



Juridical Optics in the Formulation of Execution Application Form Act No. 6 of 2018 concerning Health Quarantine After the End of the Implementation of Large-Scale Social Restrictions and the Imposition of New Normal and Safe Life Coordination Period 19 to Achieve Criminal Justice for Every Indonesian Citizen

Edi Ribut Harwanto

Head of the Laboratory of Law Faculty, Muhamadiyah Metro University, Indonesia

Advocate-Lecturer in Economic Criminal and Intellectual Property Rights at the Law Faculty of Muhammadiyah Metro University, Indonesia

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Abstract

World Health Organization (WHO) Director General of the World Health Organization, Tedros Adhanom Ghebreyesus officially announced the Corona virus (Covid 19) as a pandemic on Wednesday, March 11, 2020, so the world community and countries of the world were excited and asked to take steps prevention measures according to the health protocol established by WHO. The WHO reason is that prevention needs to be carried out by world countries, because the Corona Covid 19 Virus pandemic is an infectious disease that spreads easily from human to human in various parts of the world. I do not know, from where the source of this corona virus appears and infects and exposes the virus so that it becomes pandemic and kills many people in the countries of the world so quickly. Citing Worldometers website data, Tuesday (2/6/2020), the number of confirmed cases of corona virus infection globally is 6,358,294 (6.36 million) cases. Meanwhile, the number of deaths recorded was 377,031 cases. While the number of patients recovered as many as 2,888,571 (2.89 million) people. The number of active cases is 3,092,692 (3.09 million) cases, with 3,039,290 (3.04 million) in mild conditions, and 53,402 in serious conditions. Furthermore, the global tragedy to follow up and respond to the insistence of the WHO world health organization, the Indonesian state took anticipatory steps with the congressional movement starting on April 13, 2020, through the President of the Republic of Indonesia Joko Widodo expressly announcing and establishing and stating that the Covid 19 Virus is as a non-natural national disaster spreading Corona Virus Diseases 2019 (Covid 19) as a national disaster. In order to prevent the exposure or the strongest Covid 19 virus to the people of Indonesia, the government issued Presidential Regulation No. 12 of 2020, and Government Regulation No. 21 of 2020 concerning the implementation of the related large-scale Social Restrictions (hurud b), Article 49 Paragraph (3) and Article 59 of Law Law No. 6 of 2018 concerning Health Quality. Indonesia did not want to bother, and asked WHO, the results of the Corona Covid 19 virus were accepted, but were more focused on handling the corona virus in the country. Meanwhile, developed countries such as America, Britain, Australia, opposed cool in an opinion war against China, which is associated with several countries Corona Virus came and began to plague in Wuhan, China using the source of infectious diseases through the bat virus. America, can receive that

information, namely the President of the United States Donald Trump, accepts anger and sulking, and even has evidence of the results of his intelligence reports related to it, the Corona virus is actually not a virus transmitted from a bat virus to humans, but Donald Trump's presumption, that's the corona virus, originating from chemical laboratories in Wuhan China, which leaked and infected humans and eventually became a plague of infectious viruses throughout the world. Latest information, Britain, Australia, America will file a claim for compensation to the Chinese state through a lawsuit to the International Criminal Court (ICC). Furthermore, to support the objectives of this study, the paradigm used in this study is the post-positivism paradigm. The post-positivism paradigm wants to prove everything is based on reality (which can be built based on experience, observation), the researcher is neutral towards the object of research, even though the researcher holding this paradigm remains neutral towards the object of research, but he wants to examine what actually happened from things the thing that seems certain. The post-positivism paradigm ontologically conceptualizes reality as it really is, but it is realized that there are actually many factors that influence that reality. Consequently, ontologically the post-positivism paradigm conceptualizes the law as a set of rules that apply in society whose behavior will be influenced by factors (economic, political, cultural, etc.). Epistemologically, researchers sit themselves impersonal, separate from the object of research. The researcher's position on the object of research is neutral and impartial.

Keywords: *Formulation; Application; Execution; Health Outrageous Law; Covid Virus 19; Criminal Sanctions; Large Scale Social Restrictions; New Normal*

I. Introduction

That, since the Director General of the World Health Organization (WHO) World Health Organization, Tedros Adhanom Ghebreyesus officially announced the Corona virus (Covid 19) as a pandemic on Wednesday, March 11, 2020, the world community and countries of the world were excited and asked to take preventive measures according to the health protocol established by WHO. The WHO reason is that prevention needs to be carried out by world countries, because the Corona Covid 19 Virus pandemic is an infectious disease that spreads easily from human to human in various parts of the world. I do not know, from where the source of this corona virus appears and infects and exposes the virus so that it becomes pandemic and kills many people in the countries of the world so quickly. Citing Worldometers website data, Tuesday (2/6/2020), the number of confirmed cases of corona virus infection globally is 6,358,294 (6.36 million) cases. Meanwhile, the number of deaths recorded was 377,031 cases. While the number of patients recovered as many as 2,888,571 (2.89 million) people. The number of active cases is 3,092,692 (3.09 million) cases, with 3,039,290 (3.04 million) in mild conditions, and 53,402 in serious conditions. Furthermore, the global tragedy to follow up and respond to the insistence of the WHO world health organization, the country of Indonesia took anticipatory steps with the congressional movement starting on April 13, 2020, through the president of the Republic of Indonesia Joko Widodo explicitly announced and established and stated that the Covid 19 Virus was a non-natural national disaster spreading the Corona Virus Diseases 2019 (Covid 19) as a national disaster. In order to prevent the exposure or transmission of the Covid 19 virus to the people of Indonesia, the government issued Presidential Decree No. 12 of 2020, and Government Regulation No. 21 of 2020 concerning the implementation of the Large-Scale Social Restrictions (PSBB) that refer to technical implementation regulations as regulated in provisions of Article 15 Paragraph (2) huruf b, Article 49 Paragraph (3) and Article 59 of Law No. 6 of 2018 concerning Health Quarantine. Indonesia does not want to bother, and asks WHO, where does the Corona Covid 19 Virus come from, but is more focused in handling the corona virus in the country. Meanwhile, developed countries such as America, Britain, Australia, are cool in the war of opinion against China, which is accused by some countries that the Corona Virus came and began to plague starting from Wuhan, China through the source of infectious diseases through the bat animal virus. America, later did not receive that information, that US President Donald Trump, was upset and sulky, and even had evidence from the results of his intelligence report that reported that the Corona

