



Received: 08-07-2022

Accepted: 18-08-2022

International Journal of Advanced Multidisciplinary Research and Studies

ISSN: 2583-049X

Analysis of the effectiveness of sanctions for violators of health protocols during the 2019 corona virus disease pandemic in Banda Aceh Municipality

Al Irsyad Gani, Suhaimi

Faculty of Law, Syiah Kuala University, Aceh, Indonesia

Corresponding Author: Al Irsyad Gani, Suhaimi

Abstract

In order to prevent the spread of Corona Virus Disease 19 (Covid-19) in Banda Aceh Municipality, the Banda Aceh Municipality Government has issued Banda Aceh Mayor Regulation Number 45 of 2020, which was later amended by Banda Aceh Mayor Regulation Number 51 of 2020. Even with this regulation Business actors who violate health

protocols during the Covid-19 Pandemic may be subject to sanctions, but in practice this is less effective. So, it is necessary to conduct a study in the form of an analysis of the effectiveness of sanctions for business actors who violate health protocols during the Corona Virus Disease 2019 (Covid-19) pandemic in Banda Aceh Municipality.

Keywords: Effectiveness of Sanctions, Health Protocols, Covid-19

1. Introduction

Given the Corona Virus Disease 2019 (Covid-19) is increasingly spreading in Indonesia, where in an instant more and more people are infected with the virus (134 cases have been exposed), then on March 13, 2020 the President of the Republic of Indonesia through Presidential Decree No. 12 of 2020 has determined that Covid-19 is a Non-Natural National Disaster, because Covid-19 has caused the paralysis of activities in the community.¹

Furthermore, the President of the Republic of Indonesia has issued Presidential Instruction (Inpres) Number 6 of 2020 regarding Discipline Improvement and Law Enforcement of Health Protocols in the Prevention and Control of Corona Virus Disease 2019, to prevent the rapid spread of Corona Virus Disease (Covid-19) throughout the archipelago. Furthermore, at the regional level (especially in Banda Aceh Municipality), the Banda Aceh Municipality government has issued Banda Aceh Mayor Regulation Number 45 of 2020 concerning the Implementation of Discipline and Law Enforcement of Health Protocols as an Effort for Prevention and Control of Corona Virus Disease 2019 (Covid-19) in the Banda Aceh Municipality, which was later amended by Banda Aceh Mayor Regulation Number 51 of 2020 (hereinafter referred to as Banda Aceh Mayor Regulation concerning Health Protocol).

Article 1 point 7 of the Banda Aceh Mayor's Regulation on Health Protocols states: "The 4M health protocol is activities to wear masks, wash hands, keep distance and avoid crowds". The purpose of the 4M is "Wearing a mask; Washing hands; Keep the distance; and Avoiding crowds." These provisions apply not only to individuals, but also to business actors and managers, organizers or persons in charge of public places and facilities.

Health protocols for individuals are wearing masks, washing hands, maintaining distance and avoiding crowds. As for business actors and managers, organizers or persons in charge of public places and facilities, they are:

1. Implement 4M for himself and his employees.
2. Not serving customers who do not implement 4M.
3. Socialization, education, and the use of various information media to provide understanding and understanding of the prevention and control of Covid-19.
4. Provision of hand washing facilities with soap that are easily accessible and meet standards or provision of hand sanitizer.
5. Efforts to identify (screen) and monitor health for everyone who will be active in the work environment.
6. Setting the distance.
7. Periodic cleaning and disinfection of the environment.
8. Enforcement of discipline on community behavior that is at risk of transmitting and contracting Covid-19.

¹ Suhaimi, Peran Penasihat Hukum Dalam Pemenuhan Hak Terdakwa Dalam Persidangan Online di Era Covid-19, JUSTITIA: Jurnal Ilmu Hukum dan Humaniora, Vol. 8(3), 2021, p. 258.

9. Facilitate early detection in handling cases to anticipate the spread of Covid-19.²

In order for the Banda Aceh Mayor's Regulation on the Health Protocol to be effective, it includes a number of sanctions that can be imposed on business actors who violate the health protocol during the Covid-19 pandemic in Banda Aceh Municipality. The sanctions are stated in Article 8 paragraph (2) of the Banda Aceh Regulation on Health Protocols, namely: Sanctions in the form of administrative fines, temporary suspension of business operations and revocation of business licenses.

