



RESEARCH ARTICLE

## The Essence of Legal Sanctions for Violations of Health Protocols (Covid-19 Best Practice Study in West Sulawesi Province)

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**ABSTRACT**

This research aims to: (1) Know, analyze and find out the nature of legal sanctions during the Covid-19 Pandemic. (2) Knowing, analyzing and finding the Effectiveness of Legal Sanctions against violations of Health Protocols in West Sulawesi Province. (3) This type of research is legal research with the type of Empirical Normative legal research The research was carried out in the West Sulawesi Province of Law, precisely in the city of Mamuju with research in the National Police of the Republic of Indonesia, the Indonesia National Army, the Civil Police Unit (SATPOL PP). The results of the study show that: (1) The essence of legal sanctions during the Covid-19 Pandemic is to realize Legal Protection as an embodiment of the value of Justice (Covid-19). (2) The effectiveness of Legal Sanctions against violations of Health Protocols in West Sulawesi Province is ineffective, this is characterized by the lack of a deterrent effect in the community (violations of Health Protocols) (3) Factors that affect the Effectiveness of Legal Sanctions for Health Protocol Violations are Legal Substance Factors, Legal Structure Factors, Facilities and Facilities Factors, Community Factors, and Legal Culture Factors. But the most dominant influences are the legal substance factor, the legal structure factor and the community factor (the witnesses).

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### INTRODUCTION

The World Health Organization (WHO) is an international organization under the auspices of the United Nations engaged in the health sector whose mission is to ensure world health and provide regular reports on the health figures of a country. One of the issues that is a concentration for WHO to be addressed now is Corona Virus disease (Covid-19). The World Health Organization (WHO) is headquartered in Geneva, Switzerland, with six semi-autonomous regional offices and 150 field offices worldwide.

The World Health Organization (WHO) explains that "Corona viruses (Covid-19) are viruses that infect the respiratory system". This viral infection is called Covid-19. The Coronavirus causes the common cold to more severe diseases such as Middle East Respiratory Syndrome (MERS-CoV) and Severe Acute Respiratory Syndrome (SARS-CoV). The Corona virus is zoonotic which means it is transmitted between animals and humans. Based on Indonesia's Ministry of Health, the development of Covid-19 cases in Wuhan, Hubei province, China began on December 30, 2019 where the Wuhan Municipal Health Committee issued an answer "urgent notice on the treatment of pneumonia of unknown cause". The spread of the Corona virus is very fast, even across countries. The spread of the

Corona virus that has spread to various parts of the world has had an impact on Indonesia's economy, both in terms of trade, investment and tourism. According to the World Health Organization (WHO), "Corona Virus Disease 19 (Covid-19) has spread to more than 210 countries to date". Meanwhile, in Indonesia, Covid-19 has spread to 279 districts/cities spread across 34 provinces. The current Covid-19 pandemic inevitably has an impact on the decline in MSME income.

Indonesia is currently being shaken by a very dangerous disease outbreak, namely Corona Virus Disease 2019 which is abbreviated as Covid-19 or better known as the Corona Virus. The virus was first discovered in the Chinese city of Wuhan, at the end of December 2019. The outbreak of this disease has claimed many lives due to its very rapid transmission. Covid-19 has spread widely to several provinces in various countries, including in Indonesia. Corona virus disease is a group of viruses that can cause disease in animals and humans. Several types of coronavirus are known to cause respiratory infections in humans ranging from coughs and colds to more serious ones such as Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS). Covid-19 is an infectious disease caused by a type of coronavirus discovered at the end of 2019 (World Health Organization, 2020). Covid-19, which is currently spreading globally in hundreds of countries in the world, is one of the pandemics that has captured the most attention from the world. As of May 8, 2020, according to the World Health Organization (WHO) report, there were 3,759,967 cases globally and 259,474 deaths spread across 212 countries. In Southeast Asia alone, the number of Covid-19 cases has reached 86,294 cases with 3,075 deaths.

