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# Legal Analysis in Airlines Business Over Middle of Covid-19 Pandemic at Indonesia

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Aviation is an inseparable part of every country's transportation which has dropped dramatically in the wake of the COVID 19 pandemic. Private airlines in Indonesia can continue to operate during the pandemic with passenger numbers are limited by the government about 40% -70%. As the result, high expenses in the cost and declining revenues. Consequently, in a reduction of employee's number and a reduction employee's salaries in the salaries who were still in the private aviation sector. Through PERPU No. 1 of 2020, the government provides financial assistance to help the private companies through Bank Indonesia. However, with the help of this regulation, a legal vacuum is created in its implementation in the aviation world to make facing the pandemic in Indonesia. In this situation, aid funds can be misused and misused. In order to avoid further consequences, regarding to the death of private airlines in Indonesia that affecting to all Indonesians people, it is necessary to bring more government attention as a form of solidarity with others. Stakeholders and Indonesian compatriots through a strategic sector policy and to create its implementation. In this case, the central government and the Directorate General of Civil Aviation can learn from other countries by proposing policies such as injection of funds with emphasis on the requirements of continuity of workers' employment contracts, in negotiating payment for aviation fuel, obtaining tax breaks and incentives for lower tariffs for airport services and other policies in the operational sector to encourage the expansion of aviation activities in Indonesia for survive and alive.

**Keywords:** Aviation, COVID-19, Government.

## 1. INTRODUCTION

Transportation in Indonesia is very important to realize the concept of the archipelago as a political, socio-cultural, economic, and defense and security area [1]. In general, it can be said that there are two aspects of the construction and promotion of air transportation, including the development and development of sustainable resources. It aims to create safety and comfort in transportation means to achieve a balance of capabilities. Capacity of the wider community as well as maintaining the renewal and development of legal transportation, among others, by providing services in the field [2]. The development and progress of civil aviation in Indonesia, which is included in the scope of the National Aviation Law. It is currently considered to require various supports for goodness and justice.

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Today's the airplanes have shown an increasingly advanced quality and people often make contact not only nationally but also internationally. Therefore, it is necessary to use an aircraft utilization system which is very useful because air transportation can be faster and save time [3]. For example, in the government's efforts to encourage rural development by developing homemade aircraft, namely the PT Dirgantara Indonesia N219 aircraft. It was financed by the National Aeronautics and Space Agency as an inter-island transport trailer in Indonesia. An aviation and air transportation at Indonesia are in the process of updating now and in the future so that the function of aviation as a vehicle for development is actively involved in providing better services to flight service users, not only in cities, but also far away and remote areas. With the existence of air service generation activities, various kinds of facilities have been sought to

meet the needs of air transportation. The increasing flow of passengers and the high number of flights in Indonesia, coupled with inadequate facilities, will result in the absence of good air services. Therefore, efforts to improve commercial flight facilities must be supported. However, amid the enthusiasm to improve flight facilities to encourage national and international development. At the end of December 2019, the Corona virus infection called COVID-19 (Corona Virus Disease 2019) was first discovered in the city of Wuhan, China. This virus is contagious very quickly and has spread to almost all countries, including Indonesia, in just a few months.

Here, corona viruses are contained non-segmented positive sense RNA viruses that belong to the family Coronaviridae and the order Nidovirales and are widely distributed in humans and other mammals [4]. Although most human coronavirus infections are mild, epidemics of two beta coronaviruses severe acute respiratory syndrome coronavirus (SARS-CoV) and Middle East respiratory syndrome coronavirus (MERS-CoV) have caused more than 10,000 cumulative cases in the past two decades [4, 5]. with a mortality rate of 10% for SARS-CoV and 37% for MERS-CoV. The coronavirus already identified may be just the tip of the iceberg, with potentially more recent and severe zoonotic events to be revealed. This has made several countries implement policies to impose lockdowns and other preventive measures and protocols in order to prevent the spread of the Corona virus [6]. In Indonesia itself, the Large-Scale Social Restrictions (PSBB) and Health Protocol policies were implemented to limit the spread of this virus. Prevention of the spread of COVID-19 with this strict restriction policy has led to community economic activity in various countries, especially countries that were worst hit by the COVID-19 pandemic such as China and countries whose economies are closely integrated in the Global Value Chain (GVC) centered around China, such as South Korea and Japan as well as Southeast Asia and the surrounding areas declined sharply, and the company's production activities were forced to stop temporarily [7]. It causes the global economy to contract, different from previous economic crises. The impact of the COVID-19 Pandemic has hit not only the demand side, but also the supply side of the economy, causing the pressure of economic growth to be felt in many global countries.

