

COVID-19 IMPACTS ON HEALTH, ECONOMIC, TOURISM AND LAW ORDER (PSBB IN INDONESIA, NEW NORMAL AND MOVEMENT OF STARTING A CLAIM ON CHINESE GOVERNMENT)

By Murry Darmoko Mursidin

**COVID-19 IMPACTS ON HEALTH, ECONOMIC, TOURISM AND LAW ORDER
(PSBB IN INDONESIA, NEW NORMAL AND MOVEMENT OF STARTING A
CLAIM ON CHINESE GOVERNMENT)**

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ABSTRACT

Covid-19 changes the pattern of human life in health, economy, tourism and law. The change resulted from a large number of deaths, losses in the financial sector and the tourism sector as well as the establishment of special regulations. In Indonesia, the government passed the Corona Law, implementing Large-Scale Social Restrictions and New Normal as an effort to make peace with Covid-19. At present, Indonesia does not demand China to compensate for the negligence of the spread of this pandemic virus. Research measures the dominance and influence of the law on people's behavior towards changes in healthy lifestyles (the application of hand washing, masks and keeping a distance, the release of company labor and the minus tourist income) through the paradigm of social behavior theory and the rules of *ushul fiqh* "*al-hukmu yadur ma'a al-'illah wujudan wa 'adaman*". Research Questions: (1) Is the rules of *ushul fiqh* "*al-hukmu yadur ma'a al-'illah wujudan wa 'adaman*" relevant to be applied in dealing with the Covid-19 pandemic from the aspects of health, economics, tourism and legal justice? (2) Can the country of origin of the virus be prosecuted internationally and be sanctioned by the United Nations? Legal sociology is the approach in this research. I used the Qualitative Method with the type of Research Review because of the flexibility in managing and analyzing the data. I got the material from (1) Law regulation regarding PSBB - New Normal and (2) News media. Results: (1) yes, it is relevant because the principle of legality is unable to answer the emergency phenomenon. Claims of legal vacuum or delay are additional issues that do not need to be addressed as Covid-19 is handled. (2) Yes, it can be prosecuted. The prosecution process took place even though Indonesia did not participate, because it did not consider China negligent in handling the virus. The discussion in this research is about the pros and cons as an indicator of the impact of Covid-19 on the PSBB and New Normal and the Corona 2020 Law. Conclusions: first, the readiness of the government can be done by applying this rule. Second, the application of Indonesian legal politics is free actively realize solutions to national and international problems.

Keywords: Corona Law, PSBB, New Normal, *al-hukmu yadur ma'a al-'illah wujudan wa 'adaman*, start a claim

INTRODUCTION

Background of this research is legal anxiety. The legal anxiety I mean here is twofold. First anxiety, there is an action that is claimed as an offense or a crime but cannot be punished because there are no written rules. Second, there are written regulations but they are violated. This second anxiety is my background to research about Covid 19 Impact on health, economy, tourism and law is measured by the increasing number of positive sufferers of Covid 19 due to violations committed by citizens in ignoring health protocols such as distance protection, wearing masks and washing hands and worship at home as well as work from home both during the PSBB period and when the implementation of New Normal.

I classify why the violation occurred, is this violation based on the character and culture of the community, or is it due to an indictment of punishment, or a coercive economic crush? These questions then provide the initial logical conclusion, that every country that faces Covid 19 is considered unprepared, including Indonesia, because it adheres to the principle of legality. That the rules are written first and then there are penalties later.

Delay in making regulations and then the regulation was criticized by political opponents of the government, making Covid 19 handling not optimal, so that the application of regulations also took place a lot. The principle of legality adopted by Indonesia makes the Covid 2020 law get pressure and criticism from political opponents of the authorities even though it did not get a significant response from the government. I submit a research gap that covers the delay of the government in issuing regulations, especially during the Covid 19 pandemic, which is the rule of *ushul fiqh* "*al-hukmu yadur ma'a al-'illah wujudan wa 'adaman*", which means that a regulation is applied in accordance the reason is either when it is passed or destroyed, in other words, the law is flexible in accordance with the reason for its emergence or reason for its removal, there are no laws that are late or there are no laws that are too fast, all regulations are adjusted to the exact location and time especially when it impacts on health, economy, tourism and law.

