

# ETHICAL AND LEGAL ASPECTS: VIOLATIONS OF PUBLIC RIGHTS IN HANDLING COVID-19 IN INDONESIA

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## ABSTRACT

*This research was very important to do so that the government did not violate public rights in handling and preventing Covid-19 both from an ethical and legal perspective. This research used normative law and prioritizes library research; with the research approach used was the statutory, case and conceptual approaches. The results of this research were in fact related to this ethical aspect, not only concerning the government but also concerning medical personnel in the context of handling and preventing Covid-19. The government and medical personnel in this case can refer to the ethics commission of the World Health Organization (WHO) which has published “Ethics and Covid-19: resource and priority-setting”. Meanwhile, related to the legal aspect, the authority that the government has in handling Covid-19 was in the form of rights not authority in the form of power, because if the authority was in the form of power they usually act arbitrarily to others. Meanwhile, if they used that authority as a right then they would use their authority fairly and morally or ethically.*

**Keywords:** Violations, Public Rights, Handling Covid-19.

## INTRODUCTION

The Covid-19 pandemic in Indonesia has been going on for more than a year, but the graph does not show a decline, but it is increasing, even becoming the highest in Southeast Asia (Naufal, 2020). Especially in March 2021, the number of Covid-19 sufferers in Indonesia has reached more than 1.2 million (Maria, 2021). This raises the question of what the actual systematic steps being taken by the Government in overcoming Covid-19. There are two important things that can be seen in this section: Ethics related to the steps and efforts of the Indonesian Government to overcome Covid-19 in Indonesia and Legal Aspects of public violations in dealing with the Covid-19 outbreak.

This research was very important to understand by the Government and Indonesian people so that in subscribing to the Covid-19 pandemic, the Government does not violate the public rights of the people. However, the Government continues to focus on reducing Covid-19 sufferers in Indonesia, which is getting higher and higher.

The Coronavirus that spreads in Indonesia is virus that originated from the city of Wuhan, China, which then crossed not only throughout China, but throughout the world even to Indonesia. There is not a single country in the world that is free and has escaped the corona virus. Many victims have been affected by the corona virus and even one by one the victims died from the corona virus, not only tens, but in the hundreds, even thousands of victims in every country such as in the United States, 324,804 people died due to the corona virus until December 2020 (Daniel, 2020). Therefore, every country in the world is trying to seriously tackle the Covid-19 disaster, such as how to break the chain of the Covid-19 virus, conduct research and trials on vaccines and other countermeasures. This is also done by the Government of Indonesia, how to block or break the Covid-19 chain. The Indonesian government and all its staff are trying to make effective efforts, one of which is by implementing the Social Distancing program or also known as PSBB (Large-Scale Social Restrictions) based on Government Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions.

In addition to looking for ways to break the chain of Covid-19, there have been many public right violations carried out by the Government in overcoming the dangers of Covid-19. These violations include: The social assistance corruption case committed during the Covid-19 Pandemic by the Minister of Social Affairs, it was Mr. Juliari Batubara, who earned up to around IDR 7.10 trillion rupiah; The National Human Rights Commission (Komnas HAM) revealed that there were several incidents that could potentially violate human rights during the Covid-19 outbreak. The incident was related to violence, restrictions on rights, arbitrary detention to alleged criminalization. These incidents included the use of force while carrying out security in West Manggarai, NTT, the dissolution of a solidarity meeting for victims affected by Covid-19 by the Indonesian Forum for the Environment (WALHI) in Yogyakarta, Yogyakarta humanitarian activist data collection; The COVID-19 outbreak also threatens the right to privacy of hospital patients. In a number of reports that the first two patients tested positive for corona, they felt depressed because of the massive media coverage of their place of residence which was conveyed by public officials. From this news, it can also have an impact and influence the patient's immediate environment such as family, friends and neighbors.

Based on the above background, this research was very important to do especially with regard to ethics in the efforts of the Indonesian government to tackle Covid-19 in Indonesia and legal aspects in public violations in dealing with the Covid 19 outbreak.

## **LITERATURE REVIEW**

Public violations in responding to the Covid-19 outbreak by the Government of Indonesia led to discussions among scientists in all fields of science including the field of law. Given this, we recommend paying attention to some of them related to the ethics and morals of the Government in handling Covid-19 in Indonesia and reviewing its legal aspects in public violations in dealing with the Covid-19 outbreak.

