

Online Criminal Justice Law Enforcement

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Abstract: 2020 is the year when humanity is given a test in the form of the outbreak of the Covid-19 virus. WHO says that coronavirus is a virus that causes the common cold to more severe diseases such as middle east respiratory syndrome (MERS-CoV) and severe acute respiratory syndrome (SARSCoV). Various ways are being done to overcome Covid-19, one of which is by isolating themselves, causing restrictions on social interaction, including the State Civil Apparatus (ASN) including for Judges and Judicial Apparatus at the Supreme Court of the Republic of Indonesia must work or carry out official duties from home (Work from Home/WFH) in turn. With such conditions, the Supreme Court must issue the latest breakthrough related to adjusting the pattern of trials in court, especially for criminal cases that previously had to be conducted face-to-face trials must be carried out online, remotely or teleconference. By referring to the existing problem formulation regarding Criminal Justice Law Enforcement online. This research is a normative legal research, then analyzed qualitatively, and presented descriptively. The results showed that in the judicial world that has entered the era of the industrial revolution 4.0, the best known is evidence of the digitization process, namely Virtual Civil Courts, in Indonesia we know it as an integrated unit in the e-court system. The Supreme Court has issued special regulations through circulars, however, in the future it does not demand the possibility that if given a clear legal umbrella so that there are no pros and cons, the trial can actually be postponed for a certain amount of time. However, in this case, because they did not want to ignore the interests of the community who were litigant, the rule was made through the Supreme Court.

Keywords: Online court, Covid-19, law enforcement

1. Introduction

The 2020 is the year when humanity is given a test in the form of the outbreak of the Covid-19 virus. Covid-19 was first discovered in December 2019 in Wuhan, the capital of Hubei Province, China. The virus that attacks human breathing takes place quickly and spreads throughout the world. The WHO says that coronavirus is a virus that causes the common cold to more severe diseases such as middle east respiratory syndrome (MERS-CoV) and severe acute respiratory syndrome (SARSCoV) (Bonotti et al., 2021).

Various ways are being done to overcome Covid-19, one of which is by isolating yourself. Based on data compiled by the Kompas National Website, the Government conveyed that information related to Covid-19 still occurs in the community, which means that the transmission and spread of the virus is still ongoing in the community. This has led to an increase in the number of Covid-19 cases in Indonesia (Meckelburg & Bal, 2021). In this case, most countries around the world experience the impact of the Covid-19 virus, including Indonesia.

This kind of thing causes macroeconomic, social and political impacts, Covid-19 also causes various other negative impacts such as the imposition of restrictions on social / physical distancing, including the impact on the judicial world that must be faced by the Supreme Court in issuing policies related to adjusting work patterns and services in its judicial institutions (Tisdell, 2020). As we all know that Indonesia is a state of law, this is conveyed in article 1 paragraph (3) of the 1945 Constitution, which is meant by a state of law is a state in which there are various aspects of regulations that are coercive and have strict sanctions if violated.

Indonesia has a Law where the Law has a very important position and role. Law in a broad sense includes all normative rules that regulate and become a guide for behavior in public and state life supported by a certain system of sanctions against any certain deviations (Arliman, 2017).

Related to COVID-19, social interaction restrictions are no exception, including the State Civil Apparatus (ASN), including for Judges and Judicial Apparatus at the Supreme Court of the Republic of Indonesia (MA) must work or carry out official duties from home (WFH) alternately. With such conditions, the Supreme Court must issue the latest breakthrough related to adjusting the pattern of trials in court, especially for criminal cases that previously had to be

conducted face-to-face trials must be carried out online, remotely or teleconference. Online criminal case trials during the Covid-19 Pandemic are considered a progressive step, in solving the problem of case stagnation due to the spread of Covid-19, after that, aspirations came from various kinds of praise as if Law Enforcement Officers, able to innovate, in order to keep the criminal case trial process running. By referring to the existing problem formulation regarding Criminal Justice Law Enforcement online (Donovan et al., 2023).

2. Methodology

In this case, the author will use Normative research, normative legal research is legal research that puts law as a system of norm buildings, the norms referred to here are about principles, norms, rules of laws and regulations, court decisions, agreements and doctrines (Davis, 2021).

