

The Abuse of Power in the Alleged Covid-19 Polymerase Chain Reaction Test Business: Criminal Aspects

by Artikel 10

Submission date: 04-Mar-2024 01:56PM (UTC+0700)

Submission ID: 2311140519

File name: d19_Polymerase_Chain_Reaction_Test_Business_Criminal_AspectS.pdf (514.28K)

Word count: 3532

Character count: 18786

Conference Paper

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The Abuse of Power in the Alleged Covid-19 Polymerase Chain Reaction Test Business: Criminal Aspects

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Abstract.

The abuse of power during the Covid-19 pandemic was felt to be very massive by the government because the health sector received far more attention than others. The Covid-19 test was made mandatory to travel in spite of it being very expensive for the community, and various news spread in the community made suspicion of abuse of power. By using qualitative methods and Nvivo 12 Plus to map the data, this research was conducted to determine whether the abuse of power actually occurred. The results of the study show that the cases that occur are too subjective to be considered an abuse of power, in this case, the government and corporations are also working according to the needs of the community to overcome the Covid-19 pandemic. However, to see the disadvantages of this, the author feels that further research is still needed regarding the urgency of the Covid-19 test while traveling and its impact on state budget losses.

Keywords: abuse of power, pandemic, Covid-19 test, corporationsCorresponding Author: Tinuk
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Published: 4 October 2022

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1. INTRODUCTION

Indonesia is one of the countries that has experienced various changes due to the Covid-19 pandemic over the last two years. This virus was first discovered in China. A person infected with the virus will feel a fever, cough accompanied by shortness of breath, which is even more dangerous if the infected person is a person with comorbidities and has a history of direct contact with sufferers. Rapid transmission occurs through mucus, sneezing or coughing that spreads through the air. This makes the virus spread to several countries quickly. [1]

The government has made several prevention efforts, one of which is based on UN guidelines, the Indonesian government requires people exposed to Covid-19 to quarantine for fourteen days. If someone is tested positive, the Covid-19 sufferer will be given treatment and a series of tests to be healthy again. [1] Indonesia has also made

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How to cite this article: Tinuk Dwi Cahyani*, Wahyudi Kurniawan, Sholahuddin Al-Fatih, (2022), "The Abuse of Power in the Alleged Covid-19 Polymerase Chain Reaction Test Business: Criminal Aspects " in 3rd International Conference on Law Reform (3rd INCLAR), KnE Social Sciences, Page 90 pages 90–100. DOI 10.18502/kss.v7i15.12076

several prevention efforts and sought to reduce the percentage of transmission. ¹⁷ Such as always washing hands, wearing masks, keeping a distance, avoiding crowds and limiting mobility. The government also provides free vaccines and requires people to get tested before traveling. [2]

¹² Initially, the community was cooperative with the government. But over time, people began to express their objections, one of which was related to the cost of the Covid-19 test which was considered expensive. They consider the government's actions related to mandatory tests before traveling to be ineffective and detrimental to them when the Covid-19 pandemic is disrupting their economy. [3] Public confidence also began to decrease when various news appeared in several media such as television and the internet which said that corruption during the pandemic was increasing.

In fact, facing the Covid-19 pandemic, ²¹ the President of the Republic of Indonesia himself ⁷ has issued several policies to accelerate the handling of Covid-19. Among them Presidential Decree No. 7 of 2020 concerning the Task Force for the Acceleration of Handling Covid-19 ²³ which was later replaced by Presidential Decree No. 9 of 2020. Long before ²⁵ the Covid-19 pandemic came, Indonesia actually already had regulations regarding the abuse of power and several regulations containing the prevention of corruption, especially during the pandemic. However, it cannot be denied that despite having the necessary regulations, Indonesia remains one of the countries experiencing various crises during the Covid-19 pandemic. One of them is the rampant abuse of power by unscrupulous officials. Weak official morale is the basic cause of this. This is exacerbated by the emergence of a crisis of public confidence in state officials and administrators. Then, to overcome this problem, the author made this research entitled the criminal aspect of ³ abuse of power in the alleged Covid-19 polymerase chain reaction test, as a discussion. [4]

2. METHODOLOGY/ MATERIALS

This research was conducted using a literature study approach [5] to find out and explain the state's condition in dealing with the alleged Covid-19 PCR test attempt. By collecting various materials from the mass media to finally be arranged in such a way that it will produce a chart or a concrete picture or conclusion of all existing news to see the truth where then the data will be compared with existing relevant legal regulations for legal assessment. [6] By using qualitative methods and using Nvivo 12 Plus analysis to get concrete results from any existing data. This is done to ensure the truth of the news regarding the abuse of power during the pandemic and how the regulations are.

