



## Optimization of Criminal Sanctions Against Holding of Goods During the Covid-19 Pandemic

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### **Abstract**

This legal research aims efforts to optimize the implementation of the use of criminal sanctions by investigators against perpetrators of hoarding of important goods during the COVID-19 pandemic. The legal research compiled is empirical legal research with the nature of legal research, namely analytical descriptive. The author uses an interactional approach with qualitative analysis. The type of data used is primary data obtained directly by the interview method and secondary data in the form of related laws and regulations. Based on the results of this legal research, the efforts to optimize the utilization of criminal sanctions can be done by (i) prioritizing the victim aspect which prioritizes the applicability of the objectives of the criminal law, (ii) compilation of various interrelated regulations and (iii) application of criminal law policy theory in order to formulate rules that can accommodate the public interest in the case of hoarding of goods, objects hoarding of goods and criminal sanctions of hoarding of goods.

**Keywords:** *Optimize the Use of Criminal Sanctions; Hoarding of Goods; COVID-19 Pandemic*

### **Introduction**

Since December 2019, emerged a new disease caused by the Severe-Acute-Respiratory-Syndorme-2 (SARS-Cov-2) virus. [1] The virus causes pneumonia with fatal consequences. On February 11, 2020, the World Health Organization officially named the disease caused by a new virus that emerged in the city of Wuhan with the nickname disease (Corona Virus Diseases-2019) or now better known as COVID-19. [2] Not long after, on March 11, 2020, Director General *World Health Organization* Tedros Ghebreyesus through his official statement that COVID-19 is categorized as a pandemic. [3]

Corona Virus Disease (COVID-19) has changed the face of the world and has greatly influenced various aspects of life, including health, economy, social and politics. Indonesia is one of the countries in the world that has been affected by COVID-19. The Government of Indonesia confirmed the first positive case of COVID-19 on March 2, 2020. The first positive case in Indonesia of course caused an extraordinary reaction in the community. The public is also waiting for the policies issued by the government in dealing with the pandemic conditions.

Since March 31, 2020, the Government of Indonesia has issued a regulation regarding Large-

Scale Social Restrictions in the face of the COVID-19 outbreak. The Government of Indonesia issued details regarding the technical implementation of Large Scale Social Distancing through Regulation of the Minister of Health of the Republic of Indonesia Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019 (COVID-19). Large Scale Social Distancing means that certain activities of residents in an area are suspected of being infected with COVID-19. The determination of Large Scale Social Distancing carried out by the Government of Indonesia has basic considerations such as epidemiology, magnitude of threat, effectiveness, resource support, operational technical, economic, social, cultural and security considerations.

In order to prevent the transmission of the spread of COVID-19, the World Health Organization provides a number of recommendations to the public. Quoted from the official website of the World Health Organization, among others regularly and thoroughly clean your hands with an alcohol based hand rub or was them with soap and water, maintain at least 1 meter (3 feet) distance between yourself and others, avoid going to crowded places, avoid touching eyes, noses and mouth because it could transfer the virus to your body, make sure and the people around you, follow good respiratory hygiene, stay home and self-isolate even with minor symptoms, keep up to date on the latest information from trusted sources such as World Health Organization or your local and national health authorities.

There was a response of panic and extraordinary concern experienced by the public in responding to the directives and policies issued by the Government of Indonesia. The community's response led to panic buying conditions. The panic buying condition is one of the impacts of the spread of COVID-19 which is very felt and not only experienced by Indonesia, but also several countries in the world such as the United States, United Kingdom, China and various other countries affected by this virus. Panic buying conditions occurred in the United States (United States), as quoted from the official Reuters website published on February 29, 2020, panic buying conditions occurred in several products such as face shields and various health equipment that functioned as a preventive measure against COVID-19 disease, where the condition is expected to reach its peak in April, starting from February there has been a shortage of stock for goods purchased by consumers. society.[4]

Indonesia has experienced a state of panic buying, since the announcement of the first case of COVID-19 in March 2020, some stocks of goods such as hand sanitizers, masks and even personal protective equipment which incidentally are intended for medical personnel are also experiencing shortages in various cities in Indonesia.[5] A spokesperson for the World Health Organization also said that the COVID-19 pandemic has caused panic buying in all countries in the world, this panic buying condition has led to hoarding and speculation in the community.[6] Deputy Chairman of the House of Representatives of the Republic of Indonesia Muhaimin Iskandar said that the government needed to provide a responsive reaction to the panic buying phenomenon that occurred in the community in order to avoid conditions that were increasingly chaotic and out of control.[7] The possible policy steps that can be taken by the government are to ensure the availability of health equipment and food ingredients according to the needs of the community, In addition, the government needs to provide constructive and easily understood information by the public in order to minimize public panic in processing information and avoid misunderstandings. Another policy that needs to be carried out by the government is to impose strict sanctions if conditions on the ground indicate that there are individuals who deliberately take advantage of panic buying conditions for commercial gain by hoarding a number of items that have important value during the pandemic.

