

**LAW ENFORCEMENT'S RESPONSE TO THE CRIMINAL ACT OF HEALTH QUARANTINE UNDER LAW NUMBER 6 OF 2018****Suyanto^{1)*}**¹⁾ Faculty of Law, University of Gresik, Indonesia

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ABSTRACT

Background. Article 9 and Article 93 of Law Number 6 of 2018 state that non-compliance with quarantine or social restrictions may result in punishment for not participating in preventing virus outbreaks, aimed at preventing public health emergencies. This research purpose to explained law enforcement oppose the criminal act of enforcing health quarantine.

Research Methods. This study employs normative and empirical legal methodologies. The data used is secondary. Data obtained through qualitative analysis. The data analysis results can be expanded upon by drawing inductive conclusions.

Findings. It demonstrates that law enforcement uses criminal law facilities (ultimum remidium) to combat the criminal act of implementing health quarantine in accordance with Law Number 6 of 2018 concerning Health Quarantine. This is done by pursuing legal remedies against those who commit crimes related to organizing health quarantine through court proceedings. return in order to obtain criminal penalties and guarantee legal certainty, based on the terms of legislative rules all the way down to the court level and execution.

Conclusion. Based on Law Number 6 of 2018 concerning Health Quarantine, the government and law enforcement officials can enhance the professionalism and integrity of law enforcement against the criminal act of implementing health quarantine in order to suppress those who commit such crimes.

Keywords: Criminal Act, Health Quarantine, Law Enforcement.

BACKGROUND

The development and protection of health for all Indonesian people is directed towards achieving the highest degree of health for the development and improvement of Indonesian human resources. This is the basic capital for the implementation of national development, which in essence is the development of Indonesian people as a whole[1]. Indonesia is an archipelago that is very strategic because the location of the Indonesian territory is on the path of international traffic and trade[2]. This condition causes many entrances to Indonesian territory which become access to the entry and exit of foreign nations to carry out international trade, this causes a high risk of spreading diseases and health problems, which requires the attention of the government and also the community[3].

Technological developments in the field of transportation have also led to an increase in the speed of travel time between regions and between countries which also increases the risk of entry and exit of new emerging diseases and re-emerging diseases[4]. Technological advances in various other fields also have an impact on changing disease patterns and increasing health risks caused by nuclear radiation, biological pollution, chemical contamination, bioterrorism, and food, which requires comprehensive and coordinated efforts to prevent disease and control health risk factors, and requires resources, community participation, and international cooperation[5].

As part of the world community, Indonesia is obliged to prevent the occurrence of a Public Health Emergency of International Concern as mandated in the International Health Regulations (IHR)[6]. In carrying out this mandate, Indonesia fully respects dignity, human rights, the basics of human freedom, and their universal application. The implementation of health quarantine aims to protect, prevent, and ward off diseases and/or public health risk factors that have the potential to cause public health emergencies in order to increase national resilience in the health sector in an integrated manner, and can involve the Regional Government[7-9].

The current event is the spread of Corona Virus Diseases 19 (Covid 19) which has become a pandemic throughout Indonesia as a disaster caused by a non-natural event or series of events, in the form of epidemics and disease outbreaks. The government has established a policy regarding health quarantine in preventing and controlling the spread of Corona Virus Diseases 19 (Covid-19). Based on Law No. 6/2018 on Health Quarantine. Law No. 6/2018 on Health Quarantine[10] requires Indonesia to improve its capacity and capability in health surveillance and response, as well as health quarantine in the region and at ports of entry, airports, and land border crossing posts. This requires adjustments to legislation, organizations, and resources related to health quarantine and its implementing organizations. This is considering the existing laws and regulations related to Health Quarantine, namely the Law on Health Quarantine.

Health quarantine is carried out both against sufferers of epidemic diseases and healthy people. Actions against sufferers are carried out not only aimed solely at curing, but at the same time to prevent these sufferers from becoming a source of disease transmission and spreading to members of the community. Law No. 6/2018 on Health Quarantine regulates the responsibilities of the Central Government and Regional Governments, rights and obligations, public health emergencies, implementation of health quarantine at the port of entry, implementation of health quarantine in the region, health quarantine documents, health quarantine resources, health quarantine information, guidance and supervision, investigation, and criminal provisions. This research purpose to explained law enforcement oppose the criminal act of enforcing health quarantine.