The legal materials used in conducting this research include primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials consist of laws and regulations, jurisprudence or court decisions, and international treaties (*treaties*) (Davis, 2021). In this study, the primary legal materials in question include: 1) 1945 basic law; 2) law number 31 of 2014 concerning amendments to Law Number 13 of 2006 concerning protection of witnesses and victims; and 3) KUHAP.

The second secondary material, namely legal material that can provide an explanation of primary legal material, which can be in the form of draft laws, research results, textbooks, scientific journals, newspapers (newspapers), pamphlets, brochures, and minutes of events (Davis, 2021). In this study, the secondary legal materials in question include: books, scientific journals. The three tertiary materials, namely legal materials that can explain can explain both primary legal materials and secondary legal materials, in the form of dictionaries, encyclopedias, lexicons, and others (Davis, 2021).

3. Analysis and Discussion

3.1 Online Trial According KUHAP

At this time the world has entered the era of the industrial revolution 4.0, where in this case the process of computerization and digitalization has occurred and affects almost all aspects of human life, including in this case regarding the legal system. If we look at legal practice, in this case the judicial environment has known the digitization process. In the world of justice, the most known evidence of the digitization process is *Virtual Civil Courts*, in Indonesia we know it as an integrated unit in the *e-court system*.

In addition to Indonesia, there are also many countries in the world that have also experienced developments in the field of law, where they have implemented digitalization in their justice systems, including the United States. Long before entering the Industrial Revolution Era 4.0, the United States has known *Virtual Civil Courts* since 1998, where the court has used video *conference* media and has known *electronic filling* and *case management software* (Sutiyoso, 2008).

In accordance with the provisions of the procedural law, namely Article 64 of the Code of Criminal Procedure (KUHAP), it is stated that the accused has the right to be tried in a court session that is open to the public (KUHAP, 2022). From the provisions of the article, what is meant by "court hearing" is a trial process held in a courthouse and open to the public. Thus, the accused has the right to be presented before the Public Prosecutor by order of the Panel of Judges to then be examined, tried, and seek the right to his defense.

However, in certain urgent circumstances or the occurrence of a natural disaster (force majeure), the actual trial may be postponed for a certain amount of time. However, in criminal cases, defendants are bound by a limited period of detention, and although the detention period can still be extended, the defendant or his legal counsel often demands that the prosecution process be carried out quickly because it is the right of the defendant guaranteed by law or constitution, so the court in certain circumstances must conduct the trial online remotely or teleconference.

The mechanism of remote online trials or teleconferences is not regulated in the Criminal Procedure Code. However, it is not new in the practice of criminal procedural law in Indonesia. In 2002, the judicial world once made a new history because it could carry out criminal case hearings with the agenda of examining witnesses online, remotely or teleconference. In the Buloggate corruption case, at the initiative of the South Jakarta District Court Judges who examined and tried the case of Defendant Rahardi Ramelan, the agenda of the evidentiary hearing to hear the testimony of the witness, namely Prof. B.J. Habibie was held online remotely or teleconference from Hamburg, Germany with the help of one of the National Private Television (Manthovani, 2023). In fact, actually at that time there was no legal umbrella such as the Supreme Court Circular. The implementation of criminal justice, carried out through procedures bound by rules so that in its implementation, it does not violate human rights, provides a sense of justice and legal certainty, both for perpetrators, victims of criminal acts, and the community (Wangka et al., 2021).

In the criminal justice process, the object of attention is focused on the suspect or defendant, who is suspected or charged with a criminal offense. The suspect or defendant must be treated and determined by the competent institutions in the judicial mechanism, until the person concerned obtains the status of a person no longer holding the perpetrator of a criminal act (Khanoglan, 2023). Meanwhile, in the criminal justice system, the emphasis of attention is directed to institutions or institutions involved in criminal justice mechanisms. Each institution acts as a sub-system in the unity of the system towards the criminal justice mechanism.

How an institution works in a sub-system that is interrelated with institutions in other sub-systems, will describe a judicial mechanism as a whole and comprehensively. Thus, the purpose of conducting criminal justice is seen as a common goal of the institutions in the criminal justice system (Khanoglan 2023).

