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Enforcement Of Restrictions On Community Activities (Ppkm) For The Emergency Period Of Covid-19 (*Certificate Of Vaccination Identification With Artificial Intelligence*) In Terms OfIndonesia's Criminal Justice System

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Enforcement Of Restrictions On Community Activities (PPKM) For The Emergency Period Of Covid-19 (Certificate of Vaccination Identification With Artificial Intelligence) In Terms Of Indonesia's Criminal Justice System

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Abstract

The implementation of Community Activity Restrictions (PPKM) as an effort to control the spread of Covid-19 carried out by the government to deal with the Covid-19 Pandemic. However, in its implementation, the PPKM policy has encountered various problems such as the application of sanctions that refer to the Criminal Code, laws, and Regional Regulations. In fact, the basis for implementing this PPKM is only based on the Instruction of the Minister of Home Affairs. This makes the government seem selective in implementing a regulation. This research uses normative juridical research using a statute approach, descriptive analytical research and qualitative research forms. Based on the results of the study, it is known that: The regulation of criminal law against violators of the Emergency PPKM rules in the Indonesian criminal justice system, namely according to the Instruction of the Minister of Home Affairs No. 16 of 2021 concerning Amendment to the Instruction of the Minister of Home Affairs No. 15 of 2021 concerning the Imposition of Restrictions on Emergency Community Activities for Corona Virus Disease 2019 in the Java and Bali Regions in point (c) it is stated that "Everyone can be subject to sanctions for those who commit violations in the context of controlling infectious disease outbreaks based on: Article 212 - Article 218 of the Criminal Code, Article 14 of Law no. 4 of 1984 concerning Outbreaks of Infectious Diseases, and Article 93 of Law no. 6 of 2018 concerning Health Quarantine, Regional Regulations, Regional Head Regulations, Provisions of other relevant laws and regulations. Criminal liability for perpetrators of violators of the Emergency PPKM rules in the Indonesian criminal justice system, namely Article 212 of the Criminal Code, is punishable by a maximum imprisonment of one year and four months or a maximum fine of Rp. 4,500. Article 218 is threatened with a maximum of four months and two weeks or a maximum fine of Rp. 9,000. Article 14 of Law no. 4 of 1984 concerning Outbreaks of Infectious Diseases, paragraph (1) is punishable by a maximum imprisonment of 1 year and/or a maximum fine of Rp. 1,000,000. Paragraph (2) is subject to a maximum imprisonment of 6 months and/or a maximum fine of Rp. 500,000. Article 93 of Law no. 6 of 2018 concerning Health Quarantine is subject to a maximum imprisonment of 1 year and/or a maximum fine of Rp. 100,000,000.

Keywords

Criminal Law, Offenders, PPKM, Criminal Justice

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1. Introduction

Indonesia is no exception and the situation is getting worse. The Indonesian government even calls the virus a non-natural disaster Covid-19, which will experience

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disruption in all aspects of life, ranging frombusiness, tourism and others. Therefore, the governmenthas decided to consider gradually increasing the number of positive cases of the corona virus, considering that Indonesia is directly adjacent to countries affected by the Covid-19 infection.[1]

The issuance of Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions (PSBB) by the Central Government on March 31, 2020 symbolizes a new phase of overcoming the Covid-19 pandemic in Indonesia. Previously, since the announcement of the first positive case of COVID-19 on March 2, 2020, there have been no legal regulations on how to deal with the spread of COVID-19. Between March 2 and March 31, the current regulation still calls for people to work from home, study at home, and pray at home. As a result, positive cases and deathsincreased.[2]

The Covid-19 outbreak continues to occur in the community. Not only does it cause losses in the health, economy and society, but also has an impact on the community in the fields of education, culture and worship, and threatens the defense and security of the country.19, the government announced a policy that was initiated by with the term Mass Social Restrictions (PSBB), restrictions on work and community activities and raised to emergency in terms of the implementation of restrictions on activities in the community or emergency PPKM. Even the limits of community activities or the results of the evaluation of the implementation of PPKM are currently set for Level 3 or Level 4 PPKM levels based on the circumstances and conditions that occur in each community.[3]