In responding to the panic buying conditions that occurred in Indonesia, the government already has legal instruments related to the storage and hoarding of goods as stipulated in Law Number 18 of 2012 concerning Food and Law Number 7 of 2014 concerning Trade, where in the legislation The law contains the formulation of criminal threats to ensnare legal subjects who commit crimes of hoarding goods. This is as stated in Article 29 of Law Number 7 of 2014 concerning Trade, namely:

1. Business actors are prohibited from storing goods of basic needs and/or important goods in a certain amount and time when there is a shortage of goods, price fluctuations, and/or obstacles to the traffic of trade in goods.
2. Business actors can store basic necessities and/or important goods in a certain amount and time if they are used as raw materials or auxiliary materials in the production process or as inventory for distribution.

Sanctions regulated in legal instruments include criminal sanctions and administrative sanctions (in the form of fines, termination of production or distribution activities and revocation of permits), while criminal sanctions are given if business actors violate the provisions in Article 133 of Law Number 18 of 2012 concerning Food and Article 107 Law Number 7 of 2014 concerning Trade, if a business actor violates this provision, the business actor is threatened with a maximum imprisonment of 5 (five) years and/or a maximum fine of Rp. 50,000,000,000.00 (fifty billion rupiah).

However, the factual conditions on the ground show that the COVID-19 pandemic is kind of gap for individuals to continue carrying out a series of activities that are detrimental to the community even though the Government of Indonesia already has legal instruments to ensnare irresponsible individuals. Cases of hoarding essential goods and/or important value during the COVID-19 pandemic are still often carried out by certain individuals who take advantage of the situation. One of the factual conditions of the occurrence of hoarding conditions of important valuable goods occurs in the Central Java area. The Central Java Regional Police have arrested three perpetrators who hoard masks and antiseptics and sell masks and antiseptics up to six times the normal price in Semarang. [8] Reported from the Kompas Regional daily page, the Head of Public Relations of the Central Java Police, Kombes Iskandar F. Sutisna said that the perpetrators were charged with Article 107 of Law Number 07 of 2014 concerning Trade, with the threat of a fine of Rp. 50 billion and a maximum imprisonment of five years. [9] Central Java Governor Ganjar Pranowo reminded sellers, distributors and retailers to take advantage of the pandemic conditions for personal gain. Hoarding of basic goods and/or important value is an example of an economic crime. This is because the criminal acts carried out with economic motives resulted in material losses in the community. [10] distributors and retailers to take advantage of the pandemic conditions for personal gain. Hoarding of basic goods and/or important value is an example of an economic crime. This is because the criminal acts carried out with economic motives resulted in material losses in the community. [11] distributors and retailers to take advantage of the pandemic conditions for personal gain. Hoarding of basic goods and/or important value is an example of an economic crime. This is because the criminal acts carried out with economic motives resulted in material losses in the community. [12]

The state of panic buying which causes hoarding of goods during the COVID-19 pandemic has not been able to be controlled optimally by the government. Although, the government already has a set of legal rules governing the hoarding of goods in the form of Law Number 18 of 2012 concerning Food and Law Number 7 of 2014 concerning Trade. However, in fact the regulation has not been able to run optimally. The perpetrators of hoarding goods, especially in pandemic emergency conditions, still often escape the snares of sanctions according to existing regulations. Weak implementation of sanctions and the frequent escaping of hoarders of goods from the snares of responsibility are one of the factors that have not run optimally existing legal instruments. Based on the background that has been described, the authors compiled a legal research article entitled, "Optimization of Criminal Sanctions Against Holding of Goods During the Covid-19 Pandemic". Legal research conducted to examine concrete efforts that function as an optimization step for the Government of Indonesia in dealing with the COVID-19 pandemic.

