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## **Policy on The Implementation of Restrictions on Community Activities (PPKM) Based On Inclusive Law**

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### **Abstract**

*The COVID-19 pandemic that has hit the world has impacted the crisis in all aspects of human life. The COVID-19 pandemic, which was initially a health crisis, quickly transformed into an economic, social, political, and even environmental crisis. The Indonesian government is trying to control the spread of COVID-19 by issuing various policies, one of which is the Implementation of Community Activity Restrictions (PPKM). However, PPKM has attracted a lot of controversy because it is felt that it has made it difficult for many people in the context of mobility and seems to violate personal rights. This study aims to analyze PPKM policy with an inclusive legal approach. As part of the social order, in addition to norms of decency and religion, inclusive law protects and integrates the interests of members of society. This research method is normative-juridical with a statutory and conceptual approach. The data obtained are analyzed qualitatively and presented descriptively. The results showed that the PPKM policy is an effort to overcome the decline of society due to the pandemic and follows the concept of inclusive law. Between inclusive law and legal reality, there is a commonality in seeing the various interests of members of society that will create order in life. This makes people able to live with certainty and create order. The Indonesian government chose to seek an orderly situation by imposing a ban on mobility through PPKM.*

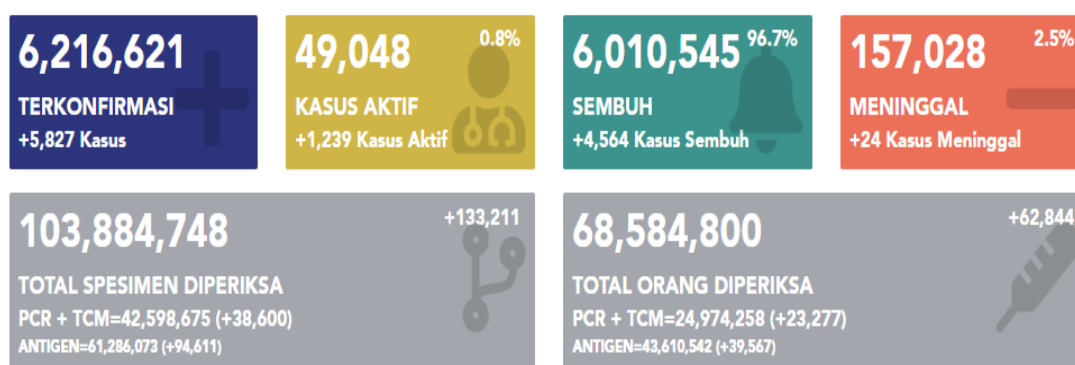
**Keywords:** Policy, Community Activity Restrictions, Inclusive Law.

## INTRODUCTION

Pandemics are dangers associated with large-scale infectious disease outbreaks that can increase morbidity or mortality in a large geographical area and have significant social, political, and economic impacts. Six major pandemic outbreaks and epidemics in the world have occurred between 2000 and 2019 (Kaur et al., 2020), namely Severe Acute Respiratory Syndrome (SARS) (2002-2004) (Zou et al., 2021), H1N1 Influenza (2009) (Chu et al., 2017), Middle East respiratory syndrome (MERS) (2012-2020) (Chang et al., 2020), African Ebola virus epidemic (2013-2016) (Anis, 2019), Zika fever (2015-2016) (Ikejezie et al., 2017), and bird flu (2008-2014) (Ningsih, 2021). However, none of these pandemics spread with a far-reaching impact in a fast time like Covid-19, which invaded the world at the beginning of 2020.

Due to the rapid spread of the covid-19 virus in all countries in the world, the World Health Organization (WHO) has made Covid-19 a global pandemic. The Covid-19 pandemic has had a significant impact on human life. Initially, the Covid-19 pandemic in the form of a health crisis quickly transformed into a multidimensional crisis, namely economic, social, and environmental food.

