

## Criminal Liability for Perpetrator Who Escaped During Covid-19 Quarantine : Case Study of Rachel Vennya

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### ABSTRACT

At the end of 2021, Indonesia was shocked by a celebrity case named Rachel Vennya who was known to have escaped quarantine from Wisma Atlet, Jakarta. Even though at that time the Covid-19 virus was hitting Indonesia and the case was still very high. At that time, the Indonesian Government was implementing a quarantine policy for all Indonesian citizens who were traveling both domestically and abroad in order to comply with the regulations made by the Indonesian Government regarding Covid-19 countermeasure. The purpose of this study was to determine the legal consequences and criminal liability for perpetrators who escaped from the Covid-19 quarantine. This study uses a normative legal research method with a statutory approach. From the results of the study, it can be seen that: 1. Perpetrators of violations who escape from quarantine can be subject to criminal liability. 2. Criminal sanctions for violating health quarantine are regulated in Article 93 of Law no. 6 of 2018 concerning Health Quarantine, which regulates parties who violate Article 9 paragraph (1) are threatened with a maximum imprisonment of one year and/or a maximum fine of Rp. 100 million based on the Tangerang District Court Decision in case number 21/Pid.S/2021/PNTng.

**Keywords:** Criminal Liability, Health Quarantine Violators, Covid-19

### Article History:

Received  
December 3, 2022

Revised  
February 22, 2023

Accepted  
Mei 10, 2023

### INTRODUCTION

At the end of 2019 the world's population was shocked by the Corona Virus Disease (Covid-19), Indonesia was no exception. In Indonesia, Covid-19 began to become an epidemic since the end of February 2020 and since March 2020 it was declared a pandemic by the World Health Organization (WHO) (Supriyono, 2020). The Covid-19 pandemic has had a huge impact on the joints of life in society, nation and state. Various steps have been taken by the government to suppress the spread of the virus. Some of these policies include Large-Scale Social Restrictions (PSBB) with reference to Government Regulation Number 21 of 2020, Enforcement of Restrictions on Community Activities (PPKM) to regional quarantine. The rule that forms the legal basis for this PPKM is the Instruction of the Minister of Home Affairs for PPKM Java

and Bali Number 27 of 2021 concerning the Enforcement of Restrictions on Emergency Community Activities for Corona Virus Disease 2019 in the Java and Bali Regions. Quarantine is one of the government's policies that aims to reduce the spread of Covid-19 so that positive victims do not increase by referring to Law Number 6 of 2018 concerning Health Quarantine in preventing the spread of the corona virus. One of the implementations is to limit people's movement and people's desire to gather in crowds and travel out of town / abroad. However, in practice, the policies taken by the government are not necessarily smooth without obstacles. The implementation of the policy turned out to cause new problems, because of the many violations committed by the community

The number of violations is due to the lack of massive socialization carried out by the authorities. In addition, it is caused by the low awareness of the community in implementing the law. There are still many people who think that the pandemic has taken away their rights and also because of the community's assumption that the pandemic is not dangerous (S. Supriyono, 2022).

One form of violation of government policies related to handling the pandemic is the violation of health quarantine. As reported in various mass media, namely the escape of a celebrity named Rachel Vennya from the Covid-19 quarantine (JawaPos, 2021). This case has become a hot topic of discussion and has become a pro and contra in the community because it happens that the perpetrator is a public figure. Rachel Vennya is suspected of having committed a criminal act for escaping from quarantine at Wisma Atlet Pademangan, Jakarta (Kompas.com, 2021).

Although when the author conducted this research the case had been sentenced by a judge at the Tangerang District Court with case number 21/Pid.S/2021/PN Tng, but the author considers that this research needs to be done so that no Indonesian people do the same thing by running away. from the Covid-19 quarantine.

In the previous research that is relevant to this study, the research of I Gede MK. Surya Charisma. W. A. regarding the Government's Firm Attitude in an effort to impose sanctions on violators of the Covid-19 health protocol in 2021 (Kharisma, 2021), research from Maroni, Fathonah, R., Anwar, M., Shafira, M., & Ariani, N. D. regarding the Socialization of Health Quarantine Crime and Disease Outbreaks during the Covid-19 pandemic in 2021 (Maroni, 2021), as well as research from Firdaus, A., & Pakpahan, R. H. on Criminal Law Policy as an effort to overcome Covid-19 emergencies in 2020 (Firdaus, 2020).