### **Methodology**

The kind of this research is empirical legal research or non doctrinal (sociological) research [13]. The research approach used is an interactional approach with qualitative analysis which is then used to

analyze logically systematically. [14] Non doctrinal legal research uses primary data sources, secondary data sources and tertiary data sources. The nature of this legal research is descriptive and analytical, namely legal research to find out the optimization of the application of criminal sanctions against perpetrators of hoarding basic necessities and/or important values during the COVID-19 pandemic. The research location chosen by the author to obtain a sample of data regarding cases of hoarding of essential goods and/or important value during the COVID-19 pandemic is the Central Java Regional Police, Jalan Pahlawan 1 Semarang, Central Java, Indonesia.

### **Research Result**

The spread of the Sars-Cov-2 virus which causes COVID-19 in Indonesia has caused various impacts in terms of health, economy, social, politics and culture. One of the negative impacts of the spread of COVID-19 is the community's anticipatory behavior in preventing uncontrolled transmission, causing panic buying conditions. People flocked to buy a number of household needs in the form of basic needs and a number of needs that were considered to be tools to prevent the spread of the virus in the form of masks, hand sanitizers, even personal protection equipment which incidentally was intended for the needs of medical personnel in very unnatural quantities, resulting in hoarding of goods. [15] Panic buying conditions occurred in a number of areas which caused many shopping centers and markets to run out of stock for various products being hunted by the public. Uncontrollable panic makes people go crazy buying in unnatural quantities so that there is a shortage, especially in health products in the form of masks, hand sanitizers, and personal protective equipment. [16]

The supply of goods is limited but market demand soared sharply causing the price of goods to soar at an unnatural number. Anxiety occurred in the community due to low supplies and residents did not get the desired goods. This condition is a factor in the emergence of irresponsible individuals who seek opportunities to reap profits in the midst of difficult situations. Based on information obtained by the author from the online news page Kompas, on Tuesday, March 3, 2020, the police arrested two suspected perpetrators of hoarding masks and antiseptic liquids in Semarang, Central Java. [17] The arrests of the two perpetrators of hoarding goods were successfully carried out when the police carried out patrols through social media. From the hands of the two perpetrators, the police secured a number of evidences, namely 8 boxes of health masks of various brands and 13 boxes filled with antiseptic liquid. From the results of a temporary investigation, the police suspect that the two perpetrators wanted to take personal advantage when panic buying conditions occurred during the COVID-19 pandemic by hoarding goods and then reselling them when there was a shortage with soaring market prices. For the actions of the perpetrators, the police ensnared both of them with Article 107 of Law Number 7 of 2014 concerning Trade which reads.

"Business actors who deviate from goods of basic needs and/or important value in a certain amount and time when there is a shortage of goods, price fluctuations, and/or obstacles to the traffic of goods trade as referred to in Article 29 paragraph (1) shall be punished with imprisonment for a maximum of 5 (five) years and/or a maximum fine of Rp. 50,000,000,000.00 (fifty billion)."

The threat of a maximum imprisonment of five years and a maximum fine of Rp. 50 billion has threatened the two perpetrators of hoarding goods in Semarang, Central Java. Based on this information, the authors are interested in studying the utilization of criminal sanctions against perpetrators of hoarding important valuables during the COVID-19 pandemic, especially in cases that occurred in Central Java Province.

However, as if inversely proportional to the information obtained from the Kompas online news page, the author found a fact on the ground that shows that law enforcement is not optimal in the form of utilizing criminal sanctions against perpetrators of hoarding goods during the COVID-19 pandemic. Based on the data that was collected by the author through an interview process with investigators from Subdit 3 Unit 4 Criminal Investigation Unit of the Central Java Regional Police Iptu Tri Hariyanto that

regarding law enforcement in the form of utilizing criminal sanctions in cases of hoarding goods, it cannot run optimally. Weak law enforcement in the form of utilizing criminal sanctions in Indonesia occurs due to the absence of concrete and comprehensive regulations that specifically regulate the category of "important value goods". The category of goods of important value according to Article 1 of Presidential Regulation Number 71 of 2015 concerning the Determination and Storage of Basic Needs and Important Goods, namely, "basic goods are goods that concern the livelihood of many people with a high scale of fulfillment of needs and become a supporting factor for the welfare of the community." Meanwhile, the definition of important goods is regulated in Article 1 number 2 which reads, "important goods are strategic goods in determining the smooth running of national development." In terms of determining the criteria for important materials, it is carried out based on the strategic nature of national development. "Basic needs goods are goods that concern the livelihood of many people with a high scale of fulfillment of needs and become a supporting factor for the welfare of the community." Meanwhile, the definition of important goods is regulated in Article 1 number 2 which reads, "important goods are strategic goods in determining the smooth running of national development." In terms of determining the criteria for important materials, it is carried out based on the strategic nature of national development. "Basic needs goods are goods that concern the livelihood of many people with a high scale of fulfillment of needs and become a supporting factor for the welfare of the community." Meanwhile, the definition of important goods is regulated in Article 1 number 2 which reads, "important goods are strategic goods in determining the smooth running of national development." In terms of determining the criteria for important materials, it is carried out based on the strategic nature of national development.

