

THE URGENCY OF PUBLIC ATTITUDES OF ONLINE SESSION RULES IMPLEMENTATION IN CRIMINAL CASES DURING COVID-19 PANDEMIC

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ABSTRACT

The background of the research entitled "The Urgency of Public Attitudes on the Application of Online Session Rules in Criminal Cases during the Covid-19 Pandemic" is a phenomenon in society that tends to reject policies from the government, including policies related to handling Covid-19, namely large-scale social restrictions policies. That's why this study aims to find out how the public's attitude in responding to state provisions that stipulate online criminal case trials both as the general public and defendants in criminal cases in particular. The type of research used is a sociological normative type of research, which is to examine the problem of implementing various regulations in society. The results of this study are (1). In general, the attitude of the community towards the government's policy of restricting activities in public places or facilities is that they do not comply and take them seriously. (2). The attitude of the accused towards the holding of online criminal cases shows that more people respond positively than negatively. The comparison is 8 positive response items (53.3%).

INTRODUCTION

The outbreak of Covid-19 in Wuhan, Hubei Province, China at the beginning of 2020 was relatively fast and had a relatively high fatality rate, but it was enough to shake the lives of people and nations in all parts of the world. Several countries immediately responded to the outbreak of the deadly virus by issuing various policies. Several countries have set policies by closing migration routes to China or by isolating people who have just returned from China and conducting rapid checks to predict the spread of the virus (Agustino, 2020). Covid-19 has claimed more than 5.62 million lives worldwide. The main cause of death due to Covid-19 is due to thrombotic complications (Sung et al., 2022). Moreover, the daily pattern of cases reveals that the handling of COVID-19 cases in Indonesia, both worldwide and nationally, has seen insignificant improvements (Putera et al., 2022).

The escalating pandemic across major and emerging nations resulted in strict lockdowns and massive interruptions in economic activity at an unprecedented rate and magnitude (Padhan & Prabheesh, 2021). Due to the presence of Covid-19 not only poses complex problems to solve for the health aspect but also causes problems in almost all aspects

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of the implementation of national and state life including in this is in the field of law, namely the state is obliged to carry out judicial trials quickly (Basuki, 2020). Because of its emphasis on people's choices and interactions, economics has an edge in understanding (a subset of) epidemiological events, notably the Covid-19 pandemic (Shin & Vandembroucke, 2022). This is a form of human rights protection so that the accused can quickly obtain legal certainty for their actions. The defendant has the right to be tried quickly without any undue delay.

The implementation of the trial by applying the principle of fast, cheap and visits for perpetrators of criminal acts so far as a form of protection of human rights for perpetrators of criminal acts has so far been no problem, because the mechanism has been regulated firmly and clearly. However, with the emergence of the Covid-19 pandemic, one form of government policy is to limit gatherings, limiting crowds directly so that the spread of COVID-19 causes problems in the implementation of the trial. To overcome this situation, the Republic of Indonesia adopted a policy to hold online criminal case trials.

As a human being, someone who is suspected or convicted even though he has been sentenced as a prisoner, the state is still obliged to protect their human rights. Human rights are fundamental rights that are universally recognized as rights inherent in humans, regardless of skin color, gender, age, cultural background, religion or belief (Riyadi, 2019). The perpetrators of criminal acts who in fact are considered as people who are suspected or accused of committing acts that violate the human rights of others, but they still have the right to obtain protection of their human rights.

The state's policy of holding criminal case trials online in the midst of the COVID-19 pandemic is a form of state responsibility so that trials can still be carried out quickly, even though it cannot be offline. The Government Regulation was also issued in response to an increase in the number of incidents of Covid-19 spreading across borders, which has an impact on the political, economic, social, cultural, defense, and security dimensions, as well as the welfare of the Indonesian people (Hasrul, 2020).

However, people now have symptoms of opposing or rejecting the rules and guidelines set by the state. In this case, including the guidelines issued by the government to deal with the COVID-19 pandemic. Even though this policy was set by the government to overcome the COVID-19 pandemic in general, especially the safety of the community itself. For the South Kalimantan area, the distribution of Covid-19 on July 19, 2022 was positive, amounting to 84,764 people. With details, 272 people were treated, 2,542 people died and 81,950 people recovered. Even for the city of Banjarmasin some time ago it was included in the black category so that residents of the City of Banjarmasin in isolation were not allowed to travel out of the city of Banjarmasin.

This is interesting to study, namely about the attitude of the community in responding to the provisions issued by the Republic of Indonesia which stipulates online criminal case trials, because the policies issued by the government will not provide benefits if they are not implemented by the community.

METHOD

The method used in this study is the sociological normative legal method (Efendi & Ibrahim, 2016), which is analyzing public attitudes regarding policies issued by the state regarding changes in criminal case trials that should be held offline to online, with the type of inventory related to the problem. Then processed and analyzed with normative steps.

