



LEGAL BRIEF

journal homepage: www.legal.isha.or.id/index.php/legal



Law Enforcement Against Mill Criminal Activities During The Implementation Of Ppkm In West Java

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Abstract

The implementation of Community Activity Restrictions (PPKM) in its implementation is still not effective based on data, that as of April 8, 2021 the number of people who were positively exposed to Coronavirus Disease-19 (Covid-19) spread across various provinces in Indonesia, amounting to 1,552,880 people, with recovery infected patients amounted to 1,399,382 people and the number of deaths was 42,227 people in Indonesia. In addition, there are cases of PPKM violations during the Covid-19 pandemic on West Java Provincial Regulation Number 05 of 2021 concerning the Implementation of Peace, Public Order and Community Protection, as happened in the jurisdiction of the Purwakarta District Court which has decided the case with Decision Number 19 /Pid.C/2021/PN.Pwk. jo. Decision Number 28/Pid.C/2021/PN.Pwk. The method used is normative juridical with descriptive analytical research specifications with data collection techniques carried out through document studies and interviews which are then analyzed by qualitative normative methods without using mathematical formulas and numbers. Based on the results of the research, that in practice in the field it is resolved through the Court although it is still not effective.

Keywords: Law Enforcement, West Java PPKM, Minor Crimes.

A. Introduction

Covid-19 is an infectious disease caused by acute respiratory syndrome, this virus is a large family of coronaviruses that can attack animals. When it attacks humans, the coronavirus usually causes respiratory tract infections, such as flu, cough, fever and even death. Covid-19 itself is a new type of coronavirus that was discovered in Wuhan, Hubei, China at the end of 2019.9. Therefore, this new type of coronavirus is given the name Coronavirus Disease-2019 which is abbreviated as Covid-19. Since the discovery of Covid-19, it has spread widely, causing a global pandemic that continues to this day. This coronavirus pandemic has spread widely in various countries, one of which is Indonesia, based on data from the Ministry of Health of the Republic of Indonesia, the number of exposed population continues to increase,¹

The spread of the corona virus case in Indonesia first appeared or was known on March 2, 2020, the Head of State of the Republic of Indonesia together with the Minister of Welfare delivered news on cases 01 and 02. After data on cases 01 and 02, the number of corona virus patients is increasing every day, this is of course only cause turmoil in the region.²The Indonesian government has designated the Corona Virus (Covid-19) as a national disaster in Presidential Decree No. 12 of 2020 concerning the Determination of

¹Covid-19 Task Force, <https://www.covid19.go.id>, accessed on April 9, 2021, 09.45.

²M. Nuril Anwari Eka Putra¹, et.al. 2021. "Implementation of Restrictions on Community Activities by Satpol PP in Handling Covid-19 in Purwakarta Regency". Journal of Tatapamong Vol. 3 No. 2, p. 126-137. 1435



Non-Natural Disasters Spreading Covid-19 as a National Disaster. Within the framework of the unitary state, the emergency conditions caused by Covid-19 are not only the responsibility of the central government, but the regional governments are also responsible.³

The Regional Government is expected to be able to create innovations so that the Covid-19 chain can be broken at least starting from the regions without overriding the policies of the central government. It has been more than a year since the Covid-19 pandemic has plagued Indonesia, the central government and regional governments have set policies, namely the implementation of the adaptation of a new habit order or "New Normal" in Indonesian society. Implementation of the Implementation of Restrictions on Community Activities (PPKM) in Purwakarta Regency in the context of accelerating the response to Covid-19. The implementation of this PPKM is routinely controlled by the Covid-19 Task Force, in this case the Civil Service Satpol so that there are no violations that result in the positive number of Covid-19 in Purwakarta Regency increasing with the issuance of Presidential Instruction Number 6 of 2020 concerning Improved Discipline and Law Enforcement of Health Protocols in the Prevention and Control of Covid-19 and Instruction of the Minister of Home Affairs Number 4 of 2020 concerning Technical Guidelines for Drafting Regional Head Regulations in the Framework of Implementing Discipline and Law Enforcement of Health Protocols as Efforts to Prevent and Overcome Corona Virus Disease 2019 in the Regions, so that the government can direct all efforts in the form of a Task Force, one of which is the Satpol Civil service.

The Government's efforts to support this require the role of the Civil Service Satpol in enforcing regional regulations to minimize the spread of Covid-19, but the efforts of the Civil Service Satpol will not help much if the people are indifferent to the regulations that have been set in the Enforcement of Restrictions on Community Activities (PPKM). . As for the problems or obstacles that people don't want to follow the Health Protocols due to several things, such as the government's role which is less assertive in disseminating information about this virus, so that many people still don't know the spread of this virus from anywhere, people either believe or don't believe it. This Covid pandemic.