RESEARCH METHOD

This research used normative juridical and empirical juridical research methods[11]. The types of data in this research include primary data and secondary data, which the researcher obtains from library literature by conducting document studies, archives that are theoretical, concepts, doctrines and legal principles related to the subject matter by quoting and reviewing laws and regulations, theories from legal experts, legal dictionaries, and scientific article. As well as primary data that the author obtained directly from research in the field. In the context of field research, especially concerning the subject matter of this research. In this case the data was obtained by conducting observations and interviews with respondents related to violations of criminal acts of health quarantine implementation.

FINDINGS

Law enforcement against perpetrators of criminal acts in the implementation of health quarantine is carried out using the means of criminal law (*ultimum remedium*) and this is because it considers the frequency of violators of criminal acts in the implementation of health quarantine. Law enforcement against perpetrators of criminal acts in the implementation of health quarantine is carried out strictly without exception and is expected to bring fear to the perpetrators of other criminal offenders. This feeling of fear arises from the perpetrator so that the potential perpetrator discourages him from committing a criminal offense. In connection with the process of proof by the perpetrators of criminal acts of health quarantine implementation with intent / deliberate intent.

Law No. 6/2018 on Health Quarantine regulates the responsibilities of the Central Government and Regional Governments, rights and obligations, public health emergencies, implementation of health quarantine at the port of entry, implementation of health quarantine in the region, health quarantine documents, health quarantine resources, health quarantine information, guidance and supervision, investigation, and criminal provisions.

The criminal law aspect in the implementation of Law Number 6/2018 on Health Quarantine has implications for punitive sanctions as stipulated in Article 93 of Law Number 6/2018 on Health Quarantine. The provisions and prohibitions in Law Number 6 of 2018 concerning Health Quarantine aim that if there are parties who do not heed the appeal for quarantine or social restrictions, then the party can be considered not participating in

overcoming the corona virus outbreak and is a punishable act. The provisions of Article 93 of Law Number 6 of 2018 [10] concerning Health Quarantine state that: “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 shall be punished with a maximum imprisonment of 1 (one) year and / or a maximum fine of Rp100,000,000.00 (one hundred million rupiah) “.

Evidence of law enforcement against perpetrators of criminal acts of health quarantine implementation is not focused on the mode but on the elements of the article that must be proven to ensnare the perpetrators of the crime. The process of proof begins with the examination of witnesses, evidence, expert testimony, letters, instructions, as stipulated in Article 184 of the Criminal Procedure Code as valid evidence. Law enforcement against the perpetrators of criminal acts in the implementation of health quarantine, law enforcers look more at the consequences caused by the perpetrators, not how the perpetrators commit criminal acts[12].

Law enforcement against perpetrators of criminal acts of health quarantine implementation is included in the field of criminal policy. This criminal policy is also inseparable from a broader policy, namely social policy, which consists of policies or efforts for law enforcement and policies or efforts for the protection of society (social defense policy). Thus, if crime prevention policies (criminal politics) are carried out using the means of criminal law (*ultimum remedium*), especially at the judicial/applicative policy stage (enforcement of criminal law in concerto) must pay attention to and lead to the achievement of the objectives of social policy, in the form of social welfare and social defense.

Law enforcement against the perpetrators of criminal acts in the implementation of health quarantine has been clearly felt by the community the effects of criminal acts. So, law enforcers need courage and confidence in making decisions in judging according to the instructions or other evidence that has been presented in court so that justice can be upheld. The case of criminal acts of health quarantine implementation, regarding criminal law enforcement is actually not only how to make the law itself, but also about what law enforcement officials do in anticipating and overcoming problems in law enforcement. Therefore, in dealing with problems in criminal law enforcement that occur in society, especially law enforcement against perpetrators of criminal acts of health quarantine implementation is carried out by the application of criminal law (criminal law application) or in a preventive and repressive manner. Crime prevention is a way or effort to overcome the existence of acts that although not specified in the law as a criminal act but as *onrecht*, namely as an act contrary to the law. Law enforcement should be used in order to harmonize the values or norms that exist in society[13, 14].

