

## CHANGES IN CRIMINAL TRIAL PROCEEDINGS DURING COVID-19: CHALLENGES AND PROBLEMS

**Dewa Gede Giri Santosa**

Gedong Tataan District Court

Jl. Jenderal Ahmad Yani, Gedong Tataan, Pesawaran, Lampung 35371

E-mail: dewagedegirisantosa@gmail.com

### Abstract

COVID-19 pandemic forced the Supreme Court of the Republic of Indonesia to make several adjustments to the courts system of all in Indonesia, one of which was the adjustment of criminal procedural law in criminal trial proceedings. Some regulations were made related to the criminal trial proceedings in Indonesia to adjust to government policies that limit physical interaction between people. However, those regulations made by the Supreme Court also comes with challenges and problems in its implementation. This research was made using the normative legal research method, in purpose to find the changes made in the criminal trial proceedings in Indonesia due to the COVID-19 pandemic and also the challenges and problems encountered in its implementation. Through this research, several things that should be addressed for the change in the criminal trial proceedings amid the COVID-19 pandemic in Indonesia will not only accommodate the principle of expediency, but also the principles of justice and legal certainty.

**Keywords:** COVID-19, criminal trial, criminal procedural law, court.

### A. Introduction

At the end of 2019, the world was shocked by the emergence of an outbreak of a new type of dangerous disease equivalent to SARS (Severe Acute Respiratory Syndrome), scientists identified that the outbreak was caused by a new type of coronavirus. Warnings of the danger of this virus were first informed by a doctor at Wuhan Hospital named Dr. Li Wenliang, the virus is believed to have first spread in Wuhan City, Hubei Province, China. In early January 2020, the number

of infected increased dramatically, shortly after that Thailand confirmed the first corona patient outside of China, followed by Japan to report their first case. This virus, officially named as COVID-19 (Coronavirus Disease 2019) by WHO (World Health Organization) then spread to various other countries. . The latest updated data from WHO, as of May 24<sup>th</sup>, 2020, 216 countries were recorded as being infected with COVID-19, with a total confirmed number of 5,206,614 infected people and 337,736 deaths.<sup>1</sup>

---

<sup>1</sup> Gugus Tugas Percepatan Penanganan COVID-19, "Data Sebaran", <https://covid19.go.id/> (accessed 25 May 2020).

This virus has also spread to Indonesia, as the Government of Indonesia reported the first positive case of COVID-19 on March 2<sup>nd</sup>, 2020, with 2 patients confirmed. Since the report of the first case, number of positive cases of COVID-19 in Indonesia has continued to surge, the latest data as of May 24<sup>th</sup>, 2020 mentioned a total of positive cases 22.271 people and a death toll of 1.372 people with a total of 5.402 people recovered.<sup>2</sup> Various attempts have been made by the Indonesian government to suppress the spread of COVID-19, such as the issuance of Government Regulation Number 21 of 2020 on Large-Scale Social Restrictions for Acceleration in Handling Corona Virus Disease 2019 (COVID-19), and the issuance of Presidential Decree Number 11 of 2020 on Determination of Community Health Emergency Corona Virus Disease 2019 (COVID-19).

The spread of this virus has impacted every aspects of Indonesian society, including the legal system, one of which is the criminal trial proceedings in court. The criminal trial proceedings in Indonesia requires the presence of parties in the courtroom, trials which are generally open to the public is potential to cause a crowd if many people are watching in the courtroom. This is contrary to the government's efforts to suppress the spread of COVID-19. The government's call for physical distancing must be applied to all aspects of social life. Therefore, to adapt with this issue, the Supreme Court

of the Republic of Indonesia then released several policies to change the system of all courts in Indonesia, particularly related to the implementation of criminal trial proceedings.

