

## **Juridic Aspects of Contract Renegotiation During the Covid-19 Pandemic as an Effort to Mitigate Risk and Loss in Business Activities**

---

**Galuh Kartiko<sup>1</sup>, Andi Kusuma Indrawan<sup>2</sup>, Dyah Metha Nurfitriasih<sup>3</sup>**

<sup>1</sup> State Polytechnic of Malang , Malang City , Indonesia

E-mail: [galuh.kartiko@polinema.ac.id](mailto:galuh.kartiko@polinema.ac.id)

### **ABSTRACT**

This study discusses the juridical aspect of contract renegotiation during the *Covid 19 pandemic* as an effort to mitigate risks and losses in business activities based on Presidential Decree Number 12 of 2020 concerning the Determination of Non-Natural Disasters for the Spread of *Corona Virus Disease 2019 ( Covid-19 )* . Many business actors in the business world interpret the disaster as a force majeure, which is an extraordinary event that causes people to be unable to carry out their achievements due to an event beyond their capabilities. The research method used in this research is a normative legal research method. The results of this study are expected to provide debtors with an opportunity to resolve obstacles to their inability to pay installments by being allowed to apply for renegotiation or contract review in order to reach a mutual agreement. through the Regulation of the Financial Services Authority of the Republic of Indonesia Number II/POJK.03/2020 concerning Stimulus The national economy which aims to maintain financial system stability and support economic growth.

**Keywords : Contract, Renegotiation, Covid - 19**

## INTRODUCTION

At the end of 2019 the world was shocked by the *Corona Virus Disease 2019* , abbreviated as *Covid-19* . This disease is caused by a new type of Corona Virus which is named *SARS-CoV-2* . The transmission of the virus occurred on such a massive scale that on March 11, 2020, the World Health Organization ( *World Health* )

*Organization* which is abbreviated as *WHO* ) has designated *Covid-19* as a pandemic because almost no country in various parts of the world can avoid this virus . In mid-March 2020, the Indonesian government announced the first case of *Covid-19* that occurred in Indonesia (Rusyida & Pratama, 2020).

The existence of positive confirmed cases of *Covid-19* which continues to increase in Indonesia has made the Indonesian government set a policy of Large-Scale Social Restrictions (PSBB) in a number of areas by avoiding crowds and maintaining a minimum distance of 1.8 meters between people to stop the spread of *Covid-19*. The existence of this PSBB has made the regional government set a policy to close the area from outsiders. This has resulted in existing mass transportation activities such as buses, trains, shipping, to air transportation ( Hadiwardoyo, 2020).

From these conditions , it shows that the spread of the pandemic is spreading in various countries very quickly and the number of victims tends to increase. The spread of this pandemic, which was originally purely a health problem, eventually had an impact on other aspects , such as the socio-economic aspect. social ministry of the republic Indonesia published that the impact of the spread of COVID-19 affecting the socio-economic sector in Indonesia and a statement from WHO which declared COVID-19 as a *Global Pandemic* is a matter that is taken into

consideration in the issuance of Presidential Decree of the Republic of Indonesia Number 12 of 2020 concerning the Determination of Non-Natural Disasters for the Spread of *Corona Virus Disease 2019* (COVID-19) as a National Disaster (hereinafter referred to as Presidential Decree No. 12/2020) on April 13, 2020. (Kemsos .go.id 2020)

The corona virus outbreak that is happening like now in Indonesia is difficult to immediately interpret as *force majeure* . Not all companies have stopped operating due to this virus. The government has not issued policies such as *lock down*, mandatory *self-quarantine* or *work from home* to the public, as well as closing access to people and/or goods . It is different if there are local or national government decisions or policies whose provisions directly hinder the implementation of achievements or obligations in the contract agreement, then this can be classified in a state of *force majeure* . The current situation is easier to classify as *force majeure* if it is confirmed by regulations issued by the competent government. So that the obstruction of a party to fulfill achievements due to the corona virus outbreak is included in a state of *force majeure* . Then the risks caused by it are borne jointly by the parties to the agreement. Except in the event that the parties have arranged who will bear the risk in the event of a *force majeure situation*