In providing a definition regarding the determination of the types of important goods, it is also necessary to pay attention to the provisions of government programs and/or price disparities between regions. However, the types of essential goods regulated in Article 2 paragraph (6) letter b of Presidential Regulation Number 71 of 2015 concerning the Stipulation and Storage of Basic Needs and Important Goods are only limited to seeds, namely rice, corn and soybean seeds, fertilizers, gasol, plywood, cement, construction steel and mild steel. Meanwhile, according to Article 29 of Law Number 7 of 2014 concerning Trade, it also only regulates basic materials and goods of important value on a limited basis. The limited category of "important value goods" has implications for biased law enforcement and tends to be difficult to implement.

Iptu Tri Harijanto added that the Government of Indonesia should first issue a regulation regarding law enforcement that specifically regulates the stockpiling of goods in extraordinary conditions such as pandemic conditions. [18] The absence of regulations that specifically regulate the stockpiling of goods during the pandemic causes weak law enforcement even though the conditions on the ground are quite alarming. Iptu Tri Harijanto said that, "Even though the market price has spiked very sharply on a scale of 10x to 500x, it cannot be enforced optimally if there are no rules. Rules are issued, the act of hoarding goods can be enforced. Regarding the corridor for basic goods, there are already rules that specifically regulate it. However, the hoarding of goods of important value and especially during a pandemic, there are no rules that regulate it. Thus, the ongoing legal process will be stopped and no further action will be taken."

Similar to the investigator from Subit 3 Unit 4 Reskrim Polda Central Java Iptu Tri Harijanto, the authors obtained data to strengthen the results of research on the utilization of criminal sanctions against perpetrators of hoarding goods with sources from Polda Metro Jaya namely Ipda Airlangga M Akbar, S.Tr.K & BOP Unit 1 Sub-Directorate 1 Dittipider Bareskrim Polri.[19] Based on the results of an interview with Ipda Airlangga M Akbar, S.Tr.K on Monday, August 2, 2021, the results showed that related to cases of hoarding of goods in the form of masks and antiseptic liquids in Central Java Province which were being handled by the Central Java Police, the Criminal Investigation Unit of the Police had limitations and did not can provide follow-up. This is because the Bareskrim Polri as a law enforcement agency at the central level will only provide follow-up on cases that become cases of attention with the category of causing state financial losses of more than 25 billion. Meanwhile, at the Polda level in this case, the cases handled are only limited to cases with an estimated loss of 2 billion to 25 billion.

Furthermore, the Criminal Investigation Unit of the Police in an effort to anticipate the hoarding of goods during the pandemic is carried out in the following ways:

1. The Criminal Investigation Unit makes efforts to foster and supervise the distribution of categories of basic goods and goods of important value, both from the distribution stage and the sales stage.
2. The Criminal Investigation Unit is carrying out active operations in the form of visiting several supermarkets and shops selling basic goods and important goods during the pandemic to find out the availability of goods and price conditions on the market.

The author obtains facts regarding the utilization of criminal sanctions for hoarding important valuables which are quite concrete based on the results of interviews with Ipda Airlangga M Akbar, S.Tr.K, namely the existence of stagnant conditions in law enforcement efforts. This is because in the case of law enforcement regarding the hoarding of goods of important value, it cannot be followed up due to the limitations of normative rules in Indonesia. Perpetrators cannot be subject to criminal sanctions due to limitations in Law Number 7 of 2014 concerning Trade and Presidential Regulation Number 71 of 2015 concerning Stipulation and Storage of Basic Needs and Important Goods. Where, according to the article and the explanation of the articles in the two rules, the categories of goods are masks, hand sanitizer, and Personal Protective Equipment is not included in the category of goods of important value. The category of goods in the form of masks, hand sanitizers, and personal protective equipment is a medical device product that is not a category of goods of important value even during a pandemic.