In the history of law, it is very difficult to distinguish between morals and laws, but in the relationship between morals and laws the term ethical arises. Moral is all judgments, measures, character, behavior, awareness related to what is good and what is bad (Fuady, 2013). Moral principles will receive strong recognition and operationalization when they can be supported by law. To what extent the law can apply moral principles, according to HLA Hart there are two schools, including the extreme and moderate schools. The extreme school states that moral

violations must be enforced or given legal sanctions, even though sometimes the moral violations have not been harmed by the party. Meanwhile, the moderate school likens morale to the “*cement*” of society. Because if moral violations continue to be committed, the community will be destroyed. (Hart, 1981)

In analyzing a legal problem, experts use legal theories. Ethical theory or *etische theorie* teaches that law is solely aimed at realizing justice which was first conveyed by Aristotle in his work “*Ethica Nicomachea*” and “*Rhetoric*” which states “*that law has a sacred duty, which is to give to everyone who has the right to receive it.*” The theory is called an ethical theory. According to this theory, the content of law must solely be determined by ethics awareness of what is just and what is not (Apeldoorn, 1996). The concept of ethical theory is more focused on achieving ethical justice; it is justice in accordance with the highest policies to determine the standard of human behavior. This is in accordance with legal justice or legal justice.

Meanwhile, authority is the authority possessed by an institution to do something or not to do something. This is in accordance with the thought of Robert Bierstedt who stated that authority is institutionalized power or authority is a real form of power (Marbun, 1997). According to Kanter, authority can be explained as a whole of the rules relating to the acquisition and use of government authorities by political law subjects in political law (Kanter, 2001). The concept of authority according to Philipus M. Hadjon said that the concept of authority can be done by looking at the source of authority. The government can only take legal actions if the government has legality or is based on law (Philipus, 2004).

## RESEARCH METHOD

This research was normative law and prioritizes library research (Karjoko, 2020). According to Leonard et al. normative legal research was a study of legal principles, legal systematics, legal synchronization, legal history and legal comparison (Leonard et al., 2020). This research approach used the statutory, case and conceptual approaches. The statutory approach was carried out by examining the laws and regulations relating to regulation of Covid-19 pandemic in Indonesia. The cases approach was carried out by examining the public cases carried out the public violations by the government. Then, the conceptual approach was carried out by exploring the concept of moral, etic and legal justice. The research data or legal materials used secondary data sources consisting of primary legal materials, secondary legal materials, and tertiary legal materials (Kuncoro et al., 2019).

Analysis of the latest scientific publications devoted to the study of public violations in handling Covid-19, generalization and presentation of the results of the study were made possible due to the system-structural and normative method (Shchyrskya, 2020).

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## RESULTS AND DISCUSSION

### **Institutional: Disclaimer of Public Rights for Health Services**

#### **Hospital's refusal to serve the non-Covid public 19**

The increasing number of Covid-19 patients is happening in Jakarta and some areas in Indonesia, so that many regional hospitals and the government are rejecting non-Covid patients, especially citizens who are already critical. This incident, as what happened in South Bengkulu, was a patient who was critical because of a collision that could not be served in several hospitals in Bengkulu. This happened because all hospitals could not serve these critical patients on the grounds that they did not have neurosurgical facilities and a number of reasons for handling covid-19. (Firmansyah, 2020). Another incident also occurred in Papua in the eastern part of Indonesia. John Banua Rouw as the Papua People's Representative Council (DPRP) emphasized that there were reports that a number of hospitals rejected non-covid patients. This refusal is an offense because it has violated the Health Law (Mambor, 2020). In Bandung, a mother who had an enlarged heart which made it difficult for her to breathe died because the hospital could not accept patients because it was full for patients in the intensive care unit. Then he was taken to another hospital in the Emergency Room (UGD) but his condition was getting more critical so he had to be treated in an incentive treatment room but was full of covid-19 patients (Anugrah, 2021). On the other hand, the Government admits that there are also hospitals that reject Covid-19 patients, as was conveyed by Achmad Yurianto as the Government spokesman for the handling of the corona virus which stated that several hospitals were reluctant to treat Covid 19 patients because they did not want their image to fall and hospitals should also remain pay attention to the ethics of service to patients and do not let the patient feel expelled and neglected by the hospital (Dian, 2020).