The problem in this research is how is the determination of the national disaster based on Presidential Decree 12/20 and Force Majeure in relation to commercial agreements and contract renegotiation procedures during the *Covid-19 pandemic* and what juridical aspects must be met

Steps that can be taken by the parties to avoid disputes, one of which is by renegotiating the agreement or rescheduling the achievements to be made

or obligations to be paid until conditions return to normal. The hope is that business actors can give each other leeway as a form of concern in the current epidemic conditions. Disputing contracts can have juridical consequences, namely the existence of settlement efforts. Theoretically, dispute resolution efforts can be pursued through litigation with formal procedures and court intermediaries ( Joses , Jimmy 2011:9). During the pandemic, the dispute that occurred was default by debtors who were micro, small and medium entrepreneurs who had made credit loans at banks long before the onset of Covid-19. Based on good faith it is deemed inappropriate if the contract is still required to be implemented in the Covid-19 situation and conditions which is supported by a government statement that Covid-19 is a non-natural national disaster. adjust the contents of the contract to the new conditions. If there is a difference of opinion between the parties, then the dispute resolution efforts can prioritize deliberation so that dispute resolution can be resolved in a timely and cost-effective manner Cheap prices can also produce a win-win solution.

### **1. Contract Negotiation Procedure**

Because the *Covid-19* Pandemic has an impact on business activities, the parties can renegotiate for those who are unable to fulfill their achievements, depending on whether the parties agree to negotiate the contract, if the parties agree then restructuring will be carried out, delaying debt payment obligations. It can be done in another way , namely rearranging what things will be changed and adjusted to the current situation.

With the renegotiation, a new contract is made again which is binding on the parties and of course it must be carried out in good faith. Good faith is also included in Article 1338 paragraph (3) of the Civil Code which says that an

agreement must be carried out in good faith.

With the association of 4 agreement theories: Statement theory says that the theory is that the agreement already exists, has arisen and there has been an acceptance answer, while in negotiations, there has been an old agreement, due to the occurrence of *force majeure* , renegotiation was made, there is no answer or the answer has not yet been formed, which means that one party has not agreed, because an agreement must be valid in accordance with the agreement of the parties.

1. Delivery theory says that the agreement is born if at the time of delivery of acceptance, in which everyone has a relative picture in the negotiation agreement, it must still use the agreement of the parties, even though there is renegotiation due to *force majeure*, then a new contract is made and mutually bind the parties in good faith
2. Theory of Knowledge says that an agreement has not yet been born until at the time of acceptance or response to acceptance, it is quite binding because basically negotiation is an agreement between the parties, which means that the parties must mutually agree to the negotiation.
3. Acceptance Theory says that if the answer is received then that is where the agreement is born, if the negotiation has been agreed upon by the parties and has been approved then the results of the negotiations in the agreement have been born . ( Ahmadi Miru 2013).

### **2. Contract Review (Re-negotiation) Procedure for the Parties**

Re-negotiation is also referred to as an interactive process again (re-negotiation) carried out to reach agreement. This process involves two or more people who have different views but wish to reach/refine some common resolution

(McGuire, 2004). Re-negotiation is also a repetition of a two-way communication process, namely between parties, namely the first party as a communicator and the second party as a communicant or alternately both in communicating their respective interests. The general reasons that form the basis for contract renegotiation are:

1. Imbalance of profit sharing ( *revenue sharing* );
2. Imbalance of *bargaining position* , between the government and the company in making contracts;
3. The occurrence of manipulation, abuse of office, and corruption in contract making;
4. Change of power or government regime
5. Damage the environment; and
6. There are public objections.

If you look at the hierarchy of laws in Indonesia, to find out the position of the cases that have occurred, the principle of the hierarchy is as follows: the 1945 Constitution is the highest. Then down to laws, then to Government Regulations (PP), etc. , to Regional Regulations (Perda). If there is a law that is not in accordance with the law above it, for example when there is a conflict between a Government Regulation (PP) and the Law, then the law is used because the law is of a higher degree.