Based on the Minister of Home Affairs Decree Number 3 of 2021, to control the spread of the 2019 coronavirus disease, implement micro-based restrictions on community activities and implement 2019 coronavirus disease control measures at the village and sub-district levels. The establishment of command postswill be carried out in 7 Java-Bali provinces, namely "Banten, DKI Jakarta, West Java, Central Java, DIY, East Java, Bali and other provinces in Indonesia". The rules applied at the micro PPKM are based on the zoning of the Covid-19 area, whether it is a green, yellow, orange, or red zone. In the red zone, PPKMruns up to the RT level. Starting with the closure of places of worship, children's playgrounds and other public places that are not important. It is strictly forbidden to gather more than 3 people. The movement of residents in and out of the RT area is limited to a maximum of 20.00 WIB. All social activities that cause crowds must be eliminated.[4]

Violation of the PPKM emergency rules in the Indonesian criminal justice system is a crime. According to I Made Widnyana, criminal acts can also be in the form of acts that are prohibited by laws and regulations, or prohibited acts that contain threats or sanctions in the form of criminal acts against people who violate the prohibition, or subsequent criminal acts. Prohibited and Legally Threatened Behavior Punishment is aimed at behavior that constitutes a criminal threat to the perpetrator.[5]

If there are conditions that violate Emergency PPKM, the government seeks to impose criminal law through Emergency PPKM with Mass Social Restrictions (PSBB) or severe sanctions. Law Number 6of 2018 concerning Health Quarantine, Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases and the Criminal Code. Criminal threats can also be imposed through the Criminal Code starting with Articles 212-216, and Article 218 of the Criminal Code.imprisonment for a maximum of one year and four months or a fine of a maximum of Rp. 4,500", or Article 218 of the Criminal Code explains "The sentence of imprisonment is a maximum of four months and two weeks or a maximum fine of Rp. 9,000.[6]

Criminal responsibility for violations of Emergency PPKM refers to the Infectious Disease Outbreak Law Number 4 of 1984, Health Quarantine Law Number 6 of 2018 and the Criminal Code. Although the Emergency PPKM Law on Criminal Violations has been passed, there are still many violations of Emergency PPKM to date.

Some examples of cases of violations of Emergency PPKM include: "The police investigated 3 cases of violations of Emergency PPKM in Banyumas,5 people became suspects. The three suspects in the case of organizing a birthday party were charged with Article 14 of Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases and or Article 93 of Law Number 6 of 2018 concerning Health Quarantine. They face a maximum imprisonment of one year or a maximum fine of Rp. 100 million. Investigators from Polda Metro Jaya are legally processing 35 cases out of 245 alleged violations of the Implementation of Emergency Community Activity Restrictions (PPKM) which were caught through Operation Aman Nusa II."

The judge of the District Court (PN) of Banjar City sentenced PT Albasi Priangan Lestari Banjar to a fine of Rp 50 million.[7] The judge of the District Court (PN) of Banjar City sentenced PT Albasi Priangan Lestari Banjar to a fine of Rp 50 million. The verdict was handed down after the wood processing company was proven to have violated the Emergency PPKM regulations. PoldaMetro Jaya investigated 34 non-essential and non-critical companies that violated the emergency PPKM. 70 people who were senior officials from the 34 companies were named suspects.[8]

The Indonesian government is currently adopting the policy of Enforcement of Community Activity Restrictions (PPKM) to contain the spread of Covid-19 as a form of government legislative policy to combat the Covid-19 pandemic. However, in its implementation, the PPKM policy encountered various problems, including: Application of Sanctions Related to Criminal Law, Laws, and Regional Regulations. In fact, the basis for implementing PPKM is solely based on the instructions of the Minister of Home Affairs and Communications. The state's obligation to guarantee thebasic needs of its citizens based on Law Number 6 of 2018 concerning Health Quarantine was not implemented during the PPKM period, but had a significant impact on the community's economic decline. This allows the government to appear selective in enforcing regulations.

In accordance with the explanation above, so that researchers are interested in carrying out a study with the title "Implementation of Community Activity Restrictions (PPKM) for the Emergency Period of Covid-19 (Certificate of Vaccination IdentificationWith Artificial Intelligence) Viewed from the Indonesian Criminal Justice System.

The formulation of the problem in this study is as follows:

- 1. What is the criminal law setting for violators of the Emergency PPKM policy in the Indonesian criminal law setting for violators of the Emergency PPKM policy in the Indonesian criminal law setting for violators of the Emergency PPKM policy in the Indonesian criminal law setting for violators of the Emergency PPKM policy in the Indonesian criminal law setting for violators of the Emergency PPKM policy in the Indonesian criminal law setting for violators of the Emergency PPKM policy in the Indonesian criminal law setting for violators of the Emergency PPKM policy in the Indonesian criminal law setting for violators of the Emergency PPKM policy in the Indonesian criminal law setting for violators of the Emergency PPKM policy in the Indonesian criminal law setting for violators of the Emergency PPKM policy in the Indonesian criminal law setting for violators of the Emergency PPKM policy in the Indonesian criminal law setting for violators of the Emergency PPKM policy in the Indonesian criminal law setting for violators of the Indonesia criminal law setting for violators of the
- 2. What is the criminal responsibility for perpetrators of violators of the Emergency PPKM policy in the Indonesian criminal justice system?

