



Does the Covid-19 Protocol Might be Consider Law: Why the Indonesia Government Doubtful to Enforce the Law

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Abstract. Protocol is central in preventing COVID transmission¹⁹. Some discussions try to show the source and basis of published protocols. In Indonesia protocol is seen as a code of conduct rather than a law of conduct that must be obeyed. Although the source or making of the protocol is carried out by authorized institutions and based on legal orders to implement the COVID protocol¹⁹. Many protocol violations are caused partly because of this misunderstanding. Another reason is the existence of a multilevel legal structure that teaches that higher law provides the basis for lower law. Protocol as a tool to regulate individual behavior is at the lowest level. The basis of the government's legal legitimacy to prevent COVID¹⁹ is discussed in this article, along with the government's power to enact laws and regulations that are supported by both the government and the legislature as directives to carry out responsibilities in the area of public health. Examining a variety of legal sources, rules, and regulations, as well as examining how the community has responded through the media. This study used qualitative methods, and data was gathered through focus groups with 15 key informants with a variety of backgrounds, including medical professionals, nurses, public health workers, and lawyers with postgraduate degrees. Five general topics were posed to them, then during an open interview, they were expanded upon. The results of the study show that central government policies are not necessarily immediately responded by local governments. The regional heads generally consider the application of transmission prevention by implementing CBSS based on economic considerations and also the survival of the people's economic life. So that the central policy in preventing COVID¹⁹ and its protocols is applied according to the situation of local pandemic conditions and local economic movements.

Keywords: transmission prevention · law sources · order · protocol · administration law

1 Introduction

This paper deliberately examines Indonesian public health policy as a response to COVID¹⁹ which was later declared by WHO to be a pandemic worldwide, after China based in the city of Wuhan in Hubei province, following South Korea and Italy in a hit

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by a storm of transmission that was out of control. In the perspective of the Indonesian legal system, every government action must have a basis of legitimacy, even though for certain objects it already has a legitimate legal basis. In the public health-law there are some pre-existing laws such as health care law, health quarantine law, natural disaster/extraordinary events law, which in relation to COVID19 prevention can also be used specifically for non-natural category articles.

The situation before Indonesia issues a new executive law to combat Covid19, several policies that continue to run namely foreign flights remain open, except to and from China. At the same time there was an international summit meeting of ASEAN and Pacific Defense ministers including China and Japan and neighboring countries such as Singapore and Malaysia have had identified positive cases, especially from the methodical church cluster and Jurong and Malaysia with the religious meeting cluster. While the Philippines has begun to signal will lock down for particular areas. Meanwhile, the Indonesia's bureaucracy to slow in response seemingly to rely on rumors that the local traditional food with the ingredients of ginger, tumerics which are using daily basis and the tropical geography makes the virus is slow.

At the very beginning of April, 2020 the government was issued the executive law number 21-2020 which in the implementation of the pre-existence law of the Health Quarantine Number 24-2016. The executive law of the foresaid is providing broad authority for the government to launch the social limit on greater scale (PSBB) policy, which is actually regional health quarantine indeed and means no social activity, using mask, physical distancing and no one In and Out to a region. It has been thirty days for this regulation to be implemented in Jakarta for national indication, meanwhile COVID 19 cases in some areas such as Jakarta, Bandung, Surabaya all in Java are still highest and no indication the areas have reached the peak yet.

To understand Indonesian legal and public health policy it is almost impossible to exclude social or anthropological considerations from policy stakeholders in responding to the COVID pandemic 19. This study uses a social approach to law means looking at public legal policy to a social and possibly anthropological perspective. Delays and doubts about taking action of the government including undisciplined community compliance with regulations may have to be considered in light of the recent situation and habits of Indonesian Muslim communities to return to their villages to celebrate moslem new year together with the family. Thus, this study focus on how and why the executive branch is delays in responding thru policy the COVID pandemic and doubt to take full action to implement the law.