This can be proven by the active Covid-19 data in Purwakarta Regency as of July 7, 2021, as many as 10,132 people have been confirmed to have been exposed to Covid.⁴ which is not a small number for a district, this proves that the government's role, especially the Civil Service Police Satpol is still less active as a regional apparatus that provides protection to the community.⁵ The crisis condition due to the Corona Virus in the structure of the unitary state is the responsibility of the central government, besides that it is also the duty of the regional government. The Regional Government is expected to be able to create innovations so that the Covid-19 chain can be broken. Based on Presidential Instruction No. 6 of 2020 and Inmendagri No. 4

³Ibid.

⁴Data Source: Purwakarta District Health Office, 2021.

⁵Yushantini, NKH 2020. "Review of Authority between Satpol PP and Polri in Creating Order and Security". Journal of Kertha Semaya, Vol. 8 No. 6, p. 6.



of 2020, the directing of one branch of the government, namely the Civil Service Satpol, shows that the implementation of Community Activity Restrictions (PPKM) is still not effective.

There are several obstacles in its implementation, namely that the community does not follow the PPKM policy depending on the reasons for not knowing the PPKM policy and not wanting to agree to the PPKM policy and the inability to follow the PPKM policy depending on several factors starting from themselves and/or factors originating from the environment. In the Purwakarta Regency area, there was a violation of the implementation of the PPKM which was categorized as a casecriminal actlight during the implementation of PPKM in West Java during the Covid-19 pandemic based on West Java Provincial Regulation Number 05 of 2021 concerning the Implementation of Peace, Public Order and Community Protection that occurred in the jurisdiction of the Purwakarta District Court in Decision Number 19/Pid.C/2021/PN.Pwk to the defendant Drs. Sarna stated in his ruling that it has been legally and convincingly proven guilty of committing the crime of "Violation of the Implementation of Peace, Public Order, and Community Protection", so that the Purwakarta District Court sentenced the Defendant, therefore with a fine of Rp. 20,000,000.00 (twenty million rupiahs) provided that if the fine cannot be paid by the Defendant, it will be replaced by imprisonment for 7 (seven) days each.

This case was apparently followed by other cases in the name of defendant I Rama Setiana, defendant II Umay Setiadi, and defendant III M. Dery Risnadar, so the judge handed down Decision Number 28/Pid.C/2021/PN.Pwk and declared the defendants has been legally and convincingly proven guilty of committing the crime of "Violation of the Implementation of Peace, Public Order, and Community Protection", so that the judge sentenced the Defendants to a criminal fine of Rp. 250,000.00 (two hundred five thousand Rupiah) with the provision that if the fine cannot be paid by the Defendants, then it is replaced with imprisonment for 7 (seven) days each. Then in another case which is still in the jurisdiction of the Purwakarta District Court with Defendant Ijojo Supriyanto, Defendant I, Defendant Ujang Sahidin, and Defendant III Hendro, so that the judge imposed a sentence based on Decision Number: 28/Pid.C/2021/PN. Pwk to the defendant because it has been legally and convincingly proven guilty of committing the crime of "Violation of the Implementation of Peace, Public Order, and Community Protection", thereby imposing a sentence on the Defendants, therefore with a criminal fine of Rp. 150,000.00 (one hundred and fifty thousand Rupiah) provided that if the fine cannot be paid by the Defendants, it will be replaced with imprisonment for 7 (seven) days each.

Taking into account the Decision of the Purwakarta District Court Number 19/Pid.C/2021/PN.Pwk and the Court's Decision Number 28/Pid.C/2021/PN.Pwk, that from the results of the examination of the witnesses and the Defendants at trial it turned out to be one and the same related to each other, it has been proven that the criminal acts briefly described against the Defendants, so that the Defendants must be declared legally and convincingly proven guilty of a criminal act of violating the Covid-19 Health Protocol in Purwakarta Regency.



The actions of the defendants are indicated to have violated the West Java Provincial Regulation Number 5 of 2021 concerning Amendments to the West Java Provincial Regulation Number 13 of 2018 concerning the Implementation of Peace, Public Order and Community Protection as well as stipulating criminal fines, which will be stated in the verdict in below. Therefore, the Judge then determines the punishment according to the guilt of the Defendants by keeping in mind the provisions of Article 34 paragraph (1) jo. Article 21 I paragraph (2) letter g Regional Regulation of West Java Province Number 5 of 2021 concerning Amendments to Regional Regulation of West Java Province Number 13 of 2018 concerning the Implementation of Peace, Public Order, and Community Protection as well as other statutory provisions related to this case.

B. Method

The method used in this research is normative juridical with descriptive analytical research specifications. Data collection techniques were carried out by document studies and interviews. Then analyzed by qualitative normative method without using mathematical formulas and numbers.

