

THE DILEMMA OF BUSINESSMEN VIOLATING THE COVID-19 EMERGENCY PPKM POLICY: BETWEEN LAW ENFORCEMENT AND RESTORATIVE JUSTICE BY INDONESIAN NATIONAL POLICE

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ABSTRACT

Following up on the directives of President Joko Widodo on the implementation of PPKM (Implementation of the Restriction of Community Activities) of Corona Virus Disease (Covid-19) Emergency in Java and Bali, based on the level criteria of pandemic situation, the Minister of Home Affairs issues the Instruction Number 15/2021 regarding the implementation of PPKM in provinces as well as regencies in Indonesia. The Ministry Instruction emphasizes on optimizing Command Posts for Handling Covid-19 at villages and sub-district levels in order to control the spread of Covid-19. The implementation seems more inclined towards the implementation of Restorative Justice. Law enforcement efforts on the violations of the Java and Bali Emergency PPKM have not been effectively implemented. The provisional evaluation finds that there are violations of the Java and Bali Emergency PPKM due to the fact that there are still gaps in the context of norms of the Ministry Instruction that give the freedom to the community to carry out non-essential and non-critical activities.

Keywords: *businessmen, Covid-19 Emergency PPKM, humanity, Restorative Justice*

1. INTRODUCTION

1.1 Background

The rise of Covid-19 cases and the imposition of restrictions on community activities, also known as Emergency PPKM (Implementation of the Restriction of Community Activities) have reduced the utility and productivity of a number of manufacturing industry sectors. Despite the dilemma, restrictions are still needed to control the rate of transmission of Covid-19 and stabilize the long-

term economic recovery (Theodora, 2021). During the implementation of the Emergency PPKM, the government will impose sanctions on entrepreneurs or businessmen who violate the Emergency PPKM rules. This sanction or punishment will be especially given if employers continue to apply work from office (WFO) instead of work from home (WFH) procedures even though they belong to non-essential sectors. According to Coordinating Minister for Maritime Affairs and Investment Luhut Binsar Panjaitan, such

sanctions have been stated in the directives of the Minister of Home Affairs Number 15/2021 concerning the Implementation of the Covid-19 Emergency PPKM in Java and Bali Regions. The instructions have thirteen dictums.

Various forms of restrictions are regulated in the third dictum, ranging from implementing 100 percent WFH to closing malls and other public buildings or places. The third, fourth, and fifth dictums regulate the governor's authority in implementing Emergency PPKM. The seventh dictum contains the Emergency PPKM health protocol, starting from the use of masks to the provisions for the Covid-19 test. The eighth dictum regulates social assistance, while the ninth dictum concerns the source of emergency PPKM funds. The sanctions are set out in the tenth dictum.

One of the sanctions is given to businessmen dealing with restaurants, shopping centres, and public transportations. Those who violate the regulations will be subject to administrative sanctions up to the closure of the business venues in accordance with the prevailing statutory provisions. In addition, during the Emergency PPKM, non-essential sector companies are expected to implement 100% WFH procedure. Meanwhile, the essential sector offices are only allowed to use half of the WFH.

Finance and banking, capital markets, payment systems, information and communication technology, non-quarantine hotels, and export-oriented enterprises are some of the most important sectors. Offices in

critical sectors can handle 100 percent of their workload. Energy, health, security, logistics and transportation, food, beverage and supporting industries, petrochemicals, and cement are among these businesses. National critical objects, crisis management, national strategic initiatives, buildings, basic utilities (electricity and water), and industries that provide people's basic daily needs are also included.

Here, it can be seen that the government is actually serious in preventing the spread of Covid-19 by establishing and imposing strict policies for business actors. However, cases related to violations committed by business actors during the Emergency PPKM are still in the process stage and have not been able to apply strict sanctions. In terms of criminal enforcement, no one has ever been detained, let alone to get a status of a suspect. As an example, Civil Service Police of Cianjur, West Java report that during the implementation of Emergency PPKM on 3-20 July 2021, there are 203 business actors who are known to violate the regulations in the regency. The fines collected are up to IDR 94,000,000. The head of Civil Service police of Cianjur, Hendri Prasetyadi says that during the implementation of Emergency PPKM, business actors who are caught committing violations have to pay fines ranging from IDR 50,000 to IDR 10,000,000 as applied to big companies operating in Cianjur (Antara & Amirullah, 2021).