However, in practice, in general, business places such as coffee shops, cafes or restaurants within the Banda Aceh Municipality area have not yet fully implemented the application of sanctions as stipulated in the Banda Aceh Mayor's Regulation on Health Protocols. Even though the Banda Aceh City Government through the Civil Service Police Unit and Wilayatul Hisbah (Satpol PP and WH) Banda Aceh, has carried out surveillance in the form of patrols or raids throughout Banda Aceh Municipality and the application of administrative sanctions to business actors who violate health protocols, in the time of Covid-19. This is intended to prevent the spread of Covid -19 in Banda Aceh Municipality.

The fact as stated above, by naked eye based on observations made for 3 months (October to December 2021) it can be seen that there are many coffee shops, cafes or restaurants in Banda Aceh Municipality that violate health protocols during the Covid-19 pandemic. Even though the Banda Aceh Municipality Satpol PP and WH has made various efforts to enforce the Banda Aceh Mayor's Regulation on Health Protocols. Regarding the sanctions imposed, in general, the cessation of business (operational) activities for a certain time and not sanctions in the form of administrative fines. Thus, it would be interesting to conduct a study in the form of an analysis of the effectiveness of sanctions for business actors who violate health protocols during the Corona Virus Disease 2019 (Covid-19) pandemic in Banda Aceh Municipality.

2. Methodology

This type of research is included in normative juridical research, because it only analyzes the sanctions applied to business actors who violate health protocols during the Covid-19 pandemic. The analysis is carried out based on legal materials, both primary legal materials, secondary and tertiary legal materials. Even if observations and interviews were carried out with several resource persons, it was only to add and strengthen the analysis in question.

3. Results and discussion

Based on the results of the study, it is known that the Controls carried out by the Civil Service Police Unit against Business Actors Who Violate Health Protocols During the 2019 Corona Virus Disease Pandemic in Banda Aceh Municipality were less effective as expected. Therefore, it is necessary to analyze in more depth about the application of sanctions imposed for business actors who violate health

protocols during the Corona Virus Disease 2019 (Covid-19) pandemic in Banda Aceh Municipality.

Based on observations made for 3 (three) months, October to December 2021, by following closely the officers of the Civil Service Police Unit and Wilayatul Hisbah (Satpol PP and WH) of Banda Aceh Municipality when conducting patrols or raids to various business places located in Banda Aceh. visited by many people and caused a crowd, it was seen that many visitors, especially in coffee shops, cafes or other places to eat and drink, did not comply with the rules regarding health protocols. In this case, several violations of health protocols were seen, such as:

1. Not wearing a mask.
2. Do not wash your hands when entering the place.
3. Not keeping a distance, in this case the visitors are seen sitting together or close together.
4. Not avoiding crowds, but approaching crowds and even making crowds.

During the Covid-19 pandemic, the Satpol PP and WH of Banda Aceh Municipality almost every time carried out patrols and raids to public places visited by the public, such as coffee shops, cafes, places that provide food and drinks. The purpose of controlling in the context of Covid-19 by the Satpol PP and WH of Banda Aceh Municipality is to create a comfortable, safe and orderly city of Banda Aceh and avoid the transmission of Covid-19, which spreads so quickly and easily. Where positive cases in Indonesia continue to increase every day.³

The Banda Aceh Municipality Government through the Satpol PP and WH units which have the authority and responsibility directly to the Governor, as stated by Muhammad Saleh, as the Civil Service Staff of the Satpol PP and WH of Banda Aceh Municipality, namely as follows: Areas that technically regulate control during the Covid-19 pandemic. The purpose of carrying out specific control is clearly so that the people of Banda Aceh Municipality are healthy, and not exposed to the Covid-19 Virus, because what we are worried about is that many Banda Aceh people are not affected by Covid-19, so that control is a must.⁴

Regarding the action taken by the Satpol PP and WH when controlling business actors who violate the health protocol, "the action is when someone violates the health protocol, Satpol PP and WH act in accordance with the Standard Operating Procedures (SOP) that apply to Satpol PP and WH Banda Aceh Municipality. In addition, the Satpol PP and WH of Banda Aceh Municipality in carrying out control and supervision are always carried out in accordance with the main tasks and functions that have been set.⁵

The actions carried out by Satpol PP and WH are carried out in stages, in the sense that for individual problems, for

³Aurelia Lysandra, "Peluang Berakhirnya COVID-19 di Indonesia"> [Accessed 27/02/2021].

⁴ Muhammad Saleh. Staf Kepegawaian Satpol PP dan WH Banda Aceh, *Wawancara*, 28 Februari 2022, dalam Al Irsyad Gani, Penertiban Yang Dilakukan Oleh Satuan Polisi Pamong Praja Terhadap Pelaku Usaha Warung Kopi Yang Melanggar Protokol Kesehatan Dimasa Pandemi *Corona Virus Disease 2019* Di Kota Banda Aceh, Skripsi, Fakultas Hukum Universitas Syiah Kuala, Banda Aceh, Indonesia, 2022, p.56.