Based on data released from [www.worldometers.info/coronavirus/](http://www.worldometers.info/coronavirus/) that as many as 551,682,658 cases in the world have been confirmed positive for Covid-19, and based on data from the [covid19.go.id](http://covid19.go.id), in Indonesia until June 30, 2022, there were 6,216,621 Indonesians confirmed positive for Covid-19. The complete data is shown in Figure 1.



**Figure 1.** Indonesian population data has been confirmed positive for Covid-19 as of June 30, 2022

The data shows that Covid-19 globally infects the Indonesian population widely. On this basis, the Government of Indonesia then made efforts in the form of issuing policies in response to the Covid-19 Pandemic situation through Government Regulation instead of Law of the Republic of Indonesia Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Corona Virus Disease 2019 (Covid-19) Pandemic and to Face Threats that Endanger the National Economy and Financial System Stability (Covid Regulation in Lieu of Law). Covid Regulation in Lieu of Law was issued as an effort to guarantee and fulfill the rights of citizens as stipulated in the Constitution, even though it had caused quite a long polemic in its implementation.

In addition, the policy is issued by the CQ government. From January to June 2022, no less than 29 legal rules in the form of Ministerial Instructions have been issued. The last is the Instruction of the Minister of Home Affairs Number 29 of 2022 concerning the Implementation of Restrictions on Community Activities Level 1 Corona Virus Disease 2019 in the Java and Bali Regions and the Instruction of the Minister of Home Affairs Number 30 of 2022 concerning the Implementation of Restrictions on Community Activities Level 2, and Level 1 as well as Optimizing the Post for Handling Corona Virus Disease 2019 at the Village and

Village Levels to Control the Spread of Corona Virus Disease 2019 in the Sumatra Region, Nusa Tenggara, Kalimantan, Sulawesi, Maluku, and Papua.

When viewed from a positive legal perspective, the issuance of various policies, especially regarding handling the Covid-19 pandemic, has adjusted to the hierarchy of laws and regulations regulated Under No. 12 of 2011 concerning the Establishment of Laws and Regulations. However, to legitimize the existence of this policy, the Government passed Regulation in Lieu of Act No. 1 of 2020 into Law No. 1 of 2020 (Covid Law). It strengthened the role of institutions overseeing handling the Covid-19 pandemic in Indonesia. The Covid Law not only regulates the substance of economic recovery but also regulates life safety. The issuance of these two policies is government control over the country's economy and public health.

At the time of the implementation of PPKM, there was a reasonably long polemic considering that the policy contained physical restrictions on the community in mobilizing. Various protests and criticisms were directed at the Government, for example, white flags by MSME actors in various regions. However, in some regions, there are activities in the distribution of rice wraps by the Warteg Nusantara Community (Kowantara), translated as a form of innuendo against the Government for the PPKM Policy.

The Indonesian Government believes that this policy has made maximum efforts to prevent and stop the spread of Covid-19. The Government claims the regulations issued to be a total commitment to the safety of citizens and efforts to recover the economy. However, on the other hand, there are many criticisms and protests from people from various regions because they think the PPKM Policy harms the community. After all, the community cannot carry out economic activities to support daily life, and many people consider that the PPKM policy is a policy that violates personal rights. So based on this background, it is interesting to study the reality of the Covid-19 pandemic and how the Policy on the Implementation of Community Activity Restrictions (PPKM) by the Government of Indonesia is viewed from an inclusive legal perspective. The purpose of the formulation of the proposed problem is to find out the reality of the Covid-19 pandemic that occurred and the policy of implementing restrictions on community activities (PPKM) by the Indonesian government through an inclusive legal perspective.