The description above is the background of the author's research to further analyses the policies applied to business actors who violate the Emergency PPKM. The study aims to analyse whether the

policies implemented are not so strict because they are related to humanity or related to the tendency to apply Restorative Justice. What is public policy? Public policy refers to laws and other actions of a government, including its funding priorities. It encompasses the regulations that reflect given positions, attitudes, cultural ideals, and/or accepted rules specific to any branch of a particular government.

1.2 Research Objectives

Based on the background, the objectives of this study are to:

- a. examine the phenomenon of the violation of Emergency PPKM rules by business actors;
- b. Analyse the basis of the sanctions policy applied to business actors who violate the Emergency PPKM regulations.

2. LITERATURE REVIEW

2.1 Public Policy

Broadly, we might say that a public policy is simply what government (any public official who influences or determines public policy, including school officials, city council members, county supervisors, etc.) does or does not do about a problem that comes before them for consideration and possible action (<https://www.civiced.org/project-citizen/what-is-public-policy>).

Another source mentions that public policy is best described as the broad area of government laws, regulations, court decisions, and local ordinances (<https://www.mackinac.org/1542>). Public policy is the means by which a government maintains order or addresses the needs of its

citizens through actions defined by its constitution. If this definition sounds vague or confusing, it's likely because a public policy is generally not a tangible thing but rather is a term used to describe a collection of laws, mandates, or regulations established through a political process.

Because public policies are in place to address the needs of people, they are often broken down into different categories as they relate to society. Looking at some examples of these categories should give you an idea of how public policy fits into each area of society: (a) health policy, for example, covers not only the insurance mandates discussed above, but refers to all policies related to the health of a particular group. When the AIDS epidemic emerged in the early 1980s, governments around the world had to craft new policies around how the disease would be treated, what steps they would take to educate the public, and so on; and (b) legal policy covers the laws used to determine, among other things, what will be considered a crime, how that crime will be punished, and who will be responsible for handing out the punishment. For example, in most cases, the act of murder is a crime that is often punished with a lengthy prison sentence or even the death penalty. The classification of murder as a crime and the common punishment for the crime are both examples of how a government responds to a problem using public policy

(<https://study.com/academy/lesson/what-is-public-policy-definition-types-process-examples.html>). Britannica dictionary mentions that public policy generally consists of the set of actions—plans, laws, and

behaviour—adopted by a government

(<https://www.britannica.com/topic/governance/Public-policy>).

According to <https://examples.yourdictionary.com/examples-of-public-policy.html>, public policy refers to laws and other actions of a government, including its funding priorities. It encompasses the regulations that reflect given positions, attitudes, cultural ideals, and/or accepted rules specific to any branch of a particular government.

Thus, public policy is a decision based on the relationship of activities carried out by political actors in order to determine goals and obtain results based on consideration of certain situations. Public policy pays attention to public problems so to solve problems that occur the government has a tool, namely a policy. Public problems occur when they involve many people and have consequences, and these effects do not occur to the people who are directly involved, but also to a group of other people who are indirectly involved (Sore & S, 2017). According to Woll, in public policy there are three things that influence the government's actions. First, the policies made by the government for people's lives. Second, there are outputs in the form of programs for the community. Third, the impact of policies on people's lives. Public policy is a basic need of the community, because public policy can create public order and public welfare (P & Pujaningsih, 2020).

2.2 Humanity

When compared to other organisms, one of the distinguishing characteristics of humans is the ability to think. Charles Robert Darwin deviates from his theory based on the idea that humans and monkeys are biologically identical. A virtuous person, on the other hand, can view Darwin's theory as a collection of vastly diverse treasure troves, in which people can contemplate their origins but animals cannot. As a result, individuals can understand that they can function as their own subject and object of observation (Erwin, 2015). Professor Hembing explains that humanity is a system of thought and action that pays attention to values and interests by devoting life only to the welfare of mankind. Humanity describes human tenderness, compassion and loving attitude towards others, the environment, animals even though they are in a state of suffering and misery (Nafsiah, 2000).

According to <https://www.merriam-webster.com/dictionary/humanity>, humanity is compassionate, sympathetic, or generous behaviour or disposition. Another dictionary defines humanity as the human race, which includes everyone on Earth. It's also a word for the qualities that make us human, such as the ability to love and have compassion, be creative, and not be a robot or alien (<https://www.vocabulary.com/dictionary/humanity>). Therefore, it can be concluded that humanity and human dignity are essentially the same thing, namely as human values that are not separated or inherent naturally in humans given by God since their birth or as a place where human values are rooted. Human values are manifested in the form of universal humanitarian actions.