⁵ Mardiani, Suhaimi, Teuku Muttaqin Mansur, Peranan Satuan Polisi Pamong Praja dalam Menata dan Membina Pedagang Kaki Lima di Kota Banda Aceh, *Syiah Kuala Law Journal*, Vol. 2(1), Agustus 2018, p. 238.

² Article 4 Regulation of the Mayor of Banda Aceh Number 51 of 2020 concerning the Implementation of Discipline and Law Enforcement of Health Protocols as an Effort for Prevention and Control of Corona Virus Disease 2019 (Covid-19) in Banda Aceh Municipality.

example during raids and it is found that people are not wearing masks, then the community members are given education about how important it is to wear masks for health protocols, especially during the pandemic. Covid-19. For people who do not use these masks, Satpol PP and WH provide masks to community members and Satpol PP and WH ask for their identities to be recorded or have their identity cards photographed. This is intended to check or for data when Satpol PP and WH carries out raids or controls at other times later. If the next raid is found the same person who has violated the previous health protocol, then he will be subject to punishment in the form of sanctions. In this case, individuals are usually given a sanction in the form of a mask fine. The mask fine means that we ask the community to buy masks to use for themselves and to be handed over to the Satpol PP and WH which will be handed back to the people who are caught, then we rotate it, if for the social sanction itself it can be in the form of cleaning the surrounding environment, whether the physical activity can be carried out pushups or not, we also see the physical condition in question, yes for social sanctions like that.⁶

Likewise for business actors (including coffee shop businesses) in Banda Aceh Municipality who violate health protocols. In the event that the coffee shop business actor violates the health protocol, it is the same as the description above which states that the Banda Aceh Municipality Satpol PP and WH in carrying out control of business actors is still based on the applicable SOP. In this case by taking actions in stages, namely:

1. Conduct patrols, raids or inspections to places of business that are considered to be prone to crowds.
2. Conduct patrols, raids and checks on traders who do not comply with health protocols.
3. Supervise business activities that cause crowds
4. Give verbal/written warnings to entrepreneurs who violate the Banda Aceh Perwal on Health Protocols.
5. Confiscate business actors who violate PPKM rules.
6. Suspension of permits and seals on entrepreneurs who have committed several violations.⁷

In connection with this, one of the people in charge of the Kuta Alam Coffee Shop business said that during the Covid-19 pandemic, the Satpol PP and WH conducted several raids on their place of business. They came and went straight into the shop and saw and paid attention to the visitors one by one. If they don't wear masks, then they are advised or given education about the importance of wearing masks during the Covid-19 pandemic. Some visitors who don't wear and don't have masks, they quickly run away from the coffee shop from the back door. Then for those who are still in place, the Satpol PP and WH advises and provides education to coffee shop managers to encourage visitors to wear masks and admonish visitors who do not wear masks.⁸

Meanwhile, Bukhari as a coffee shop worker said that almost every Saturday and Sunday night Satpol PP and WH

visited the place of business (coffee shop) where he worked. When they arrived in front of the coffee shop, they provided education through electronic loudspeakers (TOA) about the importance of 4M and the dangers of Covid-19. Next, they enter the room or into the coffee shop and check or pay attention to the coffee shop visitors and all of them wear masks, they take pictures (photographs) of the coffee shop visitors from the front of the coffee shop, after that they immediately leave the place. During the PPKM period, they (Satpol PP and WH) also ordered that coffee shops should not open past 21.00 WIB and warned that if they violated, they would be subject to a temporary closure of their place of business.⁹

Thus, it can be seen that for coffee shop business actors who violate health protocols during the Covid 19 pandemic, the Satpol PP and WH have carried out control according to the applicable SOP. Control is carried out persuasively, by providing direction or education about the dangers posed by Covid-19 for himself, for his family and for the community and the importance of maintaining the 4M health protocol. However, the reality is that the enforcement carried out by Satpol PP and WH has not been as effective as expected. This can be seen during the Covid-19 pandemic, there are still many coffee shop business actors who run their business activities not in accordance with the health protocols that have been set. In fact, according to the results of observations or observations made, it was found that there were coffee shops that were in a hurry to close when Satpol PP and WH came to carry out patrols or raids, but not long after Satpol PP and WH left the location, they reopened and the visitors also returned again, as before.

