



## Considerations for Implementing Criminal Law for Defendants Exposed to COVID-19: Legal and Health Literacy



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### Keywords

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### Abstract

This study discussed the scope of criminal law considerations for defendants exposed to the Coronavirus through legal studies and health literacy in Indonesia. This article also tries to understand the criminal sanctions carried out by defendants exposed to COVID-19 by examining the potential for criminal justice with considerations and consequences for the rights of citizens to obtain health protection. This study concludes that punishment for criminal acts related to criminal cases must be limited considering that prosecution and criminal sanctions can only be given as light as possible where the condition of the community does need help because of their right to obtain health insurance for the population as regulated in the Law on Health and Human Rights. With a set of rights inherent in the nature and existence of humans as creatures of God Almighty are His gifts that must be respected, upheld, and protected by the state. After reviewing several international and national publications active discussing criminal law and the control of COVID-19, we got all this data. We hope that all this qualitative data can be used for future studies related to health rights and criminal law.

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## 1 Introduction

As COVID-19 sweeps the globe, it is one of the unprecedented times that this emergency mindset offers a significant opportunity to reconsider the hardships experienced by every citizen affected by a criminal offense and perhaps save his or her life in legal proceedings against him (Ssemugenyi & Nuru Seje, 2021; Putra et al., 2020). However, they also offer a significant opportunity to understand the cruelty, barbarism, and devastation they have committed that characterize Indonesia's criminal strategy even in regular times (Benton et al., 2020). That is, so much of the most fantastic part of criminal law organization during a pandemic extends the issues that plague the legal framework regularly. In this review, we offer a brief account of how the pandemic revealed the construction of a weak prison state and the natural factors of crime. We examine two major fundamental understandings, considering criminal penalties for those exposed to COVID-19. However, it is not intended to facilitate criminal acts committed by criminals (King et al., 2020).

The COVID-19 has been declared by the World Health Organization as a pandemic, and the Government in each country has established a Public Health Emergency, which has declared COVID-19 as a public welfare crisis that must be addressed (Ningsih et al., 2021). This raises concerns that extend to the regional level, creating a commotion and disturbing the community, considering that victim groups are the most common way to deal with and treat both the public authorities and the local area (Garcia, 2021). What is troubling the public is the spread of information on COVID-19 patients through online and local media, which causes harmful disgrace to victims, including the victim's family, even though the patient has been announced to be reinstated (Gao, 2021). The spread of COVID-19 has become one of the worries of the local area even though toward the start of the presence of this infection, different endeavors as requests from the public authority have not been genuinely complied by the local area (Hussin et al., 2021). The vast majority believe that the infection will not spread as generally as in the nation where it first spread. Different tricks regarding climate and environmental conditions in Indonesia as conditions that will not cause boundless spread or deceptions identified with fixings or medications viewed as hurtful were essential (Holmqvist, 2014).

However, at that time, COVID-19 was becoming an increasingly critical issue; this provided an opportunity to see value in how many parts of the complex criminal law in an emergency are essential components for Indonesia (Ibn-Mohammed et al., 2021). To that end, we divide it into two parts, each of which tends to be one part of Indonesia's criminal code exacerbated by the pandemic. In the first part, we examine the shortcomings of the reform government or, perhaps more precisely, the inability to think about the fundamental factors of criminal and human law detention facilities. The law imposes pre-trial sentences or confinement for suspects and convicts exposed to COVID-19 (Am et al., 2020). In the second part, we examine the rationale for criminal law cases (Berer, 2015). What do legal observers and government administrators understand when they propose or accept that criminal law is similar in other countries where all things are considered in the human rights space when the COVID-19 disaster hits them (Mykhalovskiy, 2011). What is missing in criminal and sentencing laws that expect relief arrangements and legitimacy that are generally recognized and common sense for the sake of humanity (Mendes, 2020).

The Government is trying to prevent the spread of COVID-19 for ordinary people and people in prisons. Following the approach of several foreign countries that have released prisoners, the Indonesian Government intends to release no less than 30,000 prisoners (Agustiwi & Nurviana, 2020). As of April 5, 2020, COVID-19 cases in Indonesia reached 2,491 cases, or an increase of almost 40% in four days. Two hundred nine people have died from COVID-19, while only 192 have recovered. Information can be accessed in August 2020 in 262,000 cases and 10,105 people recovered, and 192,000 people recovered (Nugraha et al., 2021). The problem is, even before the COVID-19 pandemic, respiratory infections, including tuberculosis, were perfectly normal and communicated effectively among prison/confinement inmates (Situmeang, 2020). Respiratory contamination has been noted as perhaps the most widely recognized disease experienced in detention offices. That a potential government moves to release prison inmates amid a pandemic to contain the spread of infection is a temporary arrangement (Saimima, 2020), because this measure will not be sufficient to prevent the spread of COVID-19 in prison offices because the principal considers the causes of disease

transmission in prisoners is a government strategy that focuses on discipline. Imprisonment in implementing the law, even though the level of guilt is light and does not cause harm (Marzuki et al., 2021).