Public and private hospitals that refuse patients in critical or emergency situations may be subject to civil and criminal charges in accordance with Article 32 of Law No. 36 of 2009 concerning Health Law. Criminal sanctions are regulated in Article 190 paragraph 1 and 2 of the Health Law which stipulates that: *"the head of health service facilities and/or health workers who carry out practices or work in health care facilities who deliberately do not provide first aid to patients in an emergency situation as referred to referred to in Article 32 paragraph (2) or Article 85 paragraph (2) shall be punished with imprisonment of 2 (two) years and a maximum fine of Rp. 200,000,000.00 (two hundred million rupiah). In the event that the act results in disability or death, the head of the health service facility and/or health worker shall be sentenced to imprisonment for a maximum of 10 (ten) years and a maximum fine of Rp1,000,000,000.00 (one billion rupiah)"*

In Article 1 point 2 of Law Number 44 Year 2009 concerning Hospitals (Hospital Law) also known as emergency department. An emergency is a clinical condition of a patient that requires immediate medical action in order to save lives and prevent further disability. This

emergency situation is also regulated in Article 29 paragraph (1) letter c of the Hospital Law, which stipulates that hospitals are obliged to provide emergency services to patients according to their service capabilities. So, the accident victim who had an emergency situation should be handled directly by the hospital to save his life.

Civil charges can be submitted to the hospital by using Article 1365 of the Civil Code which basically regulates Unlawful Acts (PMH), that is, anyone who causes harm to another person must pay compensation. This compensation suit can also be filed for both material and immaterial compensation claims.

Critical patients in Bengkulu above, whose collisions were not properly served by the hospital, then based on the Health Law and the Hospital Law, the hospital could be prosecuted both civil and criminal. This is also in line with the principle of absolute responsibility or the perception of liability principle, which is the principle of presumption of responsibility, until the hospital can prove that the hospital is innocent, in this principle the burden of proof rests on the hospital.

### **Institutional Misconduct**

Many incidents that violate Human Rights (HAM) have been committed by the Indonesian Police during Large-Scale Social Restrictions (PSBB) such as acts of violence, restrictions on rights, arbitrary detention to criminalization; this was conveyed by Amiruddin Al Rahab as Commissioner of the Commission National Human Rights (Komnas HAM). These incidents include the use of violence by the Police Institution in handling security in West Manggarai, NTT so that many victims were injured, the dissolution of the solidarity meeting of victims affected by Covid-19 WALHI in Yogyakarta and the alleged criminalization and arrest of public policy researcher Rавio Patra who was considered has spread messages inviting others to loot (Mahardhika, 2020).

According to the Kontras Institute (Commission for Missing Persons and Victims of Violence) since the enactment of PP No. 21 of 2020 dated 31 March 2020 concerning Large-Scale Social Restrictions (PSBB) in order to accelerate the handling of covid-19 there have been many acts of violence and arrests under article 93 of Law No. 6 of 2018 concerning Health Quarantine for allegedly violating the Large-Scale Social Restrictions (Kontras, 2020).

The Misconduct incident also occurred at the end of December 2020, the Minister of Social Affairs Juliari Batubara, the Minister of Social Affairs, committed a criminal act of corruption in the form of bribes received amounting to Rp. 17 billion from the appointment of a partner for providing basic food assistance for people affected by Covid-19. The KPK chairman stated that the money was thought to have come from the agreed fee for the appointment of a partner for providing social assistance for Covid-19 (Vadhia, 2020). The above actions are of course very detrimental to the public and have violated human rights (HAM) as regulated in article 17 and Article 34 of Law Number 39/1999 concerning Human Rights regarding the protection of the Right to Justice and the Right to Life.

### **Procedures that is Not Conducive to providing Health Services to the Public**

The current condition of the Covid-19 pandemic, many hospitals in Indonesia are implementing initial data collection with many questions about the relationship with the context

of Covid-19 patients and someone's travel visits so that many non-covid patients feel uncomfortable with these questions. Then every non-covid patient who will be treated at the hospital must carry out a rapid test and covid swab test. As happened to patient Soleh Solihun who told that when he was sick with dengue fever, the hospital he was treated asked him to do a rapid test first and continue with a lung examination. From the results of the lung examination, there was a result of lung spots because he was a passive smoker. Therefore, the hospital carried out isolation to soleh solihun (Rantung, 2020). This incident made the patient uncomfortable and not conducive to treatment, even though this was in order to prevent the transmission of covid-19.