C. Results and Discussion

1. Settlement of Minor Crime Cases During the Implementation of PPKM in West Java

The basic idea of the issuance of PERMA Number 2 of 2012 is that in addition to reducing the accumulation of cases in the Supreme Court, it also accommodates the public's view of minor crime cases that are tried by the court using conventional articles and this hurts the sense of justice in society. The tangible manifestation of efforts to reduce the accumulation of cases is carried out by adjusting the entire amount of rupiah in the Criminal Code, except for Article 303 and Article 303bis. In 1960, the limit for the crime of minor theft was 26 guilders, adapted to Rp. 250, - according to the Indonesian legal system, at that time, world oil prices were around US\$ 1.8 per barrel and world gold prices were at US\$ 35 per ounce - and now they have jumped to US\$ 100 per barrel and US\$ 1,700 per ounce.⁶Based on this thought, in Chapter I regarding minor crimes, Article 1 states the words "two hundred and fifty rupiahs" in Articles 364, 373, 379, 384, 407, and Article 482 of the Criminal Code are read as Rp. 2.500.000, - (two million five hundred thousand rupiah). The nominal is the maximum limit of the value of goods or money which is the object of a criminal case as referred to in these articles.

Therefore, there is an obligation for the chairman of the district court to pay attention to the provisions of Article 1 PERMA Number 02 of 2012 when receiving the delegation of cases of theft, fraud, embezzlement, and detention from the public prosecutor. This is because if the value of the goods or money is not more than Rp. 2,500,000,- (two million five hundred thousand rupiah), then the head of the district

⁶Rizlry Ramadhan Bared. 2017. "The Relation of the Application of the Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2012 to Justice for the Defendant (Study of Court Decisions Regarding Cases of Minor Theft)", *Juridical Journal* Vol. 4 No. 1, Jakarta: Faculty of Law UPN Veterans, p. 88.



court shall immediately appoint a single judge to handle the case and try it with a quick examination.⁷ Thus, it is hoped that cases such as theft, fraud, embezzlement, and detention that are included in the qualifications of minor criminal cases can be examined and resolved immediately by the court. On the other hand, with the existence of a service for handling or examining criminal cases that is so simple and fast, this also answers social unrest that has been frequently complained by the public in general. In other words, it is hoped that there will be no more cases that hurt people's feelings, such as cases of theft of cocoa pods, theft of sandals, or other minor thefts that are examined through ordinary events.

Ten years since it was enacted, PERMA Number 2 of 2012 is sufficient to color the practice of law enforcement in Indonesia, for example in the case of minor crimes in the case of the Implementation of Community Activity Restrictions (PPKK) during the Covid-19 pandemic in West Java by taking the example of the case at the Purwakarta District Court, the judge paid attention to PERMA Number 2 of 2012 as *lex general*, but *lex specialist* practice in the field Judge in the Court, namely the Purwakarta District Court which examined and tried cases of minor crimes by means of a quick examination of the Defendant Drs. SARNA and handed down the Decision Number: 19/Pid.C/2021/PN.Pwk by using Article 34 paragraph (1) of the West Java Provincial Regulation Number 5 of 2021 concerning Amendments to the Regional Regulation of the Province of West Java Number 13 of 2018 concerning the Implementation of Peace, Order General, and Community Protection:

"Everyone who violates the provisions of Article 11 letter a, letter f, and letter g; Article 12 letter a, letter b, letter c, and letter d, as well as Article 21 I paragraph (1) and paragraph (2), shall be punished with imprisonment for a maximum of 3 (three) months or a fine of at least Rp. 5,000,000.00 (five million rupiah) and a maximum of Rp. 50,000,000.00 (fifty million rupiah)".

Juncto Article 21 I paragraph (2) letter g Regional Regulation of West Java Province Number 5 of 2021 concerning Amendments to the Regional Regulation of West Java Province Number 13 of 2018 concerning the Implementation of Peace, Public Order, and Community Protection: "to limit activities that have been determined according to the level of vigilance Area". Considering, Article 34 paragraph (1) jo. Article 21 I paragraph (2) letter g Regional Regulation of West Java Province Number 5 of 2021 concerning Amendments to the Regional Regulation of West Java Province Number 13 of 2018 concerning the Implementation of Peace, Public Order, and Community Protection which is the basis for the proposed trial, legal facts are obtained in the case of the Defendant Drs. Sarna who is suspected of having violated PPKM during the Covid-19 period is as follows:

- a. The defendant has committed a Prokes violation, namely still employing 100% of its employees and not reducing employees according to PPKM.
- b. In the trial, it was revealed that the role of the Defendant, Drs. SARNA as the representative of PT. Elegend Jatiluhur in the HRD position, that the company by activating all employees 100% does not heed information about PPKM so that workers carry out work activities in a Work From Home (WFH) manner.

⁷Article 2 of Regulation Number 02 of 2012.