2. Discussion

2.1 Criminal Law Arrangements against Offenders Emergency PPKM rules in the justice system Indonesian Criminal

2.1.1. Regulation of Criminal Law Against Violators of Emergency PPKM Rules

Violation of the emergency PPKM rules in the Indonesian criminal justice system is a crime. Criminal Regulations Violation of the Emergency PPKM Regulations in the

Indonesian Criminal Justice Systemis an effort to attract public attention to the threat of criminal sanctions for those who violate health protocols. Criminal justice policies can practically be implemented in the country Law. Actions taken are based on legal principles aimed at the benefit of society. Efforts to save the community from the Covid-19 pandemic. A policy to prosecute actions that are not such a way that it is part of a criminal law policy (criminal policy). [9]

In accordance with the results of the study, the researcher can explain that the regulation of criminal law for violators of the Emergency PPKM policy in the Indonesian criminal justice system is in accordance withthe Instruction of the Minister of Home Affairs Number 16 of 2021 regarding the Instruction of the Minister of Home Affairs Number 15 of 2021 2019 in the Java and Bali Regions in point (c) it is stated that "Everyone can imposed sanctions for those who commit violations in the context of controlling infectious disease outbreaks based on: (1) the Criminal Code Articles 212 to 218; (2) Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases; (3) Law Number 6 of 2018 concerning Health Quarantine; (4) Regional Regulations, Regional Head Regulations; and (5) Provisions of other relevant laws and regulations.

Law No. 4/1984 concerning Outbreaks of Communicable Diseases. "Article 14 (1) Deliberately obstructing the implementation of epidemic control is punishable by imprisonment for a maximum of 1 year and/or a maximum fine of Rp. 1,000,000. (2) Due to negligence which results in the obstruction of the implementation of the epidemic control, the threat of imprisonment for a maximum of 6 months and/or a maximum fine of Rp. 500,000.

Law Number 6 of 2018 concerning Health Quarantine. Article 93 "Everyone who does not comply with the health quarantine causing a public health emergency shall be punished with a maximum sentence of 1 year and/or a maximum fine of Rp. 100,000,000". 2.1.2. Criminal Law Enforcement Against Violators of Emergency PPKM Rules

Handling Covid-19 by imposing criminal sanctions is the implementation of criminal justice policies (laws on the application of sanctions). to combat crime. In criminal policy, efforts to enforce criminal law (implementation of criminal law) have been proven to be criminally limited, especially in overcoming overlapping social problems such as public health and community nutritional needs. The despair of the people who have to keep working to meet their food needs is a socio-economic problem that is not adequately addressed by threatening or punishing violators. Politically and criminally, there are other approaches that can be used to compensate for the limitations of the approach to punishing criminals. On that basis, a criminal policy approach is needed to overcome the spread of Covid19.[10]

Faktor Community and cultural factors are the factors causing the ineffective implementation of the Java and Bali Emergency PPKM. The DPR can carry out its supervisory function through Commission II by holding a working meeting with the Minister of Home Affairs and the PPKM Coordinator to find solutions regarding the effectiveness of the Java-Bali EmergencyPPKM implementation so that the initial goal of itsimplementation can achieve maximum results, namelyreducing the rate of transmission of the Covid-19 Virus. After that, the Government can follow up on the results of the supervision of the DPR RI, the results of whichcan be reported back to Commission II of the DPR RI.[11] It is important to enforce and manage emergency PPKM rules. Government policies related to theimplementation of micro PPKM and emergency PPKMnationally in Java and Bali are in line with thegovernment's obligation to protect all Indonesians in

accordance with the provisions of the Preamble to the 1945 Constitution of the Republic of Indonesia. In this PPKM agreement, the government did several things by enforcing restrictions on community activities are inaccordance with the Minister of Home Affairs Regulation Number 15 of 2021. However, in this cases upermarkets and minimarkets remain open to purchasedaily necessities such as basic necessities and daily necessities, while public restaurants use an online system to order via online delivery or the online delivery system. drive-thruconsumption on the site is not allowed. [12]