virus was actually not from a virus transmitted from bats to humans, but a presumption Donald Trump, said that the corona virus originated from chemical laboratories in Wuhan, China, which leaked and infected humans and eventually became an epidemic of infectious viruses throughout the world. The latest information, Britain, Australia, America will file a lawsuit for compensation to the Chinese state through a lawsuit to the International Criminal Court (ICC). Then, what is the result of polemics and disputes between China and America and other countries, currently the global issue is still ongoing and has not yet reached a verdict in the jurisdiction, only limited to opinions and preparations for gathering evidence. Hope, the authors hope that the Corona Covid 19 Virus, which is said to have been the cause of the death of hundreds of thousands of the world's population, is not a tool or a conspiracy of the global elite which is said to be widely voiced by youtubers, world nitizens, observers, and many observers and intellectuals of the world. Regardless, the issues developed by the components of the world community, the authors continue to give a positive appreciation and become the treasury of additional knowledge in the context of constructing the major premise of the minor premise in a juridical optic in an ideal and neutral manner before reaching a thoughtful and complete conclusion from various scientific perspectives and empirical facts. For example, even if that is true, that the global elite is behind all the hustle and bustle of the Corona Covi 19 virus, which has a vision and mission and specific goals relating to the domination of global economic problems, which are carried out in ways contrary to the laws and teachings Godhead, then at a certain time the writer is very confident that all the actions carried out by them, if it is true, will certainly be rewarded in accordance with the deeds. Let the experts in their field at the global level solve the things they want. Thus, at a glance, the development of global issues that have emerged and become a tranding topic of national maintream media news and international news related to the background of the presence of our virus guests Corona Virus Covid 19. In fact, South Korea through a widescreen movie titled *The Flu*, which was released in 2013 also tells about viruses similar to the corona virus. Likewise, the movie *Outbreak* tells the story of the Ebola virus, in the United States, where the US military isolates the city, preventing the virus from spreading to the city. The story is almost the same as events such as the corona virus, as if the event was scenarios, there was a mask, people died suddenly interrupted his breathing, city isolation, hospitals full of patients infected with the virus. Well, it is exactly in an extraordinary film, whether screenwriters and directors have previously carried out scientific research on viruses etc., so that the details of events and symptoms of illness are the same as the corona wallahu virus. Hopefully, it is only a fictional story, even though the storyline is very similar to the Covid corona virus 19. To God the author submitted behind the Corona Covid Virus Outbreak 19 scenario, because it was only by God's permission and will all events and all kinds of disasters could occur, and angels only carry out His commands.

1. Provincial Regions and Regency Cities in Indonesia that Implement Large-Scale Social Restrictions

Large scale social restrictions are implemented in DKI Jakarta, Depok, Bekasi, Bogor, Banjarmasin and Makassar to reduce the spread of the corona virus in Indonesia. Status of Large-Scale Social Restrictions (PSBB) is now starting to be applied in various regions in Indonesia, starting from Jakarta, Banjarmasin to Tarakan City. During the Large-Scale Social Restrictions, schools and workplaces are closed, restrictions on religious activities and activities in public places. Limitation of socio-cultural activities and modes of transportation. Important services for the community such as markets, shops, fuel, communication, medical services, finance and others will continue to run as usual. The following areas apply Large-Scale Social Restrictions :

- a. Banjarmasin City Minister of Health (Menkes), Terawan Agus Putranto approved the proposal of the Banjarmasin City government, South Kalimantan to implement the PSBB. The Decree of the Minister of Health for the City of Banjarmasin, was established on Sunday 19 April 2020 through the Decree of the Minister of Health Number HK.01.07 / Menkes / 262/2020. PSBB in Banjarmasin City

was established in order to reduce the spread of corona virus and accelerate the handling of Covid-19. Because in that region there was a significant increase and spread of Covid-19 cases.