## **METHODS**

This research is a normative legal research, using a *statute approach* based on primary and secondary legal materials. The primary legal materials used to analyse the problem formulation are;

- a. Law Number 4 of 1984 article 14 concerning Outbreaks of Infectious Diseases
- b. Law Number 6 of 2018 article 93 concerning Health Quarantine.

The secondary legal materials used to discuss the problem are : Book and journal

## DISCUSSION AND RESULT

### Criminal Liability of Perpetrators who run away during the Covid-19 Quarantine

#### A. Theory of Crime and Criminal Liability

Crime comes from the Dutch term namely of *strafbaarfeit* (Adami Chazawi, 2002). Consists of three syllables, namely straf which is defined as criminal and punishment, baar is defined as can and may, and feit which is defined as acts, events, violations and deeds. The term offense or strafbaarfeit in legal science has many meanings and translations with similar meanings. Some of these translation or interpretations mention offenses as actions that can or may be punished, criminal events, criminal acts, and criminal offenses. According to Moeljanto, a criminal act or criminal act is an act that is prohibited by law and is threatened with a criminal offense whoever violates the prohibition (Eddy O.S, Hiariej, 2020).

Criminal is a translation of the word "straf" in Dutch. In everyday life, people also use the term "punishment" a lot as a translation of the word straf. According to Sudarto, there is a difference between the terms punishment and crime. The term punishment contains a general understanding as a sanction that is intentionally inflicted on someone who has violated the law, both criminal law and civil law, while the term criminal is a special understanding related to criminal law. That is, in the event of a violation of the provisions of criminal law, the perpetrator may be subject to sanctions in the form of a criminal offense (Muladi, 2010). According to Moeljatno, criminal law is part of the overall law that applies in a country, which provides the basics and rules for:

1. Determine which actions should not be carried out, which are prohibited, accompanied by threats or sanctions in the form of certain crimes for anyone who violates the prohibition.
2. Determine when and in what cases those who have violated the prohibitions can be imposed or sentenced to the punishment that has been threatened.
3. Determine how the imposition of the punishment can be carried out if there are people who are suspected of having violated the prohibition (Moeljatno, 2008).

According to Simons formulate a criminal act as follows : "Criminal act is a human act that is contrary to the law, is threatened with punishment by law which act is carried out by a person who can be accounted for and can be blamed on the maker" Taking into account the above definition, there are several conditions to determine the act as a criminal act, these conditions are as follows :

- a. There must be human action
- b. Human actions are against the law:
- c. The act is prohibited by law and is punishable by the following penalties:
- d. The act was carried out by a responsible person; and
- e. The act must be accountable to the maker.

P. A. F. Lamintang in his book entitled Basics of Indonesian Criminal Law, explains that every criminal act contained in the Criminal Code can be divided two kinds of elements, namely subjective elements and objective elements (Lamintang, 2012). Subjective elements, namely elements that are related or attached to the

perpetrator, are included in it, namely everything that is contained in the heart of the perpetrator. Whereas what is meant by objective elements are elements related to circumstances, namely in the circumstances in which the actions of the perpetrator must be carried out. The subjective elements of a crime are:

- a. presence of intentional or unintentional (*dolus or culpa*);
- b. there is an intention or voornemen in an experiment or poging as described in Article 53 paragraph (1) of the Criminal Code;
- c. various purposes or oogbrands, such as those contained for example in the crimes of theft, fraud, extortion, forgery, and others;
- d. planning in advance or voorbedachte raad, as contained in the crime of premeditated murder in Article 340 of the Criminal Code;
- e. feelings of fear or anxiety, as contained in the formulation of a crime according to Article 308 of the Criminal Code.

While the objective elements of a crime are:

- a. unlawful nature (*wederrechtelijkheid*);
- b. the quality or condition of the perpetrator, for example the state as a civil servant in a crime according to Article 415 of the Criminal Code or the state of being the administrator of a limited liability company in a crime according to Article 398 of the Criminal Code;
- c. causality, which is a relationship between an action or action as a cause with a reality as a result.