- c. From the results of the examination of the witnesses and the Defendant at the trial, which turned out to be related to each other, it has been proven that the crime charged against the Defendant, so that the Defendant must be declared legally and convincingly proven guilty of a criminal offense of violating the Covid-19 Health Protocol in Purwakarta Regency.
- d. From the results of the examination at the trial, there were no justifications or excuses for the actions of the Defendant, so that the Defendant must be found guilty.
- e. Considering, that because the Defendant is proven guilty of committing the crime mentioned above, the Defendant must be sentenced.
- f. In the West Java Provincial Regulation Number 5 of 2021 concerning Amendments to the Regional Regulation of the Province of West Java Number 13 of 2018 concerning the Implementation of Peace, Public Order and Community Protection, which also regulates the criminal fine, it will be stated in the decision below.

In view of the provisions of Article 34 paragraph (1) jo. Article 21 I paragraph (2) letter g Regional Regulation of West Java Province Number 5 of 2021 concerning Amendments to the Regional Regulation of West Java Province Number 13 of 2018 concerning the Implementation of Peace, Public Order, and Community Protection as well as other statutory provisions related to this case.

Considering, whereas subsequently the Judge handed down Decision Number: 19/Pid.C/2021/PN.Pwk to the defendant Judge:

- a. Stating the Defendant Drs. SARNA has been legally and convincingly proven guilty of committing the crime of "Violation of the Implementation of Peace, Public Order, and Community Protection".
- b. Sentencing the Defendant therefore with a fine of Rp. 20,000,000.00 (twenty million rupiahs) provided that if the fine cannot be paid by the Defendant, it will be replaced by imprisonment for 7 (seven) days each.
- c. Determine evidence in the form of: 1 (one) Identity Card in the name of Drs. Sarna, Returned to the Defendant Drs. Sarna.
- d. Charged the Defendant with a case fee of Rp. 5,000, - (five thousand rupiah).

Furthermore, in another case, the Purwakarta District Court examined and tried cases of minor crimes by means of a quick examination of Defendant I Rama Setiana, Defendant II Umay Setiadi, and Defendant III M. Dery Risnadar based on the statements of the Defendants and the witnesses who were brought to trial. , then the legal facts are obtained as follows:

- a. That the Defendant Rama Septiana was gathering at the Meatball stall along with the Defendant Umay Kurniadi and the Defendant M. Dery Risnandar, where the Defendants were drinking coffee around the Veterans area of Purwakarta Regency on Monday 12 July 2021 at 21.00 WIB.
- b. That at trial it was revealed that the role of the Defendants was gathering at the meatball stall to order Kopi Kapal Api. The Defendants gathered at the place because they had promised to meet because they had not seen each other for a long time. The Defendants realized that this activity was not allowed during the Emergency PPKM period.



- c. That from the results of the examination of the witnesses and the Defendants at the trial which turned out to be related to each other, it has been proven that the criminal acts described briefly against the Defendants, so that the Defendants must be declared to have been legally and convincingly proven guilty of a criminal offense. Covid-19 Health Protocol in Purwakarta Regency.
- d. That from the results of the examination at the trial there was no justification or excuse for the actions of the Defendants, so that the Defendants must be found guilty.
- e. That because the Defendants are proven guilty of committing the crimes mentioned above, the Defendants must be sentenced.
- f. Whereas in the Regional Regulation of the Province of West Java Number 5 of 2021 concerning Amendments to the Regional Regulation of the Province of West Java Number 13 of 2018 concerning the Implementation of Peace, Public Order and Protection of the Community also regulates the criminal fine, it will be stated in the Decision Order below.

Furthermore, the Judge will determine the punishment according to the guilt of the Defendants by keeping in mind the provisions of Article 34 paragraph (1) jo. Article 21 I paragraph (2) letter g Regional Regulation of West Java Province Number 5 of 2021 concerning Amendments to Regional Regulation of West Java Province Number 13 of 2018 concerning the Implementation of Peace, Public Order, and Community Protection as well as other statutory provisions related to this case.

The judge handed down the Decision Number: 28/Pid.C/2021/PN.Pwk to the defendant judge:

- a. Declaring that Defendant I Rama Septiana, Defendant II Umay Kurniadi and Defendant III M. Dery Risnandar have been legally and convincingly proven guilty of committing the crime of "Violation of the Implementation of Peace, Public Order, and Community Protection".
- b. Sentencing the Defendants therefore with a fine of Rp. 250,000.00 (two hundred five thousand Rupiah) with the provision that if the fine cannot be paid by the Defendants, then it is replaced with imprisonment for 7 (seven) days each.
- c. Determine evidence in the form of:
 - 1) 1 (one) Identity Card in the name of Rama Septiana; Returned to the Defendant Rama Septiana.
 - 2) 1 (one) Identity Card in the name of Umay Kurniadi; Returned to the Defendant Umay Kurniadi.
 - 3) 1 (one) Identity Card in the name of M. Dery Risnandar; Returned to the Defendant M. Dery Risnandar.
- d. Charged the Defendants with a case fee of Rp. 5,000, - (five thousand rupiah).

