

# Rejection of Funeral for Covid-19 Patients: Indonesian Legal Perspective

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DOI: 10.23917/jurisprudence.v10i2.13336

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<b>Submission Track:</b>	<b>ABSTRACT</b>
<b>Received:</b> 4 Desember 2020	<b>Purpose of the study:</b> This study aims to solve the problem of citizens who refuse funerals/bodies of Covid-19 patients.
<b>Final Revision:</b> 27 Februari 2021	<b>Methodology</b> The method used in this study is a normative juridical method using statutory, conceptual and case approaches.
<b>Available online:</b> 27 Maret 2021	<b>Results</b> This study found that it is necessary to socialize, educate and communicate to the citizens that the Covid-19 bodies have gone through stages in accordance with medical protocol and WHO in the treatment/repatriation of bodies so that there should be no need for excessive fear while if residents refuse funerals Covid-19 patients' bodies there are sanctions including moral sanctions, fines and criminal confinement.
<b>Corresponding Author:</b> Fifik WIryani <a href="mailto:fwiryani2016@gmail.com">fwiryani2016@gmail.com</a>	<b>Applications of this study</b> This research can be used by academics and practitioners in health law, so that they can create an instrument to socialize the acceptance of Covid-19's bodies in the community.

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**Novelty/ Originality of this study**

The bodies of Covid-19 patients have been carried out the repatriation (management) of the bodies in accordance with the standards of who's health protocol (World Health Organization), namely the bodies wrapped in three layers of shrouds and linen and two layers of body bags. then the body in Tayyamum using dust, the body and then placed into the coffin that was placed typical and has been sprayed disinfectant liquid, then the coffin closed tightly using silicone glue and then given nails on each side of the coffin.

**Keywords:** Covid-19; rejection; bodies

## INTRODUCTION

The journey of Covid-19 began at the end of 2019, precisely December 29, 2019, doctors in Wuhan discovered an unnatural pneumonia disease. December 31, 2019, medical authorities in Wuhan reported the findings of a new viral infection in the lungs to the WHO. Just four weeks later, on January 26, 2020, a new type of coronavirus was identified and made public. The development of Covid-19 from Wuhan (Al-Fatih, Ahsany, & Alamsyah, 2020), continues to spread throughout the world, In early March WHO officially declared covid-19 as a global pandemic (Lupia et al., 2020), at the beginning of March the Government of the Republic of Indonesia reported that Covid-19 has entered Indonesia and has now spread to all provinces in Indonesia. almost no one region in Indonesia is free from Covid-19 infection the process and model of spread is very fast and not easily detected (Yuliana, 2020).

Transmission from human to human generally occurs through the bodily fluids of an infected person such as sneezing fluid or phlegm entering through the mouth, nose, or mucosa of the eyes. In humans, the virus multiplies in receptors found in the respiratory tract and gastrointestinal tract. The incubation period of the coronavirus to cause symptoms lasts for 2-14 days. After that, the virus will attack the upper respiratory system causing upper respiratory tract infection (ISPA) (Aurelius, 2020).

Symptoms include fever, chills, cough, runny nose, and sore throat. ISPA takes place from the nose and throat causing rhinitis, *rhinopharyngealitis*, and *nasopharyngealitis*. the disease is related to inflammation of the lining of the nose to the throat. subsequently, the virus continues to move down causing pharyngitis, laryngitis, and bronchitis. the disease occurs in the throat connecting the nose and lungs. Coronavirus continues to move progressively towards the lower respiratory tract and causes pneumonia or pneumonia. the death rate will increase if the virus reaches the lower respiratory tract. because, the lungs are organs that function to receive oxygen and spread throughout the body. when pneumonia

occurs, oxygen intake is reduced. and causes respiratory failure and causes symptoms such as shortness of breath. when respiratory failure occurs, other organs in the body also participate in lack of oxygen and cannot do the task perfectly. one of the things that happens is sepsis or the body is intoxicated due to organ dysfunction and difficult to handle causing death (Tim Kerja Kementerian Dalam Negeri, 2020).