3. RESULTS AND DISCUSSIONS

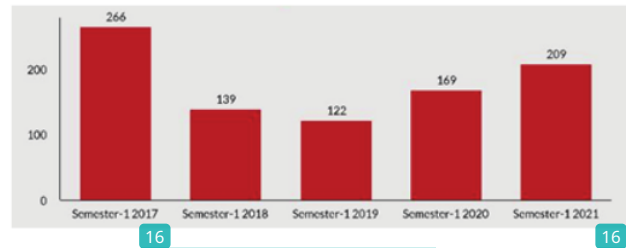


Figure 1: Number of Actions on the Number of Corruption Cases in Indonesia Source: Indonesia Corruption Watch (ICW).

Talking about the criminal aspect of abuse of power in the alleged Covid-19 Polymerase Chain Reaction test, to avoid any abuse of power that results in indications of corruption in a new realm during this pandemic, the author is worried about the truth of some things being reported and some things. Indonesian Corruption Watch (ICW) has the same concern regarding corruption. From 2004-2008 there were 104 regional heads (mayors, regents, and governors) who were found guilty by the KPK courts. [7] In regulations related to corruption, Indonesia ratifies UNCAC (United Nations Convention against Corruption) and must be able to ensure that the substance and implementation of all anti-corruption regulations it has are in line with the convention. The following is a graphic illustration of corruption cases over the last 5 years:

Poor integrity and the existence of weaknesses in the structure of the institutional system have become a loophole for fraudulent behavior that can harm the state. Related to State Financial Losses, the concept of state finance itself will be discussed first. The term state finance is included in the Constitution of the Republic of Indonesia, but the term still gives rise to different interpretations, because in reality state finances are not only absolute state money, there are also regional finances and other legal entity finances originating from state assets. separated into State-Owned Enterprises and Regional-Owned Enterprises. All of them are still categorized as state finances. [8] Some reports during the Covid-19 pandemic said that corruption took a new form. For example, regarding the distribution of Covid-19 assistance, which is suspected to be a new method, this greatly affects the potential effectiveness of social assistance efforts that the government is trying to provide to the community.

Viewed from the lens of the inherent capacity deficit of several middle-income countries during the Indonesian pandemic, one of which still has significant resources. There are various efforts made by the government in collaboration with several parties to control the spread of Covid-19. For example, State-Owned Enterprises (BUMN) have

participated in producing medical devices to contribute to suppressing the spread of the Covid-19 outbreak. It is not uncommon for several parties to try to make a profit by riding several projects that are quite strategic and abuse of power. Here, the author shows the results of mapping data on the occurrence of **abuse of power in the** implementation of the **Covid-19 test** which the researchers arranged in such a way using the nVivo application as a data mapping tool found in several news reports that appeared in the media:

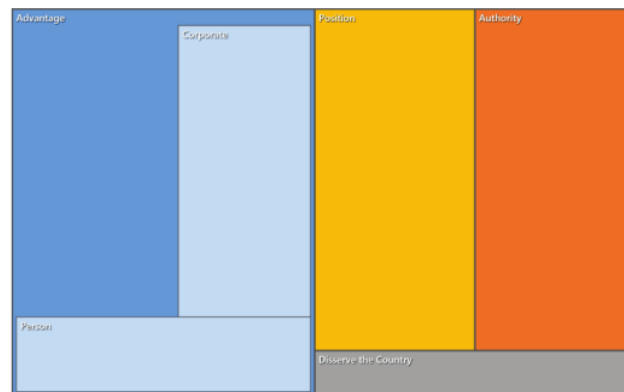


Figure 2: Mapping of Benefits from Position and Authority. Source by: Hierarchy Chart Nvivo 12 Plus.

The data above is the result of data input that the author has done in such a way using Nvivo 12 Plus to make it easier to map the existing news. From the results of the work, the author concludes that the positions of the **Coordinating Minister for Maritime Affairs and the Minister of State-Owned Enterprises** encourage abuse of power actors to fulfill government programs by suppressing the budget. [9] As quoted from CNN Indonesia, the government increased the budget in handling Covid-19 cases to reach Rp. 677.2 trillion which previously amounted to Rp. 87.55 trillion. The budget is also increased in the context of tax incentives to PMN BUMN. [10] The budget spent to meet the needs of the pandemic is so large that the relevant ministries have to collaboration with several companies for the purpose of supporting funding for handling Covid-19. Meanwhile, the alleged abuse of power stems from the appointment of partners who are none other than companies affiliated with two ministerial actors.

