

Application of Criminal Sanctions Against Violators Who Resist Officers on Duty in Combating Corona Virus Disease-19 (Covid-19)

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ABSTRAK

Sebagai antisipasi pencegahan penularan *Corona Virus Disease* (Covid-19), masyarakat direkomendasikan untuk menerapkan protokol kesehatan melalui beberapa kebijakan yang dituangkan dalam peraturan. Namun dalam kenyataannya, Sebagian kelompok masyarakat masih ada saja yang tidak mematuhi aturan kebijakan pemerintah tersebut. Tujuan dilakukannya penelitian ini, untuk mengetahui penerapan sanksi pidana terhadap pelanggar yang melawan aparat yang sedang bertugas dalam penanggulangan corona virus disease-19 (Covid-19). Penelitian ini adalah penelitian yuridis empiris dengan menggunakan sumber data primer dan data sekunder. Cara pengumpulan data dilakukan dengan wawancara dan studi dokumen. Data yang diperoleh baik dari studi kepustakaan maupun dari penelitian lapangan akan dianalisis secara *deskriptif kualitatif*. Hasil penelitian menjelaskan bahwa, penerapan sanksi pidana terhadap pelanggar yang melawan aparat yang sedang bertugas dalam penanggulangan corona virus disease-19 (Covid-19), dapat dijerat dan dapat dipertanggungjawabkan secara pidana dengan Pasal 212 Kitab Undang-Undang Hukum Pidana (KUHP) dan Pasal 93 Undang-Undang Nomor 6 Tahun 2018 tentang Keekarantinaan Kesehatan yang dipidana dengan pidana penjara paling lama 1 (satu) tahun dan/atau pidana denda paling banyak Rp.100.000.000,00 (seratus juta rupiah)".

Kata Kunci: Sanksi Pidana; Melawan Aparat; Bertugas, Covid-19.

ABSTRACT

In anticipation of preventing the transmission of Corona Virus Disease (Covid-19), the public is recommended to implement health protocols through several policies set forth in the regulations. But in reality, some community groups still do not obey the rules of government policy. The purpose of this study is to determine the application of criminal sanctions against violators who fight officers who are on duty in combating corona virus disease-19 (Covid-19). This research is an empirical juridical research using primary data sources and secondary data. The way data is collected is done by interviews and document studies. Data obtained both from literature studies and from field research will be analyzed in a qualitative descriptive manner. The results of the study explained that, the application of criminal sanctions against violators who are on duty in combating corona virus disease-19 (Covid-19), can be charged and can be criminally accounted for with Article 212 of the Criminal Code (KUHP) and Article 93 of Law Number 6 of 2018 concerning Health Quarantine which is punished with a maximum imprisonment of 1 (one) year and/or a maximum fine of Rp.100,000,000, 00 (one hundred million rupiah)".

Keywords: Sarak Opat; Settlement; Divorce; Mediatio.

I. Introduction

The preamble to the 1945 Constitution clearly stated the ideals of the Indonesian nation which is also the national goal of the Indonesian nation. The national goal is to protect the entire Indonesian nation and all Indonesian bloodshed and promote general welfare, educate the nation's life and participate in implementing world order based on independence, lasting peace and social justice. To achieve these national goals, sustainable development efforts are carried out which is a series of comprehensive, directed and integrated development, including health development. Health is a human right and one of the elements of welfare that must be realized in accordance with the ideals of the Indonesian nation.

Since the beginning of 2020, precisely in March, the world has been shocked by one of the phenomena, namely the *Corona Virus Disease (Covid-19) pandemic*, which is a new type of virus variant that causes infection in the respiratory tract, but the rate of spread or transmission is higher than other viruses (Marzuki et al, 2021). Covid-19 has a fairly high death rate, thus impacting various aspects of life, both economic, social, and cultural aspects that are felt not only by Indonesia, but almost all countries in the world. On March 11, 2020, the *World Health Organization (WHO)* has declared Covid-19 a global pandemic (Aeni, 2021). The Indonesian government has also designated the spread of Covid-19 as a national disaster based on Presidential Decree Number 12 of 2020 concerning the Determination of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 (COVID-19) as National Disasters (Saragih, Hartati, & Fauzi, 2020).