Then in another case with Defendant IJojo Supriyanto, Defendant I, Defendant Ujang Sahidin, and Defendant III Hendro based on the statements of the defendants and the witnesses who were presented to the trial, the following legal facts were obtained:

- a. The defendant Jojo Supriyanto is the owner of Warung Surya Rezeki, which sells food and beverages, which opens merchandise to provide people with a

place to eat on Monday, July 12, 2021, at Gr. Turi Rt 016/002 Kel Nagri Tengah Purwakarta at 20:53 WIB.

- b. The defendant Ujang Shahidin had provided a place for people to eat which was a Nasi Padang stall located in Purwakarta Warehouse on Monday 12 July 2021 at 21:41 WIB.
- c. The defendant Hendro has opened a clothes shop located on Jl. Jatiluhur Bunder Scouts who can cause other people to gather on Monday 12 July 2021 at 21.00 WIB.

Considering, whereas the Judge will then determine the punishment according to the guilt of the Defendants by keeping in mind the provisions of Article 34 paragraph (1) jo. Article 21 I paragraph (2) letter g Regional Regulation of West Java Province Number 5 of 2021 concerning Amendments to Regional Regulation of West Java Province Number 13 of 2018 concerning the Implementation of Peace, Public Order, and Community Protection as well as other statutory provisions related to this case.

Furthermore, the Judge handed down Decision Number: 28/Pid.C/2021/PN. Pwk to the defendant judge:

- a. Stating that Defendant I Jojo Supriyanto, Defendant II Ujang Shahidin and Defendant III Hendro have been legally and convincingly proven guilty of committing the crime of "Violation of the Implementation of Peace, Public Order, and Community Protection".
- b. Sentencing the Defendants therefore with a fine of Rp. 150,000.00 (one hundred and fifty thousand Rupiah) provided that if the fine cannot be paid by the Defendants, it will be replaced with imprisonment for 7 (seven) days each.
- c. Determine evidence in the form of:
 - 1) 1 (one) Identity Card in the name of Jojo Supriyanto; Returned to the Defendant Jojo Supriyanto.
 - 2) 3 (three) photographs at the time of the incident; It is attached to the case file.
 - 3) 1 (one) Identity Card in the name of Ujang Shahidin; Returned to the Defendant Ujang Shahidin.
 - 4) 1 (one) Identity Card in the name of Hendro; Returned to the Defendant Hendro.
- d. Charged the Defendants with a case fee of Rp. 5,000, - (five thousand rupiah).

Based on examples of cases of the application of criminal sanctions for minor crimes in settlementthe case of the Implementation of Community Activity Restrictions (PPKK) during the COVID-19 pandemic in West Java, the legal basis for which is Article 34 paragraph (1) jo. Article 21 I paragraph (2) letter g Regional Regulation of West Java Province Number 5 of 2021 concerning Amendments to Regional Regulation of West Java Province Number 13 of 2018 concerning the Implementation of Peace, Public Order, and Community Protection.

2. The Effectiveness of Criminal Sanctions in Enforcement of Criminal Law Against Criminal Acts Easy when PPKM is implemented in West Java



The provisions of Article 1 paragraph (1) of the Criminal Code as one of the principles that can determine whether or not a person can be convicted, it is necessary to state the formulation of the crime. The basis for a proper punishment for an act is that formal and material criteria/benchmarks can be used, so that a criminal act is essentially an act against the law, both formally and materially.

By emphasizing that every criminal act is considered always contrary to the law. Therefore, the nature of being against the law is an absolute element of a crime. This means that even though the formulation of the offense is not explicitly formulated, there is an element of being against the law, but the offense must always be considered to be against the law.⁸So, the formal formulation in the law is only a formal measure or objective measure to declare an act against the law. The formal/objective measure must be tested materially on the perpetrator, is there a justification or not and is the act really against the people's legal awareness?⁹

The provisions of Article 1 paragraph (1) of the Criminal Code are generally the basis for determining policies between norms and sanctions in laws and regulations inside and outside the Criminal Code. The determination of the regulation of criminal acts outside the Criminal Code is usually the formulation of norms and sanctions are not formulated together in one article, but separately. The norm is determined first in one article, then the sanctions are determined in another article, but there are also norms and sanctions that are formulated together.

This can be seen from the criminal provisions in relation to the regulation of norms and criminal sanctions in criminal law enforcement against criminal acts during the implementation of PPKM in West Java during the Covid-19 pandemic based on West Java Provincial Regulation Number 05 of 2021 concerning the Implementation of Peace, Public Order and Community Protection as regulated in Article 34 paragraph (1) which reads as follows:

"Everyone who violates the provisions of Article 11 letter a, letter f, and letter g; Article 12 letter a, letter b, letter c, and letter d, as well as Article 21 I paragraph (1) and paragraph (2), shall be punished with imprisonment for a maximum of 3 (three) months or a fine of at least Rp. 5,000,000.00 (five million rupiah) and a maximum of Rp. 50,000,000.00 (fifty million rupiah)".