DISCUSSIONS

Theoretically, the law enforcement above, the researcher analyzes that in a special sense, law enforcement efforts against the perpetrators of criminal acts in the implementation of health quarantine are carried out using the means of criminal law (*ultimum remedium*)[15]. Efforts by applying formal criminal penalties (*ultimum remedium*) as well as criminal implementation penalties carried out through the criminal justice system. To achieve the expected goals, the goal in the short term is to resocialize (re-socialize) the perpetrators of criminal acts, the medium term is to prevent crime and the long term is the ultimate goal is to achieve social welfare where law enforcement against criminal offenders in the implementation of health quarantine with a certain mode[16].

Starting from the theoretical description above, the role of law enforcement and government in deterring and overcoming various crimes both conventional and transnational crime is expected by the community[17, 18]. Criminal law enforcement, especially in law enforcement against perpetrators of criminal acts of health quarantine implementation, is an effort to use the means of criminal law (*ultimum remedium*).

Law enforcement against perpetrators of criminal acts of health quarantine implementation is the duty and authority of law enforcement. The duties and authorities of the police in accordance with the provisions of Article 13 of Law Number 2 of 2002 concerning the Indonesian National Police[19] are as follows:

- a. Maintaining security and public order.
- b. Enforce the law.
- c. Protect, nurture, and serve the community.

In relation to law enforcement against perpetrators of criminal acts in the implementation of health quarantine, basically law enforcement against perpetrators of criminal acts in the implementation of health quarantine is carried out strictly. Theoretically, researchers analyzed that law enforcement against perpetrators of criminal acts in the implementation of health quarantine is carried out using the means of criminal law (ultimum remidium) including the field of criminal policy. This criminal policy is also inseparable from a broader policy, namely social policy, which consists of policies or efforts for law enforcement and policies or efforts for the protection of society (social defense policy)[20]. Thus, if the law enforcement policy against the perpetrators of criminal acts in the implementation of health quarantine is carried out by using the means of criminal law (ultimum remidium) as the implementation of the Narcotics Law, then criminal law policy, especially at the judicial/applicative policy stage. Criminal law enforcement in concerto must pay attention to and lead to the achievement of the objectives of social policy, in the form of social welfare and social defense.

The things that are done in law enforcement against criminal offenders in the implementation of health quarantine by using criminal law means (ultimum remidium) [21] are as follows:

- a. Handling the object of criminality in the area by physical or concrete means to prevent the relationship between the perpetrator and the object by means of security, providing supervision on the object of criminality.
- b. Reducing or eliminating opportunities to commit crimes by improving the environment in the area.

Counseling public awareness about shared responsibility in the occurrence of crime that will have a good influence in crime prevention. Law enforcement against perpetrators of criminal acts in the implementation of health quarantine is carried out using the means of criminal law (ultimum remidium) not only carried out by law enforcers but the community also plays an active role in assisting and supporting. Significant steps have been taken by law enforcers to overcome criminal acts in the implementation of health quarantine is to be more pro-active towards the community in preventing and overcoming criminal acts. The significant steps have been taken by law enforcement officials in law enforcement against perpetrators of criminal acts of health quarantine implementation can be seen in the following chart:

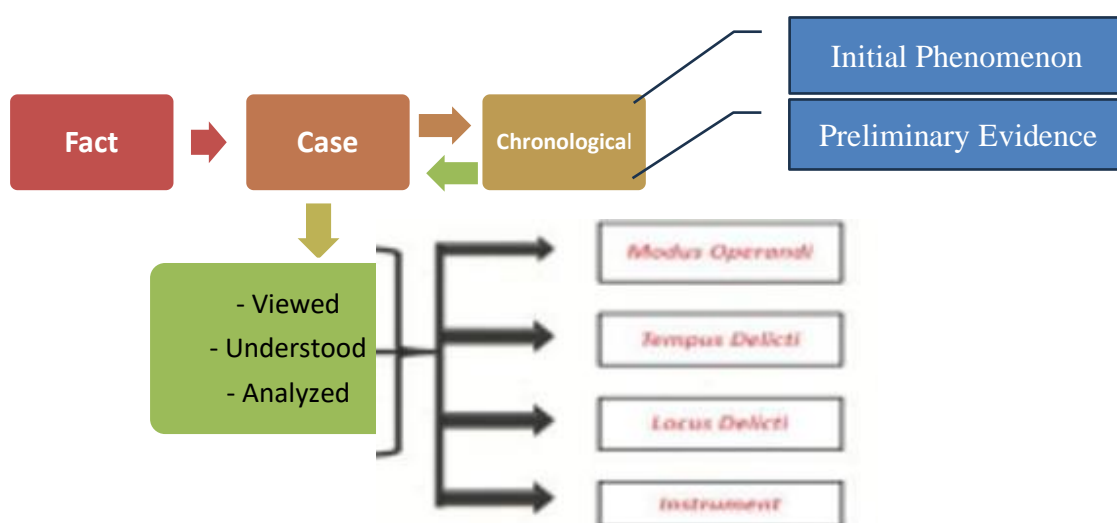


Chart 1. Law Enforcement Through Criminal Law

Based on chart 1, it can be analyzed that law enforcement against criminal offenders in the implementation of health quarantine is carried out using criminal law means (ultimum remidium) starting from the fact of a criminal event originating from a report from the public,

then an investigation is carried out by looking at, understanding and analyzing the criminal case. The police as investigators will describe the criminal event starting from the modus operandi, place and time of the crime, evidence (instruments) as outlined in the Investigation Report in order to obtain initial chronological facts and sufficient preliminary evidence[22]. Furthermore, law enforcers do several things, among others:

- 1). Determine law enforcement policy measures such as handling criminal acts of health quarantine implementation.
- 2). Review and determine settlement measures with the main tasks and functions of law enforcement in law enforcement against criminal offenders in the implementation of health quarantine.
- 3). Coordinate in the disclosure of law enforcement against criminal offenders in the implementation of health quarantine, hold and improve progressive cooperation with community leaders.

Based on this description, it can be analyzed that law enforcement against perpetrators of criminal acts in the implementation of health quarantine is evidence of the importance of the role of government and law enforcement, so it is necessary to enforce the law comprehensively. Law enforcement against perpetrators of criminal acts in the implementation of health quarantine is repressively carried out after the occurrence or existence of a criminal act[23].

Law enforcement against perpetrators of criminal acts in the implementation of health quarantine is carried out by using the means of criminal law (ultimum remidium) must enter the court level and obtain criminal sanctions in accordance with the provisions of the applicable legislation. Law enforcement against perpetrators of criminal acts of health quarantine implementation is carried out using the means of criminal law (ultimum remidium) is one of the efforts that can be made in criminal law enforcement. In terms of the application of criminal sanctions against perpetrators of criminal acts of health quarantine implementation, it is a form of effort by means of criminal law (ultimum remidium).

Law enforcement against perpetrators of criminal acts of health quarantine implementation needs to be the object of study for law enforcement officials in order to prevent and overcome these criminal acts. As a form of law enforcement efforts against perpetrators of criminal acts of health quarantine implementation, coordination is needed from the community with law enforcement officials, this is because the concept of the realization of integrated law enforcement is essentially an integration of values and norms in society[24, 25].

The contribution of this research that law enforcement against criminal acts of health quarantine implementation based on Law Number 6 of 2018 concerning Health Quarantine are as follows:

1. The Government together with law enforcement officials can increase integrity and professionalism in law enforcement against criminal acts of health quarantine implementation based on Law Number 6 of 2018 concerning Health Quarantine in order to suppress criminal acts of health quarantine implementation.
2. The Police together with the Covid-19 Task Force Team can improve sophisticated facilities and infrastructure, such as detection devices, CCTV in every corner of the regional crowd center to anticipate and suppress various factors in the occurrence of criminal acts of health quarantine administration.
3. There is socialization to the public about the importance of complying with regulations regarding the implementation of health quarantine, especially in the case of the spread of Covid-19.

CONCLUSION

Based on the analysis of the results of research and discussion, it can be concluded as follows: Law enforcement against criminal acts of health quarantine implementation based on Law Number 6 of 2018 concerning Health Quarantine by using criminal legal means (ultimum

remidium), which is carried out by means of legal remedies against perpetrators of criminal acts of health quarantine implementation, legal proceedings based on the provisions of laws and regulations up to the level of court and execution in order to obtain criminal sanctions and ensure legal certainty.

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