## **RESEARCH METHOD**

This study uses a normative juridical method with a statute and conceptual approach (Fuad, 2020). The legal materials used in this study are primary legal materials in the form of Government Regulations instead of Law of the Republic of Indonesia Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Corona Virus Disease 2019 (Covid-19) Pandemic and to Face Threats that Endanger the National Economy and Financial System Stability and Instruction of the Minister of Home Affairs Number 29 of 2022 concerning the Implementation of Restrictions Community Activities Level 1 Corona Virus Disease 2019 In The Java And Bali Regions and Instruction of the Minister of Home Affairs Number 30 of 2022 concerning the Implementation of Restrictions on Community Activities Level 2, and Level 1 as well as Optimizing the Post for Handling Corona Virus Disease 2019 at the Village and Village Levels.

## **DISCUSS AND ANALYSIS**

### **The Reality of the Covid-19 Pandemic and PPKM Policy in Indonesia**

After 16 days since President Jokowi first said that there were positive cases of Covid-19 in Indonesia, precisely in March 2020, the existence of Covid-19 cases increased drastically to 227 cases. Based on the covid-19 pandemic that continues to spread, the Government then optimizes the socialization of physical and social restrictions of the community with PSBB

steps, and the other term is regional quarantine (Rumiarta, 2021). The PSBB policy emerged through PP No. 21 of 2020, whose content was regarding regional restrictions due to the outbreak. After the PSBB policy appeared, it was followed by the policy of Minister of Health Regulation No. 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating the Handling of Coronavirus Disease 2019 as a guideline for the implementation of the PSBB. The Minister of Health delegates the Minister of Health as the party with authority to determine the PSBB in an area. This means that each regional head who wants to submit a PSBB proposal must submit it to the minister of health for an apparent reason.

The implementation of the PSBB, based on these two rules in its implementation, is carried out by limiting community activities and even closing office activities and non-essential industries such as shopping centers. In the world of education, restrictions are also applied to the policy of learning from home both at the primary and secondary education level, including universities. In addition, PSBB also limits travel traffic activities by tightening the capacity of vehicles on land, sea, and air. Other activities interpreted as social restrictions by the Government also touch on culinary activities by prohibiting on-site consumption for food stalls and restaurants and being closely monitored (Imelda Wahyuni, 2020).

Although the PSBB has been implemented, the growth rate of Covid-19 is increasing, especially in Java and Bali, with a sharp increase in cases at the beginning of 2021 after the Christmas New Year holiday (Joyosemito & Nasir, 2021). On this basis, the Government implemented the Java and Bali PPKM policy in early January 2021. The implementation of PPKM is expected to be a driver of integrated action to prevent the spread of Covid-19 between the Central and Regional Levels. In the context of the rules, the Java-Bali PPKM is more flexible than the PSBB. Many business activities and offices have received operating permits by enforcing 75% of workers who move from home. Meanwhile, the important sectors of the economy, such as communication, information technology, energy, finance, and vital national objects, can operate 100%, but still by implementing health protocols (Dr. M Chairul Basrun Umanailo, 2021). Online teaching and learning activities are still being implemented in the education sector (Harahap et al., 2020).

The implementation of the PPKM policy in Indonesia has a positive impact on reducing positive confirmed cases in Indonesia (Suyasa et al., 2021). As data obtained from Kemkes.go.id cumulatively nationally until June 30, 2022, announcing daily confirmed cases of Covid-19 as of June 23, 2022, reached 1,907. Although the addition of cases is still considered high, the positivity rate is low because it is below 5% or 3.93%. Of the 1,907 daily cases, there were at least 143 cases of the BA.4 and BA.5 sub-variants. The highest distribution of cases was in DKI Jakarta with 98 cases, followed by West Java with 29 cases, Banten with 13 cases, and Bali with 3 cases. Meanwhile, the percentage of bed use (%BOR) of Covid-19 isolation in all provinces is already at an adequate level (<60%/week). In addition to the decline in several cases due to the implementation of PPKM, there are other factors, namely the awareness of the public to carry out vaccines (I and II and boosters).