When Covid-19 patients die, coronavirus can still survive for a while in the bodily fluids, blood, and surface of the body of the patient. Because of that, some of the funerals of Covid-19 were rejected by the community. As mentioned in Kompas, the funeral of a nurse from RSUP Dr. Kariadi Semarang, was rejected by residents to be buried at the Sewakul Public Cemetery (TPU Sewakul) at RT 06 West Ungaran, Semarang Regency (Lotulung, 2020). Moreover, a paper written by Casman, et al, reported that there were over 500 cases in rejection of funeral Covid-19 patients (Casman, Kurniawan, Wijoyo, & Pradana, 2020). Those cases, included; 223 headlines from detik.com, 77 headlines from okezones.com, 127 headlines from viva.co.id, 119 headlines from kompas.com and 14 headlines from other media (Casman et al., 2020).

To overcome those rejection, during the management of the body/funeral of Covid-19, medical personnel must carry out their duties in accordance with the protocols established by the World Health Organization (WHO). This is done, so that the body is safe and does not spread the virus to the person who handles it. The first thing to do during covid-19 body care is that officers are required to wear protective clothing, gloves, and masks. Then officers covered the faces and holes from the bodies that could potentially release fluid. Like the mouth, nose, eyes, and ears. Next, the body is disinfectant sprayed and purified. tayammum or bathed depending on the condition of the body to respect the religion of the body (Nur & Tahrus, 2020).

When the body is bathed and when it is only done tayammum or even not done both depending on the condition of the body all procedures must follow the standard rules of who the procedures must also be in accordance with the procedures that have been set. After being purified and re-disinfected, the body is covered with a shroud, and coated with at least 2 layers of plastic to prevent fluid leakage. Let's not infect the others, the next process is, the body is put in a special crate and sealed for safety. After the treatment process is completed,

the body is delivered according to the religion of the body and ready for burial. (Pribadi, 2020) For the funeral process the body does not need to be buried in a funeral home, but rather must be buried immediately. Because the process of treatment until the funeral of the body must be done for a maximum of 4 hours to prevent the spread of the virus. While the burial place of the body must be far from the settlement and the source of the water is at least 50 meters from the place. (Firdaus, 2020)

For bodies who are Muslims have followed the Fatwa MUI no. 14 number 7 in the treatment and burial of Covid-19 bodies, while for the bodies of non-Muslim patients in accordance with the guidelines issued by who. It is relevant with regulation in Law No. 4 of 1984 on Infectious Disease Outbreak states that one of the efforts to combat the outbreak is the proper handling of bodies due to the Covid-19 outbreak it is very clear that the provisions for handling Covid-19 bodies have been regulated in the law. Although the procedure of treatment/repatriation of bodies has been so strict by following the protocol of the WHO, Law and Fatwa from MUI for bodies with Islamic faith but in fact in some areas there has been a rejection of the funeral of Covid-19 patients' bodies carried out by residents community, the refusal of burial of the body should not have to happen if the citizens want to understand that the treatment/repatriation of the body is in accordance with the standard procedure, because by refusing the funeral of the patient's body Covid-19 there are some sanctions that can be imposed on the citizens of the community. which includes moral dissortion, legal dissorance in the State of Indonesia. (M. U. I. Indonesia, 2020)

### ***Research Question***

Based on the background that has been described above, the author raised the problem: how are the sanction for people reject the bodies of covid-19 patients and how the law regulates them.

### ***Aims***

This study found that it is necessary to socialize, educate and communicate to the citizens that the Covid-19 bodies have gone through stages in accordance with medical protocol and WHO in the treatment/repatriation of bodies so that there should be no need for excessive fear while if residents refuse funerals Covid-19 patients' bodies there are sanctions including moral sanctions, fines and criminal confinement.

## RESEARCH METHOD

This research is a normative juridical law research (legal research) (Peter Mahmud Marzuki, 2014) because it wants to study the two related legal products, namely Law No. 4 of 1984 on Infectious Disease Outbreak and Criminal Code (Rosyadi, 2017). The approach method used in this research includes: 1) A statutory approach, namely by examining statutory regulations (Johnny Ibrahim, 2007) relating to handling the bodies of infectious disease patients; 2) Conceptual approach, namely by examining and understanding concepts; 3) Case Approach, namely by examining cases related to the legal problems faced in this study (Johnny Ibrahim, 2007). Furthermore, legal material analysis techniques are arranged systematically by using a system of interpretation, such as grammatical interpretation and systematic interpretation.