One of the changes made by the Supreme Court is the adjustment of criminal procedural law in criminal trial proceedings. Criminal procedural law, also called formal criminal law, according to Simons, regulates how the state through the intermediaries of its instruments of power exercise its right to punish and sentence, and thus including the criminal procedure.<sup>3</sup> The change in the criminal trial proceedings was marked by the issuance of the Supreme Court Circular Letter Number 1 of 2020 and the Cooperation Agreement Number 402/DJU/HM.01.1/4/2020 between the Supreme Court of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, and the Ministry of Law and Human Rights of the Republic of Indonesia on the conduct of the trial through teleconference. Cooperation agreement on the implementation of the trial by teleconference was made to change the system of the criminal trial proceedings used to be held conventionally into a teleconference trial. The teleconference trial will be conducted until an official announcement from the government to revoke the emergency conditions of the COVID-19 outbreak. Regarding this matter, the Supreme Court previously issued Supreme Court Regulation No. 1 of

---

<sup>2</sup> Ibid.

<sup>3</sup> Simons, *Leerboek van het Nederlandse Strafrecht* (Groningen – Batavia: P. Noordhof N.V., 1993), p. 3.

2019. However, the regulation was made to regulate electronic trials for civil cases, not criminal cases, and is limited to certain trial stages, namely the stage of submitting lawsuit/application/intervention, objection, replications, duplicates, conclusions, and decision/stipulation.<sup>4</sup> Hence, the criminal trial by teleconference is something new and deserves to be studied.

Long before, the first criminal trial by teleconference was held in 2002. At that time, for the first time the Supreme Court gave permission to former President BJ Habibie to give testimony via teleconference in the case of irregularities in Bulog's non-budgetary funds on behalf of the accused Akbar Tandjung. Since then, the practice of examining witnesses by teleconference in criminal trial proceedings has begun to be used frequently.<sup>5</sup> However, the criminal trial by teleconference during COVID-19 is not only limited to the witness examination stage but also for all stages of the trial.

Apart from the criminal trial by teleconference, the spread of COVID-19 forced the Supreme Court to issue several other policies related to the criminal trial proceedings in Indonesia. However, the policy that was taken promptly as an effort to suppress the spread of COVID-19 also encountered several challenges and problems in its implementation. Hence, this article will explore the challenges and

problems faced in the implementation of these policies, and to these challenges and problems, this article will also provide views on solutions or things that can be done so that the implementation of changes to the criminal trial proceedings during COVID-19 will not only accommodate the principle of expediency, but also accommodate the principles of justice and legal certainty.

Based on these backgrounds, it is interesting to discuss on: what changes were made by the Supreme Court to the criminal trial proceedings in Indonesia during COVID-19? And what are the challenges and problems faced in implementing the changes in the criminal trial proceedings during COVID-19?

## B. Research Method

The research method is defined as "the way to", however, practically the method is formulated with possibilities, namely: a type of thought used in research and assessment, or a technique that is common to science, or a certain way to carry out a procedure.<sup>6</sup>

This research uses normative legal research methods or also called doctrinal law research, library research, or documentary studies. Called doctrinal legal research, because this research was conducted only on written regulations or other legal material. Also called library

<sup>4</sup> Sonyendah Retnaningsih et al., "Pelaksanaan E-Court menurut Perma Nomor 3 Tahun 2018 tentang Administrasi Perkara di Pengadilan secara Elektronik dan E-Litigation Menurut Perma Nomor 1 Tahun 2019 tentang Administrasi Perkara dan Persidangan di Pengadilan Secara Elektronik (Studi di Pengadilan Negeri di Indonesia)," *Jurnal Hukum & Pembangunan*, Volume 50, No. 1 (2020): 137.

<sup>5</sup> Dian Erdianto et al., "Kebijakan Hukum Pidana dalam Pemberian Keterangan Saksi melalui Media Teleconference di Indonesia," *Jurnal Law Reform*, Volume 11, No. 1 (2015): 66.