However, in its implementation, this online trial or what is called through teleconference in the future causes legal disharmony, although basically in this case due to urgent circumstances due to natural disasters, and has been bound by rules which in its implementation must provide a sense of justice and legal certainty. This is because if we look at article 154 paragraph (1) and article 160 paragraph (1) of the Criminal Procedure Code.

When viewed in the article, it is explained that the provisions in article 154 paragraph (1) explain how to present the defendant in court, because if without the presence of the defendant in the trial, the examination of the case cannot be carried out. Furthermore, in article 160 paragraph (1) it is explained that Witnesses are called into the courtroom one by one in the order in which they are considered as good as possible by the presiding judge after hearing the opinion of the public prosecutor, the accused or legal counsel.

The principle of the presence of this accused is commonly known in special crimes such as corruption and economic crimes. The principle of the defendant's presence has other designations, namely ius singular, ius speciale, or bizonder strafrech (Mulyadi, 2012) In addition, the Principle of Presence of this defendant is related to the Principle of Direct and Oral Examination of the Judge (Rizal, 2019). However, related to online trials, the application of video conferencing in the examination of cases in court (especially criminal cases) in Indonesia is actually not a new thing. Before the Covid-19 pandemic, the use of video conferencing was already used in several cases.

However, its use is limited only to hearing testimony from witnesses. This is as stipulated in Article 9 Paragraph (3) of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, where a witness can be heard his testimony directly through electronic means accompanied by an authorized official. The use of video conferencing aims to protect the security of witnesses from various threats or to facilitate the provision of testimony without having to be present in the courtroom.

In practice, criminal cases conducted through online trials are actually currently running by referring to Supreme Court Regulation Number 4 of 2020 concerning the Administration and Trial of Criminal Cases in Court Electronically. However, it cannot be denied that in practice it is still not optimal, and experiences several obstacles such as: a) limited human resources in the field of information technology (IT) and infrastructure; b) unstable internet connectivity; and 3) the parties' lack of understanding of the mechanisms for conducting electronic hearings has given rise to doubts among the parties, they are of the opinion that if the hearings are held electronically they will not receive protection for their rights (Hutabarat & Manullang, 2022).

3.2 Online Criminal Justice Law Enforcement in the Future

Law enforcement is an effort to make the ideas of justice, legal certainty and social benefit a reality (Silalahi, 2023). Criminal law enforcement is an effort to realize the ideas of fairness in criminal law in legal certainty and social benefit into legal reality in legal certainty and social expediency into legal reality in every legal relationship (Wacks, 2020). Zolotukhin et al. (2021), said that law enforcement is an activity to harmonize the relationship of values described in established rules and attitudes of action as a series of final stage value elaboration. To create, maintain and maintain social peace. Related to Online Criminal Justice Law Enforcement. The holding of criminal case hearings via *online* remotely or *teleconference*, which has been carried out during the global Covid-19 pandemic, is the most appropriate form of breakthrough and must continue to be refined by the Supreme Court, because the slow reform of law in Indonesia (*Expired Law*) will violate the fulfillment of the guarantee of legal rights of every individual who is facing the law (Suparnyo, 2020).

As we all know, on March 23, 2020, the Supreme Court issued Circular Number 1 of 2020 concerning Guidelines for the Implementation of Duties During the Prevention of the Spread of Corona Virus Disease 2019 (COVID-19). This letter evaluates and revokes the Circular of the Secretary of the Supreme Court of the Republic of Indonesia Number 1 of 2020 concerning the Adjustment of the Work System of Judges and Judicial Apparatus in Efforts to Prevent the Spread of COVID-19, which was issued on March 17, 2020. Guided by the Circular Letter of the Minister of State Apparatus Empowerment and Bureaucratic Reform Number 19 of 2020 dated March 16, 2020 concerning the Adjustment of the Work System of Judges and Judicial Apparatus to correspond the Adjustment of the Work System of 19 of 2020 dated March 16, 2020 concerning the Adjustment of the Work System of the State Civil Apparatus in an effort to prevent the spread of Covid-19 within Government agencies, SEMA Number 1 of 2020 provides instructions to Judges and Judicial Apparatus to carry out the duties of their positions by working at home or where they live (Work From Home) and implementing social distancing in providing services directly in the institutional environment and implementing health protocols in the work environment. In order to work from home, all service tasks including the implementation of trial administration use the e-Court application.