However, implementing PPKM in Indonesia also has a negative impact, especially on business actors in various regions. Research from Muhammad Rizal et al. showed that in Purwakarta, business actors in the MSME sector, especially the coffee shop sector, experienced a moderately severe impact affected by the Covid-19 pandemic. In the restrictions on community activities imposed by the Government, the coffee shop sector was so slumped after the implementation of restrictions on community activities because every citizen was not allowed to the crowd and all orders had to take away. All of them felt the impact due to this; for example, the distribution of supply and demand experienced problems, such as the sale of coffee beans or marketing coffee through cup media (Muhammad Rizal1, Ria Afrianti2, 2021).

In addition, according to data from the Ministry of Education and Culture of the Republic of Indonesia, in the art sector, as many as 234 art events were canceled, and 14,720 workers in

the art sector were laid off. From the family resilience sector, the PPKM policy has a significant negative impact and influence on the physical resilience of families of traders in Kebumen Regency (Nuraeny et al., 2021). Research conducted by Aisyah concluded that Covid-19 and the PPKM Policy did suppress the spread of the Covid-19 virus but also increased poverty and relatively increased food prices. This situation will trigger the emergence of food insecurity and family food security which can lead to the inability to buy balanced nutritious food, thus affecting the body's immune security.

In addition, the impact of PPKM also prohibits various demonstrations carried out by various elements of society who voice their opinions about the lack of assistance from the Government to those affected by PPKM. Many people criticize that the PPKM policy is just a trick by the Government not to be responsible for the affected people because the Government does not implement the Health Quarantine Law and tends to choose the PPKM policy (Mulyadi Mohammad, 2021).

Seeing the pros and cons of the PPKM policy imposed by the Indonesian Government seems to be a double-edged sword that, on each side, has a positive and negative impact. The positive and negative impacts must be analyzed using various approaches, one of which is an inclusive legal approach, namely adjusting human interests in social life by seeking a balance between giving freedom to individuals in fulfilling their interests by protecting society from the freedom of these individuals.

### **Policy on Handling the Covid-19 Pandemic in a Progressive Legal Perspective**

The existence of a state goal is to form an Indonesian state that protects the entire Indonesian nation and all Indonesian bloodshed and to promote the general welfare, educate the nation's life and participate in carrying out world order based on independence, lasting peace, and social justice. Based on the purpose of the state, then in the constitution puts the people as the holders of the highest sovereignty with the legal state system adopted (Yani, 2018).

The logical consequence of the constitution is that the law must be based on the interests and justice of the people. That is, if the law can no longer work according to its purpose and function, then it confirms that efforts toward legal reform have come time to be implemented. For example, Roscoe Pound has explained that the law as a tool of social engineering has been explained, but in reality, in Indonesia, it has shifted to become law as a tool of corruption engineering, so it requires reform of this matter.

Legal reform is not only translated for the renewal or replacement of law, but also as a change in the basic assumptions of a legal system based on discriminatory ideas and social inequalities that become ideas of equality before the law and social justice which are prerequisites for a legal state.

Although Indonesia as a country of law is interpreted as everything that must be based on law, especially because Indonesia adheres to the civil law system, the law is interpreted as a written rule, but in practice often written law does not reflect the justice of society. A critique of legal positivism is born out of the view that the written law is obeyed as the only applicable law that is sometimes not born and reflects the conditions of society. Then came the progressive legal theory campaigned by Satjipto Raharjo. In principle, progressive law departs from two basic components in law, namely rules, and behavior (Harun, 2019).

Progressive Law focuses on the basic assumption that the law is for man and not the other way around and views it as a liberating law. Satjipto compared progressive law with analytical jurisprudence or *rechtsdogmatiek*, sociological jurisprudence, natural law theory, legal realism, *freirechtslehre*, responsive law, and Critical Legal Studies (CLS).