The explanation from Figure 2 shows that the blue color is a representation of advantage (advantage) which contains personal benefits, including oneself and others (person) as well as potential benefits to be obtained by the corporation (corporate). The form of the corporate diagram above the person is a representation of partner companies that act as a big umbrella for the actors, including the responsible ministry.

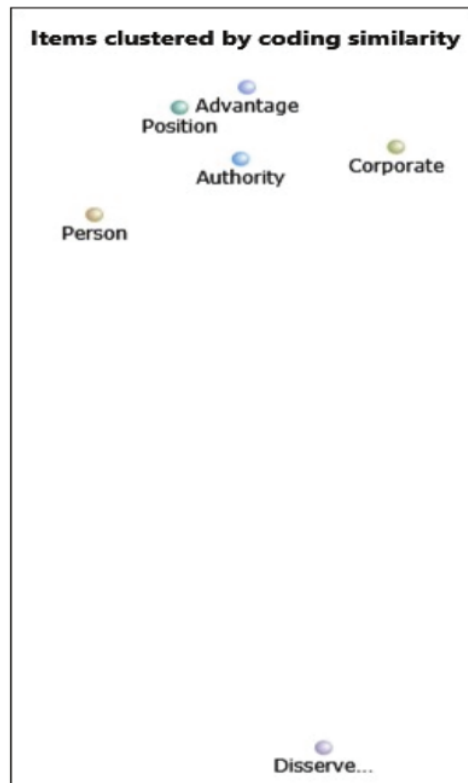


Figure 3: Potential immediacy of the element of abuse of power. Source by: Item Clustered by Coding Similarity on Nvivo 12 Plus.

Some of the elements that the author uses as research questions to obtain the description are several elements in Article 3 of Law Number 31 of 1999. The elements are benefiting oneself/others/corporations, abusing authority / opportunities / facilities due to their position that can detrimental to state finances or what is commonly referred to as the state economy. The image above shows positions that are more potentially close to a favorable course of action. The authority of the two ministry agencies lies in the midst of personal gain and corporate profit. Partner companies are closely related to SOEs, making it easier for Erick Thohir to establish cooperation. The mobilization carried out between companies by Luhut Binsar Panjaitan, as Coordinating Minister he can approach according to company needs.

The Coordinating Minister for Marves in this case encourages investment points by partner companies to become funders for government policies. In this case, it can be seen that the state's losses are still quite far, as described in Figure 2, the budget for handling Covid-19 still needs to be divided into various sectors. The two ministerial

actors make the funds that enter the program as support for BUMN or there is another possibility, namely corporate funding purely as a social action, even though it is under the coordination and instructions of the organizing ministry (read: actor).

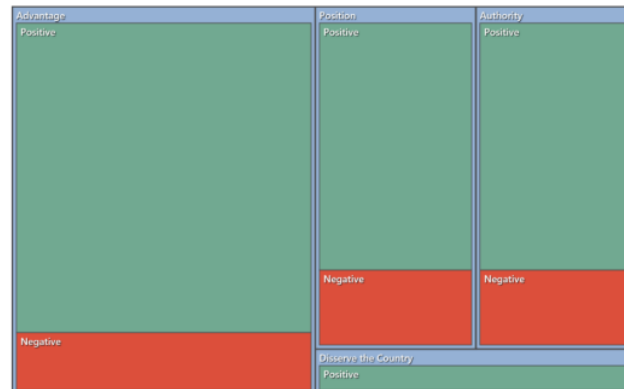


Figure 4: Sentiment analysis of abuse of power. Source by: Sentiment Coded Hierarchy Chart Nvivo 12 Plus.

Referring to the information in Figure 3, the analysis of the involvement and interests of the two ministerial actors is further sharpened through Figure 4. The author adds sentiment to the research question. It aims to choose two possibilities that are actually balanced: First, both ministerial actors have involvement in companies that are program partners. Second, the interests of the two ministerial actors in cooperating with partner companies.

In this case, the author tries to provide a Positive code as a form of involvement and interest of ministry actors in procuring cooperation with companies. While the Negative code, is used to measure the denial of an engagement. This analysis clarifies the evidence of whether or not there will be involvement or interest of ministerial actors. The rest if there is a negative code, it needs to be compared again with a positive code. In terms of profit, ministerial actors have more dominant internal agendas, both personally and corporately. Although, Luhut Binsar Panjaitan emphasized that he never took personal advantage. In fact, the company affiliated with Luhut, namely PT. Toba Sejahtera and Toba Bumi Energi have a share model that is invested in PT. GSI.

