

Legal Aspects of Actions of the Traffic Police as a Chain Breaker for Covid-19 Transmission



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Abstract: The role of Police of the Republic of Indonesia in enforcing discipline among the community is very significant, especially the role of Traffic Police (SATLANTAS) in providing education to people who drive, use public transportation to access the public facilities and so on. However, people who want to be protected cannot accept the funeral of Covid-19 in their local cemeteries, by resisting police officers. So in this case, POLRI (*the Police of the Republic of Indonesia*) and especially the traffic polices play a significant role in facing the community. There is a need for legal protection for the efforts that the police will take in both preventive and repressive efforts. The purpose of this study is to analyze the Legal Aspects of traffic police action as a Covid-19 transmission chain breaker. The method used in this research is a normative juridical research method, which is research that focuses on examining the application of rules or norms in positive law. The purpose of this study is to analyze the legal aspects of traffic police action as a covid-19 chain breaker. This research is expected to provide information to the reader about the legal aspects of traffic police action as a Covid-19 chain breaker and a form of legal protection for traffic police who have a duty to break the covid-19 chain breaker. As for the results of this research, every action taken by the police, especially the traffic police during a pandemic to the public has a legal basis, namely Law Number 2 of 2002 on Police of the republic of Indonesia, Article 3 of Law Number 22 of 2009 traffic and road transport other the police also have a right to be protected like a civil society because they have the rights as stated in Article 28 of the 1945 Constitution and Article 10 of article number 8 of 2009 on the implementation of human rights principles and standards in the performance of the duties of the state police of the republic of Indonesia. So that for policyholders to be able to provide more strict regulations, and informative for the public and police officers can realize a common goal. It is hoped that no more similar cases will occur so that the public can better understand the rules in force in the Prevention of Covid-19 Transmission in Indonesia and the public can act more wisely in dealing with it.

KEYWORD: legal aspects, police action, traffic police, covid-19 transmission

1. INTRODUCTIONS

The Corona Virus Disease (Covid-19) has been a major problem globally. As of June 11, the Indonesian Government announced 35,295 confirmed cases of Covid-19 2000 deaths and 12,636 cases recovered from 424 districts/cities in 34 provinces.¹ In the effort to prevent the Covid-19 chain in Indonesia, there is a foundation of discipline from various aspects, especially the social life of the community. One of the social disciplines of society that is enforced today is in the form of physical distancing. This method is considered the most effective effort to prevent and reduce the spread of corona virus. The spread of Covid-19 virus over time has increased the number of victims.² The Indonesian government will not impose a lockdown, but physical distancing since mid - March 2020, the use of the term physical distancing is considered more appropriate than social distancing. Basically what is needed is to maintain a physical non -social distance.³ The government urges the public to avoid gatherings, large gatherings, and creating crowds. One of the forms of police efforts in realizing physical distancing is through the Enforcement of Restrictions on Public Activities (PPKM) in accordance with Circular Letter Number: 800/247/BPDB/II/2021. One of the substances of the PPKM Evaluation, especially for the Traffic Police, is that the capacity setting and operating hours of public transport have not been maximized. Information from the State Police of the Republic of Indonesia states that the State Police of the Republic of Indonesia fully supports the government's policy regarding the handling of Covid-19 and breaking the chain of corona outbreaks in Indonesia through action against the people who are still gathered. In addition, the State Police of the Republic of Indonesia also focuses on handling crimes that could potentially occur during the implementation of PSBB, such as street crime, resistance

¹ World Health Organization Indonesia, *Coronavirus Disasea 2019(COVID 19)-Ikhtisar Kegiatan-2*, Cetakan 2, 2020, p.1

² <https://news.google.com/covid19/map?hl=id&mid=%2Fm%2F03ryn&gl=ID&ceid=ID%3Aid>, 12 Oktober 2020. diakses tanggal 13 Oktober 2020

³ Rian Septia Kurniawan, *Diskresi Kepolisian Dalam Menjaga Keamanan dan Ketertiban Masyarakat Di Wilayah Hukum Polsek Simokerto Surabaya*, Airlangga Development Journal, h.120

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to officers, the issue of availability of basic materials, and cyber crime.⁴ The police as a tool of the state has a format in the pandemic period, namely the Police as a law enforcement instrument, the Police as a supporting instrument to prevent the spread of disease, the Police as an instrument of public education. The role of the State Police of the Republic of Indonesia in enforcing discipline in the community is very important, especially the ranks of the Traffic Unit in providing education to people who drive, use public transportation to access public facilities, home and so on. For example, the role of the Regional Sector Police in direct contact with the community, as done by the Traffic Unit) has made efforts to divert current at several points and also installed distance restriction signs for motorists who stop at red lights. The installation of the distance demarcation line in order to implement physical distancing between riders, especially two -wheelers when stopping at a red light.

