

Criminal System against Criminal Actions Health Quarantine Violations

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Abstract

Corona Virus Disease 2019 (Covid-19) is an infectious disease outbreak that has the potential to cause a public health emergency. The laws and regulations promulgated by the government are intended to provide a new direction for the Indonesian state in responding to any disease outbreaks that can occur at any time, especially in responding to the current Covid-19 pandemic. Quarantine is the restriction of a person or even a group of people in an area in an area where the area has been infected with an outbreak of an infectious disease. The presence of quarantine can prevent the spread of the Covid-19 outbreak and minimize the transmission of Covid-19. The purpose of this study is to find out how the implementation of the criminal system in providing punishment for perpetrators of health quarantine violators is and what problems are encountered in implementing health quarantine in overcoming Covid-19. The research method used is normative law research with a statute approach. And by collecting data in the form of primary legal materials, secondary legal materials, and tertiary legal materials. The results of this study indicate that cases of criminal acts of health quarantine violators are still prevalent, due to lack of attention to punishment for perpetrators of health quarantine violators. It is also necessary to increase the role of the government and the community in tackling the spread of the Covid-19 outbreak.

Keywords

covid-19; health quarantine;
criminal punishment.



I. Introduction

Indonesia is historically a state of law, this stems from the formulation of the Elucidation of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). In Indonesia, at the beginning of 2020, to be precise, at the beginning of March 2020, the corona virus had entered. Corona Virus or often referred to as Corona Virus Disease 2019 (Covid-19) is a virus that can attack the respiratory system in humans. The virus was first discovered in China, precisely in the city of Wuhan at the end of December 2019. Within a few months, almost all countries implemented a policy of imposing a lockdown in order to anticipate the spread of the corona virus from getting worse. The corona virus has spread and attacked almost all countries, including Indonesia. The outbreak of the infectious disease Covid-19 is indeed very difficult for countries affected by the disaster outbreak. The Indonesian government is considered slow in handling this outbreak. The outbreak of this virus has an impact of a nation and Globally (Ningrum et al, 2020). The presence of Covid-19 as a pandemic certainly has an economic, social and psychological impact on society (Saleh and Mujahiddin, 2020). Covid 19 pandemic caused all efforts not to be as maximal as expected (Sihombing and Nasib, 2020). The new president signed Presidential Decree No. 7 of 2020 concerning the Task Force for the Acceleration of Handling the 2019

Corona Virus Disease after 11 days of the announcement of the first case. On March 20, 2020, the President issued Presidential Decree No. 9 of 2020 which gave the Governor the authority to direct and evaluate the handling of Covid-19 in each region. As stated in the 1945 Constitution of the Republic of Indonesia, Article 1 paragraph (3) states that "the Indonesian state is a state of law", meaning that all citizens and law enforcement officers must also comply with applicable laws. As a form of achieving a rule of law in the form of enforcing the law, especially in the event of an outbreak or Covid-19 pandemic, several policies have been issued, namely policies regarding Lockdown, PSBB, PPKM and Health Quarantine.

The government together with the House of Representatives of the Republic of Indonesia (DPR RI) issued several laws, namely the law on infectious disease outbreaks and the health quarantine law. The laws governing an outbreak or a pandemic are Law Number 6 of 2018 concerning Health Quarantine (Health Quarantine Law) and Law Number 4 of 1984 concerning Infectious Disease Outbreaks (Infectious Disease Outbreak Law). The enactment of the health quarantine law can provide a new direction for the Indonesian state in responding to and dealing with any disease outbreaks that can occur at any time, especially in responding to and dealing with the current Covid-19 situation.

The spread of Covid-19 has made the whole world very unsafe, including Indonesia. The community as an inherent right has the right to get maximum protection and health services. This has been explicitly regulated in the constitution in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that: "Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and have the right to health services."