RESULTS AND DISCUSSION

A. Public Attitude towards Government Policy to Restrict Activities in Public Places or Facilities

Covid-19 is an infectious disease that can quickly infect many people. Slowing the spread of the coronavirus (COVID-19) is the only way to end the pandemic. The wider community can take an active role in disaster management and risk reduction (Quyumi & Alimansur, 2020).

Coronavirus Disease 2019 (COVID-19) is a new type of disease that has never been previously identified in humans. The virus that causes COVID-19 is called Sars-CoV-2. Corona virus is zoonotic (transmitted between animals and humans). The average incubation period is 5 - 6 days with an incubation period of fever, cough, and shortness of breath. In severe cases, COVID-19 can cause pneumonia, acute respiratory syndrome, kidney failure, and even death. Indonesia is a developing country and the fourth most populous country in the world, and thus is expected to suffer greatly and over a longer period of time. Corona virus 2019 or COVID-19 is a pandemic that has resulted in high mortality rates in various parts of the world. Good knowledge about the COVID-19 pandemic and clean and healthy living behavior as an effort to prevent the transmission of COVID-19 is important (Waqfin, 2020).

The government's efforts to overcome the spread of Covid-19, which has a high spread, have covered many aspects of life. According to Arifa, in the field of education, the government implements learning from home programs (Paramadina & Roosemella, 2021). According to Yunus and Rezki in the social field, the government has aggressively launched the concept of community mitigation, in the form of reducing the frequency of large gatherings, limiting the distance between people in facilities. general, to the application of the concept of activities that are better carried out at home. Then according to Telaumbanua in the health sector, the government is intensively educating the public regarding the importance of clean and healthy living, the need to wear masks when outside the home, implementing self-quarantine for people who have high risk, as well as various guidelines aimed at preventing the transmission of COVID-19 (Paramadina & Roosemella, 2021).

Restrictive Policy The Indonesian government issues a policy through Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions, which includes school and workplace holidays; restrictions on religious activities; and/or restriction of activities in public places or facilities due to the Covid-19 Pandemic causing various reactions in the community. Many people are taking this pandemic lightly, but quite a lot of people are taking it seriously. Differences in perception in responding to the Covid-19 outbreak affect the shape of people's behavior. For people who have the perception that Covid-19 is the same as other types of disease, they tend to ignore it. The government's appeal to always comply with the Covid-19 protocol in every activity tends to be disobeyed. The government continues to urge the public to always wear masks, maintain distance, and always maintain health by washing hands with soap. Based on observations of people's behavior, only a few people want to wear masks. Even the police and related agencies often carry out mask raids on major roads to increase public awareness in using masks. Not only on the streets, the police also routinely raid markets and other shopping centers. This is done because public awareness of the use of masks is still low. On the other hand, there are groups of people who take advantage of the pandemic as an area of activity, for example monopolizing sales for pandemic needs such as masks and hand sanitizer. The implication is that some people choose not to buy these items because the prices have soared (Widodo, 2020).

Not all people take the Covid-19 pandemic lightly. Many people also take the Covid-19 pandemic very seriously. People who are members of this group tend to do things excessively in the face of a pandemic. One of the consequences is the emergence of discriminatory attitudes in society. From several residents it can be seen that this pandemic has caused tremendous fear in the community. Moreover, with the news in the mass media that is getting more and more intense, people are getting more and more anxious. The implication is that there is an over-protective attitude. The goal is to avoid contracting the Corona virus. But on the other hand, this overprotective attitude actually has a bad impact on society. This attitude has given birth to a new form of discrimination in society. Social relationships that have existed for a long time can be lost due to the pandemic. They are suspicious of each other. Even if a neighbor sneezes or coughs, it is not uncommon for people around him to stay away (Widodo, 2020).

According to Leo Agustino, residents' indifference to government policies is caused by several things. First, public ignorance about the deadly dangers of COVID-19 is very high. This ignorance is due to the weak socialization carried out by the government, including local governments and their staff. The Indonesian government has not been maximal in campaigning for the necessity of clean and healthy living, including the use of masks and washing hands, because some media can spread the coronavirus. For example, van Doremalem's study explains that the corona virus can survive for hours to days on different mediums. Corona virus can survive several hours in the air, survive 4 to 8 hours in copper medium, survive 24 hours in cardboard medium, and can also survive up to 3 days in plastic or stainless-steel medium. This virus resistance must be anticipated through a clean and healthy lifestyle. Second, there is an interest in meeting the needs of life, causing some residents to ignore physical or social distancing orders. This ignorance was even seen during the implementation of Large-Scale Social Restrictions (*PSBB*) in several areas. Third, the absence of strict sanctions keeps human migration high; and physical or social distancing policies are less impactful. For example, the Ijtima Jamaah Tabligh Asia Zone 2020 event at the Darul Ulum Complex, Gowa Regency, South Sulawesi Province which was originally going to last four days from 19 to 22 March 2020 is an example of how the sanctions are not firm (Widodo, 2020).