The government strengthens physical distancing obligations through Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions (PSBB) and Ministry of Health Regulation (Permenkes) Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019. Traffic is the lifeblood of the nation, as a means of social liaison between humans and modes of transportation in order to continue to fulfill the needs of food, clothing and community boards in the midst of a pandemic. The role of the Indonesian National Police which is so crucial and significant to prevent the spread of Covid-19 is certainly an "additional" task that was never expected before. The function of law enforcement carried out by the State Police of the Republic of Indonesia is actually inseparable from the function of the State Police of the Republic of Indonesia as stipulated in Article 2 of Law Number 2 of 2002 concerning the State Police of the Republic of Indonesia (hereinafter referred to as the Police Law) which stipulates the functions of the Police, namely: During the Covid-19 pandemic, the role of the State Police of the Republic of Indonesia is more emphasized on carrying out the function of law enforcement which was reaffirmed through the Decree of the State Police of the Republic of Indonesia Number Mak/2/III/2020 concerning Compliance with Government Policies in Handling the Corona Virus. The announcement is an initiative of the Indonesian National Police in supporting PP No. 21 of 2020 concerning PSBB and regulation of health minister No. 9 of 2020. The complexity of the police duties during the Covid-19 pandemic is stated in Article 13 of Law Number 2 of 2002 concerning the Indonesian National Police which was further emphasized by the issuance of the Chief of Police's telegram, namely the Telegram Letter Number ST/1098/IV/HUK.7.1/2020 concerning PSBB regarding guidelines for police personnel in taking legal action, Telegram Letter Number ST/1099/IV/HUK.7.1/2020 concerning handling crimes in the task of providing basic materials and distribution, Telegram Letter Number ST/1100/IV/HUK.7.1/2020 regarding handling crimes in cyberspace, Telegram Letter Number ST/1101/IV/HUK.7.1/2020 regarding handling crimes in cyberspace and finally Telegram Letter Number ST/1102/IV/HUK.7.1/2020 regulating the handling of TKI who have just arrived in cyberspace Countries affected by Covid-19.⁵

An example of a case of the phenomenon of violating health protocols in the East Lombok region, namely the number of people, especially in rural areas, lack of awareness of the dangers of Covid-19 by violating health protocols when in public facilities such as markets, even though at that time the area that was first confirmed as a red zone was east lombok area. In addition, in the Mekar Sari Village, Gunungsari District, West Lombok, there was a case of forced retrieval of bodies by the community at the Mataram City Regional General Hospital by the masses from the villagers, and the community still could not accept that the body was confirmed to have been exposed to Covid-19 and buried according to health protocols.⁶ In fact, the public can also not accept the funeral of the corpse of Covid-19 at their the regional public cemetery by expelling health workers, fighting against police officers, throwing stones at ambulances, and blocking traffic roads. So in this case (Republic of Indonesia Police) POLRI and in particular (Traffic Police) POLANTAS have a very important role in the field in dealing with the community. There needs to be legal protection for the actions that will be taken by the police, both in preventive and repressive efforts. The Traffic Units conduct raids for people who do not comply with health protocols, such as people who do not wear masks to prevent the transmission of Covid-19. Basically, the police expect the public to obey the health protocols, so the police work will be easy and effective. The police also expect the participation of community members in crime prevention efforts and maintenance of public order, thus between law enforcers and the community there is expected to be good cooperation so that laws or regulations can run as they should. So that all aspects of community life can be carried out based on applicable regulations in order Indonesian citizens can achieve the public order in the state of Indonesia. With the existence of law enforcers, it is expected to be able to realize legal order in society and at the same time provide firm action for violators of the law or regulation. This

⁴ [https://www.cnbcindonesia.com/news/20200406131810-8-150024/simak-ini-maklumat -Kepolisian Negara Republik Indonesia-untuk-penegakan-hukum-psbb](https://www.cnbcindonesia.com/news/20200406131810-8-150024/simak-ini-maklumat-Kepolisian-Negara-Republik-Indonesia-untuk-penegakan-hukum-psbb), 6 April 2020. Diakses tanggal 5 Mei 2020

⁵ Budhi Suria Wardhana, *Kompleksitas Tugas Kepolisian pada Masa Pandemi Covid-19*, Jurnal Ilmu Kepolisian, Volume 14, Nomor 2, Agustus 2020 h.85

⁶ Dheri Agriesta, *Pengambilan Paksa Jenazah Pasien Covid-19 di Mataram Camat: Saya Di Paksa Menyetujui*, <https://regional.kompas.com/read/2020/07/07/09185781/pengambilan-paksa-jenazah-pasien-covid-19-di-mataram-camat-saya-dipaksa?page=all>, diakses 1 Februari 2021, Jam 09.00 WITA

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article aims to analyze the legal basis for the actions of the Traffic Police as a Covid-19 chain breaker and analyze the legal protection of the Traffic Police acting as a Covid-19 chain breaker.