Presidential Decree No. 12 of 2020 concerning the Determination of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 (COVID-19) as a National Disaster. Interpreted as a pandemic, the development of this virus is in accordance with the conditions in the field during the impact of Covid-19. where the coronavirus has hit some people in various regions in different parts of the world so rapidly. The meaning of the word pandemic itself comes from the Greek word "pan", which means whole, as well as "demo", which means people. The term pandemic was enforced and legalized because of its rapid transmission. This designation does not refer to the ability and ability or the increase in the number of deaths, but the period of its development and spread. However, it does not mean that the coronavirus always leads to death, the pandemic status is an outbreak of a coronavirus disease that has reached a critical point, because it has spread to parts of the country so rapidly accompanied by the death of thousands of people. One of the affected by the Covid-19 pandemic, which until the time of this writing is still experiencing a surge in the number of Covid-19 patients from all provinces in Indonesia. The government as a policy maker has made Covid-19 a non-natural national disaster. The rapid surge in cases has triggered public concern, the higher the number of cases has made the government immediately take steps to make anticipatory policies to overcome the coronavirus in Indonesia. The President of the Republic of Indonesia and the Regional Government and related institutions jointly make policies as a tactical step in efforts to prevent Covid-19. Starting from the central government, ministers to provincial and district heads and even city governments. Inseparable from the impact of the very rapid spread of the coronavirus abroad and domestically, it has changed all areas of life, one of which is the economy. The World Bank predicts that Indonesia's economic development will be depressed by 2.1 percent. The projected economic growth forecast by Bank Indonesia, which usually reaches above 5%, is now only around 2.5%. As an effort to speed up the handling of Covid-19, the government also through the Minister of Health Regulation No. 9 of 2020 concerning Large-Scale Social Restrictions (PSBB) guidelines as a continuation of Government Regulation No. 21 of 2020 concerning PSBB. With the implementation of the PSBB, all office activities were laid off. This is done by the government as a strategy to break the chain of spread to certain provinces, of course, by looking first and the economy as the main consideration. This policy will certainly not succeed if there is no contribution from the community, so public awareness is needed to obey the regulations so that the spread of Covid-19 can be stopped and protect people from contracting this virus. This effort is carried out, of course, to prevent and ward off the entry and exit of the virus from one province to another.

Mamuju City is one of the cities in Indonesia that has an economic, social, cultural and religious impact with the spread of the Covid-19 virus. Based on the direction from the Central Government, the first step is taken by the City Government by protecting the entrances from the outside, especially

in Mamuju City. Everyone who enters Mamuju if they have a Mamuju ID card is instructed to self-quarantine and if the ID card is from outside Mamuju, the local government prepares a place to be quarantined. In Mamuju City, the Government has also prepared four Covid-19 Referral Hospitals in Mamuju City, with the availability of adequate Personal Protective Equipment. The implementation of restrictions on community activities (PPKM) is still being enforced in almost all provinces of Indonesia to prevent a surge in positive Covid-19 cases. This is not an easy thing, because in addition to the regulations issued by the government, of course, cooperation from all levels of society to comply and obey health protocols is needed. In Indonesia, the Government has created health guidelines and protocols, which are more often called the 5M movement to help prevent the transmission of the Corona virus. The Mamuju city government is ready to implement fines for violators of health protocols. Based on the Regent's regulations, those who violate the rules can be fined up to millions of rupiah or undergo detention. There are still many residents who are stubborn and violate health protocols, making the West Sulawesi City Government ready to impose sanctions for violators. However, the level of compliance of the people of West Sulawesi with health protocols is still considered very low in the face of the Covid-19 pandemic, especially the mobility of people who are starting to return to normal during the current transition period.

Although legally the President of the Republic of Indonesia has issued a regulation in the form of Presidential Instruction Number 6 of 2020 concerning Improving Discipline and Law Enforcement of Health Protocols in the Prevention and Control of Corona Virus Disease 2019, it turns out that it has not been so effective in making some people aware, in fact every day it is found that people have not implemented health protocols in their daily activities, this makes the Mamuju Police officers continue to intensify Yustisi operations. AKP Kemas emphasized that "Almost every time we carry out judicial operations, the police still find violators of the AKB Regional Regulation, of course we will raid and appeal to comply with health protocols, because this is for our health and common good". The Covid-19 Justice aims to ensure that the public can be disciplined in using masks when carrying out daily activities, in order to support the Government's Program in preventing the spread of Covid-19. The target of the Covid-19 Justice Operation is people who carry out activities without using masks to reduce the number of positives and deaths related to Covid-19 disease. Mamuju Police Chief Kombespol Minarto said that the Covid-19 Justice Operation activity was a follow-up to the affirmation of the West Sulawesi Police Chief in preventing the spread of Covid-19 and adapting to New Habits in our daily lives. The TNI-POLRI assists the Mamuju Regency Pamong Praja Police Unit (SATPOL PP) in the implementation of sanctions which is held by paying attention to and prioritizing community coaching and empowerment in order to change healthier living behaviors. Some of the sanctions that are currently applied are in the form of verbal/written reprimands, social work or providing learning effects, as well as conveying or providing socialization that administrative fine sanctions have been regulated in the West Sulawesi Governor Regulation and Mamuju Regency Regulation.