Meanwhile, the trial uses the e-Liltigation application. This application has been implemented within the Supreme Court since the issuance of Perma Number 1 of 2019 concerning Electronic Administration of Cases and Trials in Court which came into effect on August 19, 2019. SEMA RI Number 1 of 2020 regulates Court Hearings during the COVID-19 pandemic. Although the Supreme Court applies e-Litigation to replace conventional trials that present the parties in the courtroom, not all trials can be conducted with e-Litigation. Especially regarding cases that are limited in the period of examination by applicable laws and regulations, the Judge is authorized by SEMA RI Number 1 of 2020 to be able to postpone the examination hearing even though it has exceeded the examination deadline regulated by statutory provisions.

On April 13, 2020, the Supreme Court represented by Director General of the General Judiciary, the Attorney General's Office represented by Junior Attorney General for General Crimes and the Indonesian Ministry of Law and Human Rights represented by Acting Director General of Corrections of the Ministry of Law and Human Rights signed a Cooperation Agreement Number 402/DJU/HM.01.1/4/2020, Number KEP.17/E/Ejp/4/2020 and Number Pas06.HH.05.05 of 2020 concerning the Implementation of Trials Through Teleconference, in order to respond to the Covid-19 outbreak which is increasingly worrying day by day. This is done so that the legal process can continue. If criminal cases remain limited not to be carried out through e-Litigation, it will hamper the number of criminal case resolutions. With the signing of this cooperation agreement, the implementation of the conference via teleconference is financed by each institution that signed the agreement (Suparnyo et al., 2023).

In this case, the Supreme Court's quick response to the COVID-19 pandemic. Salus Populi Suprema Lex Esto which means the salvation of the people is the highest law (Cicero). The adagium is very appropriate if it is associated as a basis for taking a policy in the midst of the Covid-19 outbreak, because the law to be implemented must truly protect its people. As a quick response of the Supreme Court in ensuring the protection of judicial apparatus, justice seekers, court users including defendants who are facing the law, the Supreme Court has issued Supreme Court Circular (SEMA) Number 1 of 2020 concerning Guidelines for the Implementation of Duties During the Period of Preventing the Spread of Covid-19 within the Supreme Court and Judicial Bodies under it (SEMA No. 1 of 2020 concerning Guidelines for Carrying Out Duties During the Period of Preventing the Spread of Covid-19 Within the Supreme Court and Subordinate Judicial Bodies, 2020).

In the SEMA, the Supreme Court regulates the working pattern of judges and their judicial apparatus during the period of preventing the spread of Covid-19, namely by establishing the WFH mechanism alternately. In addition, it is also regulated that the steps that must be taken by the Panel of Judges handling criminal cases, such as the examination of criminal cases, military crimes, and jinayat are still carried out, especially for cases where the defendant is being detained and his detention cannot be extended again. Then cases for which the hearing is time-limited, the panel of judges may postpone the trial even beyond the time limit, with an order to the substitute clerk to record the existence of extraordinary circumstances under this SEMA in the minutes of hearing.

In the event that a trial is forced, the SEMA also regulates the steps that must be taken by the panel of judges, such as limiting the number and safe distance between hearing visitors (social distancing), then the panel of judges can also order temperature detection and prohibit physical contact such as shaking hands for parties who will be present or present at the trial. In addition, justice seekers are encouraged to use the e-Litigation application for the trial of civil cases, religious cases and state administration.

In connection with the mechanism for online criminal case trials, the Supreme Court through the Director General of Badilum has also issued Letter Number 379/DJU/PS.00/3/2020 dated March 27, 2020 concerning Teleconference Criminal Case. In the letter, the Director General of Badilum conveyed to the Head of the Court of Appeal and especially the Court of First Instance, that during the emergency period of the coronavirus disease outbreak, criminal cases can be held remotely or teleconference. In addition, Rupprecht et al. (2019) also appealed to court leaders to coordinate with the District Attorney and related detention centers / prisons to regulate the mechanism for online hearings remotely or teleconference, while still paying attention to the provisions of the applicable law.