2. THEORITICAL REVIEW

The Concept of Legal Protection

Legal protection in English is known as "protection of the law". The definition of legal protection is all efforts made consciously by every person as well as government and private institutions aimed at securing, controlling and fulfilling the welfare of life in accordance with existing human rights. In principle, legal protection does not differentiate between men and women, the state government system as stated in the explanation of the 1945 Constitution, among others, states that the principle of Indonesia is a state based on law (rechtstat) and a government based on a constitutional system (basic law). The main element of the rule of law is the recognition and protection of "fundamental rights" on basic/human rights. The purpose of legal protection is to provide protection for rights. Satjipto Rahardjo said that the law exists in society to integrate and coordinate interests that may conflict with one another. The coordination of these interests is carried out by limiting and protecting these interests.⁷

Philipus Hadjon argues that "The principle of legal protection for the people against government actions rests and originates from the concept of recognition and protection of human rights because historically in the west, the birth of concepts regarding the recognition and protection of human rights is directed at limiting human rights directed to restrictions and placing obligations on society and the government."⁸

According to Hadjon, there are two kinds of means of legal protection, namely:

1. Means of Preventive Legal Protection

In this preventive legal protection, legal subjects are given the opportunity to submit their objections or opinions before a government decision gets a definitive form. The goal is to prevent disputes from occurring. Preventive legal protection is very meaningful for government actions based on freedom of action because of the preventive legal protection the government is encouraged to be careful in making decisions based on discretion. In Indonesia, there is no specific regulation regarding preventive legal protection.

2. Means of Repressive Legal Protection

Repressive legal protection aims to resolve disputes. The principle of legal protection against government actions rests and originates from the concept of recognition of the protection of human rights, of human rights having the main place and can be linked to the objectives of the rule of law.⁹ The other definition of legal protection is to provide protection for human rights that have been harmed by others and that protection is given to the community so that they can enjoy all the rights granted by law or in other words legal protection is various legal remedies that must be provided by law enforcement officials. Law to provide a sense of security, both physically and mentally from interference and various threats from any party.¹⁰

The law functions as a protector of human interests, so that human interests are protected. Therefore, law enforcement must pay attention to 4 elements, namely:

- a) Legal Certainty (Rechtssicherheit);
- b) Legal Benefits (Zweckmassigkeit);
- c) Legal Justice (Gerechtigkeit);
- d) Legal Guarantee (Doelmatigkeit).¹¹

Laws that have been violated must be enforced through law enforcement. Law enforcement requires legal certainty. The community really hopes for legal certainty because with legal certainty the community will be orderly, safe and peaceful. So based on this opinion, it shows that legal protection must be enforced by the Traffic Police as a breaker of the Covid-19 chain by protecting human rights, telling what is the community's obligation to participate as a Covid-19 chain breaker, providing a sense of security, and legal certainty, especially for people who have complied with health protocols, PSBB and physical distancing and provide law enforcement for those who violate. Because the task of the Traffic Police as the main guard in enforcing Large-Scale Social Restrictions or PSBB for short and for the sake of maintaining the welfare of the community and the national economy remains stable as stated in the preamble to the Constitution of the Republic of Indonesia. a. Theory of Legal Protection for Traffic Police Actions during the Covid-19 Pandemic Legal protection is a protection given to legal subjects in accordance with the rule of law, whether it is preventive in nature or in a repressive form, both written and unwritten in the context of enforcing legal

⁷ Satjipto Rahardjo, *Ilmu Hukum*, Citra Aditya Bakti, Bandung, 2000, p. 53.