- b. b. City of Tarakan The Minister of Health has also approved the proposal of the government of the City of Tarakan, North Kalimantan to apply the status of PSBB. The Decree of the Minister of Health was established on Sunday 19 April 2020 through Decree of the Minister of Health No. HK.01.07 / Menkes / 261/2020. After an epidemiological study and consideration of the readiness of the area in social, economic and other aspects, the technical team needs to carry out a large-scale social restriction.
- c. Bandung City PSBB Determination in Bandung City based on Minister of Health Decree Number HK.01.07 / Menkes / 259/2020 on April 17, 2020. Local Governments must implement PSBB and consistently encourage and socialize clean and healthy lifestyle to the community.
- d. Bandung Regency PSBB in Bandung Regency based on Minister of Health Decree Number HK.01.07 / Menkes / 259/2020 on April 17, 2020. PSBB in this region is carried out during the longest incubation period and can be extended if there is still evidence of the spread.
- e. West Bandung Regency West Bandung is one of the regions in West Java that implements PSBB based on Minister of Health Decree Number HK.01.07 / Menkes / 259/2020 on April 17, 2020.
- f. Cimahi City The application of PSBB in the West Java region was expanded in Cimahi City. The PSBB decision in Cimahi was established by the Minister of Health on April 17, 2020 through Minister of Health Decree Number HK.01.07 / Menkes / 259/2020.
- g. Sumedang Regency Another area in West Java that will implement the PSBB is the Sumedang Regency. Determination of PSBB in this region based on the Decree of the Minister of Health Number HK.01.07 / Menkes / 259/2020. "PSBB for Bandung City, Cimahi City, Bandung Regency, West Bandung Regency, Sumedang Regency need to be determined to respond to the Covid-19 outbreak," said Minister of Health Terawan.
- h. Depok City PSBB in Depok City will be held for 14 days starting Wednesday, April 15, 2020. Based on Depok Mayor Regulation Number 22 Year 2020 regarding Implementation of Large-Scale Social Restrictions in Handling COVID-19 in Depok City, there are a number of community activities outside the home that restricted.
- i. Bogor City In West Java, PSBB is also implemented in Bogor City. West Java Governor Ridwan Kamil said the number of vehicles entering Bogor City via the Jagorawi Toll fell by almost half on the first day of the PSBB implementation, on April 15, 2020. 10. Bogor Regency Bogor Regency also implemented the PSBB to reduce the spread of the Covid-19 corona virus. PSBB in Bogor Regency has been implemented from 15 April 2020.
- j. Bekasi City PSBB in Bekasi City came into force after Minister of Health approved the proposal from West Java Governor Ridwan Kamil. The PSBB has been in force since April 15 and will run for 14 days.
- k. Bekasi Regency Bekasi Regency also began implementing the PSBB on April 15, 2020 along with 4 other regions in West Java namely Bogor City, Bogor Regency, Depok City and Bekasi City.
- l. Tegal City Terawan Menkes also set PSBB status for Tegal City, Central Java. PSSB was established on Friday 17 April 2020 through the Decree of the Minister of Health No. HK.01.07 / Menkes / 258/2020.
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- u. West Sumatra Province Proposed Large-scale Social Limitation in West Sumatra Province has been approved by the Minister of Health, Terawan Agus Putranto, so that the PSBB can be applied in the region. The decree was made by the Minister of Health on April 17, 2020 through Minister of Health Decree Number HK.01.07 / Menkes / 260/2020.
- v. Makassar City In the Sulawesi region, PSBB will be implemented in Makassar City after the Menken has approved the application of PSBB in the region through Minister of Health Decree Number HK.01.07 / Menkes / 257/2020 on April 16, 2020.
- w. DKI Jakarta Province DKI Jakarta Governor Anies Baswedan has implemented the PSBB starting Friday 10 April 2020 after it was approved by Minister of Health Agus Terawan. It was determined after conducting a study on the implementation of the PSBB in the capital city together with the DKI Jakarta Provincial Government (Pemprov) and the Regional Leadership Coordination Forum (Forkopimda).
- x. Tangerang City In the Banten region, Kota Tangerang has become one of the regions that has also implemented PSBB in order to follow up on Minister of Health Decree Number HK.01.07 / MENKES / 249/2020.
- y. Tangerang Regency In addition to Tengerang City, Tangerang Regency also conducts PSBB in order to accelerate the handling of corona virus in the region.
- z. South Tangerang City South Tangerang City, which is part of the Greater Tangerang, has also begun imposing PSBB status from 18 April to 3 May 2020.
- aa. Pekanbaru City The Minister of Health agreed to implement the PSBB in the Pekanbaru City area, Riau. The decision was conveyed through the Minister of Health Decree No. HK 1.0 1.07MENKES / 250/2020 dated 12 April 2020. Also read: PSBB Surabaya Raya Officially Proposed Khofifah To Terawan PSBB Jakarta: List of 20 Areas that Apply PSBB ". <https://tirto.id/ePVK>

2. Identification of the Number of Positive Cases of Corona Virus (Covid 19) 2 June 2020 Nationally in Indonesia

At present, data author identification per Tuesday, June 2, 2020, nationally the total positive cases of SARS-CoV-2 virus sufferers is 27,549. The National Task Force noted the addition of 609 new cases. The Government Spokesperson for COVID-19 Achmad Yurianto said that the addition of this number did not constitute an overall total picture that depicted the condition of our homeland. Although in some provinces, cases have increased. "We see in East Java Province, today 213 cases. Then the Papua Province, also increased by 94 cases compared to yesterday. DKI Province has 60 cases, if compared to yesterday there was a decline, "Yurianto said in a press conference at the National Task Force Media