One background that arises the question of the issue of this study is the fact that internationally COVID19 Pandemic has spread to several countries and then the entire world². In ASEAN countries Singapore, Malaysia, Thailand and Phillipen³ have begun to respond to both the WHO notice and the fact of rapid transmission in China⁴, Japan, Korea and Italy and then to countries in Europe and the United States. As one source said, Indonesia's hesitation in implementing the WHO protocol was at first over the disbelief of key officials about the possibility that Indonesia would be infected. All social issues circulating around the transmission of COVID19 in Indonesia are actually based on the fact that Indonesia has never faced this kind of catastrophes and is now learning from day to day addressing this issue. The interests of the second study are openness regarding

the action and implementation of contact tracing, How and what they are doing in real situations become more interesting to study consider of the lack of experience of the medical staff on this particular virus, nurses or volunteers together with the shortage of health safety equipment.

2 Method of Study

Research on problems is carried out in qualitatively (qualitative research) using data collection techniques in two stages. First stage is an interview which were carried out on three (key informants) medical doctors, two nurses (primary sources). In depth interview was guided by points of questions. Those key informants are currently engaged in as COVID19 treatment for patient (3 medical doctors), hospital consultant for COVID19 patient management (2 nurses). Those are from two different state hospital one in Manado (Capital City) of North Sulawesi, and one in Bitung, Sea Port City. Special interviews were also conducted with high rank government officers for in-sight information. Second stage is applying focus group technic to a 15 students of post graduate school on public health in University of Sam-Ratulangi Manado.

The background of the participants is from law, nursing and public health. This type of data is to be called as unstructured text. For secondary sources, Google is mostly used to find textual legal information including laws, government regulations, and health ministerial regulations. As well as national media sources (standardized) such as in Indonesia two national out-standing media, Kompas- News and The Jakarta Post both in Jakarta. International media such as the Singaporean based newspaper the Strait Time, The Diplomat, WHO protocol and Document for ASEAN, Ministry of Indonesia Health Report, CSIS Report Washington DC. The US, Stanford University Magazine, John Hopkins University Report on COVID 19. All of these to be called as structure text.

2.1 Qualitative Analysis Technic

Data or any interview were doing by recording under key informant permission. All of the records are then to be transcript in a writing document with no change or alteration. Therefore, all transcripts are to be written in original language and speaking (un-structure text). Based on these transcripts the author uses qualitative analysis technic in three steps. (a) make familiar with data and identify potential issues/themes through extensive reading and writing on the specific column (b) examine data intensively and then to descripts the real situation, and the participants which are engage; (c) categorizing those data into the same category and coding then creating groups of each category on particular issues or themes (classification). The unique of this qualitative analysis is to those classification or group issues into the coding system are to be based on qualifying keywords or concepts. These all concepts are to compare one and the other that might be regrouping until ending the accurate concepts. Based on it every subtopic to develop in writing structure.

2.2 Review: The Existing Law

The basic law for dealing with health care is the act of 36 Year 2009. Following the legal system of Indonesia which is rooted in continental law, its law become the umbrella for

other law that relates to other health care issues or at least in the same level of degree of law. Meaning in the legal considerations they are mutual references one and each other. In this sense, health care area is governed through its basic law of Act No. 36 Year 2009.⁷ On this law, all issues of health care where individually, people in general and health care institution are covering, at least to appoint some basic principle of law in the matter and delegates to other law in the same level of degree or inferior law. Thus, the umbrella law brings some broader law and might be regulate in other law or inferior one.

In connection with the COVID 19 pandemic, several preexisting law regulations, which are at the level of the law and executive orders that existed before the pandemic that can be used to take action, executive action in the fight against transmission. Nevertheless, the Indonesian government seems hesitant to implement a social restriction policy. It is interesting to review some pre-existence law that seem to look less power.

2.3 Health Care Law: Broader Issues with Less Effective for Combat Pandemic

The supply of resources, facilities, and the delivery of health services are among the extensive duties that central, regional, and community executives are given under Article 828 of this health law. The community in this article can be certain individuals or groups of people who usually have to be in the form of legal entities that can be companies, or foundations. Still in this article it also states that the health services carried out are wholistic and sustainable.

