

# The Implementation of The Judge in The Penal Era of The Pandemic Covid - 19 in The United States

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**Abstract.** In Indonesia, the procedure for the trial is guided by the rule of the Republic of Indonesia No. 8 of 1981 based on the Penal Code. The problem is held directly and orally; the defendant is required to attend and so on, but in the outbreak period covid-19, the implementation of the direct siding may not be possible because it can be one of the causes of the covid-19 outbreak disease's growth. The inductive norms case study approach was applied in this work, the normative legal research method, which is then supported by the addition of data or empirical elements. The trial may continue to be conducted with a fixed provision guided by the health protocol, and the criminal trial may be postponed if the panel of judges grants the request. The Judge implementation can be carried out online to prevent not contracting the corona outbreak.

**Keywords:** trial implementation; criminal; Covid-19 pandemic

## 1 Introduction

The purpose of the law is that human life in society, taking place in a state of peace so that peace is achieved, must be sought so that the law is obeyed. Several factors make people obey the law: [1]. In such a situation, a citizen complies with a particular legal situation because he expects a sure reward. After all, many things need to be explained about the adjustment. In this situation, a citizen is obedient because he expects a specific tip or as an effort to avoid the possibility of being sanctioned if the norm is violated.

A person obeys the law, not because of the actual value of the method but because he wants to maintain a relationship with other citizens of the group. What he likes to possess is a relationship with the group's leaders. Compliance because it wants to maintain good relations with the group. Many are found inhomogeneous and traditional societies where the means of social control function strictly. A person who does not comply with punishment (or possibly other methods) may be expelled from society. In such a society, there is also a tendency to maintain good relations with the group leader.

Otherwise, difficulties arise. Such patterns are also found in environments or categories of society that are still strong orientation toward superiors. The result is that such laws will be observed as long as they govern the relationships that are considered necessary. After it is considered less important, the legal force will fade because it begins not to be obeyed by the citizens it regulates.

It inspired the norms of society. The citizens were truly obeying the law based on profound reasons, and this is because the legal methods followed the values that exist in society—4

Inspired norms in the organization. In Indonesia, the procedure for the trial is guided by laws of the Republic Indonesia No. 8 of 1981 About Criminal Procedure Law. The trial process is based on legal principles: "the examination is carried out directly, and orally the defendant is obliged to attend and so on. [2] but during the spread of the corona outbreak, the implementation of the DiRECT trial may not be possible because it can be one of the causes of the reach of the covid-19 coronavirus.

In 2020, in the world of criminal trial courts, before the covid - 19 coronavirus already existed, a Buloggate corruption case trial was held where witness examinations were carried out online or via teleconference through National private television. In this trial, the defendant Rahardi Ramelan was tried, with Witness B.J. Habibie presented from Hamburg, Germany. During the spread of the corona outbreak, Court institutions were also affected by this global pandemic. In carrying out their duties as law enforcement agencies, especially in criminal law, they are faced with a dilemma that is quite difficult. The court decision is a very fundamental thing because this decision makes a person's right to be taken in everyday life. [3] and the guilty are punished.

The court's task is to accept, examine, Judge, and resolve the cases submitted to it. The District Court, the High Court, and the Supreme Court are all involved in this responsibility. In addition, the court is also obliged to realize helping seekers of justice. It is obliged to acknowledge a simple, quick, and low-cost solution trial following the judicial principle established by the Criminal Procedure Code. [4] based on the duties of the court, even though the covid is hitting Indonesia - 19 pandemic, the trial must still be held.

Based on a circular issued by the Supreme Court on the implementation of duties during the expansion of the coronavirus infection in the working area of the Judiciary in the Republic of Indonesia up to the judicial bodies subordinate to it, the court was ordered to implement the work system based on the perfect circle of the Chancellor of Administrator Rights and Governmental Reform, where judges and all judicial officials carry out the duties assigned by the state to them.