Center. Yurianto also said that there were 44 new cases in South Sulawesi. However, compared to the previous day the number decreased. The same thing happened in South Sumatra with 24 new cases. From the reports received by the Ministry of Health, there were 4 provinces that reported one positive case, namely Bengkulu, East Kalimantan, North Sumatra and Lampung. A total of 11 provinces today (2/6) reported no additional cases, namely Aceh, DI Yogyakarta, Jambi, West Kalimantan, North Kalimantan, Southeast Sulawesi, Central Sulawesi, West Sulawesi, Riau, Maluku and NTT. Yurianto announced that the number of patients recovering increased by 298 people to a total of 7,935 per day today. The number of cases is spread in 417 districts and cities in 34 provinces. While the case of death, the government recorded a total of 1,663 people. In addition to COVID-19 positive case data, it has identified the number of people under monitoring (ODP) of 48,023 people and patients under surveillance (PDP) of 13,213 people. Meanwhile, examination of specimens that had been completed and verified up to 12.00 West Indonesian Time was 9,049 specimens. He added that there were about 1,143 specimens that had not yet been completed because of the allotted time. "The total we have examined up to now is 342,466 specimens, both with Real Time PCR and Molecular Rapid Tests. We got the results of the examination, that COVID-19 was positive as many as 609 people, totaling 27,549 people," Yurianto explained. Here are the five provinces with the highest number of positive cases in all of Indonesia, namely DKI Jakarta 7,541 cases, East Java 5,135, West Java 2,314, South Sulawesi 1,630 and Central Java 1,432. Responding to the contagion that occurred, Yurianto asked and invited all parties to commit to carry out health protocols in order to deal with new habits. National Task Force Public Communications Team.

3. 102 Municipal Regency Governments in Indonesia that Are Allowed to Implement New Normal Normal Order

The Task Force for the Acceleration of Handling COVID-19 gives authority to hundreds of local governments (local governments) to implement a new or 'normal' normal order. There are 102 regional governments that have been given this authority. "The Central Task Force for the Acceleration of Handling COVID-19 grants authority to 102 Regency / City Governments which are currently located or declared in the green zone, to carry out productive and safe community activities COVID 19," said a BNPB statement informed via Twitter account @BNPB_Indonesia, as seen by AFP on Sunday (5/31/2020). A total of 102 regions are spread across 23 provinces. BNPB explained that the granting of authority was based on epidemiological criteria. "The 102 City Regencies are recommendations from the expert team through various approaches. The approach used is based on epidemiological criteria, public health surveillance and health services according to the recommendations of the World Health Organization (WHO). Two of these districts that can implement New Normal are Lampung Regency Timur and Mesuji.

II. Research Methodology

Currently the Indonesian nation is preparing to face The New Normal or a new phase of life after the corona virus pandemic hit the world. The first phase that has been recommended to carry out the New Normal process in Indonesia is 102 city districts, two of which in Lampung Province, East Lampung Regency and Mesuji Regency can carry out to prepare themselves for New Normal. This condition cannot be left without courage to end because it can result in total bankruptcy. Not only is it considered from the economic aspect, it could be that the state will not be able to finance the wheels of government and its people, including further impact on the poleksosbud (political, social, economic, cultural) and national security and disrupt aspects of national interests. Therefore, at this time only the effects of the incision have been felt more or less. Then inevitably social restrictions must be relaxed and open social activities gradually (the new normal era). new normal is a change in behavior to keep running normal activities. However, this change has the consequence of additional requirements by implementing health protocols to prevent the transmission of COVID-19 in every activity, especially those involving many people. Speaking of the interaction of community activities in the public sphere is closely related to the behavior

of each person, the level of compliance of a person, the environmental aspects greatly affect the pattern of community behavior. Whether the behavior is appropriate or deviant behavior. Because the environment is one of the factors forming personality both physical and behavioral. This is where the urgency is related to the aspect of the study "Juridical Optics in the Formulation of the Execution of Law No. 6 Year 2018 Regarding Health Quantity After the End of PSBB Implementation and the Imposition of New Normal and Safe Covid 19 Life Periods to Achieve Criminal Justice for Every Indonesian Citizen "Because it is considered very necessary if every regulation in the governance, formulation, application and execution of rules carried out by the government must be comprehensively controlled. That is, to avoid abuse of authority or implementation errors in the implementation phase of the rule of law that is not in accordance with the expectations of the law. This juridical optics is needed, in order to maintain and guarantee that the legal purpose of maintaining order, comfort, welfare, harmony and justice is truly directed at the people who are constitutionally lively for every Indonesian citizen to obtain legal justice in all aspects of daily life services both when the implementation of the large –scale social restrictions and the New Normal lifestyle are guaranteed by the state for Indonesian citizens who are infected and exposed to the corona 19 virus. From criminological juridical optics, referring to Travis Hirschi's Theory of social control theory that involves community compliance, because of the effectiveness of compliance. Discipline of the behavior is also very influenced from environmental aspects starting from the smallest environmental aspects in the family and then in stages until local government and national level government attitudes. If there is no compliance and discipline, instead there is a tendency that the attitude of omission will be difficult for the government to apply the new normal concept.