The inclusion of the provisions of the law into the Constitution makes health a legal right which is guaranteed by the state. (Indra Perwira, 2014)

The government in an effort to overcome this has implemented various policies related to Covid-19 which are based on the Health Quarantine Law. In these regulations, a definition of quarantine is given as stated in Article 1 point 6. Quarantine is one form of important health protocol that must be followed by someone from abroad. Quarantine is regulated in Circular (SE) of the Head of the Covid-19 Handling Task Force Number 14 of 2021 and SE of the Minister of Transportation Number 85 of 2021. With the issuance and enforcement of rules regarding quarantine, everyone is obliged to comply with them. But in reality, there are still many quarantine violators. This can be seen clearly in the case that was carried out by Rachel Vennya, a celebrity from the capital city of Jakarta. At that time, Rachel Vennya had just traveled from abroad, when Rachel Vennya arrived in Indonesia Rachel Vennya should have quarantined, but in reality Rachel Vennya did not complete the quarantine period. Rachel Vennya quarantined at the Wisma Athlete Emergency Hospital for only 3 days, Rachel Vennya should have been quarantined for 5 days and in fact Rachel Vennya chose to leave the Wisma Athlete Emergency Hospital before her quarantine period was over. Based on the results of the temporary investigation, with the assistance of an individual from the Indonesian National Armed Forces (TNI), this person helped organize the program in order to avoid the quarantine procedures that must be followed after traveling from abroad. This case certainly poses a high risk to the condition of the spread of Covid-19 in Indonesia. If you look at some of the explanations and examples of the cases above, it will raise questions about how the provisions of the Health Quarantine Law and the Infectious Disease Outbreak Act provide punishment for health quarantine violators. So that law enforcement can be carried out firmly and precisely.

II. Research Method

The type of research used in this paper is normative legal research or legal research with literature. Normative legal research is a research conducted by examining library materials or secondary data. (Soerjono Soekanto & Sri Mamudji, 2003)

III. Result and Discussion

3.1 Criminal and Criminal

According to Simons, a criminal act is a behavior (handeling) which is threatened with a crime in the legislation, which is against the law, which is related to an error and a behavior carried out by anyone who is able to be responsible for his actions. (Tri Andrisman, 2007) Sudarto is of the opinion that punishment is the giving/imposing of a crime to the perpetrator given by a judge or authorized person and body. The purpose of sentencing is one of the important keys in the imposition of the criminal itself. In essence, every criminal act or crime contained in the Criminal Code must have elements, which are generally divided into two kinds of elements, namely subjective elements and objective elements.

3.2 Implementation of Crimination Against Health Quarantine Violations

In the Law and the Criminal Code, provisions have been made regarding the punishment of criminal acts of health quarantine violators, but in reality these violations still often occur in the midst of the Covid-19 outbreak that has spread in Indonesia. Not infrequently the perpetrators of quarantine violators escape from the shackles of the applicable law. To realize success in law enforcement and the application of punishment in cases of health quarantine violations, serious cooperation from the competent authorities is needed to achieve law enforcement.

In implementing the criminal law system, the criminal occupies a central position. This is because a decision in sentencing will have very broad consequences and if an imposition of punishment on the perpetrator of a criminal act is not appropriate, it will cause a reaction that makes misinterpretations from various parties, because a truth in this case has the character of relative depending on which angle you look at it. The person's actions are the connecting point and the basis for criminal punishment. It is not enough for a person to be convicted if that person has committed an act that is contrary to the law or is against the law, thus for the existence of a sentence, a condition is needed that the person who commits an act has an error or is proven guilty.

As for the regulations for perpetrators of criminal acts of health quarantine violators according to the laws and regulations in force in Indonesia, they are as follows:

1. The punishment for the perpetrators of the crime of violating the health quarantine according to the health quarantine law is as follows:
 - a. In Article 9 paragraph (1) which reads, "Everyone is obliged to observe the implementation of Health Quarantine".
 - b. In Article 9 paragraph (2) which reads, "Everyone is obliged to participate in the implementation of Health Quarantine".
 - c. Article 93 which reads, "Everyone 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 Public Health Quarantine shall be punished with imprisonment for a maximum of 1 (one) year and/or a fine at most Rp. 100,000,000.00 (one hundred million rupiah)".