The provisions of Article 34 paragraph (1) take the norm of his actions in Article 21 I paragraph (2) letter g, that: "Every person in charge, owner and/or manager of a business and/or activity is obliged to: carry out restrictions on activities that have been determined according to the level of regional vigilance.

The regulation and stipulation of the act as a minor crime for violating the implementation of PPKM in West Java Covid-19 based on the West Java Provincial Regulation Number 05 of 2021 concerning the Implementation of Peace, Public Order and Community Protection, then the perpetrator is subject to sanctions according to criminal provisions, not solely. The determination of these sanctions is to avenge actions that have been carried out by perpetrators of criminal acts of violation of the implementation of PPKM in West Java Covid-19, but is a manifestation in the context of

⁸ *Ibid.*

⁹*Ibid.*



achieving the goals of punishment, namely as prevention (general and specific), community protection, maintaining community solidarity, taking / the warning.¹⁰

Therefore, talking about the purpose of sentencing, it is necessary to relate it to the social, cultural, and structural values of Indonesian society. However, it must be acknowledged that the social, cultural and structural values that exist in Indonesia are different from the social, cultural and structural values that exist in other countries. In order for the purpose of punishment to have a positive impact on the perpetrators of criminal acts, the social, cultural, and structural values that live in society cannot be ignored.

Likewise in Indonesia, the issue of punishment must be linked to social, cultural and structural values that live and develop in society, in order to have a positive impact on criminals. The purpose of sentencing as one of the most important issues in the science of criminal law, should not only be associated with social, cultural and structural values that live and develop in Indonesian society, but must also be linked to the values contained in Pancasila.

Based on the above description in relation to criminal sanctions as a penal policy with the achievement of the goal of punishment for minor crimes regulated in the West Java Provincial Regulation Number 05 of 2021 concerning the Implementation of Peace, Public Order and Community Protection, the penal policy as Public policy in general, basically must be a rational policy. One measure of the rationality of criminal policy, among others, can be related to the problem of effectiveness.

The measure of rationality is placed on the issue of the success or effectiveness of the crime in achieving its goals. Determining the basis for criminal justification from the point of view of its effectiveness is a pragmatic approach that should be considered in every policy step, but the problem is how far it goes to providing a justification for the determination of a crime in legislation.

Discussing this problem, in the following, the problem of criminal effectiveness is reviewed from 2 (two) main aspects of the purpose of punishment, namely the aspect of community protection and the aspect of improving the perpetrator. It should be noted in advance that what is meant by the aspect of "community protection" includes the purpose of preventing, reducing or controlling criminal acts and restoring the balance of society (among others resolving conflicts, bringing a sense of security, repairing losses/damages, removing stains, reinforcing values values that live in the community), while what is meant by the aspect of "repairing perpetrators" includes various objectives, including rehabilitation and re-socialization of perpetrators and protecting them from arbitrary treatment outside the law.¹¹

If it is related to the casecriminal actlight during the implementation of PPKM in West Java during the Covid-19 pandemic based on West Java Provincial Regulation Number 05 of 2021 concerning the Implementation of Peace, Public Order and Community Protection which occurred in the jurisdiction of the Purwakarta District Court in Decision Number 19/Pid.C/2021/PN.Pwk to the defendant Drs. Sarna stated in his ruling that it has been legally and convincingly proven guilty of committing the

¹⁰start. 1995. Conditional Criminal Institution. Bandung: Alumni, p. 28.

¹¹Barda Nawawi Arief, Anthology of Criminal Law Policy. Bandung: Citra Aditya Bakti, p. 224.



crime of "Violation of the Implementation of Peace, Public Order, and Community Protection", so that the Purwakarta District Court sentenced the Defendant, therefore with a fine of Rp. 20,000,000.00 (twenty million rupiahs) provided that if the fine cannot be paid by the Defendant, it will be replaced by imprisonment for 7 (seven) days each.

This case was apparently followed by other cases in the name of defendant I Rama Setiana, defendant II Umay Setiadi, and defendant III M. Dery Risnadar, so the judge handed down Decision Number 28/Pid.C/2021/PN.Pwk and declared the defendants has been legally and convincingly proven guilty of committing the crime of "Violation of the Implementation of Peace, Public Order, and Community Protection", so that the judge sentenced the Defendants to a criminal fine of Rp. 250,000.00 (two hundred five thousand Rupiah) with the provision that if the fine cannot be paid by the Defendants, then it is replaced with imprisonment for 7 (seven) days each.

Then in another case which is still in the jurisdiction of the Purwakarta District Court with Defendant IJojo Supriyanto, Defendant I, Defendant Ujang Sahidin, and Defendant III Hendro, so that the judge imposed a sentence based on Decision Number: 28/Pid.C/2021/PN. Pwk to the defendant because it has been legally and convincingly proven guilty of committing the crime of "Violation of the Implementation of Peace, Public Order, and Community Protection", thereby imposing a sentence on the Defendants, therefore with a criminal fine of Rp. 150,000.00 (one hundred and fifty thousand Rupiah) provided that if the fine cannot be paid by the Defendants, it will be replaced with imprisonment for 7 (seven) days each.