In Indonesia, Covid-19 also has a significant impact on various sectors of life. Some of its key impacts include:

1. **Public Health:** COVID-19 has caused many cases of infection and death in Indonesia. The government and the public are working hard to deal with the spread of this virus through social restrictions, mass vaccinations, and treatment efforts.
2. **Economy:** The pandemic has had a wide economic impact in Indonesia. The tourism, trade, and food and beverage sectors experienced a significant decline in revenue due to social restrictions and declining demand.
3. **Education:** Schools in Indonesia have also been forced to conduct distance learning, which presents challenges for students, teachers, and parents in adapting to this new education system.
4. **Social and Cultural:** Restrictions on travel, social activities, and worship have affected the social and cultural life of the people of Indonesia. Many traditions and social events must be postponed or adjusted to health protocols.
5. **Government Policies:** The Government of Indonesia has implemented various policies to address the pandemic, including travel restrictions, social restrictions, and mass vaccination campaigns.

6. **Psychological Impact:** The pandemic has also increased the level of anxiety and stress among the people of Indonesia, especially among those directly affected by the pandemic, such as losing their jobs or families.
7. **Increased Collaboration and Innovation:** Despite the great challenges, the pandemic has also encouraged collaboration and innovation among the community, government, and the private sector to find solutions and increase resilience to crises.

According to the author, based on the above legal issues, there should be factually a synergy between all elements of the system, both the legal substance factor, the legal structure factor, the adequate facilities and facilities, the community factor, the community legal culture factor (community legal awareness and compliance factor), so that with this synergy, it will realize the effectiveness of legal sanctions against violations of the Health Protocol in West Sulawesi. so that it becomes a problem solving to the impact of the Covid-19 outbreak, so that presenting legal protection as an embodiment of the value of justice is expected to reach future legal events as part of the *ius constituendum* (aspired law). Based on the background description that has been conveyed above, the author is interested in conducting research with the title: "The Nature of Legal Sanctions Against Violations of Health Protocols".

## RESEARCH METHODS

### Types and types of research

This type of research is legal research using the type of empirical normative legal research, namely doctrinal legal research or normative legal research combining the type of non-doctrinal legal research or social legal research often called empirical legal research, In this study, the author combines the two studies, namely in this type of research the researcher conducts research by combining Both types of research as mentioned above in a study. Normative legal research is research conducted with an approach to legal norms or substance, legal principles, legal theories, legal postulates and legal comparisons. Meanwhile, empirical legal research is research conducted with an approach to legal reality in society. This research is based on the existence of a symptom in the form of a gap between expectations (*das sollen*) and reality (*das sein*) in the legal field. With an approach of three areas of legal structure, namely legal dogmatics, legal theory and legal philosophy.

### Population and sample

The population of this study is all objects of observation at the research location, namely those located in the City Regency at the research location, the location of this research was carried out in West Sulawesi Province, precisely in Mamuju Regency, Central Mamuju Regency, Polewali Mandar Regency with research in the National Police of the Republic of Indonesia, the Indonesia National Army, the Civil Police Unit (SATPOL PP), from the intended population a sample that has the entire population was drawn Based on his character, which consists of:

1. The research location in Mamuju Regency with the research object of the National Police of the Republic of Indonesia as many as 10 (ten) people, the Indonesia National Army as many as 7 (seven) people and the Civil Service Police Unit (SATPOL PP) as many as 9 (nine) people, the community as many as 9 (nine) people;
2. The research location is in Central Mamuju Regency with the research object of the National Police of the Republic of Indonesia as many as 10 (ten) people, the Indonesia National Army as many as 7 (seven) people and the Civil Police Unit (SATPOL PP) as many as 8 (eight) people, the community as many as 8 (eight) people;
3. The research location is in Polewali Mandar Regency with the research object of the National Police of the Republic of Indonesia as many as 10 people, the Indonesia National Army as many as 6 (six) people and the Civil Service Police Unit (SATPOL PP) as many as 8 (eight) people, and the community as many as 8 (eight) people.