2. The punishment for the perpetrators of the crime of violating the health quarantine according to the Communicable Disease Outbreak Law is as follows:
 - a. In Article 14 paragraph (1) which reads, "Whoever deliberately obstructs the implementation of epidemic control as regulated in this Law, is threatened with imprisonment for a maximum of 1 (one) year and/or a maximum fine of Rp. 1,000,000. - (one million rupiah)".
 - b. In Article 14 paragraph (2) which reads, "Whoever due to negligence causes obstruction of the implementation of the epidemic control as regulated in this Law, is threatened with imprisonment for a maximum of 6 (six) months and/or a maximum fine of Rp. .000, - (five hundred thousand rupiah)".
 - c. Punishment for Criminals for Violating Health Quarantine According to the Criminal Code, there is Article 216 paragraph (1) of the Criminal Code.
To be able to give punishment to the perpetrators of criminal acts, it can be seen first the elements of the crime. The criminal elements consist of: (Teguh Prasetyo, 2018)
3. Objective Element
The objective element is an action (action) that is contrary to the law and elements that are outside the perpetrator. This element has to do with circumstances, that is, in a situation where something must be done. Then the objective element can be said to be the action of the perpetrator.
In the objective elements in the case carried out by the defendant Rachel Vennya, the following have been fulfilled:
 - a. Subject: Whoever, in this case, is the perpetrator of the health quarantine crime, namely Rachel Vennya.
 - b. Action: Obstructing the implementation of Health Quarantine by not doing health quarantine.
 - c. Object: Quarantine obligation.
 - d. Result: In this case, of course, this is very dangerous for the community, given that the current situation of the Covid-19 outbreak is high and has claimed many lives.
4. Subjective Element
The subjective element is someone's actions that are not required by law. Subjective elements are elements that exist or are attached to the perpetrator. The subjective element can also be said and associated with the perpetrator's self and everything that is contained in his heart. In this case, with the intention or intention to violate quarantine, do not even quarantine. The objective element must meet the conditions that must be met, namely:
 - a) There is an action
That there must really be an activity carried out by a person or group of people. This activity can be seen as a certain act that can be understood by others and can be said as a criminal act. In that case, that it is true that Rachel Vennya committed criminal acts and events.
 - b) The act must be in accordance with the provisions determined by law
That the perpetrator must really have done as what has happened and what has been done by him. The existence of an error that can be accounted for that the act committed by a person or group of people can be proven as an act that is true is an error that has been proven to violate the law and is an act that has been expressly stated that it is wrong in the eyes of the law. In that case, it is true that Rachel Vennya has committed an act that is proven to have committed an error which has been proven to have violated the law and is an act that has been expressly declared wrong in the eyes of the law.

c) Against the law

That the act committed by a person or group of people is actually against the law or contrary to the rule of law. In that case, it is true that Rachel Vennya has committed an act that is against the law and against the rule of law.

d) There is a threat of punishment

That every act that violates the law, there is a threat of punishment for the act. The threat of punishment is stated expressly the maximum sentence given to the perpetrator and must be carried out by the perpetrator. In this case, it is true that Rachel Vennya committed an act that was against the law and was given a threat of punishment for her actions, namely in accordance with the provisions of the Health Quarantine Law, the Infectious Disease Outbreak Act and Article 216 of the Criminal Code.

The discussion in this study is to answer the problems that have been present, that the provision of punishment for criminal acts of health quarantine violations based on the Health Quarantine Law is still very ambiguous, because it is not only this law that regulates existing cases, but other laws and regulations. The Criminal Code takes an active role in this case. The provision of punishment is intended to prevent repeated criminal acts by perpetrators, to provide a deterrent effect for committing these acts and even other actions, and to make everyone unable to commit other criminal acts. Based on this, there are rules relating to cases of criminal acts of health quarantine violators, namely the perpetrators can be charged with Article 93 Jo. Article 9 paragraph (1) of the Health Quarantine Law and/or Article 14 paragraph (1) of the Infectious Disease Outbreak Law.