This will actually become an obstacle, especially security officers in the field if the community is not ready or unwilling to implement this new behavior. In fact, it is easier for the potential to clash with the community and make the effectiveness of the new normal goal unattainable. Therefore it is expected that through community leaders, and religious leaders, scientists and all stakeholders, including the head of the family, will continue to urge or encourage each of its citizens or family members to build awareness of shared responsibility so that each individual participates and adapts and applies the new normal concept. This is where the phase examines the level of behavioral compliance and legal culture compliance as well as part of ways and efforts to accelerate the completion of the COVID-19 pandemic. Therefore we need commitment and good cooperation from everyone in order to succeed the new normal era while anticipating the impact of other social phenomena and other social reactions in the future if the new normal situation is not immediately applied. The main task of the government must be to ensure that the details of the New Normal concept can be operationalized properly, so that the government must make systematic, measurable, directed, coordinated efforts of central government and regional government policies that are mutually clicking, and must be consistent in conducting open public oversight and enforcement. law. Other important things, including increasing the capacity of the health sector to anticipate the surge in patients with COVID-19 and strengthening social security that is right on target and priority. In order to implement the regulation of Law No. 6 of 2018 concerning Health Quarantine, the state has made implementing regulations, as well as presidential decrees, governors' regulations, etc., as a means of enforcing health criminal law for every person who commits a violation of the crime of Health Constraints. In the author's note, there are criminal provisions on Health Quarantine as stipulated in Article 90 to Article 94., where each article provides a criminal threat of 1 year and 100 million to a criminal threat of 10 years in prison and a fine of Rp. 15 billion rupiah, for each person, captain, the captain of the pilot, the driver of the vehicle and the corporation that committed the crime of health violence, as regulated in these articles. Therefore, juridical optics in seeing the implementation of formulations, applications and executions applied in law enforcement Law No. 6 of 2018 must be a concern for academics and legal practitioners, so that the actual legal objectives reach justice seekers. Do not let people who have no criminal intentions or committed violations due to the application of PSBB and New Normal in Indonesia, be subjected to criminal sanctions in prison.

III. Finding and Discussion

In positive law in our country, there are regulations in Article 63 Paragraph (2) of the Criminal Law Code, it states, "if for an act that can be convicted due to general criminal provisions, there are special criminal provisions, then the specific criminal provisions are only those that are used ". That is, special laws outside of the Criminal Code, which specifically regulates the actions or criminal acts of Health Quarantine as mentioned in Law No. 6 of 2018, then the enactment of these laws applies to everyone who commits the Criminal Health Act Quarantine . Even if in the Criminal Code, it regulates criminal sanctions in violation of health quarantine, then the criminal provisions used by law enforcers are those specific Laws, thus the juridical understanding intended by Article 63 Paragraph (2) of the Book Criminal Law law. As it is known, that the state in this case state instruments, the police and other supporting devices, in carrying out legal actions for perpetrators who are strongly indicated to commit criminal acts of Health Quarantine, at the time of the enactment of the Large-Scale Social Restrictions, which are mostly violated by the public are as regulated in Article 93. The article reads, "every person who does not comply with the implementation of health quarantine as regulated in article 9 paragraph (1), violators are subject to a maximum imprisonment of 1 year and / or a maximum fine of Rp 100 million rupiah". The formulation of the provisions of criminal sanctions is cumulative-alternative, that is, the prosecutor or judge can sue the accused or punish with two choices of imprisonment or impose a fine. In scope, juridical optics, regulation on the formulation of criminal provisions by Law No. 6 of 2018 on Health Quarantine is clearly added plus implementing regulations goverment regulation No. 21 of 2020 technically, the formulation of the preparation of criminal provisions in order to provide sanctions for violators of criminal acts can be processed through mechanism of Law No. 6 of 2018. Legally (lec as well as), clearly and clearly, if the enforcement of the crime of Health Quarantine is carried out by police law enforcement officers, and subsequently through the legal mechanism of the Criminal Procedure Code the Law will involve the Prosecutor General and Judge in the judicial process. So, no new regulations are needed, for example, Provincial Regulations, Regency / Municipal Regulations, Pergub, Perwali or Perbup, in the context of carrying out law enforcement actions related to the issues of Large-Scale or New Normal Social Restrictions in the future. Because, bestimmtheitsgebot / legal certainty in the process of enforcement has been specifically regulated and *lex scripta* (written) in Law No. 6 of 2018 in *lex stricta* (clear and strict). Then, how can it be as an example of a comparative case, as promulgated by Law No. 33 Year 2020 and Governor Regulation No. 41 of 2020 made by DKI Jakarta Governor Anis Baswedan, when he issued a new regulation governing the Imposition of Sanctions for Violation of the Implementation of Large Armed Social Restrictions in Handling Corona Virus Disease 2019 (Covid 19) in DKI Jakarta Province. ? Then, a few questions arise?

1. Is the DKI Jakarta Governor's policy by making a regulation governing administrative sanctions against violators appropriate for the construction of legal thinking (style of thought) and the enforcement of the criminal law system in Indonesia (enforcement of the criminal law system in Indonesia), the formulation of types of criminal sanctions / strafsoort, the formulation of the page sanksipidana / stafmaat and the formulation of rules and guidelines for punishment / staaftoematingsregel ?
2. What should be done by the Governor of DKI Jakarta and the 20 regencies of cities that have implemented the PSBB, do they the heads of regions have to rush to make new regulations in the form of Pergub, Perbup and Perwali in implementing legal order in the context of implementing legal action for Criminal Offenses Health quarantine especially for large sclae social restrictions violations ?

