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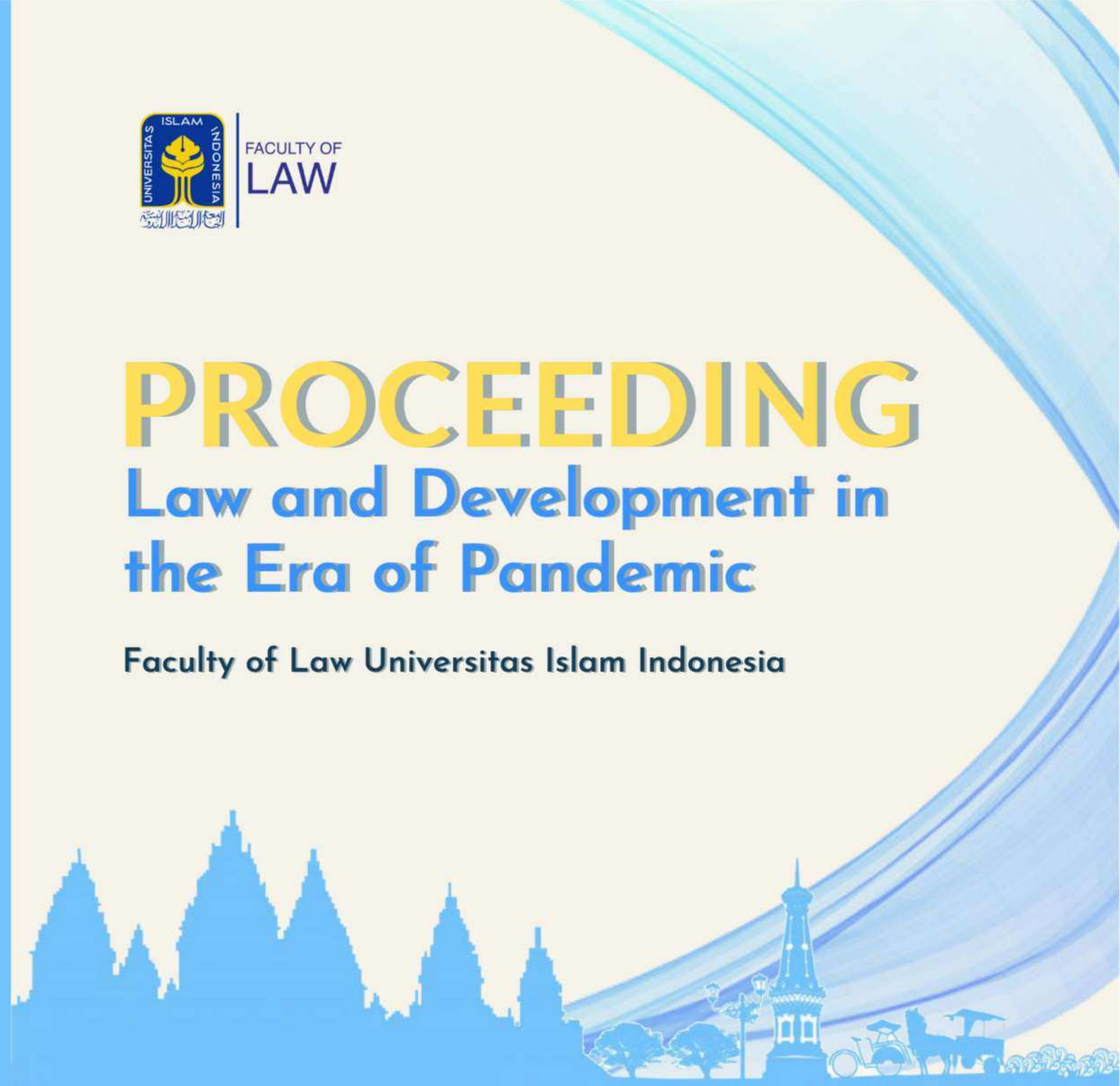
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Faculty of Law Universitas Islam Indonesia



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Foreword

Assalamualaikum, wr., wb.,

In the age of pandemic Covid-19 had impacts toward the humans. In relation with the humans has correlation with the development of law, and thus the committee held the 2020 International Students Colloquium with the topic of "Law and Development During Pandemic Era: Alleviating the Disadvantages to the Law that Affected by Covid-19". The objective of the conference is to acknowledge the participants regarding how the settlement should be the problem and disadvantage that caused by the pandemic; to engage the participants to think critically to the polemic issue of law during pandemic; and as a venue for lecturer, student, and community in respond to poor resolution from each country.