### **Social: Action of Violence under the Public during the Coronavirus Pandemic**

The impact of the prevention of covid transmission carried out by community members by closing road access in their area where they live is very unsettling and disrupts road access for residents who live in surrounding villages. This incident occurred with protests from residents of Bumi Sawangan Indah 2 Housing (BSI 2) Depok due to road closures carried out by residents who live on Jalan anggrek and Jalan Kutilang, Sawangan, Depok. The closure of the road caused the activities of BSI 2 residents to be closed, causing unrest and protests from the residents (Kumparan, 2021).

This road closure incident also occurred in several regions in Indonesia such as in Sleman Yogyakarta area, in Semarang, Surabaya and other areas in Indonesia. Residents in Slemen Yogyakarta did this because they panicked with the spread of the Covid-19 virus and carried out self-quarantine without any orders and appeals from the local government. They installed bars on the roads leading to their village access using bamboo and iron bars in order to quarantine their territory and lock down their territory. This action provoked the anger of some residents because they felt disturbed by their daily activities, especially for residents whose livelihoods were selling food around the village (CNN Indonesia, 2020).

### **Individual: Increased Violence in Paramedic and Doctors and Increased Violence in Women**

#### **Violence against Paramedics and Doctors**

Based on the results of research from the Faculty of Medicine, University of Indonesia, that 83% of health workers experience burnout syndrome or stress due to fatigue at work, especially for female medical nurses and doctors, this is because in addition to having to work to care for customs who are increasingly exposed to Covid-19 they also have to be teachers for their children with distance learning and taking care of their families. The results of other research from the Ministry of Research and Technology, most of the 644 respondents from health workers experienced anxiety and stress with the results of the study that 3.3% experienced very severe anxiety, 33.1% experienced mild anxiety. Meanwhile, health workers who experienced severe stress were 0.8% and mild stress was 34.5%. Meanwhile, health workers who experienced mild depression were 11.2% and experienced severe depression by 0.5% (BBC News, 2021).

Discriminatory treatment for nurses and doctors who treat Covid-19 patients at Rumah Sakit Umum Persahabatan Jakarta. They were evicted by neighbors where they boarded and

lived on the grounds that they were afraid of being infected with the Covid-19 virus that was brought from their place of work in the hospital. A similar sentiment was also conveyed by Sofie Syarief as Chairman of the Indonesian National Nurses Association who conveyed that nurses and a number of doctors were starting to become targets of citizen stigmatization. Several stories include the efforts to expel neighbors because they are considered to be carriers of the virus, even the children of the nurses and doctors have been targeted (Widodo, 2020).

Discrimination incidents for health workers did not only occur in Jakarta, but also occurred in Solo, Central Java. Three medical personnel from the Bung Karno Regional Public Hospital in Solo were expelled from their boarding house so they had to sleep on the 5th floor of the hospital where they worked. The basic fear of the residents creates a negative stigma with these acts of violence and expulsion. This happened because residents were afraid of contracting them from the Covid-19 outbreak (Santoso, 2020).

### **Increased Violence against Women and Children during the Covid-19 Pandemic**

During the pandemic, cases of violence against women increased by 63% according to data from the National Commission on Women. It is not only the cases that have increased, but also the explanation or types of violence perpetrated by the perpetrator against the victims have also increased the types of violence, even more inhuman and degrading to women. Of the 63% were cases of female violence that were reported by victims to the National Commission on Women, even though there were many women who experienced violence outside, both in the public sphere and in the household, who did not report their cases to National Commission on Women. According to the Coordinating Ministry for Human Development and Culture (Kemenko PMK) Ghafur Dharmaputra, the impact of violence on women not only affects the physical as well as the psychological and mental impact of the victims of violence so that they will experience depression and mental disorders. One of the factors of the increase in violence against women during this pandemic is the increasing number of people who have lost their jobs, resulting in a lack of economy and the opinions of people who have lost their jobs (Puspa, 2020).

In addition to increasing cases of violence against women, violence against children has also increased. This was obtained from data collected from the online information system for the protection of women and children (SIMFONI PPA) from January 1, 2020 to September 23, 2020, totalling 5697 cases with 6315 victims against children. There are many things that cause violence against children, it was with the current pandemic condition, the Government has issued a policy to learn and do activities from home online, so that parents must accompany their children to learn online from home which causes parents to increase their burden and make parents stressful. Another cause is the economic problems of parents that make them stressful, coupled with the additional expenditure to buy internet packages so that their children can follow online learning. This incident causes emotional distress to the child and also the mental health of the child, even the child can experience depression (Afdhalul, 2020)

### **Ethical Aspects in Indonesian Government Efforts to Control Covid-19 in Indonesia**

The coronavirus outbreak that occurred in all countries in the world is a serious threat to all countries, so they are trying to seriously tackle the Covid 19 pandemic, which has an impact in all areas of life, be it social, political, economic and social psychology. The government

through economic, political, and legal policies is trying to overcome this Covid 19 pandemic so that how can all people be protected and protected from the corona 19 virus disease.