Weak rules regarding the hoarding of goods of important value cause cases of hoarding of goods cannot be enforced. Ipda Airlangga M Akbar, S.Tr.K said that in 2021 the scarcity of a medical equipment commodity occurred again, this time the scarcity of oxygen cylinders due to hoarding of goods which caused an unusually sharp price spike to scarcity. However, it comes back that the police cannot take concrete legal remedies due to the limitations of the law that clearly accommodates the subject, action to criminal sanctions. So, the efforts made are only limited to the corridor of legal counseling in the form of social direction.

Normatively, the hoarding of goods is regulated in Law Number 18 of 2012 concerning Food, Law Number 7 of 2014 concerning Trade and Regulation of the President of the Republic of Indonesia Number 71 of 2015 concerning Stipulation and Storage of Basic Needs and Important Goods. However, in the three regulations, very striking obstacles were found so that the utilization of criminal sanctions against perpetrators of hoarding important goods during the COVID-19 pandemic could not run optimally. Indonesia does not yet have rules that comprehensively regulate in real and concrete terms the meaning of "important value goods" and "violated acts" that can be subject to criminal sanctions in the corridor of hoarding cases. Literally important materials have been regulated normatively in the law, namely Law Number 7 of 2014 concerning Trade and Presidential Regulation Number 71 of 2015 concerning the Determination and Storage of Basic Needs and Important Goods. Important goods are strategic goods that play an important role in determining the smooth running of national development, such as fertilizers, cement and fuel oil and gas. [19]. The limitation of legal objects in the form of "important value goods" is the cause of the non-optimal utilization of criminal sanctions for law enforcement in cases of hoarding of important goods during the COVID-19 pandemic.

The case of hoarding goods is a form of economic violation that violates ethics and law during the COVID-19 pandemic. Panic in the community to create chaotic conditions with psychological and social impulses in the form of buying products in unnatural quantities causing scarcity to very sharp price spikes. This condition will certainly have a serious impact if there is no legal instrument that is able to accommodate the needs of the community so that irresponsible persons can be dealt with firmly. Constraints in terms of the community's need for criminal law instruments in solving the problem of hoarding important valuables during the COVID-19 pandemic are urgently needed. Legal instruments are

the main point of the effectiveness of the use of criminal sanctions in cases of hoarding of goods of important value. In the case of hoarding of goods, especially in Central Java, the police did not find any significant problems in the process of arresting, searching and confiscation of evidence. Even material obstacles in the form of evidence were not found difficulties in the implementation of the ongoing legal process. As conveyed by Iptu Tri Harijanto, the main obstacle in the use of criminal sanctions against cases of hoarding important goods during the COVID-19 pandemic lies in the limitations of legal instruments. Even material obstacles in the form of evidence were not found difficulties in the implementation of the ongoing legal process. As conveyed by Iptu Tri Harijanto, the main obstacle in the use of criminal sanctions against cases of hoarding important goods during the COVID-19 pandemic lies in the limitations of legal instruments. Even material obstacles in the form of evidence were not found difficulties in the implementation of the ongoing legal process. As conveyed by Iptu Tri Harijanto, the main obstacle in the use of criminal sanctions against cases of hoarding important goods during the COVID-19 pandemic lies in the limitations of legal instruments.

Based on these conditions, the author conducted an interview with the Professor of Criminal Law at Sebelas Maret University, Prof. Supanto, SH, M. Hum, in which the author carves an ideal idea as an effort to optimize the utilization of criminal sanctions in cases of hoarding important goods during a pandemic through various paradigms, including the Act to the Criminal Code (KUHP). Regarding the rules for hoarding goods, it can also be seen in more than 1 (one) statutory regulation for example in Law Number 05 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Competition, where in the law there are various acts criminal. [20] Finding norms in various articles in the Law is a concrete step. In this case, it can be explained that investigators as law enforcement officers who are the main law enforcement officers in proving that a criminal act occurred must be able to expand the mindset by looking for a breakthrough where the rules governing the hoarding of goods are located. The existence of masks, hand sanitizers and personal protective equipment is no longer an object of medical equipment but as a means to prevent disease transmission. This is certainly an urgency of enforcing a rule of law. In this case, law enforcement officers must look for forms of "despicable acts" in cases of hoarding goods that violate ethics.