Actually, it is not new for the Supreme Court for its readiness to conduct hearings online remotely or teleconference, because the Supreme Court has become the first State Higher Institution to apply technology in every aspect and line of its judicial services. Starting from the birth of SIPP, e-Court, and e-Litigation applications which are temporarily special civil cases. This illustrates that the Supreme Court is always able to be at the forefront and always respond quickly to every technological development to modernize and digitize the judicial world, so as to facilitate access to justice for the justice-seeking community and court users.

The Supreme Court's swiftness to order district courts to conduct criminal hearings online, remotely or teleconferences during the Covid-19 pandemic also received support from relevant parties. The Attorney General's Office of the Republic of Indonesia has also appealed to District Attorneys throughout Indonesia to coordinate with local District Courts so that trials can be conducted online, remotely or teleconference. In addition, the same thing also came from the Ministry of Law and Human Rights, through his letter Number M.HH. PK.01.01.01.03 dated March 24, 2020, in a letter addressed to the Supreme Court, the Ministry of Law and Human Rights requested that if an extension of detention is not possible, criminal case hearings can be held in detention centers, open to the public through internet media (live streaming) or conduct hearings through video conferences.

Thus, according to the author, the Supreme Court must be able to take positive lessons behind the implementation of online criminal case hearings during the Covid-19 pandemic, namely as a momentum for the Supreme Court to expand the implementation of e-Court and e-Litigation in criminal cases, and what has been done by the Supreme Court is a form of public responsibility to provide fast service, simple, and accurate without delaying or hindering people's access to justice. Because for the Supreme Court, Justice Delayed, Justice Denied, which means "Justice Delayed, Just as There Is No Justice".

So that it can be concluded that related to legal politics regarding trials during this pandemic, the Supreme Court has issued special regulations through circulars as explained above, however, in the future it does not demand the possibility of optimizing the existing legal umbrella, especially actually, from the perspective of legal expediency, online trials support

Law Enforcement Officers to speed up case handling, so it is expected that all case files Those handled can be completed in time. In other words, efforts to carry out online criminal case trials during the Covid-19 Pandemic are considered a progressive step, in solving the problem of case stagnation due to the spread of Covid-19. After that, aspirations came from various kinds of praise as if Law Enforcement Officers, able to innovate, in order to keep the criminal case trial process running (Donovan et al., 2023).

4. Conclusion

Starting from the Covid-19 problem which requires everyone to work from home, the Supreme Court issued Circular Number 1 of 2020 concerning Guidelines for Implementing Duties During the Prevention of the Spread of Corona Virus Disease 2019 (COVID-19). This letter evaluates and revokes the Circular of the Secretary of the Supreme Court of the Republic of Indonesia Number 1 of 2020 concerning the Adjustment of the Work System of Judges and Judicial Apparatus in Efforts to Prevent the Spread of COVID-19, which was issued on March 17, 2020. Guided by the Circular Letter of the Minister of State Apparatus Empowerment and Bureaucratic Reform Number 19 of 2020 dated March 16, 2020 concerning Adjustments to the Work System of the State Civil Apparatus in an effort to prevent the spread of Covid-19 within Government agencies, SEMA Number 1 of 2020 provides instructions to Judges and Judicial Apparatus to carry out the duties of their positions by working at home or their place of residence (Work from Home). This resulted in Law Enforcement Officers supporting the acceleration of case handling, so it is hoped that all case files handled can be completed on time. In other words, efforts to carry out online criminal case trials during the Covid-19 Pandemic are considered a progressive step, in solving the problem of case stagnation due to the spread of Covid-19. After that, aspirations came from various kinds of praises as if Law Enforcement Officers, able to innovate, in order to continue the process of online criminal case trials in the future. Therefore, optimization of the existing legal umbrella is needed to support the sustainability of this process, considering that in the future the development of digitalization continues to grow over time.

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Conflict of Interest

The authors declare no conflicts of interest.

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