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Wassalamualaikum wr. wb.

Editor in Chief,

Dodik Setiawan Nur Heriyanto, S.H., M.H., L.LM., Ph.D.

The Great Reset: Legal Perspective and its Development

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Abstract

COVID-19 Pandemic has led to several long-term consequences in many aspects of life and will exacerbate the global crisis that was already underway. The World Economic Forum has launched its newest program called The Great Reset in response to the situation in the midst of the COVID-19 Pandemic. The Great Reset is a concept introduced by Professor Klaus Schwab and Thierry Malleret that explained in order to achieve a better outcome, the world must jointly and swiftly act together to identify the challenges and solutions toward human interactions after the COVID-19 Pandemic. Such interactions include economic, social, public security, and also the law. Law has developed further since the rise of the pandemic and it threatening the legality of the enforcement including the right and obligation of the respective authority and institutions. How does The Great Reset impacting the law and how do we respond to it?

This paper aims to discover the challenges as well as the solutions from the perspective of law and its development from the impact of The Great Reset. We will use quantitative methods of research including case analysis, statutory study, and correlational research to make sure the legality and comprehensiveness of the paper. Other methods that are needed will also be utilized to make sure that every aspect is covered in this paper. It is hoped that this paper will be used for the greater good of the world, especially in the perspective of law by finding the right solutions for the right challenges in response to the condition in the midst of pandemic.

Keywords**:** *The Great Reset, Law, Challenges, Solutions*

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1. INTRODUCTION

COVID-19 has been declared as a global pandemic on 11 March 2020 by the World Health Organization ("WHO") and since then many world crises have been triggered by the monstrosity of this Pandemic[1]. It is undeniable that some scholars like Wade Davis stated that this is "the fall of the empire" whereas many state actors are overwhelmed by this situation and do not react as supposed to be[2]. Deaths are inevitable, and it is not exaggerating if we say that our world is plunging deeper toward the valley of death[3]. According to WHO, in October 2020, there have been more than 45 million cases all around the world and more than 1.2 million deaths. America is the biggest contributor to COVID-19 cases followed by India and Brazil. This generation is faced with the biggest Pandemic ever happened in the 21st century. Challenges by challenges occur and must be faced in order to survive in the midst of Pandemic[4]. Below is actual data on a Global GDP Growth survey made by World Bank.

Table 1. Data Global Gdp Growth 2017-2020

	2017	2018	2019	2020
World	3,3	3,0	2,4	-5,2
America	2,4	2,9	2,3	-6,1
Europe	2,5	1,9	1,2	-9,1
Asia	6,5	6,3	5,9	0,5
Africa	2,6	2,6	2,2	-2,8
Australia	2,4	2,6	2,2	-6,3

Source: Global Economic Prospects, A World Bank Group Flagship Report 2020[5]

According to the survey, it is shown that Global GDP Growth experienced a minus in 2020. As we know COVID-19 has disrupted many sectors, namely economic, socio-cultural, public security, and also the law. Disruption is a series of events that brings great change by disrupting the usual activity[6]. Disruption may bring advantages as well as disadvantages depending on how people respond toward it. Disadvantages or negative disruption is the result of the inability to adapt to the current situation that is said to be fast-paced, complex, and ambiguous. Those who fail to adapt will be left behind and crushed by the fact that COVID-19 is worsening the situation. While advantages or positive disruption can be achieved by adapting and changing the way we lived[7].

In July 2020, Professor Klaus Schwab and Thierry Malleret launch their new book called The Great Reset and present it in the World Economic Forum attended by 117