Based on the sample of the population, the respondents amounted to the National Police of the Republic of Indonesia, as many as 30 (thirty), the Indonesia National Army as many as 20 (twenty), the Civil Police Unit (SATPOL PP) as many as 25 (twenty-five), and the community as many as 25 (twenty-five). So that the total number of respondents is 100 (one hundred).

### **Types and sources of data**

The types of data used in this study are as follows:

1. **Primary data.** Primary data is data obtained directly in the field which is raw data that still needs further processing. This kind of data is obtained through interviews or through the distribution of questionnaires or questionnaires. The data obtained through primary data is at the research site through the results of direct interviews with competent respondents/informants with the problem being discussed.
2. **Secondary data.** Secondary data is data in the form of documents, scientific journals, scientific articles, dissertations, obtained from a government or private agency. As well as official documents and other writings that are relevant to the discussion of this research in order to provide an overview and basis of knowledge through a sharp, logical and systematic thinking framework. In contrast to primary data that has not been processed, secondary data is data that has been processed. The data used are data from the last 5 (five) years whose data is related to the title being studied.

### **Data collection techniques**

In order to obtain the expected data, the author uses data collection techniques in the form of:

1. **Literature study**, which is studying and reviewing data on various literature and examining various literature books, newspapers and scientific works related to the object of research.
2. **Documentation**, namely data collection, is the author taking data by observing documents and archives provided by related parties.
3. **Interviews**, which are data collection techniques carried out by direct interviews with resource persons directly related to this study, West Sulawesi Province, precisely in Mamuju Regency, Central Mamuju Regency, Polewali Mandar Regency, in this case the National Police of the Republic of Indonesia as many as 3 (three), the National Army of Indonesia as many as 3 (three), the Civil Police Unit (SATPOL PP) as many as 3 (three); and the community as many as 2 (two).
4. **Questionnaire**, which is data collection by asking written questions to respondents who have been determined in this study. The questions are in a structured form whose answers are provided by the researcher, with the population and sample consisting of the National Police of the Republic of Indonesia, as many as 30 (thirty), the Indonesia National Army as many as 20 (twenty), the Civil Police Unit (SATPOL PP) as many as 25 (twenty-five), and the community as many as 25 (twenty-five). So that the total number of respondents is 100 (one hundred).

### **Data analysis**

In analyzing data, qualitative analysis and quantitative analysis are used. Qualitative analysis is the analysis of the meaning of law (legal norm argumentation) in the form of analysis of legal principles, norms and rules, while quantitative analysis is the analysis of the meaning of data obtained from respondents which is quantified in the form of numbers or numbers expressed in the form of frequency tabularization. After obtaining primary data and secondary data as mentioned earlier, to produce a systematic scientific work, a qualitative data analysis is needed. And then the data is presented in descriptive form and then makes conclusions.

## **RESEARCH RESULTS AND DISCUSSION**

### **The nature of legal sanctions during the Covid-19 pandemic**

In this section, the researcher will explain the results of the research. The results of this study are a description of the data obtained through the library to obtain normative data through books, dissertations, journals and laws and regulations while empirical research is carried out by collecting

data in the field through interviews, questionnaire distribution and observation. Furthermore, in the discussion, an analysis of the results of the research will be carried out regarding the Nature of Legal Sanctions for Violations of Health Protocols. Based on the laws and regulations in Indonesia, it also recognizes hierarchies. Based on Law Number 12 of 2011 in Article 7 paragraph (1) regulates the types and hierarchy of laws and regulations in Indonesia in the following order:

1. The Constitution of the Republic of Indonesia in 1945;
2. Decree of the People's Consultative Assembly;
3. Government laws/regulations in lieu of laws;
4. Government regulations;
5. Presidential regulation;
6. Provincial regulations;
7. Regency/city regional regulations.

Based on Article 7 paragraph (1) of Law Number 12 of 2011 concerning the hierarchy of laws and regulations above, the author will comprehensively describe the nature of legal sanctions during the Covid-19 Pandemic based on the order of the hierarchy, the sanctions for violating Health Protocols during the Covid-19 period are as follows:

### **Constitution of the republic of Indonesia year 1945**

Based on Article 7 paragraph (1) of Law Number 12 of 2011 regulates the Hierarchy of Laws and Regulations, where in the regulation the Constitution of the Republic of Indonesia of 1945 the first hierarchical order, so that in the study of law it is known the principles that govern the three legal principles used to resolve conflicts or conflicts between laws and regulations, namely:

1. The basis of *lex superior derogat legi inferiori*;
2. The basis of *lex specialis derogat legi generali*;
3. The basis of *lex posterior derogat legi priori*.