⁸ Philipus M. Hadjon, *Perlindungan Rakyat Bagi Rakyat di Indonesia (Sebuah Studi tentang Prinsip-Prinsipnya, Penanganannya Oleh Pengadilan dalam Lingkungan Peradilan Umum dan Pembentukan Peradilan Administrasi Negara)*, Surabaya, PT Bina Ilmu, 1987, p.38

⁹ Ibid page 30

¹⁰ Satjipto Rahardjo, *Penyelenggaraan Keadilan Dalam Masyarakat Yang Sedang Berubah*, *Jurnal Masalah Hukum*, Edisi 10, 1993. p. 3

¹¹ Ishaq, *Dasar-dasar Ilmu Hukum.*, Jakarta, Sinar Grafika, 2009 p.43

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regulations. According to Article 28 G Paragraphs (1) of the 1945 Constitution of the Republic of Indonesia, "Everyone has the right to protect himself, his family, honor, dignity and property under his control. And have the right to a sense of security & protection from the threat of fear to do or not do something which is a human right." In this case, everyone has the right to communicate, gather (in society) and freely express opinions, but these rights are limited by the rights of others. Because living in a society, nation & state in the dignity of a person cannot be valued (immaterial). In addition, the Government is also obliged to deal with the epidemic, namely in the manner regulated in Article 5 of Law no. 4 of 1984 concerning Outbreaks of Infectious Diseases:

- a. Epidemiological Investigations;
- b. Inspection;
- c. Treatment;
- d. Patient Care and Isolation Including Quarantine;
- e. Prevention and Immunization;
- f. Extermination of the Causes of Disease;
- g. Handling of Bodies Due to Outbreaks;
- h. Counseling to the Community;
- i. Other countermeasures.

The Concept of Traffic Police

The term police comes from the Dutch "politie" which takes from the Latin "politia" which comes from the Greek word politia which means city residents or city government. The police as law enforcers are an agency that maintains public security and order and becomes an investigator of criminal cases. According to Charles Reith, the police are a force to monitor the community so that they do not violate the agreed rules in order to achieve orderly and safe conditions in life together.¹²

According to Indonesian Dictionary, the term police is defined as a government agency tasked with maintaining security and public order (arresting people who violate the law, etc.), and members of government agencies (state employees tasked with maintaining security, etc).¹³

Traffic Police Duties and Functions According to Article 1 of Law Number 22 of 2009 concerning Road Transport Traffic, it is stated that Traffic is the movement of vehicles and people in the Road Traffic Room. The Traffic Unit is led by the Head of the Traffic Unit (Kasatlantas) who is responsible to the Head of the Resort Police and in carrying out daily tasks under the control of the Deputy Chief of the Resort Police. The traffic unit is tasked with carrying out traffic management, traffic community education, registration and identification services for motorized vehicles and drivers, investigation of traffic accidents and law enforcement in the field of traffic. The Traffic Unit in accordance with Article 59 paragraph (3) of the Regulation of the Head of the State Police of the Republic of Indonesia Number 23 of 2010 concerning Organizational Structure and Work Procedures at the Resort Police and Resort Police Level carries out functions, namely:

1. Police traffic management;
2. Fostering community participation through cross-sectoral cooperation, Dikmaslantas, and assessment of problems in the traffic sector;
3. Implementation of traffic police operations in the context of law enforcement and security, safety, order, and smooth traffic (Kamseltibcarlantas);
4. Administrative services for registration and identification of motorized vehicles and drivers;
5. Implementation of highway patrol's and enforcement of violations as well as handling of traffic accidents in the context of law enforcement, as well as ensuring security and safety on the roads;
6. Security and rescue of road users;
7. Maintenance and maintenance of equipment and vehicles.

3. METHODOLOGY

The method used in this study has an important role because it can be used as a guide to make it easier to study, analyze and understand the problems being studied. In this study, the author uses a type of research, namely normative legal research. Normative research is a research conducted by examining library materials or secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials from each normative law. In this study, the authors rely on the literature and legislation relating to the problems to be studied to obtain answers to the problems above. The approach method

¹² Djoko Prakoso, *Kepolisian Negara Republik Indonesia sebagai Penyidik dalam Penegak Hukum*, 1987, Bina Aksara, Jakarta, h. 165

¹³ Kamus Besar Bahasa Indonesia di <https://kbbi.kemdikbud.go.id/entri/polisi>, diakses pada Tahun 2016

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used to answer the problems in this research is the Statute Approach by examining all laws and regulations related to the legal issues being discussed. The second approach is the Conceptual Approach where this approach departs from the views and doctrines that develop in the science of law. And the third is the Case Approach, which is carried out by examining cases related to the issues at hand.¹⁴ Several cases were studied for reference for a legal issue. For examples of cases of forced retrieval of Covid-19 bodies by the public by violating health protocols to blocking traffic and even crimes during the pandemic.