<sup>6</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI-Press, 2006), p. 5.

research or document study because this research is mostly done on secondary data in the library, such as books, and official documents from the government.<sup>7</sup>

## C. Discussions

### 1. Changes in the Criminal Trial Proceedings in Indonesia due to COVID-19

As the COVID-19 pandemic in Indonesia is spreading widely, the Supreme Court supports the government's efforts to suppress the spread of COVID-19 by issuing a Supreme Court Circular Letter Number 1 of 2020 on Guidelines of Work During the Prevention of Corona Virus Disease 2019 (COVID-19) at the Supreme Court and the Lower Judicial Bodies. In the Supreme Court Circular Letter, several policies are taken to adjust to the the spread of COVID-19 circumstances. of.

Based on the Supreme Court Circular Letter, the criminal trial proceedings continue to be conducted specifically towards cases where the defendant is being detained and their detention cannot be extended further during the period of preventing the spread of COVID-19. For the trial that still required to be conducted, the Supreme Court Circular Letter also determined that:

- a. Postponement of the trial and limitation of visitors to the trial is the authority of the Panel of Judges to decide;
- b. The Panel of Judges can limit the number and safe distance between visitors in the trial;

- c. The Panel of Judges may order thermal checking and prohibit physical contact such as shaking hands between parties at the trial;
- d. The Panel of Judges and the parties in the trial can use protective equipment in the form of masks and medical gloves following the conditions and situation of the trial.

Furthermore, there are several criminal procedural law that has been changed with the issuance of the Supreme Court Circular Letter Number 1 of 2020 and the Cooperation Agreement Number 402/DJU/HM.01.1/4/2020 between the Supreme Court of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, and the Ministry of Law and Human Rights of the Republic of Indonesia, these changes were made to adjust to the conditions of the spread of COVID-19 in Indonesia.

First, according to the Supreme Court Circular Letter Number 1 of 2020, the criminal trial against the defendant whose legal detention still have grounds to be extended will be postponed until the end of the period of preventing the spread of COVID-19, the postponement of the criminal trial can be conducted by a single judge. Whereas when referring to Article 11 paragraph (1) of Law Number 48 of 2009 on Judicial Ascendancy, a criminal case trial cannot be conducted by a single judge, yet it must be a composition of at least 3 (three) judges. This can only be

<sup>7</sup> H. Ishaq, *Metode Penelitian Hukum dan Penulisan Skripsi, Tesis, serta Disertasi* (Bandung: Alfabeta, 2017), p. 26-27.

excluded if there are provisions in the Law specifying otherwise.

Second, in criminal procedural law enforcement, there are time limit in the examination of certain cases, such as pretrial cases must be decided not later than 7 days,<sup>8</sup> election crime cases must be decided not later than 7 days,<sup>9</sup> etc. However, the Supreme Court Circular Letter Number 1 of 2020 regulates that for such cases which have time limit under provisions of the Law, the judge can postpone his examination even if it exceeds the time limit which is specified in the provisions of the Law. These exceeding-deadline trial examinations must be noted by the Trial Registrar in the minutes of the trial due to exceptional circumstances based on the circular letter.

Third, based on Article 153 paragraph (3) of Law Number 8 of 1981 on Criminal Procedural Law, the presiding judge opens the trial and declares it as open to the public except for cases of decency or when the defendants are children. However, in the Supreme Court Circular Letter Number 1 of 2020 it is regulated that the Panel of Judges can limit the number and safe distance between visitors, thus, although the trial is declared as open to the public, based on the Supreme Court Circular Letter, the Panel of Judges may limit the number of visitors by observing the safe distance between them (physical distancing).