### **Laws governing legal sanctions during the Covid-19 pandemic**

Law Number 4 of 1984 concerning Infectious Disease Outbreaks. Based on Law Number 4 of 1984 concerning Disease Outbreaks, in Article 1 paragraph (1) it stipulates that: "An outbreak of an infectious disease, hereinafter referred to as an outbreak, is the occurrence of an infectious disease in the community where the number of sufferers increases significantly beyond the prevailing circumstances at a certain time and area and can cause catastrophe". Then based on Law Number 4 of 1984 concerning Disease Outbreaks, in Article 1 paragraph (2) it stipulates that: "Sources of disease are humans, animals, plants, and objects that contain and/or are contaminated with disease seeds, as well as those that can cause outbreaks". Based on Law Number 4 of 1984 concerning Disease Outbreaks, Article 5 (1) Efforts to control outbreaks include:

- a. Epidemiological research;
- b. Examination, treatment, treatment, and isolation of patients, including quarantine measures;
- c. Prevention and immunization;
- d. Destruction of the cause of the disease;
- e. Handling of bodies due to outbreaks;
- f. Counseling to the community;
- g. Other countermeasures.

### **Government regulations governing legal sanctions during the Covid-19 pandemic Government regulation number 21 of 2020 concerning large-scale social restrictions in the context of accelerating the handling of corona virus disease 2019 (Covid-19)**

Large-Scale Social Restrictions (PSBB) is a term defined as the exemption of certain activities of residents in a province who are suspected of being infected with a disease and are contaminated in

such a way as to prevent the possibility of spreading a disease. The purpose of the PSBB is to prevent the spread of public health emergency diseases that are occurring among people in a certain province. The restrictions on activities carried out include, namely the Tri subarkah of the law of PSBB violations in the face of the law:

- a. School holidays;
- b. Public places;
- c. Work;
- d. Religious;
- e. Public facilities.

PSBB is carried out by local governments at the provincial and city district levels after obtaining the approval of the Minister of Health through a Ministerial Decree. The legal basis for regulating the PSBB is Law Number 6 of 2018 concerning health quarantine. This PSBB is further regulated, the criteria and its implementation in Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions. The government also issued the Minister of Health Regulation (Permenkes) Number 9 of 2020 as a guideline for implementing the PSBB. In this Permenkes, it is explained that the PSBB is implemented during the longest incubation period of Covid-19 (14 days) and can be extended if there is still evidence of spread.

### **Presidential regulation regulating legal sanctions during the covid-19 pandemic**

#### **a. Instruction of the president of the republic of Indonesia number 6 of 2020 concerning improving discipline and law enforcement of health protocols in the prevention and control of corona virus disease 2019.**

Based on the Instruction of the President of the Republic of Indonesia Number 6 of 2020 concerning Improving Discipline and Law Enforcement of Health Protocols in the Prevention and Control of Corona Virus Disease 2019, in order to ensure legal certainty, strengthen efforts and increase the effectiveness of the prevention and control of Corona Virus Disease 2019 (COVID-19) in all provinces and districts/cities in Indonesia, hereby instruct:

1. Ministers of the Advanced Indonesia Cabinet;
2. Cabinet Secretary;
3. Commander of the Indonesia National Army;
4. Chief of the National Police of the Republic of Indonesia;
5. Heads of Non-Ministerial Government Institutions;
6. Governors; and
7. Regents/Mayors.