Judging from the sanctions given to coffee shop business actors who violate health protocols during the Covid-19 pandemic, one example is the use of masks. "Masks are only used by coffee shop visitors if Satpol PP and WH officers carry out patrols or raids in the place. The use of masks is only for a short time as long as Satpol PP and WH officers are still in the place. Meanwhile, if the Satpol PP and WH officers have left for patrols and raids elsewhere, the masks will be removed and stored again."¹⁰

Meanwhile for business actors, Satpol PP and WH always provide direction or education according to their SOPs. Then we give him an understanding, a reprimand, we give a statement that he will not do it again. So, a warning, if they don't heed the warning, we will call the office and we will give them a statement that they will not repeat their actions again. If they repeat it, they will be subject to further action in the form of a temporary closure of their business activities.¹¹

The sealing or temporary closure of coffee shop business activities has been carried out, such as coffee shops in the Simpang Surabaya area, Banda Aceh Municipality. This action is considered quite effective than the application of sanctions in the form of administrative fines, because the administrative fines for entrepreneurs do not feel heavy compared to their daily income. One example is an administrative fine of IDR 250,000 for small businesses and IDR 500,000 for medium and large businesses, so "business

⁶ Evendi, Ketua Bidang Trantib Satpol PP dan WH Banda Aceh, Wawancara, 28 Februari 2022, dalam Al Irsyad Gani, Penertiban Yang Dilakukan Oleh Satuan Polisi Pamong Praja Terhadap Pelaku Usaha Warung Kopi Yang Melanggar Protokol Kesehatan Dimasa Pandemi *Corona Virus Disease* 2019 Di Kota Banda Aceh, *Skripsi*, Fakultas Hukum Universitas Syiah Kuala, Banda Aceh, Indonesia, 2022, p.57.

⁷ Ibid.

⁸ Taufiq AR, Penanggung Jawab Warung Kopi Kuta Alam, Wawancara, 28 September 2021.

⁹ Hamdani, Pekerja Warung Kopi di Kawasan Lampineung, Wawancara, 2 Oktober 2021.

¹⁰ Fahmi Haykal, Pengunjung Tetap Warung Taufiq Kopi Lampulo Banda Aceh, Wawancara, 9 Januari 2022.

¹¹ Ibid.

actors prefer to pay administrative fines rather than temporary closure of their business activities. An administrative fine of IDR 500,000 for medium and large businesses does not burden business actors, because the income they earn per day is much more than that. Meanwhile, if a temporary closure of its business activities is carried out, the losses suffered by business actors will be much greater, in addition to the expected income not being met".¹²

Furthermore, Amri Ardiansyah added that "his place of business was temporarily closed by the Satpol PP and WH of Banda Aceh Municipality. When his place of business is closed for 1 (one) week, he has to pay approximately IDR 50,000 per person for 5 (five) workers who are not working during the temporary closure. So, the total cost that he has to pay is IDR 50,000 x 5 workers x 7 days of closing, which is IDR 1,750,000, - Meanwhile he loses the expected income of IDR 5,000,000 per day x 7 days, which is Rp. 3,500,000.- So the total loss experienced by temporarily closing its business activities is Rp. 1,750,000,- + Rp. 3,500,000.- = Rp. 5,250,000.- Therefore, if there is a choice, subject to an administrative fine according to the Perwal of Banda Aceh Municipality regarding Prokes or temporary closure of the place of business activity, then he will choose an administrative fine of IDR 500,000 instead of the place of business activity being temporarily closed".¹³

Thus, it can be understood that the control carried out by the Satpol PP and WH of Banda Aceh City is in accordance with the applicable SOP, where they carry out routine patrols or raids in places where there are indeed many or frequent crowds. In the event of a violation of the health protocol, the Satpol PP and WH of Banda Aceh Municipality first provide socialization and education to the violator and then give a verbal warning. After being given a verbal warning and still committing a violation, the next action is a written warning. With a written warning still being found, the violators were summoned to the Satpol PP and WH offices to sign a statement that they would not repeat similar violations. If they still commit violations, strict action must be taken in the form of temporarily closing the operational place of business. This is done to deter stubborn coffee shop business actors after several previous actions were ignored.

The ineffectiveness of policing carried out by Satpol PP and WH against coffee shop entrepreneurs who violate health protocols during the Covid-19 pandemic, even though they have been subject to sanctions in the form of temporary closure of coffee shop business activities, is caused by several factors.

If viewed from the perspective of an applicable statutory regulation, it can be said that a rule is effective if it can be applied in people's lives. In the sense that these regulations can be implemented in people's lives,¹⁴ so that they can run as expected.