Fourth, based on Article 230 paragraph

(1) of Law Number 8 of 1981 on Criminal Procedural Law, it is regulated that a trial takes place in a court building in a courtroom. Besides, Law Number 8 of 1981 also regulates that before the trial begins, the trial registrar, public prosecutor, public defender, and visitors are seated in their respective places in the courtroom, then the defendant is called in, and during the evidentiary hearing, the witnesses will be called into the courtroom one by one in the order. However, based on the Cooperation Agreement Number 402/DJU/HM.01.1/4/2020 between the Supreme Court of the Republic of Indonesia, the Attorney General of the Republic of Indonesia and the Ministry of Law and Human Rights of the Republic of Indonesia, the criminal trial is held without requiring the presence of all parties inside the courtroom, because the trial is held via teleconference. Based on the cooperation agreement, the criminal trial is conducted with the conditions in which the parties are seated in their respective domiciles without having to be present in the courtroom. In this case, the court must provide teleconference supporting facilities and infrastructures for Judges at the court office, the prosecutor's office must provide teleconference supporting facilities and infrastructures for prosecutors at the prosecutor's office, and the Ministry of Law and Human Rights must provide teleconference supporting facilities and infrastructures for defendants/witnesses at

<sup>8</sup> Article 82 paragraph (1) letter c of Law Number 8 of 1981 on Criminal Procedure Law.

<sup>9</sup> Article 482 paragraph (1) of Law Number 7 of 2017 on General Elections.

the State Detention House or Penitentiary.

The policies issued related to the implementation of criminal trials, is certainly part of efforts to support government programs in repressing the number of COVID-19 spreads in Indonesia. The most significant adjustment is the change of criminal trials which previously needs the presence of all parties inside a courtroom, into a teleconference trial, where all parties have no obligations to be in the courtroom and instead, join the trial from their respective domiciles using teleconference media.

## 2. Challenges and Problems of Changes in the Criminal Trial Proceedings in Indonesia due to COVID-19

The Supreme Court of the Republic of Indonesia made adjustments to the criminal trial proceedings with regard to the principle of public safety as the highest law (*Salus Populi Suprema Lex Esto*). However, there are some contrasting arguments to the policy adopted by the Supreme Court as outlined in the Supreme Court Circular Letter Number 1 of 2020 and the Cooperation Agreement between the Supreme Court, the Attorney General, and the Ministry of Law and Human Rights regarding the trial by teleconference. For example, criticism from *Koalisi Pemantau Peradilan* over the ongoing trial, they believe that it would be better if the court

trial could be temporarily suspended to minimize the impact of the wider spread of the coronavirus.<sup>10</sup>

However, there are many considerations if the court trial is suspended temporarily, especially with COVID-19 conditions that cannot be predicted when it will be ended. Several considerations related to the suspended trial, among other things:

- a. Trial suspension will violate the principle of simple, fast, and low-cost trial, and will damage the defendant's human rights to be tried immediately. Article 2 paragraph (4) of Law Number 48 of 2009 on Judicial Ascendancy regulates that the judiciary is conducted in a simple, fast, and low-cost manner. The definition of "simple" means the examination and settlement of cases carried out efficiently and effectively, while "low cost" means the court fee should be affordable by society.<sup>11</sup> The term "fast" means case settlement should be done immediately. A fast settlement is very necessary especially to avoid longer detention before a judge's decision, it must be unseparated from the protection of human rights.<sup>12</sup> In addition, the court should handle a case as soon as possible, because the defendant has the right to be tried immediately by the court, this is regulated precisely in Article 50 paragraph (1) of Law Number

<sup>10</sup> Kompas.com, "Cegah Penyebaran COVID-19, Koalisi Desak Sidang di Pengadilan Ditunda", <https://nasional.kompas.com/read/2020/03/23/09481331/cegah-penyebaran-COVID-19-koalisi-desak-sidang-di-pengadilan-ditunda> (accessed 25 May 2020).

<sup>11</sup> M. Bakri, *Pengantar Hukum Indonesia* (Malang: UB Press, 2011), p. 148.

<sup>12</sup> Andi Hamzah, *Hukum Acara Pidana Indonesia* (Jakarta: Saptartha Jaya, 1996), p. 12-13.

8 of 1981.