Criminal liability relates to the issue of whether the person who committed the act (crime) can be held accountable for his actions (crime that has been committed). Criminal responsibility is attached to people not to criminal acts or acts. It is said to be responsible, if the person has made a mistake. In the Criminal Code there is no firm formulation of the ability to be responsible for a criminal act, Article 44 paragraph (1) of the Criminal Code actually formulates a situation, when a person is unable to take responsibility so that he is not convicted, meaning to formulate the opposite (negative) of the ability to be responsible. Meanwhile, when the person in charge can be interpreted the other way around, namely if there are no two mental states as described in Article 44 of the Criminal Code.

## **B. Definition of Covid-19 Quarantine**

With the increase in Covid-19 cases in Indonesia, the government through the Ministry of Health issued a policy regarding quarantine rules and self-isolation for Covid-19 survivors, it is necessary to know two terms that are often mentioned during the Covid-19 pandemic. Even though they sound the same, these two terms actually have different definitions. Quarantine is an effort to separate someone who is exposed to Covid-19 (either from a history of contact or a history of traveling to areas where community transmission has occurred) even though they have not shown any symptoms or are in the incubation period in order to reduce the risk of transmission. Quarantine is carried out even though they have not shown any symptoms or are in the incubation period. Isolation is an effort to separate someone who is sick who needs Covid-19 treatment or someone who is confirmed to be Covid-19 from a healthy person with the aim of reducing the risk of transmission. The community as an

inherent right has the right to protection and health services. This is explicitly regulated in the constitution in Article 28H paragraph (1) of the 1945 Constitution which states that "Everyone has the right to live in physical and spiritual prosperity, to live, and to have a good and healthy environment and have the right to obtain health services." The inclusion of these provisions into the constitution makes health a legal right which of course is also guaranteed by the state (Indra Perwira, 2014).

According to the 4th revision of the Coronavirus Disease (Covid-19) prevention and control guidelines, quarantine is divided into 3 forms, including the following;

1. Home quarantine (self-isolation), intended for people with OTG status (people without symptoms), ODP (people under surveillance), PDP (patients under surveillance) with mild symptoms. The place to undergo home quarantine is your own home or your own facility. The costs are borne independently and by other parties who can help (philanthropy).
2. Quarantine of special facilities / Covid-19 Emergency Hospital, intended for ODP aged over 60 years with controlled comorbidities, moderate symptom PDP, and mild PDP without inadequate home quarantine facilities. A place to undergo quarantine is provided by the Government in the form of a Covid-19 Emergency Hospital. Costs are borne by the Government (BNPB, Governor, Regent, Mayor, Camat and Kades, and other sources).
3. Hospital quarantine, aimed at PDP with severe symptoms. The place for quarantine is the hospital. Costs borne by the Government (BNPB, Governor, Regent, Mayor, Camat and Kades, and other sources).

### **C. Criminal Liability for Perpetrators who run away during the Covid-19 Quarantine**

Moeljatno argues that "a criminal act is an act which according to a statutory regulation is prohibited and is threatened with a crime, provided that in the sentence it is remembered that the prohibition is related to an act, namely a condition or event caused by someone's negligence, while the threat The crime is aimed at the person who committed the crime that caused the incident (C.S.T Kansil, 2014). Meanwhile, according to Wirjono Prodjodikoro, what is meant by a criminal act is an act for which the perpetrator can be subject to criminal sanctions, and the perpetrator can be considered the object of a criminal act (Wirjono Prodjodikoro, 1981), in WVS it is known as *Strafbaar feit*, while in the literature it is used the term violation. Legislators use the terms criminal events, criminal acts, criminal acts (Samidjo, 1985).

Criminal liability is only carried out by perpetrators of criminal acts based on the principles that apply in criminal law, namely "*Nulla Poena Sina Crimen*" (no crime without a criminal act), this principle can be understood that to be convicted of legal liability someone must commit a crime (Chairul Bariah, 2017). Health protocols are rules and regulations that must be obeyed by all parties in order to carry out activities safely during the current corona pandemic, with health protocols it is hoped that people can carry out their activities safely and there are no other obstacles.