In the economic field, the Indonesian Government has taken a policy to provide direct assistance to citizens affected by the COVID-19 pandemic by making direct donations in the form of basic necessities such as rice, cooking oil, sugar, instant noodles or direct donations from the government in the form of cash to the public.

In the political field, the Government is trying to cooperate with countries that have already discovered the Covid-19 vaccine, such as cooperation with China, Britain or other countries to be able to get the vaccine which will then be injected into the public as immunity to prevent Covid-19.

In the law field, the Indonesian Government has made and issued many policies in the context of overcoming and preventing Covid-19 in Indonesia, such as the large-scale social restriction policy (PSBB) which has been running which was later changed to Enforcement of Restrictions on Community Activities (PPKM). This policy, on the other hand, has an impact on economic problems, such as many companies that do not operate so that many companies close and terminate job support (PHK) for their employees.

However, the Covid-19 issue is not only a medical, economic, political and legal issue but also ethical issues. Both the ethical issues related to medical ethics and the ethics of enforcing the rules. From medical ethics, with the number of Covid-19 patients currently, the hospital room, nurses and doctors are limited. So that what criteria are taken by hospitals and doctors to help patients affected by Covid 19, whose numbers are already very high. Including limited hospital ICU rooms and limited ventilator breathing aids, even though many patients are dying, what criteria are taken to help these dying patients?

While law enforcement ethics (Legal Aspect), the Government has issued legal regulations related to large-scale social restrictions (PSBB) which were later changed to Enforcement of Restrictions on Community Activities (PPKM). How the related institutions carry out their duties does not violate ethics and laws. The related institutions such as the Civil Service Police Unit (SATPOL PP) and the Police themselves in dismissing the public from the crowd did not violate ethics, as what happened in the incident that occurred in the handling of security in West Manggarai, NTT so that many victims were injured, in this case there were several groups of youths who gathered together who were then dispersed by the police with acts of violence and beatings so that the victim had to be hospitalized and in the dissolution of the solidarity meeting of victims affected by Covid-19. WALHI in Yogyakarta who also went through violence by the covid-19 handling apparatus.

Based on the above incident, what actions should be taken so that the Covid-19 team does not violate ethics. There are several ethical theories that can provide answers to these problems. The theory of etia or etische theorie provides a lesson that law is solely aimed at bringing about justice, with its pioneer named Aristotle the Greek philosopher who said that "*law has a sacred duty, it is to give everyone who has the right to receive it*". Therefore, law must solely be determined by ethical awareness regarding what is fair and what is not (Apeldoorn, 1996).

The concept of ethical theory above, focuses on ethical justice, it is justice in accordance with the highest policies to determine the standard of human behavior. Regarding government policies in overcoming and preventing Covid-19, this should determine the standard of community behavior as well as determine the standard of behavior of law enforcers in implementing these Government policies. So that it will avoid public violations committed by

the Covid-19 enforcement task force. The Covid-19 task force is required to meet good and highest possible standards in order to create ethical justice.

There are various ethical theories that can be used as a basis for making a policy or decision from the authorities. First, deontological ethical theory is an ethical theory that underlies an action on an obligation and emphasizes everyone to act well. Therefore, based on this theory, the Covid task force must act well in carrying out its duties to keep reminding the public to always carry out the 3M, namely washing hands, maintaining distance and wearing masks. The good action is not judged by the result or purpose, but based on itself from the good action. Deontological ethics emphasizes the importance of goodwill and a strong awareness of the perpetrator, regardless of the consequences of such behavior. The weakness of this ethic is that someone is faced with a dilemma situation, for example, there are two obligations that eliminate each other, while both demand that good action be carried out.

Second, the ethical theory of utilitarianism, it is actions that are carried out ethically if they are carried out as much as possible for the members of the community and result in happiness for many people with the principle of "*The greatest good for the greatest number*", as much good as possible for as many people as possible. So, the covid front group 19 took ethical action for all members of the community as much as possible. However, this theory has a weakness as if this action only benefits the majority and does not harm the minority who wants a firm action against the covid-19 team.