One of the factors of the ineffectiveness of laws and regulations is because of the community itself in obeying the laws and regulations. "To find out the effectiveness of the legislation, the main indicator is the extent to which the rules are obeyed by the community".¹⁵

The community is the main indicator, because one of the most famous expressions when talking about legal issues is "*Ubi Societas Ibi Ius*", which means "where there is society there is law". It means, among other things, "the law becomes a reference for everyone to behave, both as individuals (individuals) and as a nation".¹⁶ In this case "the presence of a rule of law in the midst of society is very necessary, in order to regulate the interests of various people".¹⁷

According to Iba Nurkasiyani that "legal awareness means the awareness of a person or a certain community group against the applicable legal rules. Legal awareness is very important in people's lives, because legal awareness is very necessary in order to create order, peace, justice and peace in society can be realized in the association between people. Therefore, without good legal awareness, it is very difficult to realize it".¹⁸

Likewise, during the Covid-19 pandemic, a legal arrangement is needed so that the interests of many people to obtain health or avoid the transmission of Covid-19 can be carried out properly. However, if some members of the community do not support it, in the sense of not complying with the established rules, then it is impossible for these rules to work properly. Therefore, public legal awareness in enforcing rules or in complying with health protocols during the Covid-19 pandemic is very important, because with high legal awareness, the spread of Covid-19 will be controlled, so that people can live more calmly and the level of public health and safety. will be more secure.

Due to the lack of public legal awareness, coffee shop business actors also violated health protocols during the Covid-19 pandemic. In this case, one business actor said that "because the community (especially regular customers) do not comply with health protocols and they always visit their coffee shop, they must open their shop to sell coffee anyway. If the coffee shop does not open, or requires its customers to follow 4M, the customers will disappear and find a new place for them to drink coffee. Therefore, the coffee shop does not apply health protocols during the Covid-19 pandemic, only to put up a banner in front of the coffee shop containing an appeal to follow 4M, at least the words "must wear a mask".¹⁹

Thus, it is clear that one of the causes of the ineffectiveness of the control carried out by the Banda Aceh Municipality Satpol PP and WH against coffee shop business actors who

¹⁵ Ibid., p. 251.

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<https://www.google.com/search?q=dimana+ada+masyarakat+disitu+ada+hukum+ada-lah+teori+oq=dimana+ada+masyarakat+disitu+ada+&aqs=chrome..69i57j0i22i30l5j0i390l3.18123j0j15&sourceid=chrome&ie=UTF-8,> > [Accessed 27/02/2021].

¹⁷ <http://scholar.unand.ac.id/57223/3/Bab%20Pendahuluan.pdf>, > [accessed 27/02/2021].

¹⁸ Iba Nurkasiyani, Kesadaran Hukum Sejak Dini Bagi Masyarakat, https://www.jdih.tanahlautkab.go.id/artikel_hukum/detail/kesadaran-hukum-sejak-dini-bagi-masyarakat, [Accessed 27/02/2021].

¹⁹ Ibid.

¹² Hamdi Purnama, Pelaku Usaha Warung Kopi di Kota Banda Aceh, *Wawancara*, 10 Oktober 2021.

¹³ Amri Ardiansyah, Pengusaha Warung Kopi di Kawasan Ulee Lheue Banda Aceh, *Wawancara*, 12 Oktober 2021.

¹⁴ Muhammad Nahyan Zulfikar, Aminah, Efektivitas Peraturan Perundang-Undangan Dalam Bidang Pengelolaan Kawasan Rawa Tripa, *Kanun Jurnal Ilmu Hukum*, Vol. 22(2), Agustus 2020, p. 242.

violate health protocols during the Covid-19 pandemic is the lack of legal awareness of the community in complying with health protocols. So that this is one of the obstacles for the Banda Aceh Municipality Satpol PP and WH in carrying out control of business actors who violate health protocols during the Covid-19 pandemic.

4. Conclusion

Although business actors who violate health protocols during the Covid-19 pandemic can be subject to sanctions in the form of fines and temporary closure of business operations, in reality there are still violations of health protocols. Thus, it can be said that the provisions on health protocols are not effective in the community. One of the contributing factors is the community itself in obeying the laws and regulations, which in this case is due to the lack of legal awareness of the community to comply with health protocols. Thus, without good legal awareness, public compliance with health protocols is very difficult to achieve. Without community support, it is impossible for these regulations to work properly. Therefore, public legal awareness in enforcing rules or in complying with health protocols during the Covid-19 pandemic is very important, because with high legal awareness, the spread of Covid-19 will be controlled, so that people can live more calmly and the level of public health and safety. will be more secure.

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