Taking into account the Decision of the Purwakarta District Court Number 19/Pid.C/2021/PN.Pwk and the Court's Decision Number 28/Pid.C/2021/PN.Pwk, that from the results of the examination of the witnesses and the Defendants at trial it turned out to be one and the same related to each other, it has been proven that the criminal acts briefly described against the Defendants, so that the Defendants must be declared legally and convincingly proven guilty of a criminal act of violating the Covid-19 Health Protocol in Purwakarta Regency.

The actions of the Defendants are indicated to have violated the West Java Provincial Regulation Number 5 of 2021 concerning Amendments to the Regional Regulation of the Province of West Java Number 13 of 2018 concerning the Implementation of Peace, Public Order and Community Protection and also regulates the criminal fine, which will be stated in the verdict in below. Therefore, the Judge then determines the punishment according to the guilt of the Defendants by keeping in mind the provisions of Article 34 paragraph (1) jo. Article 21 I paragraph (2) letter g Regional Regulation of West Java Province Number 5 of 2021 concerning Amendments to Regional Regulation of West Java Province Number 13 of 2018 concerning the Implementation of Peace, Public Order, and Community Protection as well as other statutory provisions related to this case.

Paying attention to cases of minor crimes in the case of implementing PPKM in West Java during the Covid-19 pandemic in the jurisdiction of the Purwakarta District Court in relation to the effectiveness of criminal sanctions in West Java Provincial



Regulation Number 5 of 2021 concerning Amendments to West Java Provincial Regulation Number 13 In 2018 concerning the Implementation of Peace, Public Order, and Community Protection, if it is associated with aspects of community protection and aspects of personal protection, according to Barda Nawawi Arief, it is stated as follows:¹²

a. Aspects of community protection

Viewed from the aspect of protection/public interest, a criminal act is said to be effective if the crime can be prevented or reduced as far as possible. So, the effectiveness criterion is seen from how far the frequency of crime can be reduced. In other words, the criterion lies in how far the "general prevention" effect of crime is in preventing citizens in general from committing crimes.

b. Aspects of improving actors

Viewed from the aspect of improving the perpetrators, the measure of effectiveness lies in the "special prevention" aspect of the crime. So, the size lies in the problem of how far the crime has an influence on the perpetrator/convict. There are 2 (two) aspects of criminal influence on the convict, namely the early prevention aspect (deterrent aspect) and the reformatory aspect.¹³

The first aspect (deterrent aspect), is usually measured using a recidivist indicator. Based on this indicator size, RM Jackson stated that a crime is effective if the violator is not sentenced again within a certain period. Furthermore, it was emphasized that effectiveness is a measurement of the ratio between the number of violators who are sentenced to return and who are not sentenced to return.¹⁴

The second aspect, namely the reformatory aspect, relates to the problem of changing the attitude of the convict. How far the criminal can change the attitude of the convict, is still a problem that cannot be answered satisfactorily. This is due to several methodological problems that have not been resolved and there is no agreement, in particular regarding:¹⁵

a. Is the measure to determine whether there have been "signs of improvement" or "changes in attitude" in the perpetrator; the size of the "recidivis rate" or "reconviction rate" is still widely dubious.

b. How long is the "certain period" to evaluate whether there is a change in attitude after the convict has served his sentence".

The need for community protection against the perpetrators of the crime itself (the second aspect), essentially contains a positive aspect, namely as a manifestation of the responsibility or obligation of the community to protect and prosper the perpetrators of crime as a member of society. On the part of the perpetrator himself, if he feels prosperous, it is hoped that the person concerned will not repeat his evil deeds. Thus, this second aspect indirectly prevents the occurrence of recidivists from criminal acts.

¹²Ibid., p. 225.

¹³Ibid., p. 225.

¹⁴RM Jackson in Ibid., p. 229.

¹⁵Ibid., p. 231.



In connection with the positive aspects mentioned above, people who feel responsible and obliged to protect and prosper criminals should not act arbitrarily outside the law, either in the form of abuse of power in imposing sanctions or in the form of "retaliation" as a form of punishment. emotional reaction. The second aspect aims to improve the perpetrators which are often expressed in various expressions, such as:

"Rehabilitation and re-socialize perpetrators, freeing perpetrators, influencing behavior to be orderly or appropriate to the law, protecting perpetrators from enforcement of arbitrary sanctions or retaliation outside the law".

The second main aspect of the purpose of this punishment, namely the aspect of protecting individuals (criminal acts) can also be called the aspect of criminal individualization.