This article is quite important because it states that the health services referred to specifically in article 82 of this law, are stated and aimed at emergency response and post disaster health services that can be used as a basis for executive footing during a pandemic. Including the responsibility for financing in the pandemic period lies with the central and regional governments. The healthcare legislation No. 36 of 2009 is therefore being implemented by government regulation (PP) No. 21 of 2020.

Article 84 of this law, which governs health services during disasters and necessitates the supervision of the minister of health, is another provision. The question that arises is whether each disaster or all types of disasters are regulated in a separate Minister of Health regulation or just one Minister of Health regulation. It can be said that the article provisions of the Act 2009 mean that each disaster requires a separate Ministerial regulation, just as in this pandemic the Minister of Health Regulation No. 9 of 2020 concerning Guidelines for the Implementation of Large-Scale Social Restrictions (PSBB) in the context of the acceleration of Coordination Handling 19.

The Health Act 2009 is a very broad law that regulates all aspects of health in the legal principles that form the umbrella for other laws in the field of health such as health workers, environmental health, health of parents and children, laboratories health, pharmacy, nursing, medicine, traditional health and so on. However, the implementation of this law or law can be implemented by the executive after the executive issues executive orders such as implementing regulations, presidential decrees and regulations at the ministerial level. Articles that can be given in dealing with pandemics are article 58 paragraph 2, namely the claim for compensation for health workers as referred to in paragraph (1) does not apply to health workers who perform.

So that the main legal basis (UU) is not enough/cannot be implemented before the executive order, and other administrative regulations.

Health Quarantine Act

The Health Quarantine Law 2018 [No. 6. Year 2018]⁹ regulates, especially in addition to the responsibilities of the central¹⁰ and regional governments, is the application of health quarantine at the border, in the area, health quarantine paperwork, health quarantine supplies, health quarantine information, supervision and guidance, investigation, and criminal laws.

One declared justification for the health quarantine law is that improvements in transportation technology and the era of free trade may contain health and new diseases or old diseases that reemerge with the ability to spread quickly and raise public awareness of health issues.¹¹ This law was enacted into law two years before the pandemic outbreak, and has included in its legal considerations the speed of mobility of transporting goods and people, through gates/posts entering Indonesia, faster than the incubation period for certain diseases.

The risk of new infectious diseases, re-emerging diseases, and changes in disease patterns, as well as increased health risks due to nuclear radiation, biological pollution, chemical contamination, bioterrorism, and food, have all been taken into account in the general consideration of this law, which calls for efforts to prevent disease.

The definitions of “health quarantine” and “health emergencies” in the law on health quarantine are as follows:

Effort and ward off the entry or entry of diseases and/or public health risk factors that have the potential to cause public health emergencies “and” Public Health Emergencies are extraordinary public health events marked by the spread of infectious diseases and/or events caused by nuclear radiation, biological pollution, chemical contamination, bioterrorism, and food that pose health hazards and potentially spread across regions or countries.

2.4 Regulation of Implementation Law: Physical Distancing in Greater Scale

In the treasury of Indonesia’s legal structure, a law can only be implemented until the executive approves government regulations or what is usually called as implementation law (regulation). Implementation of law is a rule itself and becomes legal pre-requirement for one particular act to be implementation. So even though a law is available but without implementing regulations issued by the government, one law will remain silent.

Some experience shows in many ways an implementing regulation is not always in the same direction which its law itself. This legal “twisted” can occur for two reasons. The first is the executive himself who drafts the implementing regulations and the second is usually due to some gray areas which have been politically interpreted and implemented by the executive branch. Thus, the implementation of the law might be slightly interpreted for the interest of politics or executive one.

Likewise, the implementation regulation of physical distancing in greater scale¹⁵ (PSBB), beside provide many rule and protocol that must to be action by the administrative agent such ministerial level, the application of physical distancing in greater scale for certain area either municipal or regency only if the minister of health granted its

decision. Meaning the application of physical distancing is might be depending on the minister of health. In fact, in this pandemic situation at least in Indonesia the minister of health plays big role,¹⁶ not the president or neither governor.