## RESULTS AND DISCUSSIONS

Corona pandemic has caused an extraordinary impact can be all over the world almost most of the earth has been exposed to the corona virus is associated with a very rapid spread, this condition has a tremendous impact on countries with the best health system is not ready with this condition including the public fears that exaggeration to the risk of transmission of this disease so that there is stigmatization of patients, families and bodies of patients Covid-19 so that there is a rejection of Covid-19 patients even though it has been cured still the public is afraid of transmission even though medically it has been declared safe from the danger of transmission, as well as to the covid-19 disease has been carried out treatment/repatriation of bodies with strict protocols but still in some areas denied burial it happens due to lack of public knowledge about covid-19 disease, one of the mindsets that was built is that if the body is interred in an environment close to residential areas, it will be infected and can infect the local community.

This is denied by some health experts that this is not true because the bodies of Covid-19 patients have been carried out the repatriation (management) of the bodies in accordance with the standards of who's health protocol (World Health Organization), namely the bodies wrapped in three layers of shrouds and linen and two layers of body bags. then the body in tayyamum using dust, the body and then placed into the coffin that was placed typical and has been sprayed disinfectant liquid, then the coffin closed tightly using silicone glue and then given nails on each side of the coffin. (Dinas Kesehatan Provinsi DKI Jakarta, 2020)

Furthermore, the body is prayed by several people both from medical personnel and the caretaker of the body who from the beginning took care of the body has used PPE (Personal Protective Equipment) level highest, after finishing the prayer and then the body is put in a hearse to be brought to the cemetery immediately, but before that disinfectant spraying is carried out to the hearse. Upon arrival at the cemetery the body was carried along with a special coffin then coffin lowered into a burrow that reached a depth of 1.5 meters using a rope and then the coffin was stockpiled again. (M. U. I. Indonesia, 2020)

The issue of refusal of these bodies must be a momentum for improvement of aspects of humanitarian values, law enforcement and strengthening the value of values prevailing in Indonesian society, the purpose of the law as stated by Gustav Radbruch (Radbruch, Paulson, Paulson, Radbruch, & Paulson, 2014), namely justice, certainty, and benefit must animate every law enforcement in Indonesia implemented in the legislation. Efforts to combat the Covid-19 outbreak carried out by the government are in accordance with the laws and regulations. (Nurmila, 2020)

Article 5 paragraph (1) letter e of Law No. 4 of 1984 on Infectious Disease Outbreak states that one of the efforts to combat the outbreak is the proper handling of bodies due to the Covid-19 outbreak it is very clear that the provisions for handling Covid-19 bodies have been regulated in the law. And any efforts that hinder the handling will be subject to strict sanctions in the form of criminal sanctions as stipulated in article 14 of Law No. 4 of 1984 (P. Republik Indonesia, 1984)

Another review of the handling of Covid-19 bodies is from the humanitarian aspect, Covid-19 patients are victims of coronavirus infection so that from the humanitarian aspect it is necessary to get the same attention when viewed from the humanitarian side, the universal value of humanity as stated in Pancasila namely the 2nd principle, "A Just and Civilized Humanity", emphasizing to us that the value of humanity is a fundamental value that every human being and every human being must get treated fairly. The families of the victims who died due to Covid-19 deserve justice, including in terms of handling the bodies of their families. The correlation between the value of humanity and law enforcement becomes an urgency in strengthening the value of Pancasila. In the Unitary State of the Republic of Indonesia, the values of humanity and law enforcement complement each other on the basis of its reference is Pancasila. (Maniuruk, 2020)

Law enforcement instruments ensure the establishment of humanitarian values. In the context of the refusal of the body, the value of humanity should be upheld through strict and fair law enforcement. The act of refusal of this body should be carried out strict law enforcement. Especially for bodies caused by the outbreak has been regulated in the positive law that applies in the State of Indonesia so that if violated has civil legal sanctions in the form of fines and criminal.

Because the sanctions are applied with a criminal law mechanism that is basically regulating the public, law enforcement must be done wisely while paying attention to the values of justice (fulfillment of the rights and obligations of the perpetrator until found guilty) to provide a deterrent effect to people who dare to reject the body, to provide education for the public in acting. there is no single reason whatsoever that is justified in rejecting the funeral of the body. if there are rules violated in the funeral of the corpse, can be submitted objections through legal mechanisms.