#### **b. Presidential decree number 7 of 2020 concerning the task force for the acceleration of handling corona virus disease 2019 (Covid-19) regulation/legal formation**

Jimly Asshiddiqe argued that there are three forms of regulation, namely "judicial legislation", "legislative act" and "executive act". The form of regulations set by the legislative body is certainly different from the regulations set by the executive institution or by the judiciary. For example, the Constitutional Court and the Supreme Court have the authority to regulate by stipulating Constitutional Court Regulations (PMK) and Supreme Court Regulations (PERMA). The government/executive has the authority to regulate by stipulating Government Regulations (PP) or Presidential Regulations (Perpres). Meanwhile, regulations formed by the legislature with mutual approval with the executive branch are called "legislative acts". Considerations in laws and regulations in Indonesia will refer to the hierarchy of laws or regulations that are above them. For example, a law will refer to the article or content of the 1945 Constitution of the Republic of Indonesia because the Constitution is higher than the law. Thus and so on, the law under it must not have a different purpose and meaning from the law above. According to Jimly, the considerations contained in each law, in essence, are related to the five main foundations for the application of the norms contained in the law for the legal subjects regulated by the law. The five foundations in question are

philosophical, sociological, political and juridical foundations, as well as administrative foundations. The first four foundations, namely philosophical, sociological, political, and juridical, are absolute, while the last one, namely the administrative foundation, can be facultative. Absolutely, it means that it must always be present in every law. Meanwhile, the administrative foundation does not absolutely always have to exist.

### **Provincial regional regulations that regulate legal sanctions during the Covid-19 pandemic.**

West Sulawesi Governor's Regulation Number 1 of 2022 concerning Amendments to West Sulawesi Governor's Regulation Number 40 of 2020 concerning the Implementation of Discipline and Law Enforcement of Health Protocols in the Prevention and Control of Corona Virus Disease 2019. In Article 3 of West Sulawesi Governor's Regulation Number 40 of 2020 concerning the Implementation of Discipline and Law Enforcement of Health Protocols in the Prevention and Control of Corona Virus Disease 2019, this Governor's Regulation aims to:

- a. Increasing implementation and compliance with COVID-19 health protocols;
- b. Providing protection from the spread and transmission of COVID-19; and
- c. Increasing community participation in suppressing the spread of COVID-19.

In Article 5 of West Sulawesi Governor Regulation Number 1 of 2022 concerning Amendments to West Sulawesi Governor Regulation Number 40 of 2020 concerning the Implementation of Discipline and Law Enforcement of Health Protocols in the Prevention and Control of Corona Virus Disease 2019.

### **Mayor regulation number 22 of 2020 concerning the implementation of large-scale social restrictions (PSBB) in the city of Makassar, South Sulawesi Province.**

In Article 1 paragraph (10) of Mayor Regulation Number 22 of 2020 concerning the Implementation of Large-Scale Social Restrictions (PSBB) in the city of Makassar, South Sulawesi Province, it is stipulated that: "Large-Scale Social Restrictions, hereinafter abbreviated as PSBB, are restrictions on certain activities of residents in a province suspected of being infected with Corona Virus Disease 2019 (COVID-19) in such a way as to prevent the possibility of spreading Corona Virus Disease 2019 (COVID-19)". In Article 2 of Mayor Regulation No. 22 of 2020 concerning the Implementation of Large-Scale Social Restrictions (PSBB) in Makassar City, South Sulawesi Province stipulates that:

- 1) With the approval of the Minister of Health of the Republic of Indonesia who carries out government affairs in the health sector, the Mayor in his position as the Head of the Makassar City Regional Government can determine the implementation of Large-Scale Social Restrictions (PSBB).
- 2) PSBB as referred to in paragraph (1) is carried out in the form of restrictions on outdoor activities carried out by every person who resides and/or has activities in the city of Makassar.
- 3) Restrictions on outdoor activities in the implementation of PSBB as referred to in paragraph (2) include:
  - a. Implementation of learning in schools and/or other educational institutions;
  - b. Work activities at work;
  - c. Religious activities in houses of worship;
  - d. Activities in public places or facilities;
  - e. Social and cultural activities; and
  - f. Movement of people and goods using transportation capital.
- 4) Coordination, resource mobilization and operational implementation of the PSBB as referred to in paragraph (1) are carried out by the Regional COVID-19 Handling Acceleration Task Force.
- 5) The period of implementation of the PSBB as referred to in paragraph (1) is determined by the Mayor with the consideration of the Regional COVID-19 Handling Acceleration Task Force.