Moreover, various policies have been issued by the Indonesian government as an effort to help facilitate the business of airlines as result of a pandemic effect [8]. However, in reality the existence of various policies which has been issued actually burdened airlines in carrying out activities in Indonesia including the limiting of passengers's number on flight in the airline's business so that airlines have to fight hard in running their business in the midst of a pandemic COVID-19 [9]. In the Aviation Law, the ratification of the 2001 Cape Town International

Convention as defined in Aviation Law No. 1 of 2009, has not been equipped with regulations in dealing with a pandemic. This is explained in Law No. 1 of 2009 which only describes flight safety outside the scope of a pandemic disaster [10].

Taking into account the above conditions, the Indonesian government needs to seek to save national airlines considering the aviation industry as a global supply chain that must be maintained that can encourage economic growth when the pandemic ends. Airline rescue efforts are not only on a national scale, but on a global scale [11]. Half the planes operated by airlines in the world are not owned by themselves, but are assets of aircraft leasing companies. Government participation is needed as a form of solidarity with fellow stakeholders through model policies and strategies for recovering the aviation business after the Covid-19 pandemic.

## 2. METHODOLOGY

This research was conducted using normative research methods where the library-based and field research plays a key role in this study.

### A. Library Research

In this method the research sources come from the library, using books, articles, magazines, expert opinions related to the problem being analyzed. Then these sources are described and used as references in this study. As a result, the main primary legal sources of research are 4 types of legal sources, as follows:

The main legal sources of research are:

- a. Law Number 1 of 2009 concerning Aviation;
- b. The 1945 Constitution of the Republic of Indonesia;
- c. Circular Letter of the Minister of Transportation Number 26 SE of 2021 Guidelines for the Implementation of Domestic Travel by Air Transportation During the Covid-19 Pandemic Period.
- d. Circular Letter of the Ministry of Transportation Number SE 25 of 2020 concerning Instructions for the Implementation of People's Travel by Air Transportation for travellers abroad in the Context of Preventing the Spread of Corona Virus Disease 2019 (COVID-19).

Books and articles used as secondary legal sources can be accessed through the bookstore, the University of Indonesia library and the University of Indonesia's Faculty of Law, as well as the internet by accessing the COVID19 Task Force and the Ministry of Transportation websites and other sites related to law and aviation.

### B. Field Research

In this method, the author conducts field research by collecting data directly from experts or related sources. This method will use interviews with airlines or airports related to this research.

### 3. RESULTS AND DISCUSSION

#### A. Indonesian Government in Saving Aviation Business

Taking into account the spread of Corona Virus Disease in 2019 (Covid-19) which was declared by the World Health Organization (World Health Organization) as a pandemic in most countries around the world, including in Indonesia. It shows an increase from time to time and has caused fatalities and increasing material losses, which have implications for social, economic, and community welfare aspects. Based on these considerations, President Joko Widodo (Jokowi) has enacted Law (UU) No. 2 of 2020 concerning the Stipulation of Law No. 2 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Corona Virus Disease 2019 (Covid-19) Pandemic and/or in Facing Threats That Endanger the National Economy and/or Financial System Stability into Law signed on March 31, 2020. This PERPU states that the implementation of the State Revenue and Expenditure Budget (APBN) as referred to in the framework of: a. handling of the pandemic (Covid-19) and/or b. facing threats that endanger the national economy and/or financial system stability, it is necessary to establish a state financial policy and a financial system stability policy.