These values are equality of all people as human beings, human rights, abolition of brutal punishment, prohibition against torture, freedom of thought and religion, religious tolerance, democracy, social justice, national and international solidarity, protection of the weak, guarantees the rights of minorities, an impartial judicial system, universal legal protection, the principle of non-discrimination, recognition of human dignity without distinction of sex, religion, skin colour, cultural patterns and social position (Prioyo, 2005).

2.3 Restorative Justice

Restorative justice or often translated as restoration justice, is a model approach that emerged in the 1960s era in efforts to resolve criminal cases. In contrast to the approach used in the conventional criminal justice system, this approach emphasizes the direct participation of perpetrators, victims and the community in the process of resolving criminal cases. Liebmann simply defines restorative justice as a legal system that aims to restore the welfare of victims, perpetrators and communities damaged by crimes and to prevent further violations or criminal acts (Amdani, 2016).

An English criminologist, Tony F. Marshall in his writings *Restorative Justice an Overview* states that “restorative justice is a process whereby all the parties with a stake in a particular offense come together to resolve collectively how to deal with the aftermath of the offense and its implications for the future. Liebmann mentions that

restorative justice is a process in which the parties with an interest in a particular violation meet together to solve problems together how to resolve the consequences of the violation for the sake of the future (Liebmann, 2007).

According to Federal-Provincial-Territorial Ministers Responsible for Justice and Public Safety

(<https://www.justice.gc.ca/eng/cj-jp/rj-jr/index.html>, 2018) restorative justice refers to “an approach to justice that seeks to repair harm by providing an opportunity for those harmed and those who take responsibility for the harm to communicate about and address their needs in the aftermath of a crime.” The same source also mentions that restorative justice provides opportunities for victims, offenders, and communities affected by a crime to communicate (directly or indirectly) about the causes, circumstances, and impact of that crime, and to address their related needs; restorative justice is based on an understanding that crime is a violation of people and relationships and is based on principles of respect, compassion and inclusivity; restorative justice encourages meaningful engagement and accountability and provides an opportunity for healing, reparation and reintegration; restorative justice uses processes, including conferences, dialogues and circles, and is guided by skilled facilitators; restorative justice is a flexible process and can take different forms depending on the community, program, case, participants, or circumstances; restorative justice uses processes that may take place at all stages of the criminal justice system and can be used with adults

and youth; and restorative justice is used in every province and territory and is supported by legislation and federal, provincial and territorial government programs and policies.

Restorative justice contributes to a criminal justice system that is accessible, compassionate and fair, and promotes the safety and well-being of people get involved in an either criminal or civil case. The main goal of restorative justice is the creation of a fair trial. In addition, it is hoped that the parties, both perpetrators, victims, and the community will play a major role in it. Victims are expected to receive appropriate compensation and mutually agreed with the perpetrators to compensate for losses and reduce the suffering experienced. In restorative justice, the perpetrator must be fully responsible so that hopefully the perpetrator will realize his mistake. Restorative justice seeks to heal and put right the wrongs. The needs of victims for information, validation, vindication, restitution, testimony, safety and support are the starting points for justice. The safety of victims is an immediate priority. The justice process provides a framework that promotes the work of recovery and healing that is ultimately the domain of the individual victim. Victims are empowered by maximizing their input and participation in determining needs and outcomes. Offenders are involved in repair of the harm insofar as possible. So, restorative justice, what is prioritized is not the imposition of punishment on criminal offenders, but how the perpetrators can be

held responsible for the criminal acts committed.

2.4 Law Effectiveness Theory

Effectiveness is the capability of producing a desired result or the ability to produce desired output. When something is deemed effective, it means it has an intended or expected outcome, or produces a deep, vivid impression (google.co.id). Meanwhile, effectivity (countable and uncountable, plural effectiveness) (uncountable) is the ability or power to be effective (<https://wikidiff.com/effectiveness/effectivity>). Arief states that effectiveness means the effectiveness of the effect of success or efficacy. Talking about the effectiveness of the law certainly cannot be separated from analysing the characteristics of the two related variables, namely the characteristics or dimensions of the target object used (Barda Nawawi Aried, 2013: 67).