The Supreme Court's Directive Order further said that carrying out responsibilities from home includes the execution of official tasks as well as the administrative execution of the trial utilizing the electronic Court application. On cases when the inspection period is restricted by law, the challenge is solved by using the electronic Lawsuit form and other government tasks.

A senior judge at Family Court (Australia) named Judy Ryan said that during the covid - 19 pandemic, there were 4 (four) things carried out by the court, namely: [5]

- a. To protect vulnerable communities, the courts must remain open. Everyone, Covid-19 will have a significant impact on women, infants, and the aging, in particular, which will result in many lawsuits. The court must create a healthy working atmosphere for the Judge and all his staff, the court must give exemplary examples, and the relationship to swap stories with other judges in both local and international, in addition to prioritizing the handling of essential cases is also done.
- b. Information about the handling of cases and court proceedings is carried out Whether it's over the internet or over the phone, Court can help you get the most out of your website services and social media. There must be reduced registration hours carried out directly, Call Center services must be optimized, and all case registrations must be transferred to the electronic court.
- c. The court must also anticipate the wave of case registration in the post-pandemic period. With so many cases coming in, the application for the cost of exemption of subjects will also increase. All judicial devices must be ready to increase their capacity to face this issue

- is very necessary; the budget for the release of cases must also be added, and the cost of cases must also be fought so that they can provide optimal services for all communities.
- d. In need of modifications in such a way in the implementation of the court so that at the same time can meet the gov't's security and still meet the basic principles of procedural Law trial in court.

## **2 Research Methods**

This paper uses normative-empirical legal research methods, namely normative legal research methods, which combine normative legal elements, which are then supported by data or empirical features.

## **3 Results and Discussion**

### **3.1. Implementation of criminal trials in the covid - 19 era**

A suspect is suspected of being the perpetrator of a criminal act based on 2 (Two) pieces of evidence supported by evidence. According to Article 15 of the code of Criminal Procedure, the defendant is a suspect who is prosecuted, examined, and tried in court. The suspect is a party taking part in his independence, whose origin they are free now they have to run a trial in court with the defendant's title. For example, he was arrested, detained, confiscated his goods, etc. Giving appropriate rights to criminal suspects is protection against human dignity, so the government guarantees the implementation of the rights of the suspect has entered the territory of human civilization. In this case, the law in the civilized world is a law that, among others, protects the rights of suspects to the maximum, including a fair legal process [6].

In Law No. 8 of 1981 on the Code of Criminal Procedure( Criminal Procedure Code), the trial was not electronically regulated. This is because, at that time, the technology has not advanced. However, the regulation on electronic hearings before the covid - 19 pandemic already exists, namely Supreme Court Regulation Number 1 of 2019 on Case administration and electronic court hearings. The purpose of the release of Supreme Court Regulation Number 1 of 2019, which is as a legal basis for the administration of cases and proceedings electronically in court to support the realization of orderly handling of issues that are professional, transparent, accountable, effective, efficient and modern. This purpose follows Article 2 Paragraph (4) of Law No. 48 of 2009 on Judicial Power (Judicial Power Law), namely the implementation of a simple, fast, and light cost. From these provisions, the electronic trial is expected to benefit the litigants because the prosecution can be conducted quickly and unbureaucratically and low cost. [7].

In the covid-19 era, criminal trials are still carried out with a fixed provision guided by health protocols, based on the circular of the Supreme Court Number 1 of 2020, the implementation of tasks during the period of preventing the spread of the covid coronavirus - 19 in the environment of the Supreme Court and the judicial bodies under it, judges and judicial apparatus who have a turn to work in the office for the task of judicial services that provide direct services to the community by maintaining a safe distance (social distancing) and using protective equipment from the virus, namely masks and medical gloves according to local situations and conditions.