State financial policies, as referred to in this PERPU, include policies on state revenues including policies in taxation, state expenditure policies including policies in regional finance, and financing policies as well as for handling problems with financial institutions that endanger the national economy and/or financial system stability. According to this PERPU, Bank Indonesia (BI), the Deposit Insurance Corporation (LPS), and the Financial Services Authority (OJK) have the authority to set out in Chapter III regarding Financial System Stability Policy. One of them is that Bank Indonesia has given the authority to provide access to funding to corporations/private sectors by issues repo of Government Securities or State Sharia Securities owned by corporations/private sectors through banks. On other words, Bank Indonesia (BI) opened a space for mortgage securities (repo) to assist banking liquidity. Repo only applies to financial institutions or corporations that have state securities. Costs that have been incurred by the Government and/or member institutions of the Financial System Stability Committee (KSSK) in term of implementing state revenue policies including taxation's policies in the field of taxation, state expenditure policies including policies in regional finance, financing policies, financial system stability policies, and recovery programs national economy, is part of the economic costs to save the economy from the crisis and is not a state loss.

#### B. Other Countries' Policies in Saving the Aviation Industry

IATA (International Air Transport Association), said that analysis shows that up to 4.8 million aviation jobs may be lost. If you look at the activities that will be indirectly affected, then at least 46 million jobs are at risk of stalling as well. As a result of the role of the aviation world which is very influential on business and tourism activities which so far have relied a lot on air travel. Similarly, there are many activities throughout the distribution system chain in construction, catering, professional services, and everything else needed to run a global air transport system. Employment opportunities that support aviation have the potential to fall by 46 million to 41.7 million. Meanwhile employment in direct activity at airlines, airports, manufacturing and air traffic management has fallen by 4.8 million, a decline of up to 43% compared to the pre-Covid-19 situation. On the other hand, there have been 39,200 special repatriation flights bringing the citizens of the relevant country home, which reached approximately 5.4 million citizens after the lockdown was imposed in March 2020.

Policies that will make it easier for air transport consumers to travel and at the same time align with international policies for the implementation of international flights that are safe from the Covid-19 pandemic. Following are the aviation industry recovery policies carried out in several countries, such as Canada: Land lease exemption from March 2020 to December for 21 airport authorities paying rent to the federal government, providing assistance of up to \$331.4 million; United States: Airports provided financial support of approximately \$10 billion to recover from Covid-19 under the Trump Administration's CARES Act Airport Program; The United States, the Netherlands and France: inject funds by emphasizing the requirements for the continuity of the employee's employment contract. That way in parallel the rights of potential employees are more protected. Country Australia: provided financial assistance of \$175 million to airlines (not provided to airports); Brazil: allows airlines and airports to defer payment of certain fees. Withholding payments from industry demands such as the revocation of certain taxes and reductions in fees. Payment of flight navigation fees must be deferred for six months; Singapore: As part of the second aid package in response to the COVID-19 outbreak, more than \$1 billion (US\$700 million) will be set aside for sectors such as aviation and tourism; Hong Kong: Hong Kong will shore up the aviation industry with an additional HK\$1 billion (US\$128 million) to help hundreds of companies including airlines and retailers.

*C. Implementation of Government Regulations in Suppressing the Spread of COVID-19 on Air Transport Amid a Pandemic in case New Normal Policy in Aviation Business.*

New Normal Policy in Aviation Business is revised by the government regulation. The maximum of capacity air transportation. It regulated in Circular Letter Number 13 of 2020 concerning Air Transportation Operations in the Period of Productive and Safe Community Activities from COVID-19 and Circular Letter of the Director General of Air Transportation of the Ministry of Transportation of the Republic of Indonesia Number: 26 of 2021 concerning Guidelines for the Implementation of Domestic Travel by air transportation during the Corona Virus Disease (COVID-19) Pandemic. The maximum capacity at the airport cannot be more than 50%. Meanwhile, on the plane, his party has set a maximum capacity of only 70%. In addition, the Government regulates the provisions for traveling of people or domestic passengers by air transportation during the COVID-19 pandemic. Such as regulation to apply and comply with health protocols (3M), including wearing masks, keep distance and avoiding of crowds, and washing hands with soap or using hand sanitizer before eat and drink throughout the journey which is less than 2 hours, except for individuals who are obliged to take medicines for treatment which if not done can endanger the safety and health of the person.