Law enforcement is still barren and does not have the guts to enforce it. Regulations only see cowardice, especially for the vulnerable. The number of sanctions imposed for violations of health protocols ranges from verbal and written warnings to fines. Of the many cases of violation of health protocols, several violations were not committed by law enforcement officers: the presidential visit crowd in East Nusa Tenggara, the RafiAhmad and Ahok crowd in the South Jakarta area, and Gibran in Solo, the crowd in Deli Serdang, and many more.[13]

According to the results of the study, researchers can analyze that "currently law enforcement against health protocol violators is still minimal. The presence of Integrated Law Enforcement (Gakkumdu) is not for the sole purpose of punishing. a sense of justice". Indonesia as a rule of law country has power over violations of health protocol laws during a pandemic. Enforcing such laws is very difficult. But this is the wayto the beginning of the end of Covid-19 in Indonesia. It doesn't make sense for the government to care about health protocols and vaccination while ignoring law enforcement. The road must be balanced, health protocols remain, vaccinations remain. But criminal prosecution must also be sought for every violation committed by a person. Aims to eliminate the Covid-19 outbreak from the planet in Indonesia.[14]

Determination of the direction of the rule of law can be observed through two indicators, namely themechanism for making rules and applying rules in society. Because democratic legal policy is the most ideal choice of policy direction chosen by the state, PPKM policy must be in line with the direction of democratic legal policy.[15]

At every step, law enforcement officers are asked to consider and go beyond the interests of individuals orgroups individually. In difficult times in the midst of thecurrent pandemic, people want law enforcement to flowrather than law enforcement which is always rigid and simplistic in law and regulatory circles. There is a reorientation of perceptions The community towards law enforcement must of course be accompanied by appropriate law enforcement officers to create law enforcement agencies that do not merely adopt a positivist formal theory. Law enforcement officers are obliged to carry out their duties through a unilateral legal approach as long as they fulfill only the elements of articles which state that all the conditions for punishment are have been met.

The rule of law during the Covid-19 pandemicmust be able to minimize the number of deaths and the economic impact of the spread of Covid-19. Since minimizing individual deaths as much as possible is a top priority, the government is taking action to resolve the inevitable economic crisis, as well as adopting reasonable legal policies. to limit imprisonment and fines. One of the economic crises and unpredictable situations in today's society. Consistent with David Easton's view, every legal policy contains a set of values, so that when governments issue public policies, they also provide value to society at the same time. that.[16]

Laws tend to be used to scare people during the Covid-19 pandemic, but the laws themselves are not really enforced. The dilemma that arises is the number of Prokes

violations during the Covid-19 pandemic. There are still many people who ignore health protocols, but there is no action from the government. Legal policies during the Covid-19 pandemic must be able to minimize the number of deaths and the economic impact of the spread of Covid-19. Therefore, in the current economic crisis and uncertain social climate, criminal sanctions, both imprisonment and fines, are not a wise policy. [17]

Given that Indonesia is a constitutional state based on the 1945 Constitution article 1 paragraph 3, therefore, all actions must be carried out in accordance with the law, the state, society and government must comply with the law and the community must comply with the existing law in Indonesia. The PKKM emergency policy issued by the Minister of Home Affairs in the form of this directive became the basis forthe government which then led the Prime Minister to issue regulations to deal with the current spread of the Covid virus. This is based on the results of monitoring from the health department. Java is level 3-4, Bali level 3 The provisions of the Ministerial Regulation can be seen from the arrangement of laws in Article 8 of Law no. 12 of 2011, which contains other laws and regulations. [18]

2.2 Criminal Accountability Against Actors Violating the Emergency PPKM Rules in the Indonesian Criminal Justice System

Emergency PPKM refers to Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases, LawNumber 6 of 2018 concerning Health Quarantine, and the Criminal Code. Even though the Criminal Violation Emergency PPKM Law has been passed, until now there are still many Emergency PPKM violations.

According to the Criminal Code, imposing punishment on violators consists of teaching them a lesson not to repeat their bad deeds and returning them to a good society to become good people. Muladi's opinion, that "the complementary nature of criminal law and administrative law, in the form of administrative penal law is increasingly widespread. This can be seen from the intensification of criminalization of acts that actually fall within the administrative jurisdiction.