The theory of legal effectiveness according to Soerjono Soekanto is that whether or not a law is effective is determined by five factors, namely:

- a. The legal factor itself (law).
- b. Law enforcement factors (parties that form and apply the law).
- c. Factors or facilities that support law enforcement.
- d. Community factors, namely the environment in which the law applies or is applied.
- e. Cultural factors, namely as a result of work, creativity and taste based on human initiative in social life.

Several experts also put forward the theory of effectiveness such as Bronislav Molinoswki, Clerence J Dias, and Allot. Bronislav

Malinoswki states that the theory of the effectiveness of social control or law, law in society is analyzed and divided into two, namely: (1) modern society, (2) primitive society, modern society is a society whose economy is based on a very broad market, specialization in industry and the use of advanced technology. In a modern society, laws are made and enforced by authorized officials (Salim and Nurbani, 2013: 375). Another view on the effectiveness of the law by Clarence J Dias (1975: 150) says that an effective legal system may be describe as one in which there exists a high degree of congruence between legal rule and human conduct. Thus, an effective legal system will be characterized by minimal disparity between the formal legal system and the operative legal system is secured by:

- a. The intelligibility of it legal system;
- b. High level public knowledge of the content of the legal rules;
- c. Efficient and effective mobilization of legal rules: a committed administration and citizen involvement and participation in the mobilization process;
- d. Dispute settlement mechanisms that are both easily accessible to the public and effective in their resolution of disputes; and
- e. A widely shared perception by individuals of the effectiveness of the legal rules and institutions.

3. METHODS

The study employs the qualitative approach and the method of the study is a case study. The discussion of the study focuses on handling violations of the regulations of the Emergency PPKM in Java and Bali. The sources of data/information for the research are the parties who are involved in enforcing laws on the violations as well as business actors who violate the regulations of Emergency PPKM. Data is collected through interviews and observations as well as literature study. Data is analysed through data reduction, data presentation, and data conclusion or verification processes.

4. RESULTS & DISCUSSIONS

4.1 Covid-19 Emergency PPKM Policy

The implementation of the Corona Virus Disease (Covid-19) Emergency PPKM in the Java and Bali regions is in accordance with the criteria for the level of the pandemic situation based on the assessment and to complete the implementation of the Instruction of the Minister of Home Affairs regarding the Limitation of Micro-Based Community Activities and Optimizing the Covid-19 Handling Command Posts at Villages and Sub-District Levels in order to Control the Spread of Covid-19.

The Emergency PPKM policy, which will take effect on July 3, 2021, is necessary. According to Jokowi, Indonesian government has no choice but to implement it despite the difficulties. During Emergency PPKM, the government is known to impose restrictions in various sectors. Offices, education complex, shopping malls, restaurants, tourism, transportation and other sectors are all limited. Emergency PPKM is deployed in Java and Bali and 15

regencies/cities outside Java and Bali where there are reports of a fairly large number of corona virus transmissions.

PPKM is an abbreviation of the Implementation of the Restriction of Community Activity. This policy is implemented with the aim of reducing the spread of the corona virus due to reduced mobility and community activities outside the home. According to setkab.go.id page, it is said that before the implementation of the Emergency PPKM, Phase 1 of the Micro PPKM is implemented on February 9 to 22, 2021. Then, this is later extended and now the Emergency PPKM is being implemented. Emergency PPKM is implemented after a spike in positive cases of Covid-19. This is determined based on the pandemic situation in the Java-Bali region which continues to increase (P & Pujaningsih, 2020).

There are four levels of PPKM based on the number of cases and their time. According to the Presidential Secretariat's YouTube, there are four levels of PPKM (Aditya, 2021) as follows:

- a. Level 1—the number of positive cases of Covid-19 is less than 20 per 100 thousand populations. There are 5 hospitalized cases per 100,000 populations, and 1 case died per 100,000 populations in the area.
- b. Level 2—there are 20 to 50 positive cases of Covid-19 per 100,000 populations. In addition, there are 5 to 10 cases hospitalized per 100,000 populations, and there are 1 to 2 cases of death per 100,000 inhabitants in the area.