Third, ethics that are guided by the role models of other figures. In ethics this is the focus on character development in each person. According to Aristotle, moral values emerge from life experiences in society, from the examples of great figures in dealing with life's problems. This great figure provides an example of loyalty, compassion, justice for life. However, the weakness of this third theory is the difficulty in finding emulated figures (Tumanggor, 2020).

Ethical issues during this pandemic did not only arise in law enforcers, it is the covid-19 fronts, but also doctors and nurses treating Covid-19 patients. What criteria are used by doctors and nurses in treating their Covid patients so as not to violate ethics, where each ethical theory above responds differently from one another? According to deontological ethics, doctors and nurses must help all Covid-19 patients indiscriminately because it is the duty and responsibility of medical personnel to save the patient's life. However, a dilemma arises if there are more and more Covid-19 patients with the same critical level while the room and breathing aids are limited, then what are the ethical criteria used by doctors and nurses in an effort to treat Covid-19 patients. Meanwhile, according to the ethical theory of utilitarianism, ethically doctors and nurses must also be able to cure this Covid-19 patient as much as possible for the recovery of all patients. So, the more Covid-19 patients who can be handled by doctors and nurses, the more ethical and fairer it will be for all patients. Likewise, with ethics that are guided by the exemplary role of someone else, in this case doctors and nurses also have difficulty deciding which Covid-19 patient should be helped first, where in a situation many patients are critically affected by Covid-19.

Regarding ethical issues for doctors and nurses in dealing with Covid-19 patients, which are increasing in number but with limited health equipment, the Ethics Commission of the World Health Organization (WHO) has published "Ethics and Covid-19: resource and priority-setting" which contains guidelines ethical handling of Covid-19, both for medical personnel and public policy makers. For medical personnel, doctors and nurses can refer to the WHO guidelines above with four principles, including:

1. The principle of equality (equality) means that everyone's desires must be treated equally.
2. Second, the principle of benefit (utility) means that the allocation of scarce resources must be used for the maximum possible benefit for the safety of many people.
3. Third, the principle of priority for the worst (the worst off) means that the facilities are prioritized for patients who are most in medical need.
4. Fourth, the principle of priority for people in charge of helping others, meaning that the allocation of scarce resources is prioritized for those who have the ability to save more other people.

Whereas for those who determine public policy, it is the government that has the authority to make rules related to handling the prevention of Covid-19 that is not against ethics and justice. The government must refer to the Ethics and Covid-19 document: resource and priority-setting which regulates ethical principles that need to be considered by public policy holders in the form of:

1. Transparency: policy makers can provide explanations and can disclose decisions made transparently. The public is informed in detail and clearly what criteria the decision is based on.
2. Inclusiveness, meaning that decisions taken by policy makers must be open to revision. The policies that have been set by him can still be revised in accordance with input from the public at large.
3. Consistency means that decisions must be carried out consistently, so that all people in the same category are treated in the same way. So, there is no preferential treatment for certain groups.
4. Fourth, accountability means that policy makers give reasons and are responsible for the decisions taken. In the context of Indonesia and the government policy to impose Large Scale Social Restrictions (PSBB).

The government as a policy maker is required to be able to make its policies to the public in a transparent manner, receive criticism and suggestions from the public for the policies it makes and consistently implement these policies and be responsible for the policies that have been decided upon to the community. The Covid-19 problem not only affects the economy and health, it also has an impact on ethics.

### **Legal Aspects in Public Violations in Addressing the Covid-19 Plague**

Health is one of the basic human needs which is also a basic human right guaranteed in the constitution. Based on Article 28 H paragraph 1 of the 1945 Constitution stipulates that *"Every person 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 the right to obtain health services."* Thus, health is one of the basic rights guaranteed by the constitution. The emergence of the Covid-19 pandemic since December 2019 in the Chinese city of Wuhan, which then spread to all countries in the world including in Indonesia, which was first discovered by a COVID-19 patient in March 2020.