Based on the case that occurred regarding the quarantine violation case committed by the celebrity Rachel Vennya, in which she did not carry out travel quarantine from abroad properly. In the end, the Chief Justice of the Tangerang District Court sentenced Rachel Vennya to four months in prison with eight months of probation and a fine of Rp. 50,000,000 (fifty million rupiah). This means that Rachel Vennya does not need to serve a prison sentence if during the eight month probation period she does not commit or repeat the crime. (Nandha Aprilianti, 2021)

In the provisions set forth in the Law and the Criminal Code, it turns out that the opposite is true. Because the criminal sentence given to Rachel Vennya did not run properly. Because basically if someone violates the provisions regarding health quarantine, the perpetrator should be punished and snared with the punishment set forth in Article 93 of the Health Quarantine Law, Article 14 of the Infectious Disease Outbreak Law, Article 216 paragraph (1) of the Criminal Code. The verdict given by the judge to the Rachel Vennya celebgram case relates to the criminal sanction of fines against the health quarantine violators because the perpetrator's actions, aka Rachel Vennya's celebgram, have fulfilled the elements contained in Article 93 Jo. Article 9 paragraph (1) of the Health Quarantine Law, namely:

1. Everyone's Elements

The element of each person is anyone who is the subject of a criminal act, namely anyone who has committed an act where the act is an act that has been categorized as a criminal act.

2. Elements of not complying with the implementation of health quarantine

This element is intended as stated in Article 9 paragraph (1) of the Health Quarantine Law which states "Everyone is obliged to comply with the implementation of Health Quarantine". Whereas the defendant did not comply with the implementation of the health quarantine and obstructed the implementation of the health quarantine, causing a public health emergency.

Based on the defendant's confession, Rachel Vennya, she admitted that while she was still in the United States, she had planned and deliberately didn't want to go into quarantine, by contacting her friend so that the defendant would be helped to carry out his actions, namely escaping and not quarantine. The defendant also testified that he was asked for an amount of Rp. 40,000,000 (forty million rupiah) to pay his friend who helped the defendant to carry out his action. (Andri Saubani, 2021)

Defendant Rachel Vennya did not comply with the implementation of the health quarantine, then based on these legal considerations, the first element is not complying with the implementation of the health quarantine as referred to in Article 9 paragraph (1) which states that obstructing the implementation of the health quarantine has resulted in a public health emergency. fulfilled in this element.

That a provision in the case of a person who has committed a criminal act which is only threatened with imprisonment, if the judge is of the opinion that it is not necessary to impose a prison sentence after considering the things that have become the objectives of the punishment, the sentencing guidelines and taking into account and considering the guidelines for imprisonment, the judge may impose a fine against the accused. (Ninieck Suparni, 2017). For all minor crimes, fines are given as an alternative to imprisonment. The same applies to crimes that are not committed intentionally. Another alternative is the threat of imprisonment and fines, but these are rarely threatened for other crimes.

All elements contained in Article 93 Jo. Article 9 Paragraph (1) of the Health Quarantine Law has been fulfilled, then the defendant Rachel Vennya is declared to have been legally and convincingly proven to have committed a crime and was sentenced to a punishment commensurate with the actions that have been committed.

Based on the case carried out by the celebrity Rachel Vennya, it has been proven legally guilty of committing a criminal act of not complying with the implementation of health quarantine, namely by not doing quarantine on his return journey from abroad. The defendant Rachel Vennya was sentenced to 4 (four) months in prison with eight months of probation, meaning that Rachel Vennya does not need to serve a prison sentence if during the eight months of probation she does not commit or repeat the crime. And with a fine of Rp. 50,000,000, - (fifty million rupiah).

IV. Conclusion

1. In the Law and the Criminal Code, provisions have been made regarding the punishment of criminal acts of health quarantine violators, but in reality these violations still often occur in the midst of the Covid-19 outbreak that has spread in Indonesia. The Health Quarantine Law regulates the criminal provisions in CHAPTER XIII, namely Articles 90, 91, 92, 93 and 94.
2. That in that case Rachel Venya has fulfilled the objective element as an action (deed) that is contrary to the law and elements that exist outside of the perpetrator. This element has to do with circumstances, that is, in a situation where something must be done. And the subjective element is an element that is contained or attached to the perpetrator.
3. Rachel Vennya has been legally proven guilty of committing a criminal act of not complying with the implementation of health quarantine, namely by not doing quarantine on her return journey from abroad. The defendant Rachel Vennya was sentenced to 4 (four) months in prison with eight months of probation, meaning that Rachel Vennya does not need to serve a prison sentence if during the eight months of probation she does not commit or repeat the crime. And with a fine of Rp. 50,000,000, - (fifty million rupiah).

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