- c. Level 3—the number of positive COVID-19 cases is 50 to 150 Covid-19 cases per 100,000 populations. There are also 10 to 30 hospitalized cases per 100,000 populations. In addition, as many as 2 to 5 cases died per 100,000 populations.
- d. Level 4—there are more than 150 Covid-19 cases per 100,000 populations. For the number of cases hospitalized per 100 thousand there are more than 30 cases, and there are more than 5 cases of death per 100,000 population

Meanwhile, the regulations or rules of the Java-Bali Emergency PPKM that are being implemented as follows (Aditya, 2021):

- a. Non-essential sector applies 100 percent work from home (WFH).
- b. Activities in shopping centres/malls/trading centres are closed.
- c. Teaching and learning activities are carried out online.
- d. Places of worship are temporarily closed.
- e. Cultural arts and sports activities will be temporarily suspended.
- f. Wedding activities are a maximum of 30 people and are not allowed to eat on the spot and must implement health protocols.
- g. Essential sector applies 50 percent of the total work from office (WFO) employees with health protocols. The essential sectors include banking, capital markets, payment systems, non-quarantine handling hotels, information and communication technology, and export-oriented industries.
- h. Critical sectors are allowed 100 percent work from office (WFO) with health protocols. This sector includes jobs in health, security,

energy, logistics and transportation, food and beverage industry, petrochemical, construction, basic utilities (water and electricity, etc.). Meanwhile, for traditional markets, grocery stores and supermarkets selling daily necessities, maximum operating hours at 20.00 WIB with a visitor capacity of 50 percent.

- i. Public transportation is a maximum of 70 percent of capacity and implements strict health protocols.
- j. It is mandatory to wear a mask when doing activities outside the home and not allowed to use a face shield without the use of a mask.

4.2 Violations Committed by Business Actors During Emergency PPKM

In response to the Covid-19 Emergency PPKM policy, there are still many business actors who violate this policy. Most of these business actors violate the PPKM policy by providing on-site dining options for those who own a restaurant or food stalls. For micro-enterprises, the provisions of the PPKM regulations will, of course, have an impact on their small businesses so that they are the background for the PPKM violations.

Some examples of violations of Emergency PPKM regulations committed by business actors can be seen from the reports on 2,910 cases of violations during PPKM in Solo by Civil Service Police of Solo Municipality. According to the reports submitted by the Head of

the Solo Civil Service Police, Arif Darmawan, most of these violations by business actors are found in the first week of the Emergency PPKM. As a consequence of this violation, he said that he had given a warning to the business actors who violate the Emergency PPKM rules (Zamani, 2021). Referring to the Solo Mayor's Circulation Letter on Emergency PPKM for business actors, organizers or person-in-charge of premises, and public facilities implemented by the Condition Creation Team, administrative sanctions will be given in the form of verbal warnings for the first violation, written warnings will be given for second violation and temporary suspension of business operations will be implemented for a maximum of two months for the third violation.

In addition, several other violations are found by non-essential or non-critical sectors that are still operating during the PPKM. A number of offices located in the jurisdiction of Jakarta Metropolitan Police Region have been sanctioned for violating the Emergency PPKM regulations. According to several reports, the Head of Public Relations of Jakarta Metropolitan Police Region Police Senior Commissioner Yusri Yunus reveals that a total of 245 violations are documented, with 120 offices in the non-essential and non-critical sectors are arrested and continuing to operate. In fact, the government has urged this sector to work from home only as stipulated by the Ministry of Home Affairs, which requires companies in the non-essential sector to implement work from home (WFH) or 100% work from home for all employees. In the end, 63 companies are penalized for their violations.

Meanwhile, in its official website Civil Service Police of Depok City mentions that there are 4,739 identified violations and one of them is caused by residents who are not disciplined in wearing masks (Okayzone, 2021).

Meanwhile, the Tangerang City Government manages to take action against 1,772 violations during the implementation of the Emergency PPKM on July 3-20, 2021. Joint officers of the municipality continue to carry out various PPKM operations in 13 sub-districts every day. The sanctions given are divided into individual sanctions and also sanctions for business actors. Sanctions are given in stages starting from verbal warnings, written warnings, social work, administrative fines and confiscation of goods for individual sanctions and additional sealing for sanctions for business actors (Fikri, 2021).

4.3 Analysis of Law Enforcement against Violations of the COVID-19 Emergency PPKM

It is important that law enforcement against violations of the Java-Bali Emergency PPKM regulations be carried out effectively in order to suppress the spread of Covid-19. The law enforcement of the Java-Bali Emergency PPKM studied in this study focuses on the implementation and enforcement of the Instruction of the Minister of Home Affairs Number 15 of 2021. This report is intended to assist Commission II of the DPR RI in supervising the Minister of Home Affairs, especially regarding the implementation of the Instruction of the Minister of

Home Affairs Number 15 Year 2021 (Sibuea, 2021).