The spread and increase in the number of *cases of Corona Virus Disease (Covid-19)* occurs very quickly, corona virus is a dangerous and deadly virus. The spread has also been felt by all countries, including Indonesia, causing many casualties and even resulting in death (Rezki & Yunus, 2020).



In anticipation of preventing the transmission of *Corona Virus Disease* (Covid-19), the community is recommended to apply the following (Setyawati, 2020):

1. Wash your hands using soap and water for at least 20 seconds every time you move.
2. Using masks every time you do outdoor activities or in public places, the use of health masks is prioritized for people who are sick.
3. Increase drinking water, even though you are not thirsty but still have to drink water and try not to sweat your throat.
4. Get enough rest, stay up less if it's not too important.
5. Do not touch the eyes, nose, and mouth with dirty hands, wash your hands first if you have to touch the area.
6. Avoid contact with people who are coughing and fever, keep a standing distance from others.

With the development and increase in the number of cases of covid-19 infection in Indonesia, the government implemented the Implementation of Community Activity Restrictions (PPKM) which aims to suppress the spread of the covid-19 virus which is implemented based on the Ministry of Home Affairs Instruction Number 17 of 2021 concerning the Implementation of Restrictions on Micro-Based Community Activities and Optimizing Posts for *Handling Corona Virus Disease 2019* at the village and village levels to control the spread of *Corona Virus Disease 2019*. Following up on the instructions of the Ministry of Home Affairs mentioned above, the Regional Government of Central Aceh Regency, issued Central Aceh Regent Regulation Number 52 of 2020 concerning Improving the Handling of Corona Virus Disease 2019, Implementing Discipline and Law Enforcement of Health Protocols in Central Aceh Regency.

Criminal sanctions that can be imposed for violators of the Corona Virus Disease-19 (Covid-19) Health Protocol are contained in Article 27 of



Central Aceh Regent Regulation Number 52 of 2020 concerning Improving the Handling of Corona Virus Disease 2019, Implementing Discipline and Law Enforcement of Health Protocols in Central Aceh Regency, namely: 1). Verbal reprimand; 2). Written reprimand; 3). Social sanctions; 4). Social work; 5). Administrative fines, and 6). Temporary confiscation of identity card (KTP). Basically, the efforts of the Regional Government of Central Aceh Regency through these policies are expected to overcome the spread and transmission of *Corona Virus Disease* (Covid-19).

But in reality, some community groups still do not obey the rules of government policy. Even people who were caught in the raid fought against officers who were carrying out (raids) health protocols, especially in the use of masks. As happened in Central Aceh Regency, where a housewife who was caught in a mask raid resisted by yelling at health protocol officers, In fact, the violator of health protocols claimed to be the wife of a prosecutor in Central Aceh Regency.

This is not justified by law, as stipulated in Article 212 of the Criminal Code (KUHP) which contains "Whoever by force or threat of violence against an official who is carrying out his legitimate duties, or a person who, according to legal obligations or at the request of the official provides assistance to him, shall be threatened with resisting the official, with a maximum imprisonment of one year and four months or a maximum fine of Rp. 4. 500 (four thousand five hundred rupiah)".

Based on the description above, problems can be formulated that will be researched and discussed in this study, namely: how is the application of criminal sanctions against violators who are on duty in combating corona virus disease-19 (Covid-19)?

II. Metode

This research was conducted at the Central Aceh Resort Police. This type of research is empirical juridical research, which is a method or



procedure used to solve research problems by examining library data (secondary data) first, then continued by conducting research on field data (primary data) through direct interviews with respondents and informants (Surya & Suhartini). Data sources used in this study are primary data obtained through direct interviews from resource persons and secondary data to obtain literature data studies sourced from primary legal materials, secondary legal materials, tertiary legal materials. The way data is collected is done by means of interviews and document studies. How to analyze data obtained both from literature studies and from field research will be analyzed in a *qualitative descriptive manner*.