The denial made by Erick Thohir that PT. GSI has never collaborated with SOEs or received funds from the government, contrary to the fact that the company under the name of Garibaldi Thohir (Erick Thohir's older brother), namely PT. Adaro Energy (ADRO) has clear links to the Adaro Bangun Negeri Foundation. If the Coordinating Minister for Marves fulfills the element of "benefiting the corporation", then the element

TABLE 1: Positive Sentiment Percentage.

Name	In Folder	References	Coverage
Is it true that Luhut & Erick's company is behind the PCR business - Page 2	Files\\Media\\CNN	5	12.89%
Erick Thohir has been outspoken about his brother's PT GSI PCR Business - Page all - Kompas.com	Files\\Media\\Kompas	1	3.96%
BPKP Audits PPE Budget, PCR, and Corona Rapid Test	Files\\Media\\CNN	3	8.23%
So this is the story of Luhut's involvement in the PCR business - Page 2	Files\\Media\\CNN	1	3.14%
Spokesperson for Coordinating Minister for Maritime Affairs Claims Luhut Never Profits from the GSI PCR Business	Files\\Media\\Kompas	3	4.87%
Luhut Involved in PCR Business~ Bahllil Speaks Up	Files\\Media\\CNN	3	3.51%
Complete explanation of Luhut's allegation of doing PCR business	Files\\Media\\CNN	1	2.78%
Profile of PT GSI, Luhut's company in the PCR business - Page all - Kompas.com	Files\\Media\\Kompas	5	4.44%
Staff of SOE Minister Denies Erick Thohir Involved in PCR Test Business - Page 2 - Kompas.com	Files\\Media\\Kompas	3	3.59%
Revealed! Northstar until Luhut Company Joins PCR Business ~	Files\\Media\\CNN	2	4.81%

of "benefiting others" can be imposed on the Minister of SOEs. The presentation of the percentage between Positive and Negative sentiments is as follows:

TABLE 2: Percentage of Negative Sentiments. Source by: Nvivo 12 Plus Overview.

Name	In Folder	References	Coverage
Spokesperson for Coordinating Minister for Maritime Affairs Claims Luhut Never Profits from the GSI PCR Business	Files\\Media\\Kompas	1	1.08%
Luhut Denies Allegations Involved In PCR Testing Business - Page 2 - Kompas.com	Files\\Media\\Kompas	2	10.63%
Complete explanation of Luhut's allegation of doing PCR business	Files\\Media\\CNN	1	2.85%
Profile of PT GSI, Luhut's company in the PCR business - Page all - Kompas.com	Files\\Media\\Kompas	1	0.57%
Revealed! Northstar until Luhut Company Joins PCR Business ~	Files\\Media\\CNN	2	5.29%

determined by the Ministry of Health. GSI's main business itself is large-scale, it can even carry out PCR tests up to 5000 tests per day.

Corporate profits are not only directed at GSI and ADRO, even SOEs also benefit. Thus, if that is the case, both the ⁸ Coordinating Minister for Maritime Affairs and the Minister of State-Owned Enterprises can be said to go hand in hand in abusing their position and authority in order to benefit themselves, others, and corporations. In the view of a criminal act, of course this is not justified. Because it has violated the existing regulations, namely Law no. 31 of 1999 where law enforcement for those who abuse their authority or power, especially during the Covid-19 pandemic like this, will receive criminal sanctions, namely life imprisonment and will receive administrative sanctions of two hundred million (Rp 200.000.000) with a maximum limit of one billion (Rp 1.000.000.000). [11]

In this case, BPK has also issued a policy that allows government officials to take extraordinary steps, including the issuance of Perpu No. 1 of 2020. This policy gives the government broad authority to take extraordinary steps. BPK as an institution with a constitutional mandate ²² to examine the management and responsibilities related to state finances, understands the attitude and policies of the government very well. In existing regulations related to corruption, ²⁴ the element of abuse of authority ⁵ has been regulated and is the core point of corruption offenses. In Article 3 of Law number 31 of 1999 in conjunction with Law number 20 of 2001 concerning the eradication of criminal acts of corruption. [11]

4. CONCLUSION AND RECOMMENDATION

Judging from the criminal aspect, the synchronization of law enforcement for perpetrators who abuse their authority during the Covid-19 pandemic, will be subject to criminal sanctions, ¹³ namely life imprisonment (Law No. 31 of 1999) and administrative sanctions of two hundred million rupiah (Rp 200,000,000, 00) with a maximum provision of one billion rupiah (Rp. 1.000.000.000,00). Corruption or things that refer to corruption itself actually occur because of defects in existing regulations, such as UU no. 31 of 1999 ¹⁰ in conjunction with Law no. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. Has a significant difference. There are multiple interpretations, ambiguities and applications that tend to be uncertain which can potentially be misused by law enforcement officials, especially Articles 2 and 3. Meanwhile, some cases discussed in the media are still too subjective to be considered as abuse of power. This is because some of the ministerial institutions in question are also trying ¹¹ to accelerate the handling

of Covid-19 in Indonesia. Meanwhile, regarding the urgency of the Covid-19 test when traveling and its impact on state budget losses, it still needs to be reviewed.