The two questions I will describe in terms of juridical optics according to relevant laws and regulations. Answering the question point a, above, is the policy of the Governor of DKI by creating a regulation governing administrative sanctions to violators that is appropriate according to the construction of legal thinking (style of thought) and the enforcement of the criminal law system in Indonesia

(enforcement of the criminal law system in Indonesia) formulation of types of criminal sanctions / strafschrift, formulation of the page sanctions / staffmaat and formulation of rules and guidelines for punishment / staaftoemingsregel ?. As is known, that regional heads, ranging from governors, mayors and regents throughout Indonesia, are shaded by Law No. 23 of 2014 concerning Regional Government. Authorities that hold positions in themselves, a governor, mayor and regent, which are related to the arrangement of regional autonomy tasks for co-administration and further elaboration of the provisions of higher statutory regulations, related to regional regulations regulated in Article 236 Paragraph (3) letters a and b. Furthermore, in Article 238 Aayat 1 to 5, governs the governor, mayor, regent are allowed to make provincial and district municipal regulations, to compile charges of coercion, 6 months criminal sanction of 50 million fines, threat of imprisonment, restitution or administrative sanctions and can regulate regulations in local regulations related to administrative sanctions one of them in Paragraph (5), letter g, "administrative fines".¹ It means, in the optical aspect of the legal sanctions, administrative fines applied through the DKI Jakarta governor's Regulation are the most appropriate according to the hierarchy and content of the laws and regulations, as stipulated in Article 7 Paragraph (1) of Law No. 12 of 2011 concerning Formation of Regulations Legislation, explained, types of hierarchy of statutory regulations, Basic Law 45, Provisions of the People's Consultative Assembly of the Republic of Indonesia, Laws, Government Actions in lieu of Laws, Government Regulations, Presidential Regulations, Provincial Regional Regulations, Regional Regulations /city. Paragraph (2), "that, the legal force of laws and regulations in accordance with the hierarchy as regulated in Paragraph 1. Juridical optical foundation in Pergub No. 33 of 2020, DKI Jakarta, concerning the implementation of Large-Scale Social Restrictions, refers to Article 27 which states, that, Pergub No. 33 of 2020, is a follow-up of the implementation of the elaboration of the implementation of Law No. 6 of 2020, so that it is strengthened by technical implementation in Pergub No. 41 of 2020 concerning Imposition of Sanctions against the implementation of PSBB. Meanwhile, in Pergub No. 41 of 2020, administrative fines are imposed on violators ranging from social sanctions, and fines of 100 thousand to Rp 50 million, where the results of paying administrative fines, due to violations as set out in 5 up to article 14 deposited to the Regional Treasury. Is not it, governor regulation under the Regional Regulation cannot regulate the sanction of fines, because sanctions are fined in law, including part of the sanctions as set forth in Article 10 of the Criminal Law Code. Article 15 Paragraph (1) of Law No. 12 of 2011 Concerning the formation of Laws and Regulations, it is explained, "Material content regarding criminal provisions can only be contained in laws, provincial regulations and regency and city regencies. And, the criminal provisions in the provincial and regional regulations of the city regency in the form of a threat of imprisonment for a maximum of 6 months and a maximum fine of Rp 50 million rupiah. Legally, if Pergub 41/200 2020 is said to be the implementation of Law No. 6 of 2018 on Health Quarantine, then the executing agency in law enforcement and enforcement is the National Police, prosecutors and judges in the scope of the judiciary with the Criminal Procedure Code as a formal legal tool to implement the material law, namely Law No. 6 of 2018.

Law No. 6 of 2018 concerning Health Quarantine explicitly regulates the formulation regarding the imprisonment of imprisonment, criminal fines against the perpetrators of criminal acts against Health. Therefore, DKI Jakarta Governor Regulation No. 41 Year 2020 which regulates the imposition of sanctions for violations of the implementation of the PSBB in handling corvida covidus 19 regulates administrative sanctions that are not appropriate for the designation of their legal objects. , in terms of the principle of legal law known (lex superior derogat legi inferior), which says that a higher law takes precedence over a lower law. Therefore legally according to judicial optical observations, the authors argue that the Governor of the Republic of Indonesia Regulation No. 41 of 2020 DKI Jakarta, Perbup and Perwali are used as a basis for the main legal sources in sanctioning administrative fines throughout Indonesia for issuing legal products legally. And, if implemented continues to be carried out then the regional head participates in breaking the law (breaking down the law) and participate in damaging the

order of harmonization of the national criminal law unit in Indonesia. Let's look at the considerations in point a, Pergub No. 41 of 2010, which in its legal considerations states, "based on Article 27 of Governor Regulation No. 33 of 2020 concerning large scale social restrictions in handling corona virus disease covid 19 in DKI Jakarta Province, violations of the implementation of PSBB are subject to sanctions in accordance with the provisions of the legislation including criminal sanctions ": This means that in the basic consideration of the Pergub No. 33 of 2020 before the Pergub No. 41 of 2020 is made and ratified, the basic reference as a basis for legal guidance in the determination of criminal law in Pergub No 33 of 2020 still refers to the basic foundation of criminal provisions in Act No. 6 of 2018 concerning quarantine and Health. Because only this Law specifically regulates how to implement the Large-Scale Social Restrictions. It means, considering that the analysis from the juridical optic side can be concluded from the legal facts, the governor's regulation No. 41 of 2020 should not be made regarding the sanction of his speech, because Law No. 6 of 2018 has clearly and clearly governed the implementation of enforcement. criminal law and the imposition of criminal sanctions and criminal penalties for violators. Therefore, automatically the regulations governing the imposition of criminal sanctions for fines, or administrative penalties in Governor Regulation No. 41 of 2020 cannot be implemented as a source of legal action and can be requested to be canceled through legal remedies through material requests by individual legal subjects or entities the law to the institution of the Supreme Court of the Republic of Indonesia based on the Republic of Indonesia Supreme Court Regulation No. 1 of 2011 regulates the methyl meter testing of legal products under the legislation.