In normal platform the above practice can be said to be an anomaly law not in this pandemic experience. Some important provisions in social distancing are;

Large-Scale Social Restrictions are defined in this Government Regulation as the restriction of specific activities by inhabitants in a location where Corona Virus Disease 2019 (COVID-19) is known to be present in order to stop the potential spread of Corona Virus Disease 2019. (COVID-19).

That physical distancing (PSBB) can only be carried out with prerequisites, namely considering:

Large-scale social restrictions as referred to in paragraph (1) must be based on epidemiological considerations, the magnitude of threats, effectiveness, resource support, operational technical, political, economic, social, cultural, defense and security considerations.

In a city, there is a way to carry out physical distance. Amusement at the office and in schools; b. limits on participating in religion; and/or c. limitations on what can be done in public spaces or facilities.

2.5 Natural Disaster Law: Non-natural Clausula

In addition to some of the laws just discussed above and new government regulations for pandemic prevention purposes, there is a natural disaster law²⁰ for the purposes of pandemic prevention, there is a natural disaster law can be used in an urgent situation as a basis for government action in matters relating to non-natural disasters such as disasters caused by events or a series of non-natural events which include technology failures, modernization failures, epidemics, and disease outbreaks.

The government decides for a set amount of time whether to declare a state of emergency in the event of a disaster depending on the agency tasked with addressing the situation's recommendations. So it is actually sufficient to have a legal foundation in case there are doubts about the legitimacy of the government taking legal actions. Legal common sense can actually be used in a state of emergency with or without legitimacy of the law as long as for the sake of safety, public benefit and avoid the state from destruction and the extinction of the government can take the necessary actions.

The legalistic state and the rule of law state do not intend to eliminate legal common sense, namely in the case of inadequacy and lack of law, means the state facum of law still has space in terms of police power authority which must be recognized more popular in the state of the country with common law traditions.

In the provisions of natural disaster law also has been given quite extensive authority such as;

Article 7. (1) a. stipulating disaster management policies in line with national development policies; b. making development plans that incorporate elements of disaster management policies; c. determining the status and level of national and regional disasters; d. determining cooperation policies in disaster management with other countries, agencies, or other international parties; e. formulation of policies regarding the use of potential technology as a source of threat or danger of disaster; f. the formulation of

policies to prevent control and depletion of natural resources that exceed the ability of nature to carry out recovery; and g. controlling the collection of money or goods of a national nature.

The article's provisions on determining the status and severity of national and regional catastrophes govern indicators slightly differently than the sections on social limitations, where indicators of epidemics and their simultaneous spread in multiple places play a crucial role.

An important subject is if one day the government must offer action in the form of legal punishment to violators of the laws of large-scale social restrictions (PSBB). Is the law, especially the law in handling pandemic government given the authority to impose sanctions? According to the customary law of Indonesian state administration, and also in accordance with the order of Indonesian regulations. All laws issued by the government, namely the implementing regulations of the law (legislative power), the government's authority (executive) is to issue implementing regulations as the implementation of the law and the rules referred to are government regulations (government orders), ministerial orders, governor orders, municipal and mayor orders, but more than that the sanctions that may arise from the above regulations are mostly administrative orders.

Returning to the previous question, what if violations of the provisions of social distancing rules have caused massive violations that are very substantial, can criminal sanctions be carried out? Discussion on this matter will be continued in the analysis chapter.

2.6 Perpu No. 1. 2020 Concerning Financial Policy and Financial System Stability for Pandemic Handling

This is a regulation issued by the executive (President) but has legal power equivalent to the law (statute) without going through the legislature procedure does not require the approval of the representative council. This type of law in Indonesia is called PERPU because in an urgent situation the president can issue regulations equivalent to non-presidential administrative order laws. This regulation has legal force for no later than one year and if it is still needed must be immediately submitted to the Parliament to request legalization as a law.