### **Regency/city regional regulations regulating legal sanctions during the Covid-19 pandemic**



Central Mamuju Regent Regulation Number 36 of 2020 concerning the Implementation of Discipline and Law Enforcement of Health Protocols as an Effort to prevent and Control Corona Virus Disease 2019. The provisions of sanctions are adjusted to the violations committed whether they are severe or light, the application of sanctions is carried out to correct irregularities in obligations and prohibitions. The imposition of administrative sanctions as a form of law enforcement is implemented with the following objectives:

1. Prevent violations from occurring;
2. Efforts to force the perpetrator to make improvements as a result of his actions;
3. Providing a deterrent effect for violators;
4. In order to create an economic burden for the perpetrator to pay a certain amount of money for recovery and compensation costs;
5. In order to create a fear effect for other parties to commit violations of the law;
6. Protect the rights of the community and at the same time encourage the improvement of community legal compliance;
7. Minimizing losses and victims; and
8. Secure and enforce government policies, plans, and programs.

### **Circular letter number 32 of 2021 concerning the implementation of level 3 and level 2 community activity restrictions and optimizing corona virus disease 2019 handling posts at the village and village levels to control the spread of corona virus disease 2019 in West Sulawesi Province**

Following up on the Instruction of the Minister of Home Affairs of the Republic of Indonesia Number 48 of 2021 concerning the Implementation of Level 3, Level 2, Level 1 Restrictions on Community Activities and Optimizing Corona Virus Disease 2019 Handling Posts at the Village and Village Levels for Controlling the Spread of Corona Virus Disease 2019 in the Provinces of Sumatra, Nusa Tenggara, Kalimantan, Sulawesi, Maluku and Papua and paying attention to the indicators of the Covid-19 pandemic situation set by the Minister of Health, which places Regencies in West Sulawesi Province in Level 3 and Level 2.

### **Synergy of the Indonesia national army, the national police of the republic of Indonesia and Satpol PP in overcoming Covid-19**

Based on the Instruction of the President of the Republic of Indonesia Number 6 of 2020 concerning Improving Discipline and Law Enforcement of Health Protocols in the Prevention and Control of Corona Virus Disease 2019 regulates the Synergy of the Indonesia National Army, the National Police of the Republic of Indonesia and Satpol PP in Dealing with Covid-19 as follows. One thing that has received a lot of attention from the public regarding Presidential Instruction 6/2020 which gives a special address to the TNI and the National Police in the implementation of improving discipline and law enforcement in the prevention and control of Covid-19. This formulation is considered the involvement of the TNI/Polri in handling Covid-19 affairs which are essentially civil affairs of the government. In the second dictum numbers 3 and 4 of Presidential Instruction 6/2020, it is mentioned about the role of the TNI/Polri in the implementation of improving discipline and law enforcement in the prevention of Covid-19. The formulation in the Presidential Instruction that should be underlined is about the role of the TNI/Polri which is in the nature of supporting regional heads in terms of implementing improved discipline and law enforcement, "Providing support to governors, regents/mayors by mobilizing the strength of the Indonesia National Army to supervise the implementation of health protocols in the community". The same formulation regarding the involvement of the National Police in handling Covid-19.

### **Effectiveness of legal sanctions against health protocol violations in west Sulawesi province**

According to the author, legal sanctions against violations of health protocols, especially in West Sulawesi Province, have not been effective, it is said to be ineffective because there is still a high Covid-19 outbreak and an increase in cases of the spread of Covid-19, due to the increase in the spread of the Covid-19 Outbreak because there are still violations of Health Protocols. It was even

found that the legal fact is that 50% of violations were committed by people who had been given social sanctions. The author's opinion above is corroborated by the Law Enforcement Officers (APH) stating that legal sanctions against violations of Health Protocols in West Sulawesi Province have not been effective because based on the findings in the community that the cause of the spread of Covid-19 is due to a lack of awareness and compliance with the law of the community, which causes many Covid-19 violations committed in the community, as for the laws and regulations that regulate sanctions Regarding the violation of health protocols, it turns out that the facts in the field are still not effective, it is found that the legal facts of the sanctions given have not been able to provide a deterrent effect to the community because the sanctions given are more social sanctions.

According to Law Enforcement Officials based on facts in the field, sanctions against Covid-19 violations in West Sulawesi have not been able to reduce the spread of the Covid-19 outbreak, according to the results of the study, it was found that the legal facts as a result of the sanctions given have not been able to provide a deterrent effect to the community, there are still many people who ignore health protocols and even 50% of Covid-19 violations have been sanctioned but do not provide a deterrent effect to previous sanctions. According to Law Enforcement Officials, in the implementation of health protocols in the community, the synergy between the Indonesia National Army (TNI), Satpol PP, and the National Police (Police) has been running well, but the fact in the field that the synergy has not been effective if it is not accompanied by public awareness and legal compliance. So that the effectiveness of Legal Sanctions against violations of Health Protocols in West Sulawesi Province, should be effective, there must be good synergy between the Indonesia National Army (TNI), Satpol PP, Polri (Police) as well as public awareness and legal compliance.