4. DISCUSSION

Legal Basis for Traffic Police Actions Breaking the Covid-19 Chain

The legal basis or juridical basis is a consideration or reason that illustrates that regulations are formed to overcome legal problems or fill legal voids by considering existing rules, which are amended, or will be revoked in order to ensure legal certainty and a sense of community justice. The juridical basis concerns legal issues related to the substance or material that is regulated so that it is necessary to form new laws and regulations. Some of these legal issues include outdated or old regulations, overlapping regulations, types of regulations that are lower than the law so that the enforcement power is weak, but the existing regulations are inadequate, or the regulations have never existed before.

The action he takes is a legal action, namely an action taken to obtain a result that is desired by the law. Legal consequences are all consequences that occur from all legal actions carried out by legal subjects against legal objects or other consequences caused by certain events by the law concerned have been determined or considered as legal consequences.¹⁵

In this pandemic condition, some people still do not believe in the existence of Covid-19 which can cause someone to die, so that people still cannot comply with the existing PSBB rules. It is the responsibility of the police as one of the front lines other than doctors to maintain security and public order in order to comply with applicable laws as described in Law Number 2 of 2002 concerning the Indonesian National Police in improving the maintenance of domestic security through efforts to carry out police functions which include maintaining security and public order, law enforcement, protection, shelter, and services to the community are carried out by the Indonesian National Police as an instrument of the state assisted by the community by upholding human rights. The legal basis for the traffic police in breaking the Covid-19 chain is: Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions (PSBB).

On March 31, 2020, President Joko Widodo held a press conference, with the aim of announcing to the public the policies he had chosen to address COVID-19 as a global pandemic that the Indonesian people are currently facing. At the press conference, President Joko Widodo issued a statement that the Large-Scale Social Restriction (PSBB) policy was the chosen policy in response to a Health Emergency. During the press conference, President Joko Widodo also emphasized that local governments should not apply their own policies in their territory that are not in accordance with the protocols of the Central Government. The Government Regulation of the Republic of Indonesia Number 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease 2019 (COVID-19) is quite short, consisting of 5 content pages and 2 explanation pages. The content page consists of 7 articles with a core of 5 articles. Large-Scale Social Restrictions are restrictions on certain activities of residents in an area suspected of being infected with Coronavirus Disease 2019 (COVID-19).¹⁶

Regional governments and the private sector must comply with the Large-Scale Social Restrictions (PSBB) determined by the central government, if they do not comply with or hinder the implementation of Large-Scale Social Restrictions (PSBB) they will be subject to criminal sanctions. This Government Regulation of the Republic of Indonesia Number 21 of 2020 then drew criticism from a number of legal experts, especially as the Implementing Regulation of the Law of the Republic of Indonesia Number 6 of 2018 concerning Health Quarantine. The Government Regulation of the Republic of Indonesia Number 21 of 2020 by the Constitutional Law Expert, Zainal Arifin Mochtar, is considered too minimalist and does not explain the operations of the PSBB.¹⁷ Government Regulation of the Republic of Indonesia Number 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease 2019 (COVID-19) as an Implementing Regulation should contain further elaboration of the provisions that have not been detailed regulated in the three laws that form the basis for its formation. However, as the Implementing Regulations of the three laws, the content or substance of the Government Regulation of the Republic of Indonesia Number 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease 2019 (COVID-19) is too limited.

¹⁴ Amiruddin, *Pengantar Metode Penelitian Hukum*, Cetakan 10, Rajawali Perss, Depok, 2018, p.165

¹⁵ Fakultas Hukum Universitas Tanjungpura, "Akibat Hukum", <http://hukum.untan.ac.id/akibat-hukum/>, diakses pada pukul 15.33

¹⁶ www.radarbali.com diakses 8 Agustus 2021 Pukul 19.00 Wita

¹⁷ Arif Tio Buqi Abdulah. (1 April 2020). *PP Tentang PSBB Dinilai Terlalu Minimalis, Pakar: Belum Menjelaskan Lebih Detail*. Diakses pada 24 September 2020. Website: <https://m.tribunnews.com/amp/corona/2020/04/01/pp-tentang-psbb-dinilai-terlalu-minimalis-pakar-belummenjelaskan-lebih-detail>

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Thus, this Government Regulation has received a lot of criticism, especially in its function as an Implementing Regulation of the Law of the Republic of Indonesia Number 6 of 2018 concerning Health Quarantine because the content or substance does not meet the mandate of Article 60 of the Law of the Republic of Indonesia Number 6 of 2018 concerning Health Quarantine.