However, this regulation has legal force for no later than one year and if it is still needed must be immediately submitted to the Parliament to ask for legalization as a law.

On the same day in early April 2020 the President announced this PerPu by PP No. 21 of 2020. These two regulations are intended to complement each other, the first being that all levels of the central and regional bureaucracy make adjustments to their budget plans to estimate and accommodate funding during the pandemic. The second is intended as a legal tool implementing health policies to overcome pandemics.

According to the provisions of Implementing Regulation No. 21 of 2020, the Ministry of Health's budget burden, not BPJS, is responsible for funding during the pandemic period. The regions must also take co-funding 19 in their individual regions so that the overall pandemic financing is the sum of the central and regional governments. The PerPPu is also a guidance for all parties in the government to save the national economy and financial stability. "The government chooses the overall additional funding for the 2020 state budget to address Covid-19 Rp 740,1 triliun".

Before this PerPPu was stipulated to be approved by the House of Representatives into law several articles raised constitutional issues, especially with articles 12, 27 and 28. Concerns of constitutional experts using absolute power by the president in the state administration system including in determining the budget country.

Concerns in terms of constitutional about closing the possibility of checks and balances is not a new problem but a lifelong problem in the spirit of Indonesian state administration. If the PerPPu issue is considered ‘black ghost’ 28 in the state administration, why not just abolish it from the Indonesian constitutional system and statutory regulation. The government must implement measures to stop the extinction or destruction of the unitary state of Indonesia in accordance with the constitution’s situation of emergency and current affairs clauses. Then PerPPu must be maintained as a “reserve” mechanism to deal with situations and emergencies and urgency. Although in the midst of a petition for a judicial review lawsuit against this regulation, the R.I Representative Council passed THIS PerPPu into law. Judicial applications are primarily aimed at article 27 of PerPPu (now becomes old law).

3 Discussion

3.1 Policy of Non-immediately Responses

Since the beginning when COVID 19 had hit neighboring countries such as Singapore and Malaysia in early March 2020, the Indonesian government has not responded significantly. Since the beginning when COVID 19 had hit neighboring countries such as Singapore and Malaysia in early March 2020, the Indonesian government has not responded significantly. The first partial policy taken by Joko Widodo is to close incoming flights from China, and Singapore, Malaysia and countries that have been exposed to the corona 19 virus. A Washington-based media even criticized the Indonesian president for being slow to respond and use unscientific approach in response to COVID19 transmission. Even throughout the country most people assume that this virus will not reach Indonesia because of the geographical situation, air temperature and traditional food which is considered to ward off the corona virus. This belief has lived and developed before being delivered by the Indonesian Minister of Health.

Most COVID 19 countermeasures policies in neighboring countries such as Singapore, Malaysia and the Philippines which have direct borders and have direct flights with Jakarta and other cities in Indonesia indirectly, practice mutual understanding protocols such as sharing information about transmission data from visitors and going out from each country. It is certain to secretly share information in the context of “contact tracing” without the need to open personal identity openly.

At a time like this ASEAN countries seem increasingly established, mature and mutually building regional cooperation, without the need for official diplomat protocols. Building cooperation on the basis of mutual understanding to deal with foreigners exposed to the virus in certain countries without the health insurance requirements of everyone who is in a foreign country is a form of cooperation between Asean countries and other countries such as Australia, Japan and China.

The meeting between the Ministers of defense of the Asean countries and China and including Japan in February 2020 shortly before the corona virus spread to Asean

countries and the rest of the world seemed to open positive benefits such as emergency assistance between Asean and China countries despite the nature of using channels private. Indonesia received mask assistance from China for two deliveries according to someone in the presidential environment obtained through the communication channels of the Ministers and several contact persons in China.

Nationally, central government policies are considered slow. How many things can cause a cause. First, Indonesia has never faced a massive outbreak like this and has little experience when dealing with the Cholera outbreak in the seventies. Second, the government deliberately slowed down the response to study the trends and policies of neighboring countries to find a form of countermeasure that was suitable for Indonesia.