### **Factors affecting the effectiveness of legal sanctions for health protocol violations in West Sulawesi province**

According to the author, in the implementation of sanctions for violations of Health Protocols in West Sulawesi Province, in practice in the field, it is certainly influenced by several factors, the existence of this influence because in the application of legal sanctions it is inseparable from, the legal umbrella that regulates the application of legal sanctions for violations of Health Protocols in West Sulawesi Province, Law Enforcement Officials as the implementation of the application of sanctions, the community as a legal subject has the potential to violate health protocols, supporting facilities and facilities, and legal culture. So that with the involvement of some of the factors above, it will certainly affect the Effectiveness of Legal Sanctions for Health Protocol Violations in West Sulawesi Province, if one aspect does not run well in accordance with the applicable law, the degree of effectiveness will not run effectively. The above opinion is also corroborated by the opinions of several law enforcement officials, stating that of course in the application of sanctions for violations of Health Protocols in West Sulawesi Province, of course cannot be separated from several parties, so that from that party there are potential influencing factors, for example in the prevention and application of sanctions for violations of health protocols cannot be separated from elements of the legal system starting from the Substance of the Law, Legal Structure, Adequate Facilities and Facilities, Community, and Legal Culture, so that several elements of the legal system need good legal relationships, and synergy to prevent and implement sanctions for violations of Health Protocols in West Sulawesi Province, so that a level of effectiveness can be realized. Based on the research that has been conducted regarding the Factors that affect the Effectiveness of Legal Sanctions for Health Protocol Violations in West Sulawesi Province, it can be said that the Factors that affect the Effectiveness of Legal Sanctions for Health Protocol Violations in West Sulawesi Province have not been effective.

### **CONCLUSION**

Based on the results of the discussion through analysis in the study studied in this focus, the researcher formulated several conclusions as follows:

1. The essence of legal sanctions during the Covid-19 Pandemic is to realize Legal Protection as an embodiment of the value of Justice (Covid-19).

2. The effectiveness of Legal Sanctions against violations of Health Protocols in West Sulawesi Province is ineffective, this is marked by the lack of a deterrent effect in the community (violations of Health Protocols).
3. The factors that affect the Effectiveness of Legal Sanctions for Health Protocol Violations are Legal Substance Factors, Legal Structure Factors, Facilities and Facilities Factors, Community Factors, Legal Culture Factors but the most dominant ones are influential, legal substance factors, legal structure factors and community factors.

## SUGGESTION

Based on the findings in the research and the conclusion of the researcher, the following can be suggested:

1. That with the presence of legal protection as an embodiment of the value of justice, it is expected to reach future legal events as part of the *ius constituendum* (aspired law);
2. Synergy is needed between all elements of the system to realize the effectiveness of legal sanctions against violations of Health Protocols in West Sulawesi;
3. It is recommended that the factors that affect the Effectiveness of Legal Sanctions against violations of Health Protocols in West Sulawesi Province are:
  - a. It is better that the Legal Substance Factor needs to be implemented strict sanctions against people who commit repeated violations and do not have legal compliance and awareness of complying with health protocols during the pandemic and there needs to be special regulations regarding Covid-19 in addition to being regulated in general regulations and these regulations must be socialized among the community.
  - b. It is better that in the Legal Structure Factor, there must be synergy between the National Police of the Republic of Indonesia, the Indonesia National Army, and the Civil Service Police Unit (SATPOL PP) to carry out community control against Covid-19 violations, and synergy is needed to provide socialization related to Covid-19 regulations in the community.
  - c. The supporting facilities and facilities should be paid attention to adequate facilities and facilities so that the implementation of Covid-19 violation control can run effectively.
  - d. It is better for the Community Factor to increase public awareness and legal compliance with Covid-19 violations, making the sanctions given a deterrent effect so that they do not repeat the same violation or other violations.
  - e. It is better that there must be a synchronization between the laws and regulations with the values and attitudes of the community that affect the effectiveness of Legal Sanctions against violations of Health Protocols in West Sulawesi Province.

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