The domestic handling aspects of Covid 19 do not silence a number of countries in the world, even forty countries that claim compensation from Covid 19's home country, China. China is sued for negligence, causing the virus to spread throughout the world. This negligence is considered detrimental in the aspects of health, economy, tourism and certainly in law. This prosecution is legally international, legitimate, but so far there has been no ending. And I see that Indonesia is not one of those who sue China. Is this based on special bilateral reasons? or because China is one of the countries that provide debt loans to Indonesia? or because Indonesia adheres to a free and active foreign policy? or is it because Indonesia has a different Civil Law group than the claimant countries of China? or does the United Nations hold a general meeting of this pandemic and impose sanctions on China based on the demands of 40 countries? or is there another reason why Indonesia is not one of the countries that sued China in the Covid 19 case?

The Research Questions that I put forward based on the background in this study are as follows: first, Is the rules of *ushul fiqh* "*al-hukmu yadur ma'a al-'illah manifestation wa 'adaman*" relevant to being applied in dealing with the Covid- 19 pandemics from the aspects of health, economics, tourism and legal justice in perfecting the principle of legality (which seems slow in handling a problem, especially in an emergency)? Second, Can the country of origin of the virus be prosecuted internationally and be sanctioned by the United Nations?

Approach in this research is a sociology of law approach, by applying three key words in each science. Sociology has three keywords, namely: domination, influence and dependence on individual and group elements. The law also has three keywords: rules, binding and sanctions. When combined, it can be concluded simply in three terms: Does law dominate individuals and groups or vice versa? Does the law affect individuals and groups or vice versa? Does the law have dependence on individuals and groups or is it the opposite? Legal sociology approach is focused through the paradigm of social behavior theory. This paradigm provides three important points, namely: (1) each individual and group has a tendency to benefit themselves (2) Empirical Objectives (observable and can be studied) and (3) Responses and responses to a number of stimuli in social interaction. This paradigm is then clarified in social exchange theory and rational choice which outlines the determination of attitudes and behavior derived from exchange and choosing rationally in the perspective of individual or group benefits (Darmoko, 2017).

In theory, it can be measured that disobedience to individual and group health protocols is caused by a tendency to benefit himself or his group, by applying the logic of the opposite, ie as long as it does not cause harm then does not need to be obeyed, or while committing an offense is not punished then it doesn't matter. This shows the law does not have dominance and influence on individuals and groups, because Covid transmission continues to increase when the transition PSBB to New Normal and broke the record 1,043 cases per day dated June 9, 2020 (Eka Nugraheny, Galih and Kompas.com, 2020) and increased to 1,241 cases dated June 10, 2020 (Perdana P and Liputan6.com, 2020) And there is an Integrity Pact in entering New Normal for the cities of Surabaya, Sidoarjo and Gresik (Fachri Audhia Hafiez, 2020). This Integrity Pact, in my opinion, is the application of the rule of *ushul fiqh* "*al-hukmu yadur ma'a al-'illah wujudan wa 'adaman*", because Khofifah is a member of Nahdlatul Ulama [one of the major Muslim organizations in Indonesia] who understands the rules of Usul Fiqh.

MATERIALS AND METHODS

I obtained materials of research from two sources. First, documents in the form of laws and regulations and second, news media. The regulation issued by the Indonesian government is Law Number 2 of 2020 concerning the Stipulation of the Government Regulation to Replace the Law No. 1 Year 2 / 20 on CORPORATE VOCUSES OF 2019 / COVERSEAS 1³19/19/19/2015 ON COUNTRY POLICIES AND STABILITY FRAMEWORK AGAINST THREATS THAT DANGER THE NATIONAL ECONOMY AND / OR STABILITY OF FINANCIAL SYSTEMS TO BECOME LAW, promulgated on 31 March 2020, contains 5 chapters with 28 articles, which provide access to the government in the management of state finances with certain exceptions due to this virus, especially in easing the LAW, which was promulgated on 31 March 2020 containing 5 chapters with 28 articles, which provide access to the government in the management of state finances with certain exceptions due to this virus, especially in easing credit for certain class of workers (JDIH BPK RI, 2020) in addition to being criticized by the MAKI (Indonesian Anti-Corruption Society) on the elements: the immunity rights of state officials in the management of state finances and if given they are afraid of the BLBI and Century cases being repeated (Fahriyadi and Kontan.co.id, 2020). The provisions of sanctions are contained in chapter IV article 26 with sanctions of imprisonment of 4-12 years and fines of ten billion rupiah to three hundred billion rupiah, and up to one trillion rupiah if carried out by corporations as follows:

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BAB IV
KETENTUAN SANKSI
Pasal 26

(1) Setiap orang yang dengan sengaja mengabaikan, tidak memenuhi, tidak melaksanakan atau menghambat pelaksanaan kewenangan Otoritas Jasa Keuangan sebagaimana dimaksud dalam Pasal 23 ayat (1) huruf a, dipidana dengan pidana penjara paling singkat 4 (empat) tahun dan pidana denda paling sedikit Rp10.000.000.000,00 (sepuluh miliar rupiah) atau pidana penjara paling lama 12 (dua belas) tahun dan pidana denda paling banyak Rp300.000.000.000,00 (tiga ratus miliar rupiah).