*D. Implementation of Government Regulations in State Financial Policy and Financial System Stability for Handling the 2019 Corona Virus Disease (Covid-19) Pandemic Law no. 2 in 2020).*

Bank Indonesia (BI) opened a space for debt securities (repo) to assist banking liquidity. Repo only applies to financial institutions or corporations that have state securities. To support efforts to recover the national economy from the impact of Covid-19, Bank Indonesia will increase monetary easing through quantitative easing, one of which is the expansion of monetary operations through the provision of term-repo to banks and corporations with underlying SUN/SBSN transactions with tenors. up to 1 year. This facility will increase liquidity in banks and corporations.

*E. Legal Vacancies in the Implementation of Government Regulations Amid a Pandemic in the Aviation Business in Indonesia.*

The government's current efforts in dealing with the Covid-19 Pandemic in Indonesia still rely on the Prevention and Offering of Funds Assistance in the form of Government Securities to Bank Indonesia. However, it is unfortunately that the efforts to make these regulations are only limited to protocols for preventing the spread of the COVID-19 virus and offering bail out assistance from

the government. It has not entered the strategic regulatory level in the Private Aviation Business sector and in parallel the rights of employees have the potential to be more protected from abuse. So, there is a legal vacuum at the level of strategic implementation.

So that, there is a legal vacuum at the level of strategic implementation in this Law. Especially in the strategic implementation of the Aviation Business. With the regulations that strategically regulate, it is hoped that in parallel whit the rights of employees are potentially more protected from abuse and misappropriation. On the other regulations, there is a New Normal Policy in the Aviation Business by revising the limitation of maximum capacity in air transportation. It regulated in Circular Number 13 of 2020 concerning Air Transportation Operations in the Period of Productive and Safe Community Activities from COVID-19. Now the maximum capacity at the airport cannot be more than 50%. Meanwhile, on the plane, his party has set a maximum capacity of only 70%. In order to maintain maximum capacity, flight navigation operators can adjust the slot time settings to prevent the accumulation of prospective passengers at the airport. Then the policy for national flight operators consisting of air transport operators, airport operators and flight navigation service operators are also required to equip all personnel on duty with medical equipment, including masks and gloves. All personnel on duty in the airport are required to comply with applicable health protocols, including wearing masks and gloves while on duty, checking body temperature at least twice a day while on duty, getting used to washing hands frequently with soap or hand sanitizer, implementing physical distancing and minimizing unnecessary interactions with other people.

Thus, policies for passengers. In accordance with government regulations, airlines require each passenger to complete required documents such as a Health Certificate Free from COVID-19, and consideration for the Flight Operator Relaxation Policy. The government which represented by the Ministry of Transportation, prioritizes prevention and provides an opportunity for Airlines in Indonesia to save their business independently according to their respective needs without assistance or policies in easing airline operations in the face of a pandemic. Furthermore, the impact of the legal vacuum creates a very pronounced effect on airlines in Indonesia, especially employees who work in the aviation business in Indonesia. Because with the reduction of passengers and activities in the aviation business, airlines must make budget savings in order to survive and survive. In the midst of a pandemic that hit the aviation business, these savings were like a decrease in basic salary by 60%-66%, a reduction in the number of employees. Handling the Covid-19 Pandemic in Indonesia, especially in the Aviation Business sector, only limited to protocols for preventing the spread of the COVID-19 virus and offering