### **3.2. Online criminal trial on the grounds of covid-19 pandemic**

The spread of the coronavirus has had a destructive impact in all areas, including the judicial world. Where there are restrictions on social interaction, in facing this situation, the Supreme Court issued a policy related to the adjustment of work patterns and services in its judicial institutions. The restriction of social interaction causes most of the State Civil apparatus, including judges and judicial apparatus at the Supreme Court of the Republic of Indonesia, to work or perform official duties from home alternately; with such conditions, the Supreme Court must issue breakthroughs or instructions related to the adjustment of the trial pattern in court, especially for criminal cases that previously the trial was conducted face-to-face.

What is to be achieved by the Criminal Procedure Law, among others, is to seek and obtain the complete truth of a criminal case, which includes who the perpetrator can be charged with a violation of the law, regulate the examination in the police and the court and the judgment about the court, and regulate whether it is proven that someone has committed a criminal act and whether the person charged can be blamed and accounted for. [8]

To prevent the spread of the corona outbreak, criminal trials may/may be held online. According to a circular issued by the Supreme Court Number 1 of 2020 on the spread of the corona outbreak, which has been changed with SEMA number 3 of 2020 on the Second Amendment to SEMA Number 1 of 2020 on guidelines for the implementation of tasks during the Prevention of the spread of Corona Virus Disease 2019 (Covid - 19) in the Supreme Court and judicial bodies under it. The trial of criminal cases, military and jinayat crimes against defendants who undergo the trial process and undergo detention that can no longer be extended the detention process, then they continue to experience trial during the spread of the corona outbreak.

The delay was accompanied by an order to the substitute registrar to record in the minutes of the hearing about the existence of exceptional circumstances based on SEMA Number 1 of 2020 on guidelines for the implementation of duties during the period of preventing the spread of Corona Virus Disease 2019 (Covid - 19) in the Supreme Court and the judicial bodies below which have been amended by SEMA Number 2 of 2020 and Sema number 3 of 2020.

The stages in the Criminal Procedure Law on the outline are divided into five stages, namely: [9]

- a. Investigation (opsparing)
- b. Prosecution (vervolging)
- c. Judge (rechtspraak)
- d. Executing the judge's decision (executie)
- e. Supervision and observation of court decisions (yudicutie)

These stages hook, and the hook is a process between one location and another and ends in the setting of examination of the accused (the scene of adjudicating in a court hearing), which then in turn at the stage of supervising and observing the court decision when the convict is in a correctional institution.

## **4 Conclusion**

The trial continued during the spread of the coronavirus outbreak, with the provision of continuing to comply with health protocols (social distancing), using medical masks and gloves for judges. Criminal proceedings may be delayed on the grounds of the covid - 19 pandemic, with the provision of criminal cases, military and jinayat trials against defendants whose legal

detention period is still reasonable to be transferred until after the end of the coronavirus outbreak, provided that the panel of judges grants the request.

## References

- [1] Soerjono Soekanto, 1987, *Sociology of law in society*, CV. Rajawali, Jakarta.
- [2] Rasyid Ariman, Syarifuddin Pettanase and Fahmi Raghieb, 2007, *criminal justice system Indonesia*, UNSRI Press, Palembang.
- [3] <https://badilag.mahkamahagung.go.id>, accessed on 5 March 2022.
- [4] Bambang Poernomo, 2001, *pattern theory and general principles of Criminal Procedure Law*, Liberty, Yogyakarta.
- [5] <https://ejournal.upnjatim.ac.id/index.php/jdg/article/view/2518>, retrieved 7 March 2022
- [6] Munir Puady, Sylvia Laura, 2015, *Human Rights Of Criminal Suspects*, Prenada Media Group, Jakarta.
- [7] [file:dpr.go.id/pujut/files/info%Singkat-XII-14-II-P3DII-Juli-2020-191](file:dpr.go.id/pujut/files/info%Singkat-XII-14-II-P3DII-Juli-2020-191.pdf), pdf, accessed date March 6, 2022.
- [8] C. Djisman Samosir, 2013, *A Handful Of Criminal Procedure Law*, Nuance Aulia, Bandung.
- [9] Hari Sasangka, Lily Rosita, 2003, *Law of proof in criminal cases*, CV. Mandar Forward, Bandung.