Local leaders, such governors, regents, and mayors who do not implement the provisions of the Instruction of the Minister of Home Affairs Number 15/2021 are subject to sanctions as stipulated in Article 68 paragraph (1) and paragraph (2) of Law No. 23/2014 concerning Local Government. Business actors dealing with restaurants, shopping centres, and public transportation that do not comply with the provisions of the Instruction of the Minister of Home Affairs Number 15/2021 will be subject to administrative sanctions until their business is closed in accordance with the provisions of the law.

Those who violate the Java-Bali Emergency PPKM can be subject to sanctions. Individuals are subject to threats of sanctions and violations as referred to in Law Number 4/1984 concerning Outbreaks of Infectious Diseases, Law Number 6/2018 concerning Health Quarantine, local regulations, local head regulations, and other applicable laws and regulations. It is necessary to conduct further research because violations are still found in the implementation of the Java-Bali Emergency PPKM during the temporary evaluation as well as the increase of the number of Covid-19 transmissions in mid-2021.

The application of punishment for violators of the Emergency PPKM begins with issuing the Instruction of Minister of Home Affairs Number 18/2021 concerning the Implementation of the Restrictions of Community Activities for Corona Virus Disease 2019 in Java and Bali regions. In the instruction, there are articles that

regulate the restrictions on the implementation of activities in various sectors, including the implementation of eating and drinking in public places (food stalls, restaurants, cafes, street vendors, hawker stalls) both in separate locations and those located in shopping centers/mall that only accepts delivery/take away and does not accept dine-in. The contents of the article are then regulated in a local regulation or bylaws so that violations of the article are based on the provisions of the local regulation (Yulia, 2021).

The criminal provisions stated in local regulations are administrative law provisions with criminal sanctions or also called administrative criminal law which is the embodiment of the policy of using criminal law as a means to enforce or implement the norms stated in the administrative law. It is often referred to as criminal law from the rules or criminal law regarding regulation.

Compared to the previous policy, according to Achmad Nur Hidayat, the founder of the Narasi Institute, the government does not yet have adequate law enforcement instruments for the implementation of Java-Bali Emergency PPKM. This can be seen from the number of non-essential and non-critical companies that continue to operate as well as employees who can escape from the Emergency PPKM block post because security officers cannot stop those who have to come to work (Sibuea, 2021).

According to Soerjono Soekanto's theory of legal

effectiveness, the effectiveness of a law is determined by five factors: (i) the legal factor itself in a form of law; (ii) law enforcement factors, namely the parties that form and apply the law; (iii) factors of facilities that support law enforcement; (iv) community factors, namely the environment in which the law applies; and (v) factor of culture as creation that is based on the intention of human in social life (Soekanto, 2008: 8).

The Instruction of the Minister of Home Affairs Number 15/2021 becomes the legal basis for the implementation of the Java-Bali Emergency PPKM. This legal component is sufficient because it covers all areas of implementation as well as references to legal consequences in the applicable laws and regulations, thus enabling the apparatus to enforce the Java Bali Emergency PPKM regulations. However, the sanctions used in its implementation are only in the form of administrative sanctions and social work sanctions, and the apparatus has never used the applicable criminal consequences, including imprisonment.

The application of this criminal sanction must also look at the effectiveness from the executional side of the type of punishment imposed with the violator's condition. Again, it must be remembered that in this case the administrative law is being violated so that the application of sanctions must take precedence over administrative sanctions, while when a fine is applied it is only an administrative fine, not a criminal sanction that can create stigma.

4.4 Restorative Justice for Business Actors Violating the Covid-19 Emergency PPKM

The policy for implementing Emergency PPKM has caused problems in the community, especially among the lower middle class people. The MSME sector is one of the hardest one hit by the recession. Micro-enterprises, such as traders who only get a daily salary, are desperate because of the restrictions on operating hours and the ban on eating in public places. Daily income that had decreased during the pandemic has now decreased when the Emergency PPKM is implemented (Yulia, 2021).

Raids on traders who violate the Emergency PPKM regulations become the public concern. Officers arguing with traders because they do not accept the treatment of officers who are considered rude, officers confiscate merchandise because it has exceeded operational opening hours, even officers beat the merchant's wife who is heavily pregnant has become viral through the country and showed the arrogance of officers in implementing the Emergency PPKM (Yulia, 2021).