(2) Apabila pelanggaran sebagaimana dimaksud pada ayat (1) dilakukan oleh korporasi, dipidana dengan pidana denda paling sedikit Rp1.000.000.000.000,00 (satu triliun rupiah).

Then, the PSBB regulation was published in East Java Governor Regulation No. 18 of 2020 concerning BIG SCALE SOCIAL LIMITATION GUIDELINES FOR HANDLING CORONA VIRUS DISEASE 2019 (COVID-19) IN THE EAST JAVA PROVINCE enacted dated April 22, 2020. This Governor Regulation contains 9 chapter containing 33 Articles (Gubernur Jawa Timur, 2020). Interesting to discuss is chapter 8 which contains sanctions, from article 29 to article 31. In these articles those who are punished with administrative sanctions who commit violations are: (1) Every person and / or person in charge of activities and (2) each driver motor vehicle. With administrative sanctions it can be measured low levels of obedience, because this type of punishment does not cause a deterrent effect, coupled with law enforcement authority that is not explained in detail. Below I describe articles 29-31:

BAB VIII
SANKSI
Pasal 29

1
(1) Pemerintah Provinsi dan/atau Pemerintah Kabupaten/Kota menerapkan sanksi administratif kepada setiap orang dan/atau penanggung jawab kegiatan yang melakukan pelanggaran terhadap ketentuan Pasal 5 ayat (3), Pasal 8 ayat (1), Pasal 10 ayat (2), Pasal 10 ayat (3), Pasal 10 ayat (4), Pasal 10 ayat (5), Pasal 13 ayat (2), dan/atau Pasal 14 ayat (3).

(2) Sanksi administratif sebagaimana dimaksud pada ayat (1) berupa:

- a. teguran lisan;
- b. teguran tertulis;
- c. tindakan pemerintahan yang bertujuan menghentikan pelanggaran dan/atau pemulihan;
dan/atau
- d. pencabutan izin sesuai dengan kewenangannya.

Pasal 30

Setiap pengendara kendaraan bermotor yang melakukan pelanggaran ketentuan Pasal 18 ayat (4), ayat (5), ayat (6), dan/atau ayat (7) dikenakan sanksi administratif sebagaimana dimaksud dalam Pasal 29 ayat (2).

Pasal 31

Selain penerapan sanksi administratif sebagaimana dimaksud dalam Pasal 29 ayat (1) dan Pasal 30, Penegak Hukum dapat menerapkan kewenangannya sesuai dengan ketentuan peraturan perundang-undangan.

The second source is the news media which regularly provides direct information about Covid 19 that impacts on health, economy, tourism and the law. Media coverage of the impact of Covid 19 can be categorized as follows: (1) health impact with the discovery of the first Corona positive patient (Ihsanuddin and Kompas.com, 2020), evacuation of Indonesian citizens from the Chinese city of Wuhan according to the WHO health protocol (Santoso and detikNews, 2020) and the application of hand washing behavior to keep the distance from wearing masks (Budiansyah and CNBC Indonesia, 2020) to the first patients who died due to Corona (Prabowo and Kompas.com, 2020), (2) the impact of tourism with the closure of many tourist attractions (Mutiah and Liputan6.com, 2020), (3) economic impact with many cases of employees being fired on the grounds that the company is no longer able to provide salaries and THR (Khalisotussurur and Vivanews.com, 2020) (4) the emergence of regulations that are directly related to prevention and dissemination extent with Law No. 2 of 2020 concerning Corona, Governor's Regulation on the CBDR and Integrity Pact in East Java over three regional heads during the transition to new normal while maintaining strict health protocols (Bahrul Marzuki and Jatimtimes.com, 2020), as already discussed above and (5) pros and cons of the slow government in dealing with Corona, so it is necessary to apply the rule of *ushul fiqh* "*al-hukmu yadur ma'a al-'illah wujudan wa 'adaman*" (6) responded to phenomena in the post-Corona international world with the need for the Indonesian government, like other countries, to demand China with compensation (Miranti, Verdiana and Liputan6, 2020) for the spread of Corona throughout the world through the United Nations (Putri Bramasti and Tribunnews.com, 2020). There are reasons why Indonesia did not participate in suing China as follows: (1) China ensures that the country agrees to be sued (2) Lawsuits based on evidence will not be permitted to be obtained from China (3) execution of ICJ decisions in sentencing China will be difficult to implement (4) Indonesia implements a free and active foreign policy (Welianto and Kompas.com, 2020)

Qualitative review is the method that I used in this research. The selection of qualitative methods is based on the flexibility of data analysis and the process of producing results of research with diverse interpretations that make research develop and provide diverse solutions to one problem (Darmoko, 2018). Research review is a type of processing of data sources from various sources which I then summarize by generating novelty ideas from the concoction of existing sources, so that in this study will cover each other gaps in research, so that the body of knowledge from Covid 19 in the world, especially handling in Indonesia can provide perfection of new information in its development that can be used as a reference in handling Covid 19 in the future.