As part of handling the control of the Covid-19 virus and in order to provide legal certainty, strengthen efforts and increase the effectiveness of the prevention and

control of the Covid-19 virus disease in all regions, the Indonesian government has issued Presidential Instruction of the Republic of Indonesia Number 6 of 2020 concerning improving discipline and law enforcement. The law on health protocols in the prevention and control of the 2019 corona virus disease was then extended with the issuance of the Instruction of the Minister of Home Affairs number 4 of 2020 concerning Technical Guidelines for the Preparation of Regional Regulations as part of the implementation of Regional Regulations. Enforcement of disciplinary laws and health protocols as part of efforts to prevent and control the 2019 Corona virus disease in the regions. In the Health Quarantine Law, especially in Article 15 paragraph 2, it is explained that;

- a. Quarantine, isolation, vaccination or prophylaxis, orientation, disinfection and/or decontamination of people as indicated.
- b. Large-scale social restrictions
- c. Deratization of transportation means and goods and/or
- d. Health, safety and environmental media control

Implementing health protocols is important to prevent the spread of Covid-19. An effective way to apply it can be done by staying disciplined at home. Awareness and the role of all family members in protecting each other by implementing the protocol to prevent the spread of COVID-19 is very important and will get used to socializing in the wider community, so that the implementation of health protocols becomes disciplined. and public awareness in activities of daily life.

## **Legal consequences for perpetrators who run away during the Covid-19 Quarantine**

### **A. Theory of legal consequences**

Legal consequences are consequences caused by law, on an act committed by a legal subject (Achmad Ali, 2008). Legal consequences are events caused by a cause, namely actions committed by legal subjects, both actions that are in accordance with the law, or actions that are not in accordance with the law. Legal consequences are consequences caused by a legal event, which can take the form of :

1. Birth, change or disappearance of a legal situation.
2. The birth, change or disappearance of a legal relationship between two or more legal subjects, where the rights and obligations of one party are in conflict with the rights and obligations of the other party.
3. The birth of sanctions if an action is taken against the law.
4. Legal consequences arising from emergency events by the law concerned have been recognized or considered as legal consequences, even though under normal circumstances these actions may be prohibited by law (Soeroso,2006).

### **B. Legal consequences for perpetrators who run away during the Covid-19 Quarantine**

The quarantine law provisions for Indonesian citizens traveling internationally are regulated in the Decree of the Head of the Covid-19 Handling Task Force Number 14 of 2021 (Decree of the Chair of the Covid-19 Task Force 14/2021). In the preamble or considering letter a of the regulation, it is explained that one of the backgrounds for the issuance of the regulation is that in order to follow up the

development of the situation in handling Covid-19, it is necessary to tighten and adjust the control mechanism for international travel. Indonesian citizens traveling internationally are required to quarantine with the following conditions:

- a. Quarantine with a period of 5 days from the country of origin with a low escalation of positive cases.
- b. Quarantine with a period of 14 days from the country of origin with a high escalation of positive cases.

The Wisma Athlete Emergency Hospital is designated as a quarantine place for Indonesian citizens traveling internationally which is intended for the following three groups :

1. Indonesian migrant workers who return to Indonesia and stay 14 days in Indonesia.
2. Indonesian students or students after attending education or carrying out study assignments from abroad.
3. Indonesian government employees who return to Indonesia after carrying out official trips from abroad.

The funding for quarantine activities at the Wisma Athlete Emergency Hospital for the three groups above is sourced from the Ready-to-Use Fund (DSP) of the National Disaster Management Agency and/or from other APBN/ APBD sources. However, if government employees are not willing to quarantine at the Wisma Athlete Emergency Hospital, then quarantine must be carried out at a centralized Quarantine Hotel determined by the Covid-19 Task Force at their own expense or other legal sources.

Spokesman for the Covid-19 Task Force, Prof. Wiku Adisasmito, said that parties who did not heed the call for quarantine could be subject to legal sanctions as stipulated in Article 14 of Law Number 4 of 1984 concerning Infectious Disease Outbreaks (Infectious Disease Outbreaks Act), namely as follows:

1. Anyone who deliberately obstructs the implementation of epidemic control as regulated in the Law on Outbreaks of Infectious Diseases, is threatened with a maximum imprisonment of 1 (one) year and/or a maximum fine of Rp. 1,000,000 (one million rupiah).
2. Any person who due to negligence causes the implementation of epidemic control to be hindered as stipulated in the Law on Outbreaks of Infectious Diseases, is threatened with imprisonment for a maximum of 6 (six) months and/or a maximum fine of Rp. 500,000 (five hundred thousand rupiahs).
3. The crime as referred to in paragraph (1) is a crime and the crime as referred to in paragraph (2) is a violation.