III. Discussion and Analysis

Application of criminal sanctions against violators who resist officers on duty in combating Corona Virus Disease-19 (Covid-19)

At the beginning of December 2019, the world has faced a problem, namely the presence of a new virus that has never been known before. The President has designated Covid-19 as an outbreak since February 4, 2020. This was stated through the Decree of the Minister of Health of the Republic of Indonesia No.HK.01.07/MENKES/104/2020 concerning the Determination of Novel Corona virus Infection (2019-nCoV Infection) as a Disease That Can Cause Outbreaks and Efforts to Overcome It. Coronavirus or also called Covid-19 is a virus with symptoms such as sore throat, cough, fever, shortness of breath, and is thought to come from animals. Although it looks the same as viruses in general, but who would have thought that this corona virus can have a big impact on all sectors of life that cause diseases of the respiratory system ranging from flu to *Middle East Respiratory Syndrome (MERS)*, and *Severe Acute Respiratory Syndrome (SARS)*.

Therefore, the government's steps in preventing Covid-19 include postponing activities involving many people, studying and working at home, large-scale social restrictions (PSBB), and the implementation of restrictions

on community activities (PPKM). To deal with the further spread of Covid-19 and in order to ensure legal authority, strengthen efforts and increase the effectiveness of prevention and control of Corona Virus Disease 2019 *Covid-19 throughout the region, the Indonesian government has issued Presidential Instruction of the Republic of Indonesia Number 6 of 2020 concerning Increasing Discipline and Law Enforcement Health Protocols in the Prevention and Control of Corona Virus Disease 2019* was then continued with the issuance of Minister of Home Affairs Instruction Number 4 of 2020 concerning Technical Guidelines for the Preparation of Regional Regulations in the context of Implementing Discipline and Law Enforcement of the Health Protocol as an effort to Prevent and Control Corona Virus Disease 2019 in the regions.

The community has an important role in breaking the chain of transmission of Corona Virus Disease-19 (COVID-19) so as not to cause new sources of transmission / clusters in places where there is movement of people, interaction between people and large gatherings of people. The community must be able to move again in the COVID-19 pandemic situation by adapting to new habits that are healthier, cleaner, and more obedient, which are implemented by all components in the community and empower all existing resources. The role of the community to be able to break the chain of transmission of COVID-19 (the risk of contracting and transmitting) must be carried out by implementing health protocols.

Health protocols are rules and regulations that need to be followed by all parties in order to move safely during this COVID-19 pandemic. The substance of health protocols in the community must pay attention to critical points in the transmission of Corona Virus Disease-19 (COVID-19) which include the type and characteristics of activities / activities, the magnitude of activities, the location of activities (outdoor / indoor), the duration of activities, the number of people involved, vulnerable groups such as pregnant

women, toddlers, children, the elderly, and comorbid sufferers, or people with disabilities involved and so on. Health protocols are formed with the aim that people can still move safely and do not endanger the safety or health of others. People who are disciplined in following all the rules stated in the health protocol, then the transmission of COVID-19 can be minimized (Zuleha, 2021).

One way to protect yourself from Covid-19 transmission is to use Personal Protective Equipment (PPE). Some types of PPE that are required or recommended to prevent Covid-19 transmission are *masks*, face shields, and gloves. The PPE aims to prevent exposure to the virus into the body or transmit the virus to others (Slamet et al, 2021). The implementation of health protocols must involve the role of related parties, including officials who will carry out control and supervision. Law enforcement is aimed at improving order and legal certainty in society. This is done, among others, by regulating the functions, duties and authorities of institutions in charge of enforcing the law according to the proportion of their respective scopes, and is based on a good cooperation system and supports the goals to be achieved.

