

LAW ENFORCEMENT DUE TO VIOLATION LAW NUMBER 6 OF 2018 ABOUT QUARANTINE (Study of Decision No. 173/PID.SUS/2021/PTDKI, NAME HABIB RIZIEQ SHIHAB)

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Keywords	Abstract. Currently residents are faced with a new variant of the virus originating from the city of Wuhan, China. This virus emerged in 2019 under the name Corona Virus Disease 2019 or better known as COVID-19, where this virus is an infectious disease that attacks the respiratory tract with symptoms of fever, cough and shortness of breath. According to Law Number 6 of 2018 concerning Health Quarantine, it is an effort to prevent and ward off the exit or entry of diseases and/or public health risk factors that have the potential to cause public health emergencies. The implementation of PSBB and Quarantine is an effort of a health emergency (Law Number 6 of 2018). The formulation of the problem in this paper are: 1. What is the scope of health care arrangements in Indonesia? 2. How is the application of the law to cases of violations of health protocols? This legal research method is normative juridical, namely research to be carried out to obtain materials in the form of theories, concepts, legal principles and legal regulations related to the subject matter.
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1. INTRODUCTION


Currently, citizens around the world are faced with a new variant of the virus that originated in the city of Wuhan, China. This virus emerged in 2019 under the name Corona Virus Disease 2019 or better known as COVID-19, where this virus is an infectious disease that attacks the respiratory tract with symptoms of fever, cough and shortness of breath. Corona virus is still a family with the SARS and MERS viruses which previously attacked various countries in the world. However, COVID-19 has never been found or identified in the human body before, so it is a new type of disease.

Based on data from the WHO in 2020, 216 countries were affected by the COVID-19 virus, including Indonesia. With a total of 6,287,771 confirmed cases globally. Indonesia began confirming 2 cases of COVID-19 in March 2020. The lack of readiness to prevent the spread resulted in a very rapid spike in cases. The development of cases in Indonesia is increasing day by day. In June 2020 the total cases reached 28,233 cases.

In the regulation of Presidential Instruction Number 6 of 2020, it orders Governors, Regents and Mayors to formulate and stipulate governor/regent/mayor regulations that contain the obligation to comply with health protocols for individuals, business actors, managers, organizers, or persons in charge of places and facilities. and contains sanctions for violations of the implementation of health protocols in the prevention and control of Covid-19.

However, it is very difficult for the community to comply with health protocols and there are still many who carry out activities outside the home without implementing physical distancing. Thus, the authorities do not hesitate to give sanctions to people who violate the appeal. The sanctions given can be in the form of administrative sanctions to criminal sanctions. The purpose of the sanction is to provide a deterrent effect to people who do not implement it. The Decree of the National Police Chief Mak/2/III/2020 which was published March 19, 2020 stated that the reason "Salus Populi Suprema Lex Esto" which means "people's safety is the highest law" is an appeal aimed at the community not to carry out activities that involve large numbers of people, both in public and in private. If the community continues to violate the appeal from the Police/apparatus not to congregate or gather, the law

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enforcement authorities will impose criminal sanctions with multi-layered articles starting from Articles 212, 216, and 218 of the Criminal Code to Article 14 of Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases and Articles 93 Law Number 6 of 2018 concerning Health Quarantine.

As for the legal paradigm in Indonesia, PSBB and Health Quarantine have the same legal basis, namely Law Number 6 of 2018 concerning Health Quarantine. According to Law Number 6 of 2018 concerning Health Quarantine, it is an effort to prevent and ward off the exit or entry of diseases and/or public health risk factors that have the potential to cause public health emergencies. The implementation of PSBB and Quarantine is an effort of the existence of a health emergency (Law Number 6 of 2018). In Law Number 6 of 2018 responses to health emergencies include Home Quarantine, Hospital Quarantine, Regional Quarantine, and what has now been implemented by the President is Large-Scale Social Restrictions (PSBB). Regional Quarantine in general provisions is a limitation on the population in an area, including the entrance area and its contents, which are suspected of being infected with disease and/or contaminated in such a way as to prevent the possibility of spreading disease or contamination. The entrance in question has the meaning as a place for entry and exit of all types of vehicles, people and/or goods, whether in the form of ports, airports, or across state land borders. This provision is mandated from the provisions of Article 49 paragraph (3) of Law Number 6 of 2018 concerning Health Quarantine which regulates "Regional Quarantine and Large-Scale Social Restrictions as referred to in paragraph (1) shall be determined by the Minister. This provision is in accordance with Article 59 paragraph (3) of the Quarantine Law which contains the same clauses, namely: a) Holidays from school and work. b) Restrictions on religious activities, and/or. c) Restrictions on activities in public places or facilities. The comparison above, it can be stated that what is meant by Large-Scale Social Restrictions (PSBB) in PP PSBB are the provisions of Large-Scale Social Restrictions (PSBB) as referred to in the implementation of Health Quarantine in the region in Article 49 in conjunction with Article 60 of the Health Quarantine Law. states: "further provisions regarding the criteria and implementation of Home Quarantine, Regional Quarantine, Hospital Quarantine and Large-