The number of Prokes violations during the Covid-19 pandemic. Many people still ignore it, and there is no government action. Emergency PPKM must also be directly proportional to law enforcement. The increase in Covid-19 is due to the many violations committed by the community. There was still a large crowd. There are still many people who are not following the health quarantine, but everyone remains indifferent. In particular, policy makers and enforcers themselves have been accused of violating health protocols and have not been charged or punished. The existing legal shelter serves as a judicial justification tool for violators of the legal provisions of Article 212 of the Criminal Code Jo Article 218 of the Criminal Code Jo the provisions of Article 14 paragraph (1) of the Law. -Law Number 4 of 1984 concerning Outbreaksof Infectious Diseases, and the provisions of Article 93 of Law Number 6 of 2018 concerning Health Quarantine.

In the midst of the government's efforts toovercome the Covid-19 pandemic, the fundamental question of criminalization in the field of administrative law is very appropriate to be reviewed at this time. if it included in the discussion of the grounds on which certain acts are punished. In other words, this is not discussed explicitly in the discussion of the criteria for acriminal act.[19]

The threat of criminal sanctions means the application of criminal law as one of the criminal political efforts, through criminal law (criminal law). In the study of criminal policy, the application of criminal law must, while still being based on human values, taking

into account the nature of criminal law which functions as an assistant, meaning that it will not be especially if the application of criminal sanctions fulfillssocial conditions that force people to fulfill their basic needs. Especially for the SME sector, community members are still within the limits of opening hours, online services or restaurant visits to meet basic needs such as enforcement of legal sanctions. Violation of thislegal code can be punished with imprisonment or a fine, which remains in the enforcement of community discipline.[20]

In accordance with the results of the study, the researcher can explain that criminal responsibility for perpetrators of violators of PPKM rules in the Indonesian criminal justice system is Article 212 of the Criminal Code which reads "threatened for fighting an official with a maximum imprisonment of one year and four months or a maximum fine of Rp. 4,500". In addition, Article 218, which reads "threatened for participating in a group, is sentenced to a maximum imprisonment of four months and two weeks or a maximum fine of Rp. 9,000.

Article 14 of Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases is stated in paragraph (1) "Intentionally obstructing the implementation of epidemic control is punishable by imprisonment for a maximum of 1 year and/or a maximum fine of Rp. 1,000,000. Paragraph (2) Due to negligence which results in obstruction of the implementation of the epidemic control, the threat of imprisonment for a maximum of 6 months and/or a maximum fine of Rp. 500,000.

Article 93 of Law Number 6 of 2018 concerning Quarantine states "Everyone who does not comply with the health quarantine causing a public health emergencyshall be punished with a maximum sentence of 1 year and/or a maximum fine of Rp. 100,000,000.

3. Conclusion

In accordance with the results of the study regarding the Imposition of Community Activity Restrictions (PPKM) during the Covid-19 emergency period (certificate of vaccination identification with artificial intelligence) in terms of the Indonesian criminal justice system, it can be concluded that:

- 1. The regulation of criminal law against violators of the Emergency PPKM rules in the Indonesian criminal justice system, namely according to the Instruction of the Minister of Home Affairs Number 16 of 2021 concerning Amendment to the Instruction of the Minister of Home Affairs Number 15 of 2021 concerning the Enforcement of Restrictions on Emergency Community Activities for Corona Virus Disease 2019 in the Java and Bali Regions at point (c)) it is stated that "Everyone can be subject to sanctions for those who commit violations in the context of controlling infectious disease outbreaks based on: Article 212 to Article 218 of the Criminal Code, Article 14 of Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases, and Article 93 of Law Number 6 of 1984". 2018 concerning Health Quarantine, Regional Regulations, Regional Head Regulations, Provisions of other relevant laws and regulations".
- 2. Criminal liability for perpetrators of violators of the Emergency PPKM rules in the Indonesian criminal justice system, namely Article 212 of the Criminal Code which reads "threatened for fighting an official with a maximum imprisonment of one year and four months or a maximum fine of Rp. 4,500". In addition, Article 218 which reads "threatened for participating in a group with a maximum imprisonment of four months and two weeks or a maximum fine of Rp. 9,000". Article 14 of Law Number 4 of 1984

concerning Outbreaks of Infectious Diseases: "(1) Deliberately obstructing the implementation of epidemic control is punishable by imprisonment for a maximum of 1 year and/or a maximum fine of Rp. 1,000,000. (2) Due to negligence which results in the obstruction of the implementation of the epidemic control, the threat of imprisonment for a maximum of 6 months and/or a maximum fine of Rp. 500,000. Article 93 of Law Number 6 of 2018 concerning Health Quarantine Anyone who does not comply with the health quarantine causing a public health emergency shall be punished with a maximum sentence of 1 year and/or a maximum fine of IDR 100,000,000.

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