In January 2021, with the addition of thousands of new patients per 24 hours, vaccination success is easier to occur when the curve of the corona virus pandemic is already sloping, while in Indonesia the curve is still rising, so it is feared that COVID-19 vaccination will be ineffective or take time. It takes longer to create herd immunity and the large number of medical personnel who have died due to COVID-19, the government must make efforts to anticipate the increasing number of COVID-19 cases in Indonesia, which is increasingly uncontrolled so that the implementation of Large-Scale Restrictions or Regional Quarantines in many areas must be carried out.¹⁸

The substance of Government Regulation Number 21 of 2020 is very limited, so it is not sufficient to carry out the acceleration of handling the 2019 Corona virus Disease. This Government Regulation only regulates Large-Scale Social Restrictions, and the material regulated is nothing new, but only records what the local government has done. In fact, to enforce regional quarantine, we need delegation regulations to provide a basis so that the initiatives of various regional heads in tackling the 2019 Corona virus Disease can have clear regulatory corridors. In David Easton's view, when the government makes public policies, the government also allocates values to the community, because every policy contains a set of values in it. For example, when the government stipulates Government Regulation No. 21 of 2020, the value that will be pursued is the empowerment of the community and local government. Harold Laswell and Abraham Kaplan argue that public policy should contain the goals, values, and social practices that exist in society. From the opinion of the experts above, it means that public policy should not conflict with social values and practices in society.¹⁹

This Government Regulation Number 21 of 2020 has shortcomings in its content, namely the content material is only limited to regulating the procedure for establishing Large-Scale Social Restrictions through the authority of the Regional Government, the Task Force for the Acceleration of Handling Corona Virus Disease 2019, and the Central Government to work together to establish Large-Scale Social Restrictions, namely with the procedures regulated in Article 6 of Government Regulation Number 21 of 2020. Meanwhile, regulations regarding the technical implementation of government actions that should be regulated are not regulated. Such as closing access to an area, security guards and restrictions on access to and from the area, providing strict services in an area, procedures for meeting the basic needs of the community in an area, as well as other measurable, systematic, and firm procedures to deal with the Corona Virus Disease outbreak in a certain area.²⁰

Decree of the State Police of the Republic of Indonesia Number Mak/2/III/2020 concerning Compliance with Government Policies in Handling the Corona Virus.

On March 9, 2020, the Indonesian National Police issued a notice signed by Police General Idham Aziz, the police notice was issued because Corona Virus Disease 2019 or COVID-19 can spread quickly from one person to another in close proximity. The spread is similar to other respiratory diseases, such as the flu. Droplets or splashes from the saliva or mucus of an infected person are ejected when sneezing or coughing. When it hits other people, especially the face, these droplets have the potential to make that person also infected because the virus can enter the body through the nose, mouth, and even eye sockets. Signs and symptoms commonly found in patients with COVID-19 are acute respiratory disorders such as fever, cough, and shortness of breath. In severe cases it can cause pneumonia, acute respiratory syndrome, kidney failure, and even death. This new disease subsequently spread not only in China but also to other countries.²¹

Legal Protection for Traffic Police Acting as Covid-19 Chain Breakers

Legal Protection for Traffic Police

According to Satjipto Rahardjo, legal protection is an effort to protect a person's interests by allocating a power to him to act in the context of his interests. In addition, CST Kancil also believes that legal protection is a variety of legal measures that must be provided by law enforcement officers to provide a sense of security, both mentally and physically from disturbances and various threats from any party. The Traffic Police has various legal responsibilities, every action of the Indonesian National Police Officer, within the framework of legal authority can be justified, while actions that are outside or exceed their legal authority, or

¹⁸ Holy Kartika Nurwigati Sumartiningtyas, (2 Januari 2021) *Covid-19 Indonesia Masuki Masa Kritis, Vaksin Corona bukan Solusi Hentikan Pandemi*, Diakses pada 2 Januari 2021. Website: <https://www.kompas.com/sains/read/2021/01/02/180200623/covid-19-indonesia-masuki-masakritis-vaksin-corona-bukan-solusi-hentikan?page=all>

¹⁹ Taufiqurokhman, *Kebijakan Publik, Fakultas Ilmu Sosial dan Ilmu Politik Universitas Moestopo Beragama (Pers)*, Jakarta Pusat, 2014, hlm. 29

²⁰ Press Relese Catatan terhadap Peraturan Pemerintah Nomor 21 Tahun 2020 oleh Tim Peneliti PSHK FH UII diakses pada tanggal 8 Agustus 2021 Pukul 19.49

²¹ Primayahospital. (2020). *Seberapa Cepat Penyebaran Virus Corona?* Lihat juga Website: <https://primayahospital.com/covid-19/penyebaran-virus-corona/> Diakses pada 8 Agustus 2021 pukul 20.09 Wita

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do not have the legal authority to act arbitrarily and inappropriately, must be considered as an individual act personally who must be legally responsible for the following:

1. Liability under disciplinary law;
 2. Liability under criminal law;
 3. Liability under civil law;
 4. Legally responsible for State Administration/Police Law;
5. Legal responsibility for professional ethics through a code of ethics commission session.