- b. Based on Article 26 paragraph (4) of Law Number 8 of 1981, after ninety days, although the case has not been decided, the defendant must be released from detention by law. One of the subjective reasons for detention is to avoid the possibility for the suspect or defendant will escape, damage/eliminate evidence, and/or repeat the crime.<sup>13</sup> In other words, if the criminal trial is suspended until the detention period expires and the defendant is released from detention by law, this will be detrimental for the Public Prosecutor and the Court, because there is a risk that the Defendant will be difficult to be presented in the trial and also the risk that the Defendant will escape, damage/eliminate evidence and/or repeat a crime.
- c. Postponement of the criminal trial will also cause a backlog of cases., The more cases that are piled up will make the judicial process constrained and run slowly. Accumulation of cases can also cause an overcapacity in the State Detention House or Penitentiary, as more defendants are delayed on trial, the longer the defendant must stay for detention in the State Detention House or Penitentiary. This situation is not only very contrary to the government instruction to implement physical

distancing but also endanger the health of the defendants who are in the State Detention House or Penitentiary.

Based on those considerations, the Supreme Court's policies as outlined in the Supreme Court Circular Letter Number 1 of 2020 and the Cooperation Agreement between the Supreme Court, the Attorney General and the Ministry of Law and Human Rights, are two of the best efforts that can be done. As stated in a proverb often said by legal experts and world leaders that "justice delayed is justice denied". That a slow judicial process is the same as not giving justice to the parties.<sup>14</sup> Nevertheless, the changes made by the Supreme Court related to criminal trial proceedings during the COVID-19 period may not be perfect, since there are some legal issues and obstacles encountered in the field related to their implementation.

First, related to exceptions to the current criminal procedural law, such as postponement of a criminal trial which can be conducted by a single judge, postponement of the criminal trial that can be conducted exceed the time limit specified in the provisions of the Law, and the implementation of the trial by teleconference, raises legal issues. According to Mark Constanzo, criminal procedural law has abstract principles for certain cases.<sup>15</sup> Related to this, Eddy O. S. Hiariej argued, one of the principles

<sup>13</sup> H. M. A. Kuffal, *Penerapan KUHAP dalam Praktik Hukum* (Malang: UMM Press, 2007), p. 70.

<sup>14</sup> Asep Nursobah, "Utilization of Information Technology to Boost Acceleration of Settlement Case in Supreme Court," *Jurnal Hukum dan Peradilan*, Volume 4, No. 2 (2015): 323-324.

<sup>15</sup> Mark Constanzo, *Aplikasi Psikologi dalam Sistem Hukum* (Yogyakarta: Pustaka Pelajar, 2006), p. 15.

adopted in criminal procedural law is *lex stricta*, which states that the rules in criminal procedural law must be interpreted strictly, the provisions in criminal procedural law cannot be interpreted other than what is written. The existence of this principle can certainly be understood because criminal procedural law is essential to restrain human rights. Therefore, on one hand, the state is given the authority to take all actions in the context of law enforcement, but on the other hand, that authority must be strictly limited by law.<sup>16</sup>

Exceptions to criminal procedural law regarding trials of criminal cases conducted during the COVID-19 period still does not have a strong legal provision. Considering the legal basis for the exceptions to criminal procedural law is only based on the Supreme Court Circular Letter, meanwhile, the Supreme Court Circular Letter itself cannot deviate the higher rules, which is the Law on Criminal Procedural Law. Thus, the government needs to issue legally equivalent regulations regarding the exclusion rules from Law Number 8 of 1981 on Criminal Procedural Law for there won't be any deviation from the principles adhered to in the criminal procedural law and won't cause any arbitrariness by law enforcers.

Second, related to the trial conducted by teleconference, as of this writing, there is

still no guideline on terms and procedures for conducting a teleconference trial. The Cooperation Agreement between the Supreme Court of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, and the Ministry of Law and Human Rights only regulates the authorities and responsibilities of each institution in conducting trials through teleconference, but there are no provisions regarding guideline on terms and procedures for conducting a teleconference trial. The absence of guidelines on terms and procedures for conducting trials by teleconference also raises another problem, whether all criminal cases can be conducted by teleconference or not, considering that each case has different level of difficulty, which may affect the evidentiary hearing agenda.