In addition to the above legal sanctions, legal sanctions can also be imposed as stipulated in Article 93 of Law Number 6 of 2018 concerning Health Quarantine (Health Quarantine Law) that anyone who does not comply with the implementation of Health Quarantine and/or hinders the implementation of Health Quarantine so that causing a Public Health Emergency to be sentenced to a maximum imprisonment of 1 (one) year and/or a maximum fine of Rp. 100,000,000.00 (one hundred million

rupiah). There are several reasons why running away from quarantine obligations should be punished:

- a. Creates a (*deterrent effect*) for perpetrators not to repeat their actions.
- b. Create a preventive effect for the wider community so as not to participate in similar acts (*general prevention*).

At the end of last year, we were shocked by the news that one of Rachel Vennya's celebrities had run away from her quarantine obligations from Wisma Atlet after traveling from abroad before her quarantine period was over. The celebrity allegedly ran away after undergoing a 3 day quarantine period, even though he should have been quarantined for 5 days. As a result of his actions, Rachel Vennya was found guilty for violating several laws and regulations, namely:

1. Article 14 of Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases.
2. Article 93 of Law Number 6 of 2018 concerning Health Quarantine

Rachel Vennya was named a suspect in a criminal act after investigators conducted a case that started from the airport to the Athlete House. Rachel Vennya was proven guilty due to the fact that Rachel Vennya's escape was assisted by several parties to escape from her quarantine obligations, the person who helped Rachel was allegedly the Covid-19 task force who worked at the airport. As a result of Rachel's actions at that time together with two other people who were managers and close friends, the panel of judges finally sentenced them to four months in prison with a probationary period of eight months and a fine of Rp. 50,000,000 (fifty million rupiah) subsidiary one month. confinement in the Tangerang District Court with case number 21/Pid.S/2021/PN Tng.

In this decision, the judge sentenced him to four months in prison with a probationary period of eight months in which Rachel Vennya and two other people had to behave properly, not breaking the law. If during the probation period Rachel Vennya and two other people violate the law, they can immediately be imprisoned for four months without having to undergo another trial. Rachel Vennya was sued by the Prosecutor pursuant to Article 93 of Law no. 6 of 2018 concerning Health Quarantine where the sentence in the article is a maximum of one year, the judge may not give a verdict more than what is stated in the article because there is a prohibition.

The judge said the attitude of Rachel Vennya and two other people who frankly admitted their actions and didn't complicate things when they were questioned was what eased their sentences, and Rachel Vennya and two other people were considered polite when attending the trial. Rachel Vennya and two other people can be released from prison if during their probation period they are free from both criminal and civil crimes. This is in accordance with the regulations in force in Indonesia and the facts obtained by the investigative team during the trial and case proceedings.

From the Rachel Vennya case example, it can be concluded that a lack of awareness of criminal law can occur in all levels of society, including Rachel Vennya, who as a celebgram should provide examples of good deeds to the community through social media accounts. With the sanctions given to Rachel Vennya in the form

of probationary sanctions, it is hoped that it can provide a deterrent effect to Rachel and all levels of society in Indonesia not to commit such acts.

## CONCLUSION

Based on the example of the Rachel Vennya case, perpetrators who fled during the Covid-19 quarantine could be subject to criminal liability by referring to Article 14 of Law Number 4 of 1984 concerning Infectious Disease Outbreaks and Article 93 of Law Number 6 of 2018 concerning Health Quarantine. And based on the example of the Rachel Vennya case, the legal consequences for perpetrators who escape during the Covid-19 quarantine can be sentenced to a maximum imprisonment of 1 (one) year and/or a maximum fine of Rp. 100,000,000 (one hundred million rupiah).

With the sanctions given to Rachel Vennya, it is hoped that all Indonesian people will not commit such acts and the community will always comply with applicable laws and do not hesitate to report to the authorities if they know of unlawful acts. Especially in helping the government's efforts to suppress the spread of the Covid-19 virus for the good of all parties in dealing with pandemic conditions like this.

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