[1] "Virtual Press Conference on COVID-19 – 11 March 2020" <https://www.who.int/docs/default-source/coronaviruse/transcripts/who-audio-emergencies-coronavirus-press-conference-full-and-final-11mar2020.pdf?sfvrsn=cb432bb3_2> accessed November 3, 2020
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[5] *Global Economic Prospects* (World Bank Group 2020)
[6] Foss NJ, "Behavioral Strategy and the COVID-19 Disruption" (2020) Journal on Management 1322
[7] *ibid*

countries all around the world discussing how to respond to this pandemic[8]. Schwab in his book explained that The Great Reset is divided into 3 main chapters which consist of the impact of the disruption in various human interactions, the possible consequences and challenges on its sectors, and how to overcome the great danger resulted from the COVID-19 pandemic. The Great Reset is the future of the world and has the aim to adapt and help the world surviving the global pandemic. The Great Reset is said to be the world agreement on how to respond the negative disruption caused by the pandemic. The disruption made will not be linear and certain, instead, it will be irregular and unpredictable. The Great Reset is an attempt to identify and shed light on the changes ahead and to make a modest contribution in terms of delineating what their more desirable and sustainable form might resemble[9].

The world has been said concatenated and linked together. Schwab also illustrates the boat metaphor that stated the 7 billion people that inhabit the world does not live in a hundred separate boats (countries) instead we are living in hundred separate cabins in one giant boat. It is then pursued by the analysis on the context of the pandemic that said if a virus infected the giant boat then we as the passenger should hand-in-hand to clean the virus in the boat not only in our personal cabins[10]. That is why The Great Reset is important to take care of the global boat as a whole.

Schwab also showed that every human interaction is interdependent resulted from globalization and technological improvement. Interdependent means the world is deeply connected through one system which caused all risks and consequences will affect each other. Such economic conflict can directly or indirectly result in environmental conflict, geopolitical conflict can also result in social conflict and it does not rule out the possibility that it will affect law and legal enforcement as well[11].

2. PROBLEM FORMULATIONS

Law is said to be one of the big agenda in The Great Reset. It has now become the priority to conduct global reform on the law to adapt to this situation. It is said so because researchers have identified several problems toward law and legal enforcement in the midst of pandemic. Recently, criminals have been exploiting the upheaval generated by the COVID-19 pandemic to conduct heinous crimes by updating and improving the *modus operandi* to gain additional profits by exploiting the weakness and loophole created in this pandemic[12].

While the world focuses itself on healthcare to handle this pandemic, we tend to forget that law is interconnected with other aspects and should be taken care of as well. In this paper, we will formulate the challenges as well as solutions from the effect of the pandemic toward law and its development.

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[8] Klaus Schwab and Thierry Malleret, *COVID-19: The Great Reset* (Forum Publishing 2020) 11
[9] *ibid*
[10] *ibid*
[11] Mahbubani K, *The Great Convergence: Asia, the West, and the Logic of One World* (BBS PublicAffairs 2014) 75
[12] "COVID-19: Money Laundering and Terrorism Financing Trends" (*Council of Europe News*September 2, 2020) <https://www.coe.int/en/web/human-rights-rule-of-law/-/covid-19-money-laundering-and-terrorism-financing-trends>

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3. ANALYSIS

At this time, the pandemic has continued to worsen globally. The pandemic has created extraordinary challenges for the authorities all over the world. Law has faced several challenges that must be immediately taken care of. Namely legal certainty and adaptation problem in the midst of pandemic:

a. Legal Certainty

Gustav Radbruch, a German Legal Philosopher has formulated 3 (three) main goals of law which are Legal Certainty, Purposiveness, and Justice[13]. Legal Certainty has become the first and foremost problem for law. The goal of legal certainty is to ensure peace and order to avoid conflict and uncertainty. Radbruch also mentions that law is not a legitimate law if there is no legal certainty[14]. Legal certainty issues are often related to the conflicts of law where there are more than 1 (one) regulations apply. It then will question the supremacy and legitimacy of the law itself. Conflict of laws should be avoided to prevent mass confusion[15]. Legal certainty is also closely related to the protection of Human Rights. Article 15 of the International Covenant on Civil and Political Rights (ICCPR) explained that it is a violation of human rights if someone is prosecuted without written rules and regulations because it violates the first and foremost rules which are legal certainty[16]. Therefore, it can conclude that legal certainty may affect the fundamental protection of human rights as well. Recently, the main problem came from legal enforcement. For example, many countries still have a problem because of the conflicting law and regulations among institutions. One of the examples is in Indonesia where the ministry of law and regulation has issued a Circular Letter Number M.HH.PK.01.01.01-04 Dated 24 March 2020 that stated as an effort to prevent the spread of COVID-19, there must not be any visiting services, admission of new prisoners, and trial in the pandemic[17]. On the other hand, in Indonesia Criminal Procedural Law stated there is a time limitation for imprisonment period before trial which forces the police officer to release the prisoners if has lapsed the time limit[18]. Therefore, there are 2 (two) conflicting regulations which lead to confusion from the legal enforcer. This then raises questions about the legal certainty of law and regulations in Indonesia.