On the other hand, there are also officers who speak gently and attentively to the merchants in a civilized manner. There are officers who offer to help and there are even officers who buy goods. The officer's behaviour is also appreciated. Several community initiatives help traders by buying products at high prices or by distributing relief money to passing motorbikes.

Emergency PPKM violations can undoubtedly be resolved through restorative justice with the aim of returning

the situation to its pre-violation state without stigmatizing violators. The fast judicial process that leads to the punishment of the perpetrators, on the other hand, will leave a stigma in society. Such situations will not restore the sense of justice in society. Substantive justice, rather than procedural justice, is now more important. Restorative justice is the settlement of cases outside the judiciary against simple and minor crimes, involving interested parties. The police continue to try to enforce the rules for the implementation of the Emergency PPKM, both in terms of blocking roads, restricting community mobility, and operating time for business venues.

5. CONCLUSIONS & RECOMMENDATIONS

5.1 Conclusions

Based on the elaboration above, it can be concluded that basically the implementation of restorative justice is in line with humanitarian principles. The basic principles of restorative justice through mediation stipulate several prerequisites for restorative justice, such as domestic violence or sexual harassment: (1) crime victim agreements; (2) violence must stop; (3) criminals must accept responsibility; (4) only the perpetrator of the crime is to blame, not the victim; and (5) the mediation process can only be used once (Ariefianto, 2011). The human dignity of crime victims must be a priority, as evidenced by the prerequisites for mediating punishment. A spiritual approach is used in prison mediation to rebuild and awaken the victim's self-confidence. The importance of prison mediation for restorative

justice is the effort to produce mutually beneficial case settlement procedures (ICW, 2011).

Violation of PPKM is a violation of state regulations. There are no victims as a result of this violation, in the category of crime included in the crime without victims. Theoretically, restorative justice cannot be applied, but in essence the purpose of restorative justice is to restore the balance that has been damaged due to a crime or violation so that the restore process is expected to restore balance to its original state before the action took place. Thus, administrative sanctions such as warnings and fines against business actors violating the Emergency PPKM are relatively sufficient because most of the motives for violations by business actors are due to economic needs in the midst of a pandemic.

In this case, PPKM violations can undoubtedly be resolved through restorative justice which has the same principles as the humanitarian principle, with the aim of returning the situation to its pre-violation state without giving negative stigma to the violators. The fast judicial process that results in the punishment of the perpetrators, on the other hand, will create a stigma in the eyes of the public. Such situations will not restore the sense of justice in society. Substantive justice is now more important than procedural justice.

5.2 Recommendations

Although, the application of restorative Justice-based sanctions against business actors

who violate the PPKM is relatively appropriate, it can be said that the law enforcement for the Emergency PPKM in Java-Bali has not been effective, because there are still many violations of the PPKM Emergency Java-Bali according to a provisional evaluation. Law enforcement is hampered by several reasons, including legal factors, especially the application of sanctions, community factors that have not complied, and culture. Some elements in the instruction of the Minister of Home Affairs Number 15/2021 still leave room for the community to carry out unimportant activities. Therefore, several things can be improved in the implementation of Emergency PPKM supervision of business actors, including:

- a. It is necessary to review the motives for the violations of Emergency PPKM by business actors. If it is motivated by a fad motive or not because of compulsion due to the economic needs of the perpetrator, then imprisonment/imprisonment can be considered to provide a deterrent effect to fad/naughty business actors who violate the Emergency PPKM.
- b. The joint team of PPKM supervisors (Indonesian Police, Indonesian Armed Forces, and Civil Service Police) has more ability to stem people with various interests from carrying out activities, including non-essential and critical interests.
- c. The joint PPKM supervisory team (Indonesian Police, Indonesian Armed Forces, and Civil Service Police) is not able to carry out supervision for the community outside the isolation

point nor is it carried out, where people can still drive freely.

- d. The government can pay more attention to the provision of more adequate facilities or facilities which include a joint team of the Indonesian National Police, Indonesian Armed Forces, and Civil Service Police, organization, equipment, and financial/funding needs.
- e. The community is also an influential factor in implementing Emergency PPKM law enforcement. Therefore, in order to realize the regular implementation of PPKM to reduce the rate of transmission of COVID-19, cooperation and understanding of the community, in this case business actors and customers who enjoy these business goods/services, is very necessary to comply with the Emergency PPKM rules.

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