Some groups still maintain the idea of local tropical and natural efficacy and take an observative attitude to see whether this virus will enter Indonesia. The Government of Indonesia, factually or not adheres to geographical factor. Namely believe that foreign temperature factors and traditional ingredients cause immunity. Unfortunately, there is no scientific evident for this notion.

Another social problem is when the number of contracting COVID19 increases³³ despite government regulation (PP) No. 21 of 2020 has been issued to give legitimacy to the implementation of large-scale social restrictions (PSBB), the majority of the residents in Jakarta and other major cities, including Bandung and Surabaya, are from rural areas, and traditionally, they must return to their own house and village. However, the government appears reluctant to forbid them from doing so.

National media and the region brought news of the dissent of thousands of cars and vehicles had tried to sneak out and off the police line or took the country road to avoid the line.

Question about the social conformity of law and awareness or it is not clear whether the information has been delivered from the government to people was accurately.

3.2 Weakness of Law Enforcement and the Policy Administration Measurement

In areas especially provinces that are opposite the South Philippine protocol violations occur such as forced corpse collection by the family even though the corpses are in ODP status (people under surveillance) or OTG (people die without showing symptoms/symptoms).³⁵ Causing extreme frustration among medical staff (front lines health care) and the general public who are aware of the importance of protocol. In fact, forced corpse collection without protocol procedures is followed by other bad news, the lab results show that the corpse turned out to be positive 19, meaning that the act of resistance had caused a new cluster. This is not a precedent but has happened several times in several different areas. What is the message delivered behind this protocol violation?

In the perspective of law in Indonesia, although protocols are issued by bodies that have legal legitimacy, such as the government. However, the protocol itself, is only a guidance/guidance or some sort of standard operating procedure which by many circles cannot be forced to be obeyed and actions against this protocol cannot be legally processed either private or public.

So the element of coercion lies not on the basis of the legitimacy of a provision but the quality of the provision itself. This is the legal effect of a multilevel legal regulatory system that creates multilevel legal force as well. Understanding the Indonesian

regulatory system is to understand how the history of Indonesian nationality and the constitutional customs are built up from time to time through a process of adjusting to the two big legal systems, Civil Continent and Common Law.

Hans Kelsen teaches that higher law provides the basis for lower law or vice versa lower regulation must have legitimacy from higher law. The ordering of Indonesian laws and regulations the ideology of Pancasila is an Indonesian juridical law in which all regulations under the state constitution (Constitution) and lower the law (Act/Statute) the inferior law or even lower Government Regulations (PP) may not conflict with higher law. The two laws mentioned above were issued by the people's representative council then passed by the president. Unlike the government regulation (PP) which is the implementation of the law. It looks like following Hans Kelsen's teachings about *stufenbau das theorie* but not completely. Regulations issued by the government such as implementing regulations of the law (PP) in the Indonesian legal system are included in the category of administrative law. Regulations issued by the government are already administrative in nature because they carry out the provisions of the law (law) which is higher. *Stufenbau das theorie*, regulating the higher law provides the basis for the underlying law but does not answer the question why the implementation law, even though it is issued by a body such as the government that issues implementing regulations, why this type of law cannot be enforced with criminal threats followed. If you pay attention, administrative rules form the basis of the legal regulations governing the prevention of COVID 19 dissemination. Government Regulation No. 21 of 2020 was published by the government as an implementing regulation (administrative domein), giving the Minister of Health the power to decide whether to apply for or reject a widespread application of social restrictions. So in fact, administrative legal resources provide an administrative basis for implementing "physical distancing" in health emergency situations. This is the answer why Indonesian legal policy is weak, doubtful and helpless against the forms of disobedience in the COVID protocol.

While administrative law as applied in common law countries such as America. The Congress grants broad powers to carry out the powers delegated by Congress such as forming certain bodies based on regulations established by the administrative body itself, creating new laws and interpreting, implementing and implementing regulations. So that in general government agencies, or other administrative bodies are created to protect public interests from restricting individual rights.