According to Anwar, Central Aceh Regency to overcome and handle the spread of the Corona virus, the local government has issued Central Aceh Regent Regulation Number 52 of 2020 concerning Improving the Handling of Corona Virus Disease 2019, the Implementation of Discipline and Law Enforcement of Health Protocols in Central Aceh Regency.

Anwar added, with the regulations issued by the local government, especially in Central Aceh Regency, cracking down firmly on people who do not follow health protocols because it concerns the lives of people who are threatened by the spread of the corona virus through community interactions that are not known to be exposed to the corona virus and can cause an increase in the spread of the corona virus if the community does not follow health protocols.



The Central Aceh Regent Regulation follows up on Aceh Governor Regulation Number 51 of 2020 concerning Improving the Handling of Corona Virus Disease 2019, Implementation and Law Enforcement of Health Protocols in Aceh and Minister of Home Affairs Instruction Number 4 of 2020 concerning Technical Guidelines for the Preparation of Regional Head Regulations in the Framework of Implementing Discipline and Law Enforcement of Health Protocols as an Effort to Prevent and Control Corona *Virus Disease* 2019 in the Regions and Presidential Instruction of the Republic of Indonesia Number 6 of 2020 concerning Increasing Health Discipline and Enforcement in the Prevention and Control of *Corona Virus Disease* 2019.

In carrying out their duties, the COVID-19 task force team cannot be separated from the obstacles faced by officers, while the obstacles in question are resistance from the community who were caught in raids. Such as what happened in Simpang Empat Bebesen District, Central Aceh Regency, where a housewife who was caught in a raid by a joint covid-19 task force team, who resisted by yelling at officers. In fact, the violator of health protocols claimed to be the wife of a prosecutor in Central Aceh Regency.

According to Syahrial Afri, if in the enforcement of the regent regulation regarding the implementation of Covid-19 health protocols, there are attempts at rejection, non-compliance or other efforts that cause public unrest and disrupt the stability of kamtibmas, then make strict law enforcement efforts against anyone by law enforcement.

According to Julmahdi, acts of resisting against officers who are carrying out work or on duty are criminal acts prohibited in Article 212 of the Criminal Code (KUHP), which reads: "Whoever by force or threat of violence resists a public servant who performs his lawful work, or resists a person who when assisting the public servant because of his obligations under the law or because of his request the public servant, punished for resistance,



shall be punished with imprisonment for not more than one year and four months or a fine of not more than Rp 4,500,-".

R. Soesilo, explained that in order to be punished under article 212 of the Criminal Code, the person must:

1. Resist using violence or threats of violence. Regarding "violence" R. Soesilo refers to his explanation related to Article 89 of the Criminal Code, namely "unlawfully using force or physical force is not small" such as hitting with hands or with all kinds of weapons, punting, kicking, and so on. What is equated with "being violent" is making people faint or helpless. Seizing and releasing people arrested by the police from the hands of the police is an act of violence. When arrested by the police or ordered by the police according to the law, people hitting or kicking the police are violent acts as well.
2. Such matches are carried out against state officials who are performing their lawful duties, or against persons (no need for state officials) who assist him in the task. When such state officials are not performing legitimate duties, then people cannot be punished.
3. The person resisting must know that he is resisting to a public servant (usually seen by uniform clothing or signs or letters of legitimacy), but it is not necessary that the person must know that the public servant is working in the performance of his legitimate job of office. About the legitimacy or not of it he should not weigh. That the public servant is performing his work in his lawful position under this provision is a circumstance that determines the punishable nature.