### METHOD

The research method used in this paper is a normative legal research method. As a scientific work and obtaining scientific results and scientific truth, in this writing, *normative law research is used* . Therefore, this study aims to examine the application of rules or norms in positive law whose objects of study are statutory documents and library materials. (Marzuki.2011 ) Using a statutory approach ( *Statute Approach*

) by examining the laws and regulations related to the formulation of the problem, namely in this case reviewing the Civil Code and Presidential Decree 12/2020. the approach used is also the concept approach, namely by examining the concept of *force majeure*, the analysis is carried out qualitatively.

### RESULTS and DISCUSSION

#### 1. Determination of National Disaster Based on Presidential Decree 12/20 and Force Majeure Related to Commercial Agreement

*Force majeure circumstances* require a careful proof. In this regard, it is not easy to argue that a disaster can immediately be categorized as having fulfilled the concept of *force majeure* , because it must first be proven whether the elements of *force majeure* have been met. According to Werner Melis in Agri Chairunisa's writings, he argues that the elements of *force majeure* are events that occur as a result of natural events, events that cannot be expected to occur, events that indicate the inability to perform the obligations under a contract either in its entirety or only for a certain period of time . ( Isradjuningtias ,2015)

The *force majeure situation* based on Articles 1244 and 1245 of the Civil Code, must meet four elements that must be proven, namely:

- An unexpected thing causes the party to be unable to carry out its obligations
- That one thing can't be blamed on him
- There is no intentional element
- There is good faith from the party who is prevented from fulfilling his obligations

In connection with the current situation, namely the presence of COVID-19 which is also known as the Corona Pandemic, as previously stated that the government has declared it a national disaster. In reality, this pandemic is not only attacking public health on a massive scale, too destroy the

sector economy, even the consequence is to the extent of non-fulfillment of achievements related to commercial agreements. In this regard, it is important to study whether the national disaster of the corona pandemic which also causes debtors to be unable to fulfill their achievements in commercial agreements can be categorized as being in a state of force majeure? Presumably to examine such conditions, an in-depth case-by-case analysis must be carried out by paying attention to the clauses in an agreement. In general, it is important to examine the essential elements to be able to declare the determination of COVID-19 which is a national disaster as a force majeure, namely:

1. Whether or not there is a *force majeure clause* in the agreement;
2. Definitions and limitations of *force majeure* set by the parties to the agreement;
3. There is a causality between the determination of COVID-19 as a national disaster and the implementation of the agreement;
4. There is good faith from the party who will declare in a state of coercion or *force majeure*.

In an agreement it is first important to pay attention to whether a *force majeure clause* is specified in an agreement. Normatively, the provisions for *force majeure* are regulated in Book III of the Civil Code which adheres to an open system. The parties are free to determine the terms of the contract, including the form, whether it is made orally or in writing . ( Salim Hs, 2010) In contract law, the principle of freedom of contract is adhered to. Agreements that have complied with Article 1320 of the Civil Code regarding the validity of the agreement, based on Article 1338 paragraph (1) of the Civil Code will apply as law for those who make them. Subekti stated that the articles of contract law are *optional law* , which means that

these articles can be removed if the parties wish. If the parties do not regulate it, it means they are subject to the law. Thus, it is very appropriate for the views of scholars to argue that contract law completes incomplete agreements. With regard to the complementary legal nature of the contract law, it seems that on the one hand the existence of a *force majeure clause* in an agreement is not absolute. On the other hand , often the parties regulate *force majeure* in the agreement. In this regard, it is important to ensure what is regulated in the *force majeure provisions* .