Comparing progressive law with the inclusive legal theory introduced by Jawahir Thontowi in the Tamsis School, namely as a system of norms, institutional systems, cultural

value systems, religious systems, and fact systems that function as guidelines for humans in social and state life to achieve social order and peace of life (peacefully live), and can maintain personal and family honor or dignity, ethnicities and religions, as well as facilitating the role of authoritative law enforcement officers so that legal justice can be carried out if lawmakers (lawmakers) give birth to good and correct regulations (legislative justice), orders to obey good and correct laws (executive justice), the process of settlement inside and outside the court (judicial justice) (Zainuddin, 2018).

The presence of inclusive law that is part of the existing social order in addition to religious norms, decency, and decency, should serve to protect and integrate (combine and harmonize) the interests of existing members of society. This is possible considering the nature and disposition of the law (including Indonesian law), which is to provide guidelines and instructions on how to behave in society. The law also shows what can be done and not through its norms that have a regulatory nature in the form of orders or prohibitions.

In this context, it can be emphasized, that inclusive legal efforts to adjust human interests in social life are carried out by seeking a balance between; giving freedom to individuals in fulfilling their interests by protecting society from these individual freedoms, aligning the interests of each member of society to create order in social life. This form of order is what makes people able to live with certainty, to create an orderly state.

A sense of peace can be translated if on the one hand there is an order between an external person and on the other hand there is internal personal tranquility. To achieve order and peace, the law serves to provide guarantees for a person so that his interests are noticed by others. If these interests are disturbed, then the law must protect them from any violation of the law. Therefore, the law must be implemented and enforced without discrimination nor does it carry out discriminatory laws.

Regarding the handling of the Covid-19 Pandemic by the Indonesian government through the PPKM policy, it can be seen from the side of the rules that the social restriction policy, which begins with the PSBB, then updated with PPKM contains a ban on community mobility to crowd and carry out activities. This policy is considered a policy that can reduce the spread of Covid-19 with the prohibitions regulated in it. Although it is proven to reduce the rate of spread of the virus, in determining the PPKM policy, there is government ambiguity because it only partially views one problem without another, more solutive approach (Permatasari, 2021).

For example, the government imposes a health quarantine but does not refer to the Health Quarantine Law No. 6 of 2018, which in Article 55 states that the government is obliged to meet the basic needs of the community due to the enactment of quarantine. The government implements a PPKM policy that is not known in the Health Quarantine Law, but at the level of sanctions, the government applies the sanctions in the Health Quarantine Law.

The ambiguity in PPKM reflects that the government in taking policies is not based on studies and a clear approach even during the pandemic, the existing basic needs assistance is not divided evenly and fairly, even though if it is further studied that the first rule that appears is the Perppu regarding economic recovery. This means that actually with the fiscal capacity owned by the government, the government should be able to provide fulfillment of the needs of people affected by the pandemic.

In addition, public policy observer Yanuar Nugroho said during an interview with VOA Indonesia, that in making PPKM policies the government is inconsistent with the risk approach. According to him, in the policy of handling the pandemic, the government must make policies that are straightforward and firm, but still humanist. Even in the circumstances of implementing PPKM, the government strictly cracks down on violators without taking concrete action regarding welfare guarantees. Although it is considered that it does not assist in people's daily lives, the government has distributed social assistance to the community even though it has

been injured by corruption from the ministry that handles the provision of assistance to the community during the Covid-19 Pandemic, namely the Ministry of Social Affairs.

If studied in inclusive law, the policy that arises regarding PPKM is a responsive legal policy (Jonathan & Sitha Dewi, 2021), because it arises on social will and public aspirations of fear about the pandemic, but in its implementation, the government does not carry out policies properly because it does not assist fairly and equitably for the community. In addition, the policies taken also have ambiguity because they do not refer to the Health Quarantine Law, where the government does not pay attention to human-based justice or law for humans as the progressive legal view is based on rules and behavior.