Such a long process and sterilization is quite high on but there are still many people who refuse, it is certainly not in accordance with existing rules because it relates to crimes against public order, in article 178 of the Criminal Code states: "Whoever deliberately obstructs or obstructs the entrance or transport of corpses to the cemetery allowed, is threatened with imprisonment of a maximum of one month and two weeks or a fine of maximum one thousand eight hundred rupiah" In the application of this article, in the event of rejection in a region, the police can immediately act legally because article 178 of the Criminal Code is a general deliberation that can be followed up without any complaints in advance

It is necessary to know that further officers who deliver the bodies to the funeral are valid under the law they carry a letter of duty and are escorted by the authorities so that if there are citizens who obstruct can be subject to legal sanctions in accordance with article 212 , 213, and 214 criminal code if it fights against police officers and can become a new criminal element. If examined again the people who are possessed to refuse to actually harm each other and others and indirectly do not heed the government's call to continue doing activities at home and not to travel if it is not an urgent situation. (Kumalasari, 2020).

There are several laws and regulations (positive laws) can be a reference in handling Covid-19 bodies, namely, Law No. 4 of 1984 on Infectious Disease Outbreaks, Law No. 6 of 2018 on health quarantine, and Circular Letter of the Director General of Disease Prevention

and Control No. 483 of 2020 concerning Guidelines for Preparedness to Deal with Novel Corona Virus Infection (Covid-19) which has been revised 3 times in accordance with the development and current situation of the covid-19 outbreak. (Post, 2020)

If under Islamic law (RA, Hamdika, & Al-Fatih, 2020), in Islamic law also regulates the burial of a corpse, burying the body of a person is an obligation included in the *fardhu kifayah*, then the Muslims in the area are most obliged to carry out the rights of the corpse. Islam also teaches us to respect and respect bodies, and there is no suggestion of Islam to delay the burial of the body of a Muslim, in accordance with the word of the Prophet Muhammad: "Accelerate you in carrying the body, if the body is good then you have brought it closer to goodness. If the body is bad, then you have taken it off your shoulders." I'm sorry, I'm sorry. Bukhari), procedures for burying the bodies of Covid-19 patients have also been regulated in the MUI Fatwa No. 18 of 2020 and the circular of the Director General of Islamic Community Guidance of the Ministry of Religious Affairs of the Republic of Indonesia, previously MUI issued MUI Fatwa Number 14 Year 2020 on The Implementation of Worship in the Situation of Covid-19 Outbreak (Pane, 2020).

First, the lack of knowledge and information received by a certain group of people thus giving rise to disapproval. In turn they took to the streets to reject funerals that were considered their territory. In fact, the state of Indonesia is a unitary state, not a federal one. In addition, unwittingly, this rejection becomes an additional burden of duty for the officers in the field Solutions for this first, the government from all levels to conduct communication management that can explain and provide information about everything related to covid-19 purely from the aspect of virology.

Therefore, persuasive communication strategy is needed to the community, to the maximum carried out by the government communication team, both in the palace, ministries and related government agencies, task forces in all categories and levels, as well as at the local government level in charge of conducting funerals. Both governments at all levels must also pay serious attention to the spread of word of mouth so that until there is a society behaving against the funeral of Covid-19 victims. It seems that those who reject more messages sourced from certain parties are not in line with government policy. Because, there could be political communication refusal of funerals for pragmatic political purposes, divisive politics. (Rismoko, 2020).



Several solutions can be done to prevent the rejection of Covid-19 bodies which in essence is the existence of good communication between citizens whose burial places will be occupied Covid-19 bodies this can be done by the local government that is the burial place of Covid-19 bodies this is indeed the responsibility of the local government, some cases that occur due to communication, information and socialization of the care/repatriation of bodies to the community that is less so that it has an impact on the understanding of the community . (Firdaus, 2020). (Rismoko, 2020). (Sihombing, 2020).

## CONCLUSION

In some areas there are still some rejections of bodies from Covid-19 patients carried out by citizens this condition is very contrary to the value of humanitarian values especially if it is associated with the culture in the Country of Indonesia that has the nature of mutual cooperation and togetherness in daily life, if reviewed from the aspects of positive law that applies in Indonesia is clearly not allowed to obstruct, refuse funeral bodies some articles can be used, among others ,article blocking funerals, law of plague until the article prevents officers who are carrying out duties can be used along with legal violations. It is necessary to socialize, educate and communicate to the citizens that the Covid-19 bodies have gone through stages in accordance with medical protocol and WHO in the treatment/repatriation of bodies so that there should be no need for excessive fear while if residents refuse funerals Covid-19 patients' bodies there are sanctions including moral sanctions, fines and criminal confinement.

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