Scale Social Restrictions are regulated by Government Regulation" (Suardana, et al 2020:14). The legal basis imposed on violators of the PSBB policy refers to Article 93 of Law Number 6 of 2018 concerning Health Quarantine. Article 93 stipulates that "Everyone who does not comply with the health quarantine operator as referred to in Article 9 paragraph (1) and/or obstructs the health quarantine operator so as to cause a public health emergency shall be punished with imprisonment for a maximum of 1 (one) years and/or a maximum fine of Rp. 100,000,000.00 (one hundred million rupiah). In order to ensnare someone with a criminal threat, every element contained in the provisions in Article 93 must be fulfilled. The elements that must be specified in these provisions are: 1. Complying with the implementation of health quarantine. 2. Obstructing the implementation of health quarantine. 3. Thus causing a public health emergency. Article 93 of Law Number 6 of 2018 concerning Health Quarantine contains an element of consequence, which reads that it can be punished if it causes a public health emergency. Whereas in Article 1 point 2, what is meant by public health emergency is an extraordinary public health incident marked by the spread of infectious diseases and/or events caused by nuclear radiation, biological pollution, chemical contamination, bioterrorism, and food that poses a health and safety hazard. potentially spread across regions or across countries. Article 93 of Law Number 6 of 2018 concerning Health Quarantine contains an element of consequence, which reads that it can be punished if it causes a public health emergency. Whereas in Article 1 point 2 what is meant by public health emergency is an extraordinary public health incident marked by the spread of infectious diseases and/or events caused by nuclear radiation, biological pollution, chemical contamination, bioterrorism, and food that poses a health and safety hazard. potentially spread across regions or across countries. Article 93 of Law Number 6 of 2018 concerning Health Quarantine contains an element of consequence, which reads that it can be punished if it causes a public health emergency. Whereas in Article 1 point 2 what is meant by public health emergency is an extraordinary public health incident marked by the spread of infectious diseases and/or events caused by nuclear radiation, biological pollution, chemical contamination, bioterrorism, and food that poses a health and safety hazard. potentially spread across regions or across countries.

This means that PSBB violations in the form of not complying with or obstructing the implementation of PSBB can be punished only if they result in extraordinary public health events marked by the spread of infectious diseases that have the potential to spread across regions or across countries. This PSBB policy is the object referred to in Article 93 because PSBB is a form of health quarantine, the provision of criminal sanctions is to provide a deterrent effect to violators of the PSBB policy. The imposition of criminal sanctions on violators of the PSBB policy is deemed inappropriate, it is based on the criminal sanction itself, where there is one principle in Indonesian criminal law that regulates criminal law is the *ultimum remedium*.

2. METHOD

In accordance with the title and problems that will be discussed in this study and in order to provide useful results, this research was carried out with normative juridical research. The normative juridical research method is library law research which is carried out by examining library materials or secondary data.

This research was conducted in order to obtain materials in the form of: theories, concepts, legal principles and legal regulations related to the subject matter. The government regulation of the republic of Indonesia number 21 of 2020 concerning large-scale social restrictions in the context of accelerating the handling of the corona virus disease 2019 (covid-19) and Law Number 6 of 2018 concerning health quarantine.

The tool used to collect data in this research is through document study by browsing the literature and using internet media. Analysis techniques to process data obtained from literature searches, document studies, so this study uses qualitative analysis. This qualitative analysis is basically an explanation of the theories put forward, so that from these theories several things can be drawn that can be concluded and discussed in this thesis.