Professor of Criminal Law at Sebelas Maret University Prof. Supanto, SH, M. Hum, also added that the optimization of the utilization of criminal sanctions in cases of hoarding goods can be seen from the aspect of the victim. One of the purposes of criminal law is to protect individuals or society. The community as victims who are directly affected by the hoarding of goods must experience a sharp spike in prices leading to a shortage of goods. Cases of hoarding goods can be studied in terms of sociology and criminology. From a sociological perspective, "despicable acts" can be seen from various aspects, including morals, religion and ethics in the business sector. The "disgraceful act" committed can have an impact on harming individuals and society in the form of hoarding goods in order to obtain profits unilaterally, causing difficulties for the community to obtain these goods. In terms of criminology, law enforcement officers must act actively in seeking norms in the law, starting from the Criminal Code, Law No. 05 of 1999 on the Prohibition of Monopolistic Practices and Unfair Competition, Law No. 18 of 2012 concerning Food, Law Number 7 of 2014 concerning Trade and various other laws that may regulate normative rules for hoarding goods.

The compilation of these various laws then acts as a starting point for criticizing the weakness of law enforcement by law enforcement officials. [21] Law enforcement officials must act more actively by interpreting all normative rules, both in the form of the Criminal Code and Laws to find the appropriate formulation of the rules. In the event that masks, hand sanitizers, and personal protective equipment are not items of important value based on the Presidential Regulation of the Republic of Indonesia Number 71 of 2015 concerning the Stipulation and Storage of Basic Necessities and Important Items, they can still be snared through the fulfillment of other elements in accordance with a series of actions. carried out in the case of hoarding of goods. Regarding medical devices that do not have Maximum Retail Price (MRP), it is not a problem considering the main element used as a reference in imposing criminal sanctions is the loss in society as a result of hoarding of goods. Criminologically, when referring to Law Number 36 of

2009 concerning Health, Law Number 04 of 1984 concerning Outbreaks of Infectious Diseases and various other laws, the conceptual "disgraceful act" of hoarding goods is appropriate, namely causing harm to individuals or society. Thus, from the results of an interview with a Professor of Criminal Law at Sebelas Maret University, Prof. Supanto, SH, M.Hum illustrates that efforts to optimize the utilization of criminal sanctions in cases of hoarding goods can be carried out if law enforcement officers act actively to seek normative rules in articles in all laws and regulations, understand every element of the actions of each article and carry out correct interpretation so that criminal sanctions can be imposed.

The author does not only immediately provide optimization efforts in terms of law enforcement officers, the author in providing an ideal formulation regarding optimizing the utilization of criminal sanctions in cases of hoarding important valuables during the COVID-19 pandemic rests on the theory of criminal law policies. The formulation of the efforts that need to be made in the context of optimizing the utilization of criminal sanctions in cases of hoarding of important goods during the COVID-19 pandemic can be carried out in accordance with the theory of criminal law policies. Based on the theory of criminal law policy which provides direction for the government, both executive, legislative and judicial in regulating and accommodating the public interest, various problems that arise in society. [22] Criminal law policy is part of legislative policy. The term criminal law policy is also referred to as a political term of criminal law or (penal policy), (criminal policy) or (strafrechtspolitik). [23] As quoted from A. Murder's statement, that strafrechtspolitik is a policy line that functions to determine:

1. How far the applicable criminal provisions need to be changed and updated?
2. What can be done to prevent crime from occurring?
3. How the process of investigation, prosecution, trial and criminal execution must be carried out? [24]

The applied criminal law policy has the meaning of carrying out criminal law politics as an effort to combat crime with criminal law in essence, so that criminal law policies can also be said to be part of law enforcement policy efforts. [25] The use of criminal law as an effort to regulate society is essentially part of a policy step. In using the means of criminal law, there are limiting principles, which then become a reference, including:

1. Criminal law is not used solely for the purpose of retaliation.
2. Criminal law is not used to convict acts that are not harmful/harmful.
3. Criminal law is not used to achieve a goal that can be achieved more effectively with other, lighter measures.
4. Criminal law is not used if the loss or danger arising from a criminal act is greater than the loss/danger from the act/criminal act itself.
5. Criminal law is not used to contain prohibitions that do not have strong support from the public.[26]

In the formulation of criminal law policies, it can begin with the meaning of criminal. The meaning of criminal cannot be separated from the term criminal law itself because crime is the main force of criminal law. According to Moeljatno, criminal law is part of the overall law that applies in a country, which provides the following basics and rules:

1. Determine which actions should not be carried out, which are prohibited, accompanied by threats or sanctions in the form of certain crimes for anyone violating the prohibition;



2. Determine when and in what cases those who have violated the prohibitions can be imposed or sentenced to the punishment that has been threatened;
3. Determine how the imposition of the punishment can be carried out if someone is suspected of having violated the prohibition. [27]

Jan Remmelink argues that criminal law is used to refer to the overall provisions that establish binding conditions. These binding conditions are issued by the state through the executive and legislative institutions as the issuer of laws and regulations. If the state through the executive and legislative institutions wants to issue a law, in this case is criminal law, it must formulate the kinds of subjects, objects and actions that are punishable by crime. The applicable criminal law may include, among others: [28]

1. Orders and prohibitions against violations by organs declared competent by law are associated with (threats of) crime; norms that everyone must adhere to;
2. Provisions that determine what means can be used in response to violations of those norms; penitent law or more broadly, the law on sanctions;
3. Determine how the imposition of the punishment can be carried out if someone is suspected of having violated the prohibition.