Furthermore, it is important to review the definition of *force majeure* set by the parties to the agreement. Through the definition stated in the agreement , it will be able to provide convenience and certainty to prove the element of an unexpected thing that causes the party to be unable to carry out his obligations and the element of a matter cannot be blamed on him. The definition of *force majeure* can be related to the principle of freedom of contract. According to Indonesian contract law, a person is free to enter into an agreement with any party he wishes. Article 1338 paragraph (1) BW (KUHPerdata), stipulates that all contracts (agreements) that are legally made apply as law for those who make them. The word "all" in the article indicates that people can make any agreement, not limited to the type of agreement regulated in the BW (KUHPerdata), and the agreement will bind the parties who make it. (Anand , 2011) So the parties are free to determine the content. the agreement as long as it does not conflict with the law, public order and morality.

### **Consequences of Force Majeure**

*Force majeure* according to its nature is divided into two types, namely absolute and relative, each of which has a different impact . Absolute *force majeure* is a state of coercion that absolutely results

in an achievement not being fulfilled. This agreement cannot be fulfilled due to things that are no longer possible for the parties to fulfill, such as a natural disaster or accident that has a direct impact on the object of the agreement. Based on Article 1244 of the Civil Code, it stipulates that in the event that the debtor is unable to fulfill his engagement obligations properly, he can absolve himself from liability for losses, if he succeeds in proving that an event that hinders performance has occurred so that the debtor cannot fulfill his engagement obligations properly as it should. predictable in advance and he also did not have a hand in the emergence of the obstacle event (Wibawa & Artadi, 2020) Other circumstances that can cause the cancellation of an agreement are the result of a situation. Thus, if the parties to the agreement are faced with an absolute *force majeure situation* so that the object of the agreement is destroyed (if it is not agreed otherwise) then the agreement automatically ends (Article 1381 of the Civil Code).

*force majeure* is defined as a state of coercion that does not have the absolute effect of not being able to implement an agreement. In this context, it can be stated, for example, that the first situation of compulsion exists, the debtor is still carrying out but there is a big sacrifice. In a different situation, coercive circumstances exist, from coercive circumstances causing the debtor to be temporarily unable to carry out the agreement, and after the coercive condition has disappeared, the debtor can re-implement the agreement. Exemption from fees, losses and interest can also be obtained for parties who are faced with a relative *force majeure situation*, but not until the agreement is cancelled. In a relative *force majeure*, it can be understood that the release is only temporary and as long as the *force majeure* prevents the debtor from

performing. If the *force majeure situation* disappears, the creditor can demand the fulfillment of achievements. The consequence of a relative *force majeure* is the temporary inability to carry out achievements. The determination of the COVID-19 pandemic as a national disaster, from the perspective of *force majeure*, can be classified as relative, because even though the parties to the agreement Commercial companies are faced with the situation of being unable to fulfill their achievements, but when the corona pandemic ends, I hope they can still continue their business activities, so that they can return to fulfilling their agreement achievements.

#### **Legal Consequences of Force Majeure in Contract**

The obstacles that occur and these are completely beyond the control of each party. In the provisions regarding "uncontrollable" matters in its application in the contract, it cannot be separated about how "uncontrollable things" are and what are the legal consequences of circumstances beyond the control of the contract itself.

In terms of the discussion of *force majeure*, there is always a discussion about how the risk of the impact of *force majeure* on the contract and what is the position of the contract. In this case the author will explain it based on international conventions such as CISG, UPICC and PECL. According to the author, regarding the regulation in PECL, the provisions are similar when compared to CISG Article 79 (or compared to UNIDROIT Principles Article 7.1.7.). If it is carefully understood PECL Article 8:101(2) the aggrieved party here can claim for the loss he or she has borne and can use one of the solutions set out in Chapter 9 regarding this matter except regarding *claim a performance and claim of damages*, so here the difference is The significant difference between CISG and PECL is very clear. This is different

from CISG Article 79(5) which, when faced with a *force majeure problem*, will immediately terminate the contract and not apply to each party, and with another option, namely the party who is harmed due to *force majeure* can make a *claim of performance* even though the achievement is fulfilled. what the debtor has done is not very it is possible to fulfill it, then *Article 8:108* in this case is excluded and this can be seen due to the stipulation in PECL *Article 8:101(2)* itself that non-performing parties each allow to bear the losses borne by creditors and the arrangements as per *Chapter 9 except right to claim performances and claim damages*. In this case the implications from UNIDROIT *Article 7.1.7* is similar to the approach in PECL. UNIDROIT *Principles Article 7.1.7(4)* explains that *force majeure* does not exempt *non-performing parties* from “*right to withhold performance*” or *request interest in money due*”, without stating the right to claim in the form of “*right to claim a performance and damages*”. This is made clear in the UNIDROIT *Principles Article 7.1.1* regarding “*not performed defined as “A party is not entitled to claim damages or specific performance for an excused non-performance of other party [...]”*”