3. RESULTS AND DISCUSSION

These policies are, of course, in accordance with the Presidential Instruction delivered through Presidential Instruction Number 6 of 2020 concerning Improvement of Discipline and Law Enforcement of Health Protocols in the Prevention and Control of Corona Virus Disease 2019. In the Presidential Instruction Number 6 of 2020 concerning Improvement of Discipline and Enforcement in the Prevention and Control of Corona Virus Disease 2019, also instructs the provision of hand washing facilities with soap that are easily accessible and meet standards or the provision of hand sanitizer in public places, efforts to maintain social distance, as well as periodic cleaning and disinfection of the environment. In its application, nowadays we have encountered many hand washing facilities in almost every place, whether it is in public places such as parks, markets, shopping centers, as well as offices and schools. But not infrequently there are still many places that do not have a place to wash hands. In an effort to regulate distance, it has been carried out in every public place such as parks and shopping centers such as malls and supermarkets,

Meanwhile, periodic environmental cleaning and disinfection have been carried out in accordance with the instructions. However, in recent months, public awareness of the dangers of Covid-19 has begun to decline. This can be seen from the number of people who do not use masks in public places, and do not even keep their distance in the crowds. This identifies that no matter how good the regulations made by the government, as well as no matter how firm law enforcement officers are in carrying out the applicable regulations, if they are not supported by public awareness in protecting themselves, a law enforcement will never be achieved as desired.

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That after the Defendant's health eligibility documents were checked, the Defendant left the Airport Terminal as stipulated in the Circular Letter of the Minister of Health of the Republic of Indonesia dated May 22, 2020 Number HK.03.01/Menkes/338/2020 of 2020 concerning Handling of Returning Indonesian Citizens (WNI) and the arrival of Indonesian Citizens. Foreigners (foreigners)

from abroad at Soekarno Hatta Airport and Juanda Airport, the defendant should immediately self-quarantine for 14 days at the defendant's home or residence in the Petamburan area starting from November 10, 2020 to November 24, 2020 and submit Health clearance to the local RT/RW to be forwarded to the local Puskesmas for easy monitoring while the Defendant is undergoing a period of self-quarantine, however, this was not done by the Defendant where the Defendant actually joined the crowd of thousands of people who picked him up at the airport until the defendant arrived at his house.

The considerations of the Panel of Judges at the first instance were taken over and used as consideration by the Panel of Judges at the Appeals Level itself in adjudicating this case at the appellate level; Considering, whereas with these considerations, the decision of the East Jakarta District Court dated 27 May 2021 Number 226/Pid.Sus/2021/PN.Jkt.Tim has legal grounds to be strengthened; Considering, whereas because the court's decision of the first instance stated that the Defendant was legally and convincingly proven guilty and sentenced to a criminal offense and the decision was upheld at the appeal level, the Defendant was charged with paying the costs of this case at both levels of court; Taking into account Article 93 of Law Number 6 of 2018 concerning Health Quarantine, Law Number 8 of 1981 concerning Criminal Procedure Code.

4. CONCLUSION

Based on the discussion above, the authors conclude the following: Presidential Instruction No. 6 of 2020 on increasing discipline which includes Presidential Instruction No. 6 of 2020 on increasing discipline and enforcement in the prevention and control of the 2019 corona virus disease, also instructs the provision of hand washing facilities with soap that are easily accessible and meet standards or the provision of hand sanitizer dilution or (handsanitizer) in public places, efforts to maintain social distancing and regular environmental cleaning and disinfection. he following is the content of Article 93 of Law Number 6 of 2018 concerning Health Quarantine: Article 93 : Anyone who does not comply with the implementation of the Health Quarantine as referred to in Article 9 paragraph (1) and/or obstructs the implementation of the Health Quarantine causing a Public Health Emergency shall be subject to a maximum imprisonment of 1 (one) year and/or a maximum fine of Rp. 100,000,000.00 (one hundred million rupiah). Habib Rizieq is guilty of violating Article 93 of Law Number 6 of 2018 concerning Quarantine. Habib Rizieq Shihab was sentenced to 4 years in prison.

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