Furthermore, criminal law rationally relies on three concepts, namely (i) violation in this case is what act must be determined as a crime (crime); (ii) the offense in this case is the provision that must be determined that a person can be known (allegedly) related to a criminal act and (iii) the crime in this case is what must be done to someone who is known to be related to a criminal act. [29]

In the corridor as an effort to optimize the utilization of criminal sanctions for hoarding important valuables during the COVID-19 pandemic, criminal law will be placed as an orientation on subjects and actions so that criminal sanctions can be imposed. Optimizing the use of criminal sanctions does not only provide a sense of sorrow; suffering, but what is more important is how the subject of the law realizes and realizes the action he has committed. Criminal sanctions are reactive in nature that arise in response to an act. Criminal law in an objective sense (*ius poenale*) is criminal law seen from the aspect of prohibition, with an explanation of which prohibition is accompanied by criminal threats for those who violate the prohibition (material). *Ius poenale* as a number of legal regulations that contain prohibitions and orders or obligations for which the violator is threatened with a criminal sentence. Furthermore, criminal law in a subjective sense (*ius poeniendi*) in the sense of rules that contain or the rights and authorities of the state to:

1. Determine restrictions in an effort to achieve public order.
2. Enforce (the coercive nature) of criminal law in the form of imposing a sentence on the violator of the prohibition.
3. Carry out criminal sanctions that have been imposed by the state on the violators of criminal law.

Through the above understanding, only the state as the highest, greatest and strongest power has the right and authority to determine criminal law and enforce the criminal law. [30]

The meaning of criminal acts is the beginning of optimizing the utilization of criminal sanctions for hoarding goods during the COVID-19 pandemic. This is because based on a crime, it will discuss the legal description of the crime, the act that was violated and the criminal sanctions attached to the act that was violated. The meaning of a criminal act can be formulated in full with indicators, including:

1. A criminal act is an act of doing or not doing something which by legislation is declared as a prohibited act and is threatened with a crime.
2. To be declared a criminal act, in addition to the act that is prohibited and threatened with punishment by legislation, it must also be against the law or contrary to the law that lives in society.
3. Every criminal act is always considered to be against the law, unless there is a justification. [31]

The author then develops a concrete formulation that comes from the point of view of criminal law policy, in the sense of a policy to use criminal law, which is the central problem or the main problem lies in how far the authority to regulate and limit human behavior by using criminal law as an instrument.[32] After looking at the point of view of criminal law policy, from a dogmatic-normative point of view, there is a central problem or main problem of criminal law (material), where the problem lies in:

1. What actions should be punished?

The act in this case is an act that is prohibited and is threatened with punishment to the subject of a criminal act who commits or in the formulation of criminal law can be called "anyone who violates". Whoever is a form of legal subject who is the target of the norm (*addresaat norm*). [33] Furthermore, it will arrange in terms of prohibited actions (*strafbaar*) both in the form of doing something (commission), not doing something (omission) and causing consequences (events caused by behavior). In this case, the form of action that should be punished is "anyone who keeps basic necessities and/or important items which have value to support the livelihood of many people in a certain amount and time in an emergency (critical) so that it causes a shortage of goods, price fluctuations, and/or traffic barriers to trade in goods" can be examples of the formulation of actions. If the act has been fulfilled, it can formulate the criminal threat (*starfmaat*).

2. What conditions should be met to question/account for someone who commits an act that deserves to be punished.

The concept of criminal responsibility is a necessary condition for imposing a criminal offense against a criminal who is not only carried out by taking into account the interests of the community, but also the interests of the maker himself.[34] The process depends on the fulfillment of the conditions and conditions that can be reproached by the perpetrator of the crime so that it is legal if convicted.[35] Criminal liability is a condition that exists in the maker (legal subject) when committing a crime. Furthermore, criminal responsibility also means linking the condition of the maker to the actions and sanctions that should be imposed.