The Indonesian government, as other countries in the world, makes policies and regulations in order to prevent the transmission of the Covid-19 pandemic. A series of regulations related to Indonesian government policies, both pre-existing and newly drafted in overcoming the COVID-19 pandemic, are as follows:

1. The 1945 Constitution of the Republic of Indonesia Article 4 paragraph 1;
2. Law No. 4/1984 concerning Outbreaks of Communicable Diseases (Statute Book of the Republic of Indonesia No. 20/1984, Supplement to Statute Book of the Republic of Indonesia No. 3273);
3. Law Number 24 of 2007 concerning Disaster Management (State Gazette of the Republic of Indonesia of 2007 Number 66, Supplement to the State Gazette of the Republic of Indonesia Number 4723);

4. Law Number 36 Year 2009 concerning Health (State Gazette of the Republic of Indonesia Year 2009 Number 144, Supplement to the State Gazette of the Republic of Indonesia Number 5063);
5. Law Number 6 of 2018 concerning Health Quarantine (State Gazette of the Republic of Indonesia of 2018 Number 128, Supplement to the State Gazette of the Republic of Indonesia Number 6236);
6. Presidential Regulation Number 17 of 2018 concerning Implementation of Disaster Emergencies in Certain Conditions (State Gazette of the Republic of Indonesia of 2018 Number 34).
7. Based on the existing rules above, the government in an effort to deal with the Covid 19 outbreak has issued new regulations, including:
  1. Presidential Instruction Number 4 of 2020 concerning refocusing of activities, reallocation of budgets and procurement of goods and services in order to accelerate the handling of Corona Virus Disease 2019 (COVID-19).
  2. Presidential Decree Number 11 of 2020 concerning the Determination of Public Health Emergencies for COVID-19
  3. Presidential Decree Number 12 of 2020 concerning the designation of non-natural disasters for the spread of Corona Virus Disease 2019 (COVID-19) as a National Disaster.
  4. Government Regulation no. 21 of 2020 concerning Large-Scale Social Restrictions in the context of the Acceleration of Handling of the Corona Virus Disease (COVID-19) was set in Jakarta on March 31, 2020.
  5. Presidential Decree Number 7 of 2020 concerning the Task Force for the Acceleration of Handling of Corona Virus Disease 2019
  6. Presidential Decree Number 9 of 2020 concerning Amendments to Presidential Decree Number 7 of 2020 concerning the Task Force for the Acceleration of Handling Corona Virus Disease 2019 (COVID-19).

The issuance of the above regulations is in order to support the existence of Law Number 24 of 2007 which stipulates disease outbreaks as one of the non-natural disasters that need to be managed with potential threats. The Government of Indonesia with these regulations, the Government of Indonesia has made efforts to overcome the COVID-19 pandemic in the form of:

### **Social distancing and physical distancing policies**

Based on the Health Quarantine Law Article 59 paragraph 2 stipulates that Large-Scale Social Restrictions are aimed at preventing the spread of disease, public health emergencies that are occurring between people in a certain area. Meanwhile, paragraph 3 states that large-scale social restrictions include at least school and work holidays, restrictions on religious activities, and/or restrictions on activities in public places or facilities. The implementing regulations are regulated by Government Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions in the context of the Acceleration of Handling of the Corona Virus Disease (COVID-19) was set in Jakarta on March 31, 2020.

Implementing social distancing and physical distancing will reduce the transmission of the corona virus in the community, because it will prevent contact between sick people and those around them. However, sometimes the Covid-19 group in enforcing the provisions of social distancing and physical distancing to the community itself commits legal violations and criminal acts such as the use of violence while carrying out security in West Manggarai, NTT, in order to disperse a group of young people who are gathering in West Manggarai There was then taken to the police station and beaten by the police in West Manggarai, the incident of the dissolution of the solidarity meeting of victims affected by covid-19 which was held by WALHI in Yogyakarta, which the meeting was forcibly dissolved by the Covid-19 task force by the

Yogyakarta City Government (Pemkot). Walhi explained that the dissolution act was a form of intimidation and repression (Wicaksono, 2020).

### **Protection for Health Workers as Front Guard**

Health medical personnel who are tasked with preventing the increase in the number of infections caused by the Covid-19 outbreak and are also tasked with curing Covid-19 patients so that they are very vulnerable to contracting the Covid-19. So that these medical personnel need legislations that guarantees legal protection for medical personnel. Even though there is Law Number 36 of 2009 concerning Health, there is no implementing regulation yet, therefore there is no legal certainty in providing Government protection to these medical personnel.