It should be noted, by the central government government, as well as the regency / city province, that a product of legislation that has been clearly regulated regarding the provisions of the formulation of criminal sanctions, such as Law No. 6 of 2018 concerning Health Health Outrage as regulated in Articles 90 to Article 94, is a legal product that is certain and clear. So that there is no need to make new regulations that repeat and that fosters the competence of other institutions, such as the authority of the police, prosecutors, judges, as a Criminal Justice System institution, which has authority in the process of law enforcement and law enforcement. Do not be mixed with terms of imprisonment and fines, merged and merged into administrative fines as if the criminal provisions in Law No. 6 of 2018. Administrative fines must be based on the main legal source, if in Law No 6 In 2018, the Health Quarantine did not regulate administrative fines, so the implementing regulations below must not exceed the law, let alone raised in the Governor's Regulation. Under the Law, which can regulate criminal penalties for fines are provincial and district / city regional regulations, and the rest, rules under district / city provincial regulations, are not allowed to provide criminal penalties or imprisonment and confinement to legal subjects / individuals or legal entities. Whatever the form, the law clearly regulates the limits and scope of authority, lest the executive body seize the authority of the judiciary, so that it becomes lawful among the government apparatus and the law enforcement itself. In Article 17 of the Governor's Regulation No. 41 of 2010, DKI Jakarta, it was explained, the handling of criminal sanctions against violations of the PSBB was carried out by the police. This means that law enforcement and legal action must refer to Law No. 6 of 2018 and Criminal Procedure Code Provisions in the legal process as regulated in Article 84 regulating the process of investigating criminal acts of Health Quarantine in the PSBB determination phase. So, even if someone is proven to have committed a crime, the payment of a criminal sanction is fined, paid to the State Treasury, not at the Regional Treasury of the Province of DKI Jakarta. As the legal basis is the Republic of Indonesia Government Regulation No. 39 of 2018 concerning Types of Tariffs on Non-Tax State Revenues Applicable to the Indonesian Attorney General's Office, Article 1 paragraph (1) letter e, "payment of criminal acts of violation (regional regulations) criminal penalties in cash deposited Country,". The legal umbrella should be in the framework of establishing Large Scale Social Restrictions in DKI Jakarta and possibly other regions, which is the most appropriate in making Provincial Regulations or Regency / City Regulations, so that in terms of imprisonment or imprisonment a legal fine can be justified and in line with hierarchy according to the applicable laws and regulations.

That, in fact, it is not a problem if the government adopts a discretion policy in taking a strategic step in the emergency situation or in an urgent condition for actions for general relief in dealing with the corona virus outbreak. Because the law provides space and opportunity for the government to take quick steps in the interests of the state and the people, as regulated in Article 8 Paragraphs (1) and (2) of Law No. 12 of 2011 concerning the Formation of Legislation. Legislation other than as intended in Article 7 Paragraph (1), such as the Basic Law 45, MPR Decree, Laws, Presidential Regulations Terminating laws, Government Regulations, Presidential Regulations, Provincial Regulations / Regencies / Regencies cities and regulations, the People's Consultative Assembly, the People's Consultative Council, the Supreme Court, the Constitutional Court, the Supreme Audit Board, the Judicial Commission, Bank Indonesia, ministers, bodies, institutions, or commissions, the Provincial Representative Council, the Regional Representative Council of the Regency / city, governor / regent / mayor, village head or equivalent but can be recognized and valid as a product of legislation. However, it must still pay attention to other legal guidelines so that discretion can be recognized as a true law according to the Act and may not conflict with a higher law, repeat, or exceed the authority of the Act.