In the context of overcoming the mass epidemic, it has been established for quite a long time the teachings built through court decisions such as police power.

In the interests of the health, safety, morals, and general welfare of its citizens, the state has the power to control behavior and enforce those regulations inside its borders. The power of states to impose laws and enforce regulations on citizens living within its borders in an effort to protect their safety, morals, and general welfare. So that the executive body in terms of government in the event of extraordinary circumstances for the good of the public can regulate behavior and force implementation. The government which basically implements and interprets the law, and also has great legal authority to regulate the behavior of its population. This means that the state as an administrative agent has very broad legal authority.

3.3 Mandatory Law: Quarantine Health Act and Disaster Act

These two statutes, in the opinion of the general public, form the basis of all rules relating to disasters. The following is the definition of disaster as stated in Law Number 24 of 2007 Relating to Disaster Management: A non-natural disaster is one that is brought on by one or more non-natural occurrences, such as an epidemic, a disease breakout, a failure of modernisation, or a failure of technology. In this sense, the Covid19 pandemic is also included. Sadly, despite the definition of non-natural disasters in article 1 point 3 above, there is not a single article in the law that supports or regulates how the general public or individuals are required to act and behave as citizens' obligations to help restore the disaster situation, such as pandemic Covid19. Additionally, there is no provision that threatens or penalizes citizens for disobeying the protocol. Therefore, the purpose of this rule is to control how the nation responds to man-made disasters like this pandemic.

In the Law on Health Quarantine Article (1) points (1), (2), (10), (11) and (12).

- (1) Health service is an endeavor to thwart and prevent the spread of diseases and/or risk factors for public health that could result in public health emergencies.
- (2). An extreme public health event known as a "public health emergency" is characterized by the spread of infectious diseases and/or incidents brought on by radiation exposure, food contamination, bioterrorism, chemical contamination, biological pollution, and/or radioactive contamination.
- (10) Regional quarantine is a population restriction in a region that includes the entrance area and its contents and is believed to be contaminated or infected with a disease in order to prevent the spread of the contamination or disease.
- (11). Large-scale social restrictions are restrictions on certain activities of the population in an area suspected of being infected with a disease and/or contaminated in such a way as to prevent the possibility of spreading the disease or contamination.
- (12) Quarantine Status is a condition of Transport Equipment, people and Goods that are in a place for Health Quarantine. 13. Quarantine Zone is a certain area or place to be able to carry out Health Quarantine actions.

The goals of Health Quarantine are:

- a. Safeguarding the populace against diseases and/or risk factors for public health that could result in an emergency;
- b. Averting diseases and/or risk factors for public health that could result in a public health emergency;
- c. Improve public health resilience on a national level;
- d. Give community members and healthcare professionals legal security; and e.

There is only one danger article available here, namely article 93, which can be utilized to optimize actions related to health quarantine, territory, and significant social restrictions (PSBB). Anyone who violates Article 9 paragraph 1's requirements for health quarantine implementation and/or hinders quarantine implementation in a way that creates a public health emergency will be punished with a maximum term of 1 (one) year in jail and/or a maximum fine of Rp 100,000,000.00. (one hundred million rupiah).

Because measurement and protocol are empirical standards for determining individual compliance with Health quarantine regulations, the argument for the validity of using coercive measures, like as detaining those who breach protocols, is legal under the law.

Protocol is an empirical reference, steps that must be taken, or actions that must be done. Having a strong legal basis because protocols are actually real rules that originate from laws governing health quarantine, regional quarantine, PSBB. So, it is not true that the protocol cannot be enforced and detention can also be carried out based on the provisions of the applicable criminal law. It is very incomprehensible for both public health agencies and law enforcement officials to not understand and appear to be very unsure when implementing regional quarantine or PSBB.

3.4 Key Informant Response About 5 (Five) General Questions

Role of Local Government

It is interesting to listen to some significant questions and answers. Key informants who have different backgrounds from law, public health, nursing and drug compilation ask whether the government should take a greater role in responding to the transmission of COVIDS.