RESULTS

Results of this research are: first, the application of the rule of *ushul fiqh* "*al-hukmu yadur ma'a al-'illah wujudan wa 'adaman*"'s manifestation of the impact covid 19 is a necessity in countering the opinions which state that the government is slow in dealing with problems, especially again by still using the principle of legality which will be slow in providing procedures for solutions to problems that occur, especially in pandemic emergencies. This application is a fast alternative in providing quick answers in accordance with the needs that occur.

Second, after Covid 19, the filing of an international lawsuit against China could still be carried out in other ways, if efforts through the ICJ could not be done. The effort is to complicate working relations between countries in the Chinese economy, in other words, an economic embargo on China can be done together, namely by not buying Chinese goods or by pressing China to ratify trademark rights regulations that will make China not can plow freely. It can also be done by terminating work relations

with various Chinese companies and closing it in compensation claiming countries. In a legal context that cannot be carried out on a court table, then socio-economic penalties can be applied.

DISCUSSION

The discussion in this study was divided into those who were Pro and Contra. First, the application of the rule of ushul fiqh "*al-hukmu yadur ma'a al-'illah wujudan wa 'adaman*", for groups who agree on the application states that the law was formed to determine certainty and justice. Justice is putting things in their place, the law according to the reason. As for the contra stated enough with certainty. The certainty here is that a regulation must go through formal legal procedures without regard to effectiveness and efficiency, because the law is seen as a product of the deal between the executive and legislative.

Secondly, it is important whether or not Indonesia sues China. For those who agree Indonesia to take part in suing using the logic of law that in every violation and crime that is written or claimed as a violation and crime, then there must be a person who is punished and responsible for his actions, intentionally or not, with the intent and has planned or due to negligence. And for the cons that Indonesia does not need to sue China because of two things: (a) the application of an active free politics implemented by the government is appropriate because in international law, the lawsuit for compensation against China does not have strong evidence (b) focus on state recovery itself due to Covid is more important than suing other countries.

CONCLUSION

There are two conclusions, first, the impact of Covid 19 on health, economics, tourism and law has completely changed human behavior in making regulations that protect all parties through the application of the rule of *ushul fiqh "al-hukmu yadur ma'a al-'illah wujudan wa 'adaman"*. Second, the claim for compensation to China does not need to be done because it focuses on the recovery of one's own country. Researcher's suggestion on two things, first, for every head of government in Indonesia to always apply the rule of *ushul fiqh "al-hukmu yadur ma'a al-'illah wujud wa 'adaman"*, not because of religious factors but on the substance of flexibility that can applied. Second, for researchers after me, to examine from the perspective of the impact of Covid 19 from the educational and cultural aspects.

REFERENCES

- Bahrul Marzuki, M. and Jatimtimes.com (2020) "Regulasi Surabaya Raya dan Pakta Integritas, Heal the World jadi Spirit Cegah Covid-19." Available at: <https://jatimtimes.com/baca/216450/20200611/165100/regulasi-surabaya-raya-dan-pakta-integritas-heal-the-world-jadi-spirit-cegah-covid-19>.
- Budiansyah, A. and CNBC Indonesia (2020) "Bukan Imbauan, Ini Perintah: Jaga Jarak, Cuci Tangan, Masker!" Available at: <https://www.cnbcindonesia.com/lifestyle/20200405204309-33-149896/bukan-imbauan-ini-perintah-jaga-jarak-cuci-tangan-masker>.
- Darmoko, M. (2017) Modul Kuliah Sosiologi Hukum FH UBHARA Surabaya, Ubhara Press. Edited by M. Mursan. Surabaya: UBHARA Press.
- Darmoko, M. (2018) LESSON MODULE COMPILATION OF TECHNICAL METHODS OF SCIENTIFIC WRITING. Surabaya: UBHARA Press.
- Eka Nugraheny, D., Galih, B. and Kompas.com (2020) "1.043 Kasus Baru, Rekor Tertinggi Penambahan Covid-19 Indonesia." Available at: <https://nasional.kompas.com/read/2020/06/09/16000861/1043-kasus-baru-rekor-tertinggi-penambahan-covid-19-indonesia>.
- Fachri Audhia Hafiez, medcom. id (2020) "Khofifah: Pencabutan PSBB Surabaya Raya dengan Pakta Integritas." Available at: <https://www.medcom.id/nasional/daerah/3NOGdr0N-khofifah-pencabutan-psbb-surabaya-raya-dengan-pakta-integritas>.