The evidentiary hearing is a process that plays an important role in the trial, in a criminal case, it proves the existence of criminal acts and fault in the defendant.<sup>17</sup> Practically, evidentiary hearing is the prosecution's act to gain judge's confidence which is obtained from minimum evidence proving the existence of crime and guilt of the defendant.<sup>18</sup> Evidence is everything related to an act, in which they can be used as a proving material to build a judge's confidence that a crime has been

<sup>16</sup> Yuristawan Pambudi Wicaksana, "Implementasi Asas Ius Curia Novit dalam Penafsiran Hukum Putusan Hakim tentang Keabsahan Penetapan Tersangka," *Lex Renaissance*, Volume 4, No. 1 (2018): 97.

<sup>17</sup> I Made Sukadana et al., "Alat Bukti Keterangan Saksi Mahkota dalam Perkara Pidana Pencurian," *Jurnal Law Reform*, Volume 14, No. 2 (2018): 264.

<sup>18</sup> Hendar Soetarna, *Hukum Pembuktian dalam Acara Pidana* (Bandung: Alumni, 2011), p. 9.



committed by the defendant.<sup>19</sup>

As stipulated in Article 181 of Law Number 8 of 1981 on Criminal Procedural Law, the presiding judge shows the defendant all evidence and asks whether the defendant knows the object. Whereas in a criminal trial conducted by teleconference, for difficult cases which have a lot of documents as the evidence – which the documents themselves play an important role – the defendant's or witness' space to examine such evidence is very limited. For example, in complicated cases where important documents exist as evidence to prove the occurrence of a criminal case, these documents must be verified and presented directly to the defendant or witnesses so they can assess the truth of the documents used as evidence in the trial. The teleconference trial eliminates the opportunity for the defendant to examine or directly see the documents or evidence presented at the trial. Subsequently, this will violate the defendant's right to defend himself and reduce the accuracy of the Panel of Judges in seeking material truth in the trial. Therefore, the guideline on terms and procedures regarding the conduct of the teleconference trial is needed, to determine which criminal cases can be carried out through teleconferences and which court agenda is possible to be

conducted.

Third, the implementation of criminal trials conducted by teleconference requires good facilities and infrastructures for the trial to run smoothly. The Attorney General of the Republic of Indonesia noted that up to April 3<sup>rd</sup>, 2020, 10.517 criminal cases were successfully tried through teleconference, the number of such cases being conducted in 334 district attorney offices throughout Indonesia.<sup>20</sup> The teleconference trial was conducted using an application called Zoom, though in its use several obstacles encountered during the teleconference trial. As experienced by the Banda Aceh District Court/Corruption Court, the sound that comes out from Zoom was sometimes interrupted, so the Panel of Judges had to question repeatedly the defendant or witnesses present at the teleconference.<sup>21</sup> The availability of adequate teleconference supporting facilities and infrastructures are very much needed in order to proceed solemn trials without reducing the rights of the defendant in order to the defendant can properly pay attention to the entire proceedings of the trial.

From the explanation above, it is apparent that there are several legal issues and obstacles in the implementation of criminal trials during this COVID-19 period. The readiness of institutions in overcoming

<sup>19</sup> Alfitra, *Hukum Pembuktian dalam Beracara Pidana, Perdata dan Korupsi di Indonesia* (Jakarta: Raih Asa Sukses, 2011), p. 23.

<sup>20</sup> iNews.id, "10.517 Perkara Disidang Secara Daring oleh Kejari Se-Indonesia", <https://www.inews.id/news/nasional/10517-perkara-disidang-secara-daring-oleh-kejari-se-indonesia> (accessed 25 May 2020).