B. The Defendant's Attitude towards the Policy for Online Trial of Criminal Cases

A policy issued by the state is essentially aimed at the interests and benefits of all its citizens. However, no matter how good a policy is, it will not provide benefits in accordance with what is the purpose of the policy being made, if it is not supported and implemented by the community. A policy is just a collection of writings on paper that have no meaning without the support of the community as the implementer (Airlangga, 2019).

As in the case that became the theme in this study. Although Article 195 of the Criminal Procedure Code stipulates that all court decisions are only valid and have legal force if they are pronounced in a trial open to the public, the state must take the opposite attitude from this provision due to the fact that the Covid-19 pandemic with its high death rate is not a disease. circumstances that can be ignored. With the argument that the state is in an emergency, the implementation of criminal case trials that should be offline will be online.

Regarding emergency conditions in constitutional law, there are two kinds of emergency constitutional law (*staatsnoodrecht*). The emergency constitutional law has its constitutional basis in the 1945 Constitution of the Republic of Indonesia. There are two constitutional foundations for state and administrative law in the 1945 Constitution of the Republic of Indonesia, namely Article 12 and Article 22 and Article 12 of the 1945

Constitution of the Republic of Indonesia which regulates the country in a dangerous condition, while Article 22 of the 1945 Constitution The 1945 Constitution of the Republic of Indonesia gives the President the authority to issue Perppu. Article 12 of the 1945 Constitution of the Republic of Indonesia enlivens the legislators to form a law regarding the conditions for a state of danger. The state of danger is regulated in Law/Prp/No. 23 of 1959.

Law/Prp/No. 23 of 1959 is the legal basis for President Jokowi in tackling the Covid-19 pandemic by implementing a civil emergency status. At first, the government seemed confused about how to respond to the Covid-19 pandemic, because this was the first time Indonesia was tested with a disease outbreak on a global scale. Before the central government took action to deal with the impact of the transmission of Covid-19, various regions had already moved to cope so that the impact of the transmission did not spread. After about two weeks, the local government took measures to deal with Covid-19 on its own without coordinating with the central government, after that the central government issued several policies regarding the handling of Covid-19.

The product is Presidential Decree no. 11 of 2020 concerning the Determination of Public Health Emergency Corona Virus Disease 2020 (Keppres No.11/2020), Government Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease 2019 (PP No. 21/2020) (Widodo & Disantara, 2021).

From the results of the study, it is known that regarding the attitude of suspects in criminal cases who undergo trial in their cases individually. online is divided into two groups, namely attitudes that are classified as positive and attitudes that are classified as negative.

The attitude of the suspects who are classified as positive regarding the trial of the criminal cases they face are as follows:

1. Can accept because of the covid-9 pandemic condition
2. Instead feel happy because there is no need to meet directly with the victim/victim's family
3. Take part in suppressing the spread of Covid-19
4. More efficient in terms of time and transport
5. Able to attend the hearing immediately when it is your turn / without waiting long
6. Not tired because the trial is in prison
7. No need to mobilize from the detention center to court
8. Protected / not worried about contracting covid-19 from outside the prison

Then the attitude of the suspects who are classified as negative regarding the trial of the criminal cases they face are as follows:

1. Feeling less clear in attending the trial because of network problems that are often disconnected
2. Lack of communication with their legal advisors
3. Some are dissatisfied because they cannot meet directly with the victim/victim's family to eyewitnesses
4. Because the network is sometimes unclear, the speaker a prosecutor
5. Unable to communicate freely due to network constraints
6. Not used to online trial

The data above shows that the attitude of the defendants towards the existence of online courts shows that more people respond positively than negatively. The comparison is 8 positive response items (53.3%) and 7 negative response items (46.7%).

From the discussion of the defendant's attitude towards the online trial, what should be the focus of the discussion here is the fact that the majority of the negative responses from the defendants were not due to their disagreement with the existence of their online trial, but due to technical reasons for holding the online trial, which still had many obstacles, namely network problems that are often disrupted so that the sound or image of the parties involved in online court hearings is less clear. This fact shows that the defendants, who incidentally are the most interested parties in the implementation of online trials, can understand the urgency of state policy to change the implementation of courts that should be offline to online.

CONCLUSION

The public's attitude towards the government's policy of limiting activities in public places or facilities is that they do not comply and take it seriously. The attitude of not complying is due to the lack of public knowledge about the dangers of Covid-19 so they tend to ignore and because of the urgency of economic needs. While the attitude of complying is serious because they know the dangers of Covid-19, which spreads very high and the threat can result in death.

The defendant's attitude towards the holding of online criminal cases shows that more people respond positively than negatively. The comparison is 8 positive response items (53.3%) and 7 negative response items (46.7%).

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