- Fahriyadi and Kontan.co.id (2020) "Ini lima alasan Perppu No 1/2020 harus digugat ke Mahkamah Konstitusi." Available at: <https://nasional.kontan.co.id/news/ini-lima-alasan-perppu-no-12020-harus-digugat-ke-mahkamah-konstitusi>.
- Gubernur Jawa Timur (2020) Pergub-No.-18-Tahun-2020-tentang-PSBB. Available at: <https://www.suarasurabaya.net/wp-content/uploads/2020/04/Pergub-No.-18-Tahun-2020-tentang-PSBB.pdf>.
- Ihsanuddin, K. I. and Kompas.com (2020) "Fakta Lengkap Kasus Pertama Virus Corona di Indonesia." Available at: <https://nasional.kompas.com/read/2020/03/03/06314981/fakta-lengkap-kasus-pertama-virus-corona-di-indonesia?page=all>.
- JDIH BPK RI (2020) "Undang-undang (UU) Nomor 2 Tahun 2020 Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2020 tentang Kebijakan Keuangan Negara dan Stabilitas Sistem Keuangan untuk Penanganan Pandemi Corona Virus Disease 2019 (Covid-19) dan/atau Dalam Rangka Menghadapi Ancaman yang Membahayakan Perekonomian Nasional dan/atau Stabilitas Sistem Keuangan Menjadi Undang-Undang." Available at: <https://peraturan.bpk.go.id/Home/Details/137323/uu-no-2-tahun-2020>.
- Khalisotussurur, L. and Vivanews.com (2020) "Nasib Pekerja Imbas Corona, Mulai dari PHK sampai THR Terancam." Available at: <https://www.vivanews.com/indepth/roundup/44428-nasib-pekerja-imbasa-corona-mulai-dari-phk-sampai-thr-terancam>.
- Miranti, B., Verdiana, T. and Liputan6 (2020) "Bisakah Menggugat China ke Pengadilan Soal Pandemi Virus Corona COVID-19?" Available at: <https://www.liputan6.com/global/read/4241460/bisakah-menggugat-china-ke-pengadilan-soal-pandemi-virus-corona-covid-19>.
- Mutiah, D. and Liputan6.com (2020) "Sektor Pariwisata Nyaris Tumbang Akibat Corona Covid-19, Menparekraf Masih Siapkan Solusi." Available at: <https://www.liputan6.com/lifestyle/read/4209455/sektor-pariwisata-nyaris-tumbang-akibat-corona-covid-19-menparekraf-masih-siapkan-solusi>.
- Perdana P, N. and Liputan6.com (2020) "Sebaran Pasien Positif Covid-19 di 34 Provinsi per 10 Juni 2020." Available at: <https://www.liputan6.com/news/read/4275724/sebaran-pasien-positif-covid-19-di-34-provinsi-per-10-juni-2020>.
- Prabowo, D. dan K. and Kompas.com (2020) "5 Fakta Pasien Covid-19 Pertama yang Meninggal di Indonesia." Available at: <https://nasional.kompas.com/read/2020/03/11/15131521/5-fakta-pasien-covid-19-pertama-yang-meninggal-di-indonesia?page=all>.
- Putri Bramasti, I. and Tribunnews.com (2020) "Imbas Wabah Virus Covid-19, 40 Negara Gugat China di Pengadilan AS dan PBB Didesak untuk Bertindak." Available at: <https://style.tribunnews.com/amp/2020/04/20/imbasa-wabah-virus-covid-19-40-negara-gugat-china-di-pengadilan-as-dan-pbb-didesak-untuk-bertindak?page=all>.
- Santoso, A. and detikNews (2020) "WNI yang Dievakuasi dari China Akan Jalani Observasi Standar Protokol WHO." Available at: <https://news.detik.com/berita/d-4881596/wni-yang-dievakuasi-dari-china-akan-jalani-observasi-standar-protokol-who>.
- Welianto, A. and Kompas.com (2020) "Politik Luar Negeri Indonesia, Politik Bebas Aktif." Available at: <https://www.kompas.com/skola/read/2020/03/20/150000969/politik-luar-negeri-indonesia-politik-bebas-aktif?page=all>.

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