<sup>21</sup> Serambinews.com, "PN Tetap Gelar Sidang di Tengah Pandemi COVID-19, Gangguan Suara Sering jadi Kendala", <https://aceh.tribunnews.com/2020/05/13/pn-tetap-gelar-sidang-di-tengah-pandemi-COVID-19-gangguan-suara-sering-jadi-kendala> (accessed 25 May 2020).

these challenges and problems is very necessary to accommodate not only the principle of expediency but also the principle of justice and legal certainty. Because in upholding the law, as taught by Gustav Radbruch in *idee des recht* (Doctrine of the Law), there are three elements that must always be considered: legal certainty (*rechtsicicheheit*), expediency (*zweckmassigkeit*), and justice (*gerechtigkeit*).<sup>22</sup>

#### D. Closing

COVID-19 pandemic forced the government to issue policies that were deemed necessary to suppress its spreading in Indonesia. It also made the Supreme Court of the Republic of Indonesia act quickly by making adjustments to the system in the courts below them. This adjustment can be recognized by the issuance of the Supreme Court Circular Letter Number 1 of 2020 and the Cooperation Agreement between the Supreme Court of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, and the Ministry of Law and Human Rights of the Republic of Indonesia. Changes made in terms of criminal procedural law include: postponement of a criminal trial that can be conducted by a single judge, postponement of the criminal trial that can be conducted exceed the time limit specified by the provisions of the Law, ability of the panel of judges to limit the number of visitors in ensuring safe

distance between visitors in a criminal trial, and the implementation of a criminal trial conducted by teleconference.

However, these adjustments encounter several legal issues and obstacles in the implementation, such as: exceptions to criminal procedural law regarding criminal trial conducted during the COVID-19 period which do not have a strong legal provision yet, no guideline on terms and procedures for conducting a criminal trial by teleconference, and audio connection disruption in the defendant or witness side during the teleconference, which made the panel of judges had to question repeatedly the defendant or witnesses.

Several things that can be addressed regarding the challenges and problems faced are: First, the government should form a Law or Government Regulation that regulates the adjustment of criminal trial proceedings during the COVID-19 period to guarantee legal certainty. Second, the Supreme Court may establish guidelines on the terms and procedures for conducting criminal trials by teleconference as standard rules to define which case can be conducted by teleconference and exact procedures for conducting the referred trial. Third, the readiness of each institution that involved in conducting a teleconference trial in to provide adequate facilities and infrastructures for the defendant can properly observe the entire proceedings of the trial without reducing the defendants' rights as regulated in Law.

---

<sup>22</sup> Sudikno Mertokusumo and A. Pitlo, *Bab-Bab tentang Penemuan Hukum* (Bandung: Citra Aditya Bakti, 1993), p. 1.