Forestalling the rise of COVID-19 could impact individuals not to see this infection as a danger ultimately. Over the long run, the presence of this infection started to be alarming, mainly when the public authority set a burial service convention for COVID-19 victims, which the general idea was exceptionally unnerving. Legitimate assurance is a powerful instrument in guaranteeing the security of well-being of laborers with the goal that the public authority cannot make discretionary moves on the task of well-being laborers. Particularly assuming taking a gander at the laws and guidelines in regards to the well-being of laborers, it appears to be that there is no legitimate conviction ensure for the well-being of laborers, even though there is law Number 36 of 2014 concerning Health Workers, however, as of now, there are no executing guidelines and specialized directions for the Law on Health Workers and Health Workers different laws that direct legitimate security and work well-being for well-being laborers (Wang & Luo, 2005).

## 2 Materials and Methods

This section describes the procedure for conducting the study with the theme of considering the implementation of criminal law from the point of view of health and human rights (Grol & Grimshaw, 2003). This study examines much literature on law and health electronically in many publications, journals, books, magazines, and websites. According to the study questions, the review mechanism involves coding in-depth analysis data, comprehensive interpretation, and concluding with high validity and reliability principles (Kraus et al., 1998). Our data search is done electronically with a keyword system on all publicly available data or, in other words, data. To update data, we prioritize data that is publicly available from 2010 to 2021. Meanwhile, our report format is guided by legal and health complications studies, both at home and abroad (Haines et al., 2006). In other words, this situation entirely relies on Dadang Sukandar, so we do not need field data, considering that if it is not implemented, Indonesia will increasingly carry out border policies for interaction and community movements.

## 3 Results and Discussions

### 3.1 COVID-19 crisis in prison

The World Health Organization (WHO) has stated that prison buildings worldwide will add to the 'number' of cases of COVID-19 transmission, given the fact that many detention buildings are very congested (Organization, 2020). This puts all occupants in great danger of being contaminated with the virus. Restriction conditions in Indonesia are also very dense. In Indonesia, there are 270,445 prisoners required to be in prisons and detention centers that can only accommodate 131,000 people (Darwis, 2021). This means providing prisoners can reduce the risk of infection spreading while also offering legislatures the opportunity further to develop welfare administration within a prison cell or prison. All things being equal, this development is by no means a satisfactory arrangement. The Indonesian Government does not change its legal requirements for the detention and detention of respondents, the confinement space in Indonesia will forever be overcrowded, and the danger of spreading infection will remain high (Sahetapy, 2018).

This condition results from a public authority approach that focuses on detention requirements in the law then amended in 1998. Such arrangements urge legal experts to send offenders to prison, in any case, for petty misconduct. This arrangement allowed the number of detainees to grow, although the number of detention offices was minimal. Due to limited budgets and funds for health administration, the state of blocked prisons and detention facilities presents many real medical problems (Utami, 2020). That then the things that must be handled are. The most effective method to understand the guarantee and respect for prisoners' freedom during the COVID-19 pandemic is an obstacle to understanding and respecting prisoners' freedom during the COVID-19 pandemic (Manullang et al., 2021; Mahardika et al., 2021; Akbarov & Xabilov, 2021).

In Indonesia, different laws and guidelines apply concerning welfare and health, Article 32 letter I of Law no. 44 of 2009 concerning Hospitals, the matter of comparison is also regulated in Article 57 paragraph (1) of

Law no. 36 of 2009 concerning Welfare and Article 17 letter h number 2 of Law 14 of 2008 concerning Openness of Public Information which essentially stipulates that everyone has the right to keep individual illnesses secret that has been included in the administration of welfare (McGoldrick, 1991). Article 58 of the 2014 Law concerning Health Workers expressly stipulates the commitment to treat and serve patients in carrying out health management training, in particular providing welfare administration according to Professional Standards, Professional Service Standards, Standard Operating Procedures, and expert morals as needed for the welfare of Health Services (Rompis, 2017). Recipients obtain approval from the recipient of health services or their families for the transfer to be carried out, following the welfare classification of Health Service Recipients. Parties who release confidential or patient medical records out in the open can be sued with severe sanctions and penalties (Is, 2010; Widjaja, 2021; Widana et al., 2021).

### *3.2 Legal flexibility*

Besides the difficulties, the COVID-19 pandemic has also helped the importance of remembering a healthy environment free of crime in criminal justice strategies (Rori, 2021). The fundamental question of controlling the spread of infection in prisons will probably depend on the closest courts and top choices. While the state and critical officials play an essential role in practicing pardons, rethinking wrongdoing, or drawing certain lines about who should be detained and how long, the environment handles arrests, shipments, and imprisonment. Executives may be a consequence of individual officers, supervisors, police, and district attorneys (Arrasid, 2020). Regarding the pandemic, all humans have seen different countries embrace different ways to deal with emergencies; such distinctions reflect how criminal approaches are regularly exercised at lower levels. For example, prison inmates' information reflects a variety of methodologies by investigators, judges, wardens, and police trying to stem the tide of infection. Between early March and mid-April, the prison population shrank by 41%, 43 due to a decrease in the crime rate as people respect each other because of the fate of the pandemic and its effects (Wakefield & Wildeman, 2013).

