indonesia has gone to court. Prosecutors and judges at the Pekanbaru District Court also sent verdicts against violators of the PSBB.

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