How the Role to Execute

However, the compilation was asked about the greater role the government carried out, the authors received three different answers which were discussed with their occupational or educational background such as with medical, and health services including public health, government approval is unclear, confirmation protocols are less strict. Medical personnel are very vulnerable to compilations dealing with the community directly such as making contact tracing, receiving family members or asking family members to bring the hospital.

The second group with a legal background states that government discretion determines the protocol. The third group is the academic group of law is different from the second group that supports protocols that have a strong foundation, which is issued/approved by supporting institutions. However, it does not visible between the legal structure and legal substance.

Central Government Policy

The third question is in accordance with the main information of the regional government (provincial level) All key informants gave relatively the same answers, they did not see the North Sulawesi provincial government actually implementing the central policy.

Large-Scale Social Restrictions (PSBB)

The provincial government assumed the number of positive cases had not yet appeared more significant (at the time, just through two cases), and yet provided options for economic aid to continue. Key informants expressed their opinion about this assumption. Governor Order No. 8 of 2020.

The fourth question is about the implementation of Governor Order No. 8 Concerning the Acceleration of COVID Response 19 which consists of 4 points inside. All key informants said they knew about the Governor Order and did not understand the contents. Key informants with public health background understand the contents, namely

the majority of the provincial government's policy to carry out economic recovery for lower and middle income groups. Then he added that the prevention of co-transmission 19 was only about implementing restrictions on social activities such as school entertainment, workplace entertainment, public space or private companies to carry out physical distancing but not about quarantine areas.

Support Management & Protocol

The fifth question is about management and support for health workers who carry out contact tracing protocols, screening bodies and funerals, picking up ODP and taking them to the hospital. More answers were given by key informants engaged in the field of health both as academics in the field of public health as well as nurses and medical personnel stating there was no good coordination among the COVID Handling Task Force¹⁹. Contact tracing is done by volunteers from the hospital along with health workers from the local health department. In some cases, not less than nine cases. The family refused to accept them because it would carry social stigma. Especially if there are family members who are brought to the hospital. In some case there was a refusal of family members to implement the body eviction protocol by acting that they would not be infected because the news about COVID19 was a hoax.

4 Conclusions and Recommendation

There is no country in the world that is free from COVID19 and although the World Health Organization has declared COVID19 is a pandemic that requires aggressive action, national governments still implement WHO protocols according to their national capabilities and policies. International cooperation seems to be limited in terms of sharing information about who crosses the border with their health status.

Prevention of COVID19 is not aggressive, protocols are carried out very carefully and social or quarantine restrictions in the region only take place in cities in the red category. The main consideration in implementing area quarantine is its distribution status (red, yellow or green). That way the government will persuade local economic development.

Non-compliance with the protocol is caused by several things the government failed to combat hoaxes, less detailed public information that provides a gap for public interpretation that is different from the government's intent. Then the nature of protocol for many in general considers not something that must be obeyed.

Cling in the minds of the general public that protocol is not a law, a government regulation but a government call. In the environment, legal practitioners see the COVID19 protocol as just an ordinary administrative document issued by the government c/q Minister of Health R.I The provincial government implements central government policies not necessarily. Regional economic considerations become the focus of local government and the implementation of regional quarantine in some regions is still very selective. However, consideration of economic interests is still dominant and although standard protocols have been implemented such as keeping a distance, wearing masks and washing hands in and out of space. The younger generation is very vulnerable to misinformation and they choose not to change their behavior while looking for views that support attitudes not wanting to change behavior.

Support for medical staff in terms of management and protocol is very weak. Medical workers, nurses or public health workers almost always face resistance when they will implement protocols such as visiting a citizen in contact tracing and rejection of protocol implementation on corpses with ODP status (people under surveillance) or positive counseling. This frequently occurs as a result of the COVID response team, which was established by the central and regional governments, not being present during the protocol's deployment. As a result of this experience, the government should make the protocol's status lawful.

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