The legal responsibility of the State Police of the Republic of Indonesia mentioned above needs to be clearly formulated to provide legal certainty and justice so that the definition of legal responsibility must also include the notion of legal protection for the Officials of the State Police of the Republic of Indonesia. Legal protection for Indonesian National Police Officers is very necessary because the police here are legal subjects. The term legal subject comes from the Dutch language, namely *reschtsubject* or subject of law in English. In general, *reschtsubject* is defined as a supporter of rights and obligations, namely humans and legal entities. According to Alpedoorn, the subject of law is anything that has legal authority. The legal authority is the ability to be a supporter of the legal subject given by the objective law.

For legal protection for the Police, it is regulated in the Regulation of the Chief of Police Number 14 of 2011 and Law of the Police Number 2 of 2002, this Regulation of the Chief of Police is a legal protection in the form of ethical limits that are required of a police officer in carrying out their duties. Because looking at the existing reality, conflicts often occur due to abuse of authority and the public's perception of the police regarding the police code of ethics which is starting to fade in the course of its implementation. In the Police Law Number 2 of 2002 contains as a whole includes legal protection for police officers to carry out their duties based on the provisions of the Act. Every act carried out by the police is regulated by the provisions of its implementation in this Law. So, from protection theory is a theory that examines and analyzes the form or form or purpose of protection, protected legal subjects and objects of protection provided by law to the subject.

During the current Covid-19 pandemic, the Traffic Police as officers of the State Police of the Republic of Indonesia in carrying out their duties and authorities always act based on legal norms and respect religious norms, decency, morality, and uphold human rights. This is regulated in Article 19 of Law Number 2 of 2002 concerning the Indonesian National Police, further mentioned further in Article 10 of Indonesian police chief regulations Number 8 of 2009 concerning the Implementation of Human Rights Principles and Standards in Carrying Out the Duties of the Indonesian National Police. That in carrying out law enforcement duties, every officer/member of the National Police is required to comply with the following code of conduct:

1. Always carry out the duties mandated by law to them;
2. Respect and protect human dignity in carrying out their duties;
3. Not to use violence unless it is necessary to prevent a crime to assist in the arrest of lawbreakers or suspects in accordance with the regulations on the use of force;
4. Confidential matters that are under the authority must be kept confidential, unless it is considered in the performance of duties or for the benefit of the judiciary;
5. Must not incite, tolerate acts of torture, other cruel, inhuman or degrading treatment or punishment,
6. Likewise, taking orders from superiors or extraordinary circumstances such as when in a state of war as justification for carrying out torture;
7. Ensure the full protection of the health of persons in custody, more specifically, should take immediate steps to provide medical services when necessary;
8. No corruption in any form, nor any other abuse of power that is contrary to the law enforcement profession;
9. Must respect the law, the code of conduct, and the existing code of ethics. From the behavioral provisions mentioned above, it is still very relevant as a basis that basically the Indonesian National Police when carrying out their duties are not creatures who have never made mistakes and are not above the law.

Basically the Traffic Police have the same rights and obligations as the public in general to get protection in carrying out their duties, the regulation of rights that need to be protected for the community is contained in Article 28 of the 1945 Constitution.

Criminal Law Policy as a Means of Optimizing Covid-19

Emergency Management In the current development of criminal law in Indonesia, especially in the Special Criminal Law or criminal legislation outside the Criminal Code (KUHP), there is a tendency to apply a two-track system in the system of sanctions. The Criminal Code itself also applies a two-track system in the system of sanctions, this is stated in Article 10 of the Criminal Code which contains criminal sanctions consisting of basic and additional criminal penalties and Article 44 of the Criminal Code which contains action sanctions in the form of treatment in a mental hospital for people who are unable to take responsibility. for criminal acts committed because of mental disorders. In terms of implementing a two-track system in its sanctions system, Indonesia adheres to a two-track system of punishment (double track system), which means that in addition to the perpetrators of

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criminal acts, they can also be subject to various actions. In the concept of the Criminal Code, the imposition of action sanctions is not only for people who are unable to take responsibility for mental disorders, but people who are able to take responsibility can also be subject to action sanctions. The application of the "two-track system" in the laws and regulations in Indonesia is due to the fact that the application of criminal sanctions alone has so far been considered ineffective in tackling criminal acts that occurred in Indonesia.