## Bibliography

1. Alfitra, *Hukum Pembuktian dalam Beracara Pidana, Perdata dan Korupsi di Indonesia* (Jakarta: Raih Asa Sukses, 2011).
2. Bakri, M., *Pengantar Hukum Indonesia* (Malang: UB Press, 2011).
3. Constanzo, Mark, *Aplikasi Psikologi dalam Sistem Hukum* (Yogyakarta: Pustaka Pelajar, 2006).
4. Hamzah, Andi, *Hukum Acara Pidana Indonesia* (Jakarta: Saptar Artha Jaya, 1996).
5. Ishaq, H., *Metode Penelitian Hukum dan Penulisan Skripsi, Tesis, serta Disertasi* (Bandung: Alfabeta, 2017).
6. Kuffal, H. M. A., *Penerapan KUHP dalam Praktik Hukum* (Malang: UMM Press, 2007).
7. Mertokusumo, Sudikno and A. Pitlo, *Bab-Bab tentang Penemuan Hukum* (Bandung: Citra Aditya Bakti, 1993).
8. Simons, *Leerboek van het Nederlandse Strafrecht* (Groningen – Batavia: P. Noordhof N.V., 1993).
9. Soekanto, Soerjono, *Pengantar Penelitian Hukum* (Jakarta: UI-Press, 2006).
10. Soetarna, Hendar, *Hukum Pembuktian dalam Acara Pidana* (Bandung: Alumni, 2011).
11. Erdianto, Dian et al., "Kebijakan Hukum Pidana dalam Pemberian Keterangan Saksi melalui Media Teleconference di Indonesia," *Jurnal Law Reform*, Volume 11, No. 1 (2015).
12. Nursobah, Asep, "Utilization of Information Technology to Boost Acceleration of Settlement Case in Supreme Court," *Jurnal Hukum dan Peradilan*, Volume 4, No. 2 (2015).
13. Retnaningsih, Sonyendah et al., "Pelaksanaan E-Court menurut Perma Nomor 3 Tahun 2018 tentang Administrasi Perkara di Pengadilan secara Elektronik dan E-Litigation Menurut Perma Nomor 1 Tahun 2019 tentang Administrasi Perkara dan Persidangan di Pengadilan Secara Elektronik (Studi di Pengadilan Negeri di Indonesia)," *Jurnal Hukum & Pembangunan*, Volume 50, No. 1 (2020).
14. Sukadana, I Made et al., "Alat Bukti Keterangan Saksi Mahkota dalam Perkara Pidana Pencurian," *Jurnal Law Reform*, Volume 14, No. 2 (2018).
15. Wicaksana, Yuristyan Pambudi, "Implementasi Asas Ius Curia Novit dalam Penafsiran Hukum Putusan Hakim tentang Keabsahan Penetapan Tersangka," *Lex Renaissance*, Volume 4, No. 1 (2018).
16. Gugus Tugas Percepatan Penanganan COVID-19, "Data Sebaran", <https://covid19.go.id/> (accessed 25 May 2020).
17. iNews.id, "10.517 Perkara Disidang Secara Daring oleh Kejari Se-Indonesia", <https://www.inews.id/news/nasional/10517-perkara-disidang-secara-daring-oleh-kejari-se-indonesia> (accessed 25 May 2020).
18. Kompas.com, "Cegah Penyebaran COVID-19, Koalisi Desak Sidang di Pengadilan Ditunda", <https://nasional.kompas.com/read/2020/03/23/09481331/cegah-penyebaran-COVID-19-koalisi-desak-sidang-di-pengadilan-ditunda> (accessed 25 May 2020).
19. Serambinews.com, "PN Tetap Gelar Sidang di Tengah Pandemi COVID-19, Gangguan Suara Sering jadi Kendala", <https://aceh.tribunnews.com/2020/05/13/pn-tetap-gelar-sidang-di-tengah-pandemi-COVID-19-gangguan-suara-sering-jadi-kendala> (accessed 25 May 2020).
20. Law Number 8 of 1981 on Criminal Procedural Law.
21. Law Number 48 of 2009 on Judicial Ascendancy.
22. Law Number 7 of 2017 on General Elections.

23. Government Regulation Number 21 Year 2020 on Large-Scale Social Restrictions for Acceleration in Handling Corona Virus Disease 2019 (COVID-19).
24. Presidential Decree Number 11 of 2020 on Determination of Public Health Emergency Corona Virus Disease 2019 (COVID-19).
25. Supreme Court Circular Letter Number 1 of 2020 on Guidelines of Work During the Prevention of Corona Virus Disease 2019 (COVID-19) at the Supreme Court and the Lower Judicial Bodies.
26. Cooperation Agreement Number 402/DJU/HM.01.1/4/2020 between the Supreme Court of the Republic of Indonesia and the Attorney General of the Republic of Indonesia and the Ministry of Law and Human Rights of the Republic of Indonesia concerning the Conduct of the Trial through Teleconference.

## BIOGRAPHY

**Dewa Gede Giri Santosa, S.H.** is a Judge at the Gedong Tataan District Court. He got his law degree from the Faculty of Law, Gadjah Mada University in 2015. He has worked as an Industrial Relations Analyst in a private company in Indonesia for two and a half years and currently serves in the Supreme Court of the Republic of Indonesia since 2017. He has won several awards in writing scientific papers. He has an interest in criminal law, criminal procedural law, civil law, and current legal issues. He can be contacted via email: [dewagedegirisantosa@gmail.com](mailto:dewagedegirisantosa@gmail.com)