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[13] Heather Leawoods, "Gustav Radbruch: An Extraordinary Legal Philosopher" (2000) 2 Washington University Journal of Law and Policy 493 <https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1516&context=law_journal_law_policy#:~:text=The primary goal of legal, unjust application of the law.>

[14] *ibid*

[15] Neuhaus PH, "Legal Certainty versus Equity in the Conflict of Laws" (1963) 28 Law and Contemporary Problems 795

[16] Article 15 of International Covenant on Civil and Political Right (ICCPR)

[17] Ministry of Law and Human Rights Circular Letter Number M.HH.PK.01.01.01-04 Dated 24 March 2020 about The Postponement to Visiting Services, Admission, and Releasement of Prisoners to Prevent COVID-19 Diseases.

[18] Article 24 - 29 Indonesian Criminal Procedural Code

b. Adaptation Problem

"*Het Recht Inackhter de Feiten Aan*" is a law adage that is introduced by J Van Kan meaning law is said to be left behind from society[19]. It is the inability of the law to adapt quickly to the situation. It is illustrated using the boiled frog case. Law is said to be the same as a frog in a boiling pot. A frog cannot adapt to surrounding circumstances. It cannot feel the heat rising from the boiling pot. The only time that the frog realizes the change of the temperature is when it is boiled. Therefore, it is too late for the frog to escape and instead die inside the boiling pot[20]. Law is said to be similar to the given situation. COVID-19 restrict the work of legal enforcer and they cannot do work as usual. This then raises a debate whether the legal instruments are ready to accommodate such change. Safety and purposiveness are at stake in this pandemic situation, but we could not ignore the written rules and regulations as well. If they chose to follow the written rules and regulations, there might be derivatives risk such as ineffectiveness and risk of contracting the virus itself. However, if they chose to adapt to the new situation, there might be a chance of unreadiness or unpreparedness from the legal instrument[21]. The consequences will be varying, it can lead to human rights violations or abuse of power because the act does not base on written rules and regulations. For example, in some countries, there are still no laws and regulations about the online trial. Legal enforcers can choose to follow the rules on normal offline trials but there are many risks for them. Instead, they choose to conduct online trial even though there is no law and regulation applied. It is then raised a question whether every defendant's rights are fulfilled or not[22].

Viewing from a legal perspective there is 2 (two) main problem but consequently led to the same solutions. Law must adapt and respond to the changing of human behavior caused by globalization, technological development, population growth, and even pandemic. It has been a problem for a long time ago, UN Committee on Economic, Social and Cultural Rights has warned us that globalization and development, as well as disruption without accompanied by the law, will lead to chaos and anomaly. Thus, it is required to incorporate law with contemporary thoughts[23]. Contemporary thoughts mean reconstructing law toward a progressive movement and made it human-centrist. When humans and their behavior become the main core of the law. Law will follow its development as well. We cannot view law from its principle and history forever but we must view the law from its context to fulfill its purposiveness and justice[24]. Law must follow every development in the world. How can it be possible? It is possible through education. Contemporary and progressive thoughts need to be taught such as legal realism school of thoughts and responsiveness theory of law as well as natural law as the basis for education, it is important to shape young jurist to have contemporary and progressive

[19] Romli Atmasasmita, *Business Criminal Law Theory and Practice in Globalization* (Prenada Media 2016)
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thoughts toward the law itself[25].

4. CONCLUSION

COVID-19 pandemic brings many disruptions toward human behavior and other interdependent factors that lead to the same consequences. Law and its development are some of the factors that are affected the most and become the agenda of The Great Reset. The Great Reset is a program introduced by the World Economic Forum to restore order in the society that has been missing since the outbreak of this pandemic. Law and its development have been facing mainly 2 (two) challenges during this pandemic namely legal certainty and adaptation problem. Many scholars and jurists have agreed to reform the law to make it more progressive and contemporary. Therefore, I conclude this paper with the statement that the law must serve the human and must not work otherwise. Humans must not become prisoners of law.

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