The policies in question include restrictions on the entry of people from countries affected by Covid-19, flight suspensions, visa restrictions, border closures, and quarantines. The implementation of these various policies can of course disrupt human mobility traffic at the regional and international levels. Meanwhile, at the domestic level, governments in various countries have also started implementing a lockdown policy that also focuses on limiting the space for existing people to move. An important question that then arises is what kind of mobility restriction policies has been issued and what impacts have been and may arise as a result of these restrictions. The quarantine situation which is the impact of the spread of COVID-19 has caused social ties in the world community to become tenuous. The lockdown policy using the principle of distancing in fact not only keeps people away physically, but also socially. People have unknowingly been trapped into a very significant physical and social distance. In the future, this widening social and physical distance is believed to be something normal. The human condition when the COVID-19 outbreak is over will further emphasize the function of technology in mediating human interaction. Direct human interaction will then be replaced by indirect interaction. This is combined with the presence of new civilization challenges, ranging from the threat of government surveillance via technology, increasing government control over public privacy, to the phenomenon of the loss of global solidarity in the face of emergency threats. C. Police Discretion in Efforts to Maintain Public Security and Order During the Covid-19 pandemic, the role of the National Police is also more emphasized on the function of law enforcement, which was confirmed through the Decree of the Chief of Police No. MAK/2/III/2020 concerning Compliance with Government Policies in Handling the Covid-19 Virus.

The announcement is an initiative of the National Police in supporting the regulations related to the PSBB. Regarding the implementation of police discretion during the Covid-19 Pandemic 1. Discretion in the Implementation of Traffic Engineering Regarding the implementation of tasks in the Traffic sector, the application of discretion is mostly carried out by members in the field of traffic law enforcement, where Traffic police officers carry out law enforcement duties on Traffic regulations. One thing that makes it very easy for them in carrying out their duties is that the officers are provided with a form of ticket or proof of a certain Traffic violation in which the officers simply fill in what the violation occurred, what was confiscated, what date the violator must face a court hearing, then submit a copy. the fine to the violator. 2. Discretion in Closing Traditional Markets The establishment of traditional markets is based on Presidential Regulation No. 112 of 2007 concerning the Arrangement and Development of Traditional Markets, on April 4, 2020 within 14 days the market was forced to close after one of the traders was confirmed to have been exposed to Covid-19. The Regional Company (PD) Pasar Surya as the manager issued a circular regarding the temporary closure of the Kapasan Market. The circular letter dated April 3, 2020 number SU-789/01/IV/2020 was addressed to the Kapasan Market traders. In the letter, PD Pasar Surya said it would close the operations of Pasar Kapasan in the next 14 days. Members of the Sector Police and Satpol PP are tasked with carrying out joint patrols and security related to the temporary closure of the Kapasan Market in the context of Quarantine / Isolation to Anticipate the spread of Covid-19. Whereas if referring to Article 13 paragraph (3) jo. Article 14 paragraph (2) East Java Governor Regulation Number 18 of 2020 and Article 13 paragraph (3) jo. Article 14 paragraph (2) of Perwali Number 16 of 2020 states that the market is an excluded place in the implementation of the PSBB, but due to an urgent matter for the sake of Kamtibmas, members of the Sector Police in cooperation with the Market Manager act based on their judgment to temporarily close the market.

5. CONCLUSION

The legal basis or juridical basis is a consideration or reason that illustrates that regulations are formed to overcome legal problems or fill legal voids by considering existing rules, which are changed, or will be revoked in order to ensure legal certainty and a sense of community justice. The legal basis for the traffic police in breaking the Covid-19 chain is Article 13 of Law Number 2 of 2002 concerning the Police, Law Number 22 of 2009 on Road Traffic and Transportation, Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions (PSBB), Decree of the State Police of the Republic of Indonesia Number Mak/2/III/2020 concerning Compliance with Government Policies in Handling the Corona Virus, and Police Telegram Letters. During the current Covid-19 pandemic, the Traffic Police as officers of the State Police of the Republic of Indonesia in carrying out their duties and authorities always act based on legal norms and respect religious norms, decency, morality, and uphold human rights. Article 19 of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, further stated further in Article 10 of the Perkap Number 8 of 2009 concerning the Implementation of Human Rights Principles and Standards in Carrying Out the Duties of the Indonesian National Police, that carrying out law enforcement duties, every officer/member of the National Police must comply with the code of conduct

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