In the case of PPKM, which was criticized by the community, it was the government's lack of seriousness in assisting and only focused on enforcing PPKM. What happened, the government tends to continue to implement the PPKM scheme by focusing on cracking down on violations without first knowing the reason for the violations because people are carrying out economic activities due to the squeezed condition of their economy due to the impact of the pandemic. If you look at the spirit of inclusive law, how to demand the courage of law enforcement to interpret articles to civilize the nation? If the process is correct, then the ideals built for law enforcement related to PPKM should be in line with the government's efforts aimed at achieving benefits during the Covid-19 pandemic.

Seeing the PPKM policy which is seen as social and physical restrictions only to suppress the spread of the Covid-19 virus with the many cons that exist in the community, it can be said that related to the existing law, namely the laws and regulations regarding PPKM have not fully touched the justice of the community. In addition, inclusive law views that the law leads to the welfare of the community, but at the level of praxis during the implementation of PPKM the poverty rate rose above 10 percent with the total number of poor people currently touching 27.54 million people (Silalahi & Ginting, 2020).

Seeing the many criticisms that occur in handling Covid-19 through the PPKM policy, according to the perspective of inclusive law as a science and law, as a tool or guideline that functions to regulate, facilitate law enforcement officials and maintain and uphold human dignity and dignity, personally, collectively both for material and immaterial or spiritual needs. The function of the law as a guide in solving human problems in society, it is appropriate for the government to improve and return to the original purpose of the law, namely for welfare, especially the many criticisms that come from the community who are the targets of the PPKM policy. If the PPKM policy is considered a failure, then in the view of inclusive law, it is appropriate for the government to improve it, namely adjusting human interests to live in society by arranging a balance.

The very central role of the Government in handling the pandemic must be on the side of the community by preventing the spread that results in health and even death. This is also in line with the fiqh rule of "dar'ul mafasid muqaddamun ala jalbil mashalih" which means that avoiding danger must take precedence over taking its maslahat (Online, 2020). The negative impact on the economy due to the PPKM policy is not comparable to the danger caused by the spread of the Covid-19 virus. The PPKM policy is the responsibility of the Government of Indonesia for the safety of its citizens (Rusdianto et al., 2022).

When viewed in terms of effectiveness in reducing the spread of Covid-19, Donald Black stated that legal effectiveness is a major problem in legal sociology obtained by comparing the reality of the law with its regulations. This can be tested when the Coordinating Ministry for Economic Affairs of the Republic of Indonesia on October 4, 2021, once released data showing that Covid-19 cases decreased sharply. The number of case-control achievements in Indonesia is very good, as can be seen from the indicator of the Rate of Spread of Cases (Reproduction Number / Rt) which is below 1 (as of September 30, 2021, of 0.63), a much lower than other countries (Singapore = 1.54; England = 1.05; Philippines = 1.01). In addition, daily confirmed



cases per 1 million population in Indonesia are very low at 6.52 cases per 1 million population, much lower than in other countries (UK = 505.3 cases; Malaysia = 376.3 cases; Singapore = 361.4 cases).

The data shows that the control of the Covid-19 virus can be implemented properly by the Government of Indonesia. Although, there is another factor that underlies the acquisition of this figure, namely the factor of massive vaccination by the government. Public acceptance of the PPKM policy is a big task for the government to make the PPKM Program a success.

## **CLOSURE**

### **Conclusion**

The PPKM policy is an effort to overcome the decline of society in Indonesia caused by the pandemic and is in accordance with the concept of inclusive law. Between inclusive law and PPKM policy, there is a common point in reviewing the law, which not only uses the legal lens itself but also the social goals it wants to achieve. The Indonesian government chose to seek greater benefit by imposing a mobilization ban that is contained in the PPKM policy, even though it has consequences that will be contrary to the personal rights of the people.

### **Suggestion**

Basically all policies must side with the people, PPKM is a policy that requires people to stay at home, apart from issuing these policies the government should also provide solutions and solutions for people who have limited movement so they can continue to earn income for their daily lives.

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