The amount of attention and thought that has been devoted to the issue of "the purpose of punishment" is already part of the plan to form the Criminal Code which is currently being reviewed at the National Legal Development Agency. Various forms and efforts to overcome violations have been carried out, but violations have not decreased. Criminal law as an *ultimum remidium* which some people consider capable of providing psychological pressure so that others do not commit violations, seems to be doubtful in overcoming violations of PPKM implementation in West Java during the Covid-19 pandemic within the jurisdiction of the Purwakarta District Court.

The court as an institution in charge of imposing a crime must be sure that the sentence imposed has a positive impact on the convict or not. Therefore, the issue of imposing a crime is not just a matter of the severity of the crime, but also whether the crime is effective or not, and whether the punishment is in accordance with social values, culture and structures that live and develop in society.

Regarding the purpose of punishment, the purpose of sentencing is very important, not only concerning certain aspects of existing criminal/criminal theories, especially those born from the cultural content of western thought, but the judge should have studied all ratifications of criminal acts and the factors of accountability/criminalization in The purpose of the sentencing framework is to pay attention not only to the sense of justice in the hearts of the community, but also to be able to analyze the reciprocal relationship between the perpetrator and the victim.

Therefore, the purpose of sentencing is not only related to the interests of the perpetrators of the crime or victims and the families of the victims, but also to the interests of the general public, as written by Muladi and Barda Nawawi Arief, as follows:¹⁶

"The purpose of the policy of establishing a criminal sanction cannot be separated from the goal of criminal politics in its overall meaning, namely the protection of society to achieve prosperity".

In accordance with what was stated by Muladi and Barda Nawawi Arief above, the protection of the community must be a concern in the policy of determining the crime, so in determining criminal sanctions against every labor crime must lead to the achievement

¹⁶Muladi & Barda Nawawi Arief. Muladi & Barda Nawawi Arief.. 1998. Criminal Law Theories and Policies. Bandung: Alumni, p. 91.



of the purpose of punishment and if analyzed, the purpose of punishment will be achieved if the implementation includes:¹⁷The purpose of punishment is prevention (general and specific), the purpose of punishment is the protection of society, the purpose of punishment is to maintain community solidarity, the purpose of punishment is compensation/offsetting

In connection with the above description in relation to the perpetrators of minor crimes in the case of implementing the PPKM in West Java during the Covid-19 pandemic in the jurisdiction of the Purwakarta District Court, there are quite interesting things about the problem of the purpose of punishing perpetrators of labor crimes, namely considering that some Most of the forms of labor crimes are within the scope of "administrative penal law", although sometimes the punishment is quite severe, then there is a tendency to use the principle of solidarity more, namely criminal law is placed in its position as the ultimum remedium and many administrative and civil sanctions applied, then it needs to be considered as an effective deterrent effort that can be achieved against convicting perpetrators of minor crimes for cases of implementing PPKM in West Java during the Covid-19 pandemic in the jurisdiction of the Purwakarta District Court, to place criminal law as a premium remedium.

Thus, it is necessary to consider the function of criminal law whose ultimum remedium becomes premium remedium, because the violation of minor criminal acts in the case of implementing PPKM in West Java during the Covid-19 pandemic in the jurisdiction of the Purwakarta District Court damaged the joints of a nation's life and can endanger the survival of a nation, because it does not heed the atmosphere of the Covid-19 pandemic. In connection with the use of criminal penalties as a premium remedium, it must be done carefully and selectively. This step must always consider objective conditions related to the act, subjective matters relating to the perpetrator, the public's impression of the crime and the set of sentencing objectives to be addressed.

D. Conclusion

The settlement of minor criminal cases when implementing PPKM in West Java in the Criminal Justice System in Indonesia refers to the provisions of PERMA Number 2 of 2012 as a *lex general*, but in practice *lex specialis* in the field of Judges in Court, namely the Purwakarta District Court who examines and adjudicates criminal cases. light crime with a quick examination procedure using Article 34 paragraph (1) West Java Provincial Regulation Number 5 of 2021 which has been decided by the Purwakarta District Court Number 19/Pid.C/2021/PN.Pwk jo. 28/Pid.C/2021/PN.Pwk has been legally and convincingly proven guilty of committing the crime of "Violation of the Implementation of Peace, Public Order, and Community Protection".The effectiveness of criminal sanctions in enforcing criminal law against criminal acts when the PPKM was implemented in West Java in terms of the West Java Provincial Regulation Number 05 of 2021 it was still not effective, because people did not want to follow the Health Protocol due to several things, such as the government's role which was not firm in socializing

¹⁷Muladi & Dwidja Priyatno. 1991. Corporate Liability in Criminal Law, Bandung: STHB, p. 118-121.



about this virus, so that many people still do not know where the spread of this virus has come from, the public either believes or does not believe in the Covid-19 pandemic, so the occurrence of several cases that have to be decided by the Purwakarta District Court indicates the ineffectiveness of law enforcement.

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