To be sure, this is one explanation of why the war on crime is primarily regarded as a significant driver of the growth of the prison population, although a small proportion of detained individuals are not detained for criminal offenses (Fachri, 2021). Criminal cases deal with a much more comprehensive range of criminal cases by government officials than ordinary criminal cases, so the emphasis on the bureaucratic framework takes into account the wrong impression of criminal work. Similarly, this may be one of the motivations behind why administrative, criminal justice reform efforts are often portrayed as planning to achieve more than they need, since President Jokowi's 2014 election, to end isolation for criminal offenses in administrative prisons (Anas, 2021). The first step is the policy of forgiveness for criminal cases after being exposed to COVID-19, and the law passed with much performance during the Jokowi administration. However, it was investigated as conditional on being considered acquittal and confinement.

This step is not to say that the Government's strategy is immaterial or that changes at that level are irrelevant to the countless numbers of individuals committed or detained within the bureaucratic framework of the criminal law (Saragih, 2021). Then again, it can be argued that describing the Jokowi government's framework as a criminal justice framework would be a severe misrepresentation and that the administrative framework differs from the state framework in many ways, which must be considered, especially when the issue of the pandemic is still of common concern (Boon-Itt & Skunkan, 2020).

### *3.3 Consideration of criminal law*

Described unexpectedly, the overall picture of the consideration of criminal law pardons on "crimes exposed to COVID-19" is not always wrong. As Latifah (2020), the regulation of capital punishment and sanctions for convicted corruption perpetrators during the time Indonesia was facing the COVID-19 pandemic can be frustrating compared to working with top-down conversations about various points generally included in the legal umbrella term and that justice. These considerations and explanations consistently assume common and political reasons (Mokdad & Aljunaidi, 2020). The pandemic reveals how understanding criminal law and its organization must go off track. Environmental governance issues are embedded in the broader political economy and social, creative mind when the country and the world are in trouble (Bar-Oz et al., 2007; Qian et al., 2010). However, criminal law is a matter of government policy but is close to the human rights of both

parties criminals and victims and in any case (Buana, 2020). When the public reaction or reveal, its implementation generally depends on the fundamental factors in the view of the state. Similarly, resistance to criminal law and justice and criminal power will generally be concentrated at the closest level through activism, support, Government, and individual commitment (Mahendra & Rahaditya, 2020).

From local gatherings to collateral assets to community protection workplaces, the development to challenge criminal convictions depends not only on the people examining the framework but also on those who need to understand what law and justice mean for their friends and neighbors (Safrin, 2021). COVID-19 victims and their families can take other legal remedies through criminal procedures against law enforcement organizations for any individual who spreads harmful data and the carelessness of clinical workers, such as specialist doctors who do not maintain (Sutton, 2013; Franklin, 2010). The mystery of patient information is a criminal offense that can be legally charged. Because of using Article 55, any person who intentionally creates public data that is untrue or misleading and harms others will be rejected with a maximum imprisonment of 1 year and a maximum fine of IDR 5.000.000.00. Legal guarantees are reflected in the types of legal guarantees, whether general, criminal, regulatory, or guarantees of different privileges. The legal guarantee of patient freedom provides an obligation for pioneers in welfare administration offices, for example, clinics, clinical staff, such as specialists, helpers, birth attendants, to maintain and keep clinical patient information confidential (Dewi, 2010).

#### 4 Conclusion

We repeat, the purpose of this kingdom is to understand and consider the application of criminal law for defendants exposed to COVID-19 in terms of law, health, and human rights. The author believes that this data presentation has answered some of the fundamental problems of this study where the data exposure is supported by some experts that we reviewed, both from a legal perspective and family health during Indonesia during the pandemic crisis and all the inherent impacts. We understand that criminal law aims to provide justice to those victims of crimes and provide a deterrent effect to criminals. However, because a pandemic is occupying the world, several considerations must be taken into account by law enforcers, judges, and the Government and legal investigators. Finally, we tried to examine some complications and other literature sources to take evidence from studies based on various fires, especially law and health—related to the crisis in prison. We deliberately raise it to examine the various evidence submitted by previous researchers, for example, the world health agency, which says that the world can spread COVID-19 in detention.

Therefore, this study also tries to understand what these world institutions mean and what is happening without reducing respect for the victim and the perpetrators of the crime. The proof of the following presentation is that we explain how flexibility rather than applying the law in the country means that the law is carried out to get justice. However, there are many aspects behind why a criminal law must be applied which gives a deterrent effect to the perpetrators and a sense of justice for those who become victims. Nevertheless, when the world is experiencing a reasonably serious endemic period, all humans will realize that justice is still upheld and understand other humanitarian principles because nature provides justice and educated citizens. That is why we raised the legal flexibility of applying the law in Indonesia. That is something that allows for review. The last thing we are doing in the arts is applying criminal law. This is an illustration of how the criminal law does not always leave the pain, but also there is forgiveness where all have committed mistakes, and all are considered in the law to apply sanctions or sanctions in the form of anyone who commits a crime during the period. We realize that our findings certainly have many weaknesses. We hope for various inputs and suggestions for improvement in the future.

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