In carrying out their duties, many medical personnel contracted the Covid-19 virus so that as many as 647 medical and health workers who died as a result of being infected with Covid-19 consisting of 289 doctors (16 professors), 27 dentists (3 professors), 221 nurses, 84 midwives, 11 pharmacists, 15 medical laboratory personnel (Pranita, 2021). So that there are many debates in the community regarding the protection of medical personnel regarding the Government to provide complete personal protective equipment (PPE) in carrying out its duties, adding referral hospitals, providing additional subsidies in the form of vitamins and nutritious food for medical personnel. Therefore, legal certainty is an important instrument in ensuring the safety of health workers so that the government cannot take arbitrary actions against the assignment of health workers, because there should be no medical personnel working according to working hours so that many medical personnel are exhausted.

Based on the above, when it is viewed from a legal aspect, the Government has made various regulations in order to prevent the spread of Covid 19. But the reality shows that there has been no significant change in the handling of Covid 19 cases in Indonesia, the number of patients is increasing. Death is also progressing. As well as many violations in its implementation in the field. Therefore, the existence of existing regulations will not be effective if they are not supported by firmer but polite and ethical efforts and do not violate legal provisions in society. The existence and extra attention of all related parties is very urgent to provide understanding to the public regarding the spread of this virus.

From the theory of authority by the government, according to Abdul Rasyid Thalib, the words authority, authority and power are studies of law, political science and government science. Abdul Rasyid Thalib further said that power is at the core of and has performance in serving the citizens and administrators of the country concerned. Power has two aspects, including political and legal aspects, while authority only has legal aspects (Thalib, 2006). Meanwhile, wahren B. Brown and Deniss J. Morberg stated that the use of authority must be justified, thus authority is related to responsibility (Ndraha, 2003). Responsibility shows the extent to which a perpetrator is proven capable of carrying out the mandated task or command. Authority is meant as a right that has been established in a social order to determine policies, determine decisions on important issues and to resolve conflicts. So, authority is a right that belongs to a person or group of people, the emphasis is on rights not on power (Soekanto, 1977). So that the covid-19 implementing group is given authority according to law in an effort to prevent Covid 19, then the authority should be in the form of rights not in the form of power, because if that authority is in the form of power they usually act arbitrarily to others. Meanwhile,

if they use that authority as a right then they will use their authority fairly and morally or ethically.

Based on the theory of governmental action, that the Government or state administration is a legal subject and as a supporter of rights and obligations. As a legal subject, the government as well as other legal subjects undertakes various actions both real action (*feitelijkhandelingen*) and legal action (*rechtshandelingen*). Government Actions (*betuurshandeling*) are actions or actions carried out by the state administration in carrying out government tasks. (Philips, 2007). Government action (*betuurshandeling*) is related to the aspect of legal protection for the people, so a government action allows the birth of a dispute between the people and the government. However, government action is absolute, especially in the context of upholding the principles of a rule of law.

In carrying out its activities, the government takes two kinds of actions, including ordinary actions (*feitlijkehandelingen*) and legal actions (*rechtshandelingen*). Government legal actions are actions taken by state administrative bodies or officials in the framework of carrying out government affairs. In fact, the government, apart from carrying out activities in public law, is also often involved in the civil field. So that legal action (*rechtshandelingen*) is differentiated into actions based on private law and actions based on public law. So that the government in dealing with the prevention of covid 19 can take legal action based on private law and based on public law. Public people who feel their rights have been violated because of government legal actions through its field implementers, namely the Covid 19 task force, can sue the government team both based on public law and based on private law. On the other hand, the role of the central and local governments is very important in making decisions and actions that are fast and precise in order to overcome the problem of the spread of Covid-19.

## CONCLUSION

The results of this research need to be known by the Government of Indonesia, especially the team for handling and preventing Covid-19 related to its authority to prevent Covid-19 in the field in implementing policies made by the Government regarding the handling and prevention of Covid-19 so that public violations do not occur in handling covid 19. The government's authority in handling Covid-19 concerns two aspects, including ethical and legal aspects. Regarding this ethical aspect, it turns out that it does not only concern the Government but also concerns medical personnel in the context of handling and preventing Covid 19. The government and medical personnel in this case can refer to the ethics commission of the World Health Organization (WHO) which has published "*Ethics and Covid-19: resource and priority-setting*". Meanwhile, related to the legal aspect, the authority that the government has in handling Covid-19 is in the form of rights not authority in the form of power, because if the authority is in the form of power they usually act arbitrarily to others. Meanwhile, if they use that authority as a right then they will use their authority fairly and morally or ethically.

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