bail out assistance from the government. It has not entered the level of strategic regulations which related to the sector of Private Aviation Business. In parallel the rights of potential employees are better protected from abuse and fraud. So, there is a legal vacuum at the strategic implementation level. The presence of Law no. 2 of 2020 in the midst of the pandemic itself received sharp attention from various parties. One of them is because there is no clear definition of what is called "Financial System Stability for Handling the Corona Virus Disease 2019 (Covid-19) Pandemic" or "In the Context of Facing Threats That Endanger the National Economy and/or Financial System Stability". Any criteria that determine the two conditions above in the articles of Law no. 2 of 2020. This lack of understanding will have an impact on the flexibility of policy implementers to state the arguments for financial instability without any benchmarks. In such conditions, the implementation of the Act has the potential to be misused. This is because the bail-out scheme always has the potential to create scandals for the abuse of state financial power over the handling of the crisis, which has caused huge costs and has reminded the public of the trauma of the 1997-1998 economic crisis.

Look at the policies of other countries in term of saving the aviation business in their respective countries, they focus on their employees, who incidentally are the majority of the people of their own country who work in it. Therefore, the policies issued are in the form of parallel relationships, which aim to provide protection not only for airlines, but also for employees in them as a form of solidarity. Government In this case the Central Government and the Directorate General of Civil Aviation can learn from other countries in issuing policies so that the mandate of the Constitution of the Republic of Indonesia article 33 paragraph 4 is, "The national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity". Stay awake in the world of aviation in Indonesia in the midst of this Covid-19 Pandemic. It should have been a warning to the Indonesian government that the legal vacuum of implementation in the strategic side of the Aviation Business in the midst of a Pandemic should be filled and its implementation hastened so as not to cause further losses to the Aviation Business, especially the employees in it, namely the sons and daughters of the Indonesian Nation who must be protected by the State. The Government should make an Implementing Regulation in the context of saving the Private Aviation Business and the Indonesian Community in it. As in protecting the community in it can be realized by: The issue of a Government policy in injecting funds

by emphasizing the requirements for the continuity of employee employment contracts; The issue of the Government's policy in restoring the demand curve of the aviation industry through collaborative efforts between the government and the public in the discovery, availability of Corona Virus Drugs/Vaccines, and dissemination to all Indonesian people, especially in the field of transportation, namely air transportation with Sinovac. The emergence of government policies in the economic sector in restoring national income that affects disposable income so that it can increase the marginal propensity to consume (MPC) in the aviation sector; The presence of a Government Policy to increase government spending on the domestic and international aviation sector. However realization of the Decree of the Minister of Transportation of the Republic of Indonesia to return the permitted transport capacity to 100% for domestic and international scheduled flights (by complying with health protocols); The presence of the Decree of the Minister of Transportation of the Republic of Indonesia for the adjustment (increase) of the Upper Limit Tariff (TBA) and Lower Limit Tariff for scheduled domestic and international flights that do not burden passengers/community; The presence of the Government's policy in merging in the aviation and tourism sectors and forming super hubs for national and international airports such as Soekarno Hatta, Ngurah Rai, Juanda, Kualanamu, Yogyakarta, Balikpapan, Hasanuddin, Sam Ratulangi as to spur Indonesian airlines to grow and develop; It is hoped that negotiations on payment for Aircraft Avtur fuel will be carried out to the Ministry of Energy and Mineral Resources of the Republic of Indonesia and PT. Pertamina Persero; It is expected that airlines will obtain tax incentives from the Ministry of Finance of the Republic of Indonesia; The implementation of airlines obtains incentives for reducing airport service tariffs from the Director General of Air Transportation, Angkasa Pura, Airnav Indonesia. The realization of the Decree of the Minister of Transportation of the Republic of Indonesia regarding the creation of healthy competition in the aviation industry, both domestic and international scheduled flights as well as domestic and international cargo. In order to create a sense of flight security (health, security, safety aspects) from the origin airport, in the aircraft and the destination airport.

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