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 Aloha International Journal of Multidisciplinary Advancement (AIJMU)
Volume 3 Number 1, January 2021 ISSN 2622-3252
RESEARCH
http://journal.aloha.academy/index.php/aijmu DOI: http://dx.doi.org/10.33846/aijmu.30101

Analysis of The Implementation of The Equality Before the Law Principles Against the Perperators of Corruption in the Jurisdiction of The Criminal Court of Corruption at the Surabaya State Court of the Decision Number 119/Pd.Sus.TPK/2018/PN.Sby

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Submitted: December 1, 2020 - Revised: December 31, 2020 - Accepted: January 4, 2021 - Published: January 4, 2021

ABSTRACT

Corruption that still occurs a lot in Indonesia from year to year, even though it is shown in the perception index that has increased from year to year for the better, is still in a harmful situation for the country. At this time can observe, see and feel that law enforcement is in a position that is can not be trusted. The public questioned the performance of law enforcement officials in eradicating corruption, the spread of judicial mafia, violations of the law in assessing the APBN and APBD among bureaucracy. In 2018 the public was dumbfounded by the mass corruption committed by 41 members of the Malang City DPRD (Regional People's Representative Assembly) during 2018. Malang City is considered the 'general champion' in the corruption category in the number of suspects, 6 of them have been tried at the Corruption Court at the Surabaya District Court and have been decided by the Panel of Judges as in Decision Number 119/Pd.Sus.TPK/2018/PN.Sby with different sentences. How is the application of the principle of equality before the law against perpetrators of Corruption in the jurisdiction of the corruption court at the Surabaya District Court against the Decision Number 119/Pd.Sus.TPK/2018/PN.Sby? The research method used is the normative legal research method. The result of the research show that the judicial process in handling corruption crimes is in accordance with the rules regarding the types of punishment in the Corruption Crime Court and meets the principle of equality before the law.

Keywords: corruption; equality before the law; Malang

INTRODUCTION

Corruption is a madness of society as well as other types of crimes, such as theft, which has existed since humans have been living on this earth. The main problem faced is the increase in corruption in line with advances in prosperity and technology. In fact, experience shows that the more advanced the development of a nation is, the increasing the need to encourage people to commit corruption.

Perpetrators of corruption are not feel ashamed or afraid of sanctions from existing regulations. The culture of corruption in the life of the state does not allow the eradication to be done once it is over. Corruption can be eradicated gradually until that in the end it can be eradicated or at least suppressed to the lowest possible level.

Based on data from Transparency International regarding the corruption perception index in 2018, Indonesia is ranked 89th in the world and 4th in Southeast Asia with a score of 38, an increase of one point compared to the previous year (39). Meanwhile, Singapore is ranked 3rd in the world and first in Southeast Asia with a score of 85, previously ranked 6th in the world with a score of 84. Cambodia still ranks last for 4 consecutive years in Southeast Asia with a score in 2018 of 20.

Corruption that still occurs a lot in Indonesia from year to year, even though it is shown in the perception index that has increased from year to year for the better, is still in a harmful situation for the country. At this time can observe, see and feel that law enforcement is in a position that is can not be trusted. The public questioned the performance of law enforcement officials in eradicating corruption, the spread of judicial mafia, violations of the law in assessing the APBN and APBD among bureaucracy. The list of public dissatisfaction with law enforcement is getting longer if we reopen old cases such as the Marsinah case, the Udin journalist case, the Senglon and Karti case, the Tanah Keret case in Papua and others.

In 2018 the public was dumbfounded by the mass corruption committed by 41 members of the Malang City DPRD (Regional People's Representative Assembly) during 2018. Malang City is considered the 'general champion' in the corruption category in the number of suspects, compared to North Sumatra which involved 38 DPRD members for the 2009-2014 and 2014-2019 period. Fortunately, out of 45 DPRD members, there are 4 people who are not KPK (Corruption Eradication Commission) suspects. The 4 members were free from mass corruption related to waste management funds in Malang City, received bribes of Rp 700 million and gratuities

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