So, according to the explanation as above, the conditions that must be met to account for the actions of legal subjects so that criminal sanctions can be imposed include:

- a) There is a subject
  - b) There is an element of error
  - c) Acts that are against the law
  - d) An action that is prohibited or required by law/statutory regulations that violates it is punishable by a criminal offense
  - e) In a certain time, place and situation.
3. What criminal sanctions should be imposed on people who commit an act that deserves to be punished. [36]

The imposition of sanctions should be related to the weight of the act which is said to be a criminal act. The pattern of determining criminal sanctions is determined qualitatively and quantitatively based on protected legal interests according to gradations from the heaviest to the lightest. The patterns determined on certain criminal law subjects as well as the patterns of criminal determination in laws outside the Criminal Code and regional regulations can be grouped as follows:

- a) single imprisonment without a fine (serious/very serious crime);
- b) imprisonment and fines as a cumulative weighting (heavy);
- c) fine as an alternative to imprisonment (light);
- d) a single fine (very light);
- e) the pattern of fines for regional regulations (very light and of a violation nature);
- f) criminal pattern of fines for corporations (fines only and usually weighting);
- g) the pattern of fines for children (generally half of the threats for adults);
- h) criminal pattern of statutory fines outside the Criminal Code (administrative offenses that are criminalized for which the punishment is relatively light);
- i) criminal pattern for victimless crimes (minor and intended as general prevention and rehabilitation). [37]

The theory of criminal policy by providing an ideal formulation of the act of hoarding goods is also in line with the theory of the criminal justice system in the context of optimizing the utilization of criminal sanctions for hoarding important goods during a pandemic. The criminal justice system (criminal justice system) shows a working mechanism in crime prevention that uses a basic system approach. The systems approach is an approach that uses all the elements involved in it as a unit and are interconnected (interrelationships) and influence each other. Through this approach the police, prosecutors, courts and prisons are important and interrelated elements. The criminal justice system as a system is basically an open system.

The criminal justice system is a crime control system consisting of police institutions. Prosecutors, courts and convicts.[38] It was also stated that the criminal justice system is a system in a society to deal with crime. Tackling is defined as controlling crime so that it is within the limits of community tolerance. Controlling crime so that it is still within the tolerance limits of society does not mean tolerating a certain crime or allowing it to occur. The criminal justice system is a judicial network that uses criminal law as its main means, both material criminal law, formal criminal law and criminal law enforcement.[39] The criminal justice system can be implemented if there are concrete rules that can provide justice, benefit and legal certainty in cases of hoarding important valuables during the COVID-19 pandemic.

## **Conclusion**

In the context of utilizing criminal sanctions by investigators against perpetrators of hoarding medical devices during the COVID-19 pandemic, it can refer to the theory of law enforcement that focuses on a series of legal processes that include law making and law enforcement. Optimizing the application of the use of criminal sanctions by investigators against perpetrators of hoarding medical devices during the COVID-19 pandemic can be done by taking the following steps:

- a. Legal factors that are limited by law, when associated with cases of hoarding of important valuables during the COVID-19 pandemic, a conceptual picture can be obtained that law enforcement in the form of the utilization of criminal sanctions cannot be carried out optimally because the existence of cases of hoarding of important valuables is not stated. in the written norms of Law Number 18 of 2012 concerning Food, Law Number 7 of 2014 concerning Trade and Presidential Regulation Number 71 of 2015 concerning Stipulation and Storage of Basic Needs and Important Goods.

- b. The law enforcement factor of the police as law enforcement officers in enforcing the law in cases of hoarding important valuables during the COVID-19 pandemic encountered obstacles. These obstacles arise due to the absence of rules that concretely regulate the categories of goods of important value. Law Number 18 of 2012 concerning Food, Law Number 7 of 2014 concerning Trade and Presidential Regulation Number 71 of 2015 concerning Stipulation and Storage of Basic Necessities and Important Items do not list masks, hand sanitizers and Personal Protective Equipment as items of important value. The implication of the weakness of these regulations is that criminal sanctions cannot be enforced in case of hoarding of goods, so that the police are only able to provide legal counseling in the form of socialization.
- c. the factor of facilities or facilities that support law enforcement, the police as law enforcement officers carry out social media patrols in capturing individuals who have the potential to hoard important valuables during the COVID-19 pandemic which can disrupt economic stability in the community. Activities carried out by the police cannot run optimally if they are not supported by means or facilities that support law enforcement, including compatible communication tools.

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