As an example of administrative fine regulation in Governor Regulation No. 41 of 2020, which regulates SKDA-Large-Scale Social Restrictions on administrative fines, which are deposited into the DKI Jakarta Regional Treasury, as stipulated in the General provisions of Article 1 of the 6th angle. This is seen as a mistake in the formulation, application and execution because the higher law has specifically regulated the procedure for payment of criminal penalties. Government Regulation (PP) RI No. 39 of 2007 concerning Management of State / Regional Money, explained the difference between the State Treasury and Regional Treasury. State Treasury, is a place for storing state money determined by the Minister of Finance as the general treasurer and the Regional Treasury is a place for storing state money determined by the governor / mayor / regent to collect regional income. Article 11 Paragraph (2) and Article 12 Paragraph (2), have also explained what is the difference between state and regional money, it needs to be understood for legislators at the level of Provincial Regulations, Regency / Municipal Regulations, Governors' Regulations, Regulations regents, mayor regulations. It is very impossible to be justified by law, if the result of a fine for violating the crime of health quarantine during the PSBB determination in the Regional Cash Deposit of DKI Jakarta Province, there is a double system that only sourced Pergub No. 41 of 2020 and Article 48 Paragraph 1 to Paragraph 6 of Law Law No. 6 of 2018 already regulates the formulation of the provision of criminal sanctions for administrative fine. This has become a double track system of rules that are ineffective and detrimental to society, because the legal object can be subject to two sanctions, namely criminal administrative penalties according to Law No. 6 of 2018 and Governor's Regulation No. 41 of 2020 concerning administrative fine sanctions. Not to mention if the subject of the law against officers when they will be arrested or in legal proceedings applies Article 212 jo 216 jo 218 Kitab Criminal Law law. While Article 76 Paragraph (1) of the Criminal Code, applies the principle of *nebis in idem* / a person may not be prosecuted twice because the act has received a decision that has permanent legal force. For example, someone violates Article 93 of Law No. 6 of 2018 concerning Health Quarantine, because it violates PSBB, law enforcement officials want to use Law No. 6 of 2018 or Governor Regulation No. 41 of 2020 ?? Which, the most powerful law in providing sanctions imprisonment and criminal fines or administrative fines with the same article violations! Of course Law No. 6 of 2018 which has competence in the legal process in imposing criminal sanctions because Article 63 Paragraph (2) of the Criminal Code has governed, the Law which has been specifically regulated overrides general laws. Another explanation regarding the payment of criminal fines is regulated in Article 42 of the Criminal Code, "all costs of imprisonment and imprisonment will be paid by the state and all fines and savings become state profits". This should be a concern of the government, so that in the formulation of regulations in the form of regulations or regulations, regulations and guardians, always involving legal experts and first asking for academic texts, so that the results of legal products can be synchronized with the provisions of the criminal law system in a manner national in Indonesia. Criminal law must be integrated and synchronized with the national criminal law unity system, because the general law in Book I of the Criminal Code is as a source of general rules / general provisions

that serve as a benchmark for special laws outside the Criminal Code as a foothold in the regulation and formulation of criminal provisions. So that the provisions of the provisions of the main criminal sanctions, imprisonment, fines, etc. and additional penalties as stipulated in Article 10 of the Criminal Code become guidelines in the regulation of criminal sanctions for all special laws outside the Criminal Code, as referred to in Articles 1 to Article 85 of the Criminal Code. If, the Law regulates criminal sanctions outside the provisions of Book I of the Criminal Code, Article 103 of the Criminal Code provides space in the regulation of criminal service provisions, in special laws must be regulated separately and clearly stated in the formulation of criminal provisions.

Conclusion

In the Study of Juridical Optics in the Formulation of Execution Application Formulation of Law No. 6 of 2018 Concerning Health Quantity After the End of the Implementation of Large-Scale Social Restrictions and the Imposition of New Normal and Safe Life Coordination Period 19 To Achieve Criminal Justice for Every Indonesian Citizen.) That , the central and regional governments in carrying out their authority and service duties to the public in relation to the implementation of the CBDR and the Implementation of the New Normal and Safe Covid Life Period 19 throughout Indonesia, have not yet fully implemented the main criminal provisions in accordance with Law No. 6 of 2018 concerning Health Harmony and Government Regulation No. 21 of 2020 as a follow-up to the implementing regulations of the Act. In juridical optics, the author believes that the central and regional governments still have many considerations and doubts in carrying out the mandate of the constitution properly and correctly according to the Law d the level of implementation of the application and execution of Law No. 6 of 2018 relating to the enforcement of criminal sanctions in the determination of the implementation of the Large-Scale Social Restrictions in DKI Jakarta and regions in Indonesia. As indicators of a double track system, multiple regulations emerge, under regional regulations, namely, Governor's Regulations, Regents of the Mayor's Regents, which have been legally enacted and used as the basis for legal action as the implementation of criminal sanctions imposed on violators of the Periodic Social Restriction Big. That fact, shows that the higher laws and regulations are not implemented, but the lower Law Pergub, the regulation of the mayor / regent precisely becomes the basis for legal action so that the effectiveness of law enforcement and legal action becomes obcuurlibel / blurred is not optimal and out of the objectives and substance the law. So that the implementation of criminal punishment / imprisonment of criminal law / execution of punishments in the formulation of criminal provisions in Law No. 6 of 2018 concerning Health Quarantine as the main legal source is actually not implemented. It is ironic that maybe the government considers violations of the crime of health violence as ordinary crimes or violations of bias so that the law is of lower qualification that is applied in providing legal action. That, in the end, confused the community because of their insecurity in running and operating Law No. 6 of 2018 on Health Quarantine. The law was made was intended to create an atmosphere of peace, order, happiness, prosperity, justice for the people, without people who obey the law, then the law does not have self-respect and spirit, such as books in used racks, which are neglected in the composition of texts obsolete eaten by termites. Laws like suspended animation between there and no, (breaking the law), because the law is not able to present the substance of its existence. law as a guideline for criminal conviction / guidance of sentencing can be carried out properly and correctly. Hopefully the defect in juridical optics related to the above matters can be input for the central and regional governments and can be useful for the education of Indonesian people. There is no intention to blame anyone, whether the government, state apparatus, or the community, the purpose of this writing is only for the means of sharing knowledge and merely to find the best way to uphold the criminal law system in Indonesia which is entirely aimed at the Indonesian people. If there is a mistake due to the limitations of the author's knowledge in this legal study, according to the expert, it is not appropriate, please criticize and advise, and to God I beg for forgiveness Aamiin. ***

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