Based on the explanation above, people who resist officers who are performing legitimate duties can be sentenced to imprisonment for a maximum of 1 year 4 months and a maximum fine of Rp 4,500,-. Article 212 of this Criminal Code has been adjusted based on Article 3 of Supreme Court Regulation Number 2 of 2012 concerning the Adjustment of the Limitation of



Minor Crimes and the Amount of Fines in the Criminal Code : Each maximum amount of fine threatened in the Criminal Code except articles 303 paragraph 1 and paragraph 2, 303 bis paragraph 1 and paragraph 2, is doubled to 1,000 (one thousand) times. Based on these provisions, the criminal fine stipulated in Article 212 of the Criminal Code (KUHP) becomes a maximum of Rp. 4,500,000,-. (*four million five hundred thousand rupiah*).

According to Amran Muktar, the threat of punishment for violators who resist COVID-19 officers who are doing work legally can be subject to Article 93 of Law Number 6 of 2018 concerning Health Quarantine states "Any person who does not comply with the implementation of Health Quarantine as referred to in Article 9 paragraph (1) and/or obstructs the implementation of Health Quarantine so as to cause a Public Health Emergency sentenced to a maximum imprisonment of 1 (one) year and/or a maximum fine of Rp100,000,000.00 (one hundred million rupiah)".

Based on the description above, it can be concluded that the perpetrators of threats and mistreatment of officers who are carrying out their duties can be legally charged and can be held criminally accountable with Article 212 of the Criminal Code (KUHP) and Article 93 of Law Number 6 of 2018 concerning Health Quarantine.

Strict action must be taken by law enforcement for violations of established health protocols. Especially against officers while on duty in the Implementation of Discipline and Law Enforcement of Health Protocols in preventing the spread of Covid-19, so that the community is deterred and obeys Health protocols and there will be no more violators who fight officers in the future, for the sake of community life that is free from the spread of Covid-19 in Central Aceh Regency.

According to Amran Muktar, violators of health protocols who resist officers while on duty have been determined to be suspects, but we have not made arrests, the reasons: *First*, in accordance with the provisions of Article

21 of the Code of Criminal Procedure. *Second*, the suspect was very cooperative in the examination.

The reason for the detention of violent crimes against officers who are carrying out their duties legally has actually been clearly regulated in the Criminal Procedure Code (KUHAP). Article 21 paragraph (1) states the reason for detention of the perpetrator if there is a suspicion that the perpetrator will repeat the crime. While article 21 paragraph (4) letter (a) that detention is imposed on criminal offenses that carry a prison sentence of 5 years or more. All of these are judicial reasons why a suspected perpetrator of criminal acts of threats and violence against officers who are carrying out their duties is detained.

IV. Conclusion

The application of criminal sanctions against violators who resist officers who are on duty in combating corona virus disease-19 (Covid-19), can be charged and can be held criminally accountable with Article 212 of the Criminal Code (KUHP) which is punishable for a maximum of 1 year 4 months and a maximum fine of IDR 4,500,000 (*Four Million Five Hundred Thousand Rupiah*), and Article 93 of Law Number 6 of 2018 concerning Health Quarantine which sentenced to a maximum imprisonment of 1 (one) year and/or a maximum fine of Rp100,000,000.00 (one hundred million rupiah)".



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C. Regulation

Undang-Undang Dasar Republik Indonesia Tahun 1945

Kitab Undang-Undang Hukum Pidana

Keputusan Presiden Nomor 12 Tahun 2020 tentang Penetapan Bencana Nonalam Penyebaran Corona Virus Disease 2019 (COVID-19) Sebagai Bencana Nasional

Instruksi Kementerian Dalam Negeri Nomor 17 Tahun 2021 tentang Pemberlakuan Pembatasan Kegiatan Masyarakat Berbasis Mikro Dan Mengoptimalkan Posko Penanganan *Corona Virus Disease* 2019 Di Tingkat Desa Dan Kelurahan Untuk Pengendalian Penyebaran *Corona Virus Disease* 2019.

Peraturan Bupati Aceh Tengah Nomor 52 Tahun 2020 Tentang Peningkatan Penanganan Corona Virus Disease 2019, Penerapan Disiplin Dan Penegakan Hukum Protokol Kesehatan Di Kabupaten Aceh Tengah