Then in the settings in UNCITRAL *Article 7.1.7* regarding its arrangement in terms of the consequences of such *force majeure* in some cases, the obstacle will prevent performance, but in many other cases it will only delay performance and the effect of this Article is to give extra time for performance. It should be noted that in this event the additional time may be greater (or less) than the length of the interruption because the crucial question is what effect the interruption has on contract progress.

## **2. Contract Renegotiation Procedures during the *Covid-19 Pandemic* and the juridical aspects that must be met**

There are several stages that must be

tested before the parties decide to use restrictions during the *Covid-19* period as an excuse for *force majeure*. Here are the test steps :

### **a. Check if important contracts provide force majeure clause**

Many business actors want to use the *force majeure* (FM) argument, but it turns out that the FM clause itself has not been included in the contract. It is also possible that the FM clause has been included, but the pandemic event is not listed as part of the *force majeure* event. If this happens, can the FM clause be included and rearranged in the contract after the *force majeure* event occurs (*post factum*)? the FM clause can still be carried out both before (*pre-factum*) and after the occurrence of a *force majeure* event (*post-factum*). If an agreement is not reached, a dispute may be inevitable. Finally, the debtor on the one hand claims the occurrence of *force majeure*, on the other hand the creditor still considers the debtor to have defaulted (default). After the *force majeure* event occurs, the parties can rely on the principle of good faith to renegotiate the contract. In difficult conditions, creditors should have good intentions to renegotiate contracts for debtors whose business activities are affected by *Covid-19*. One of them is by including the FM clause along with the mention of the *Covid-19* pandemic as a non-natural disaster if this has not been regulated in the contract. For information, Presidential Decree No. 12 of 2020 which stipulates *Covid-19* as a non-natural disaster can also be used as a legal reference for FM's formulation in the contract. As for the procedures and legal consequences of FM, the parties in the contract can also regulate themselves as long as they do not conflict with the applicable laws and regulations.

### **b. Do a self-test frequently ask question (FAQ) on the elements of FM**

step is to check the company's *exposure* to elements of force majeure. When examined, there are at least three important elements of the reasons for force majeure according to the Civil Code. *First*, there was an unexpected event. *Second*, the incident cannot be accounted for (very So that it is not considered to have bad intentions in using the pretext of force majeure, the parties should not claim *force majeure* if the Covid -19 event does not have a material impact on the company.

**c. Ensure Regular FM Notifications**

Check every incoming FM notification as early as possible and check, is it in accordance with the agreed contract? The danger is, for the creditor's position, if so many debtors are notified using FM, it will certainly endanger the company's finances if there is no *revenue* or even *income* during the pandemic. For that, all the actual contract and condition of the debtor company needs to be tested are they really hindered and unable to fulfill their obligations during the pandemic?

**d. Risk Analysis of the Company's Legal Position**

If a creditor, compile a detailed list of customers who have the potential to not carry out their obligations using force majeure reasons. "Several banks have started to do this, they already have a *list*, have seen the situation, have seen the contracts, and the relaxation aspect. It is also important to know that several legal consequences are also a risk if the debtor's FM argument is accepted, the creditor's right to claim compensation will be invalid. Another consequence that must also be borne is the delay in the debtor's obligations to fulfill achievements. On the other hand, creditors are also free by law from their obligations to submit counter-

forced or unintentional). *Third*, the parties do not have bad faith. To ensure that all three elements are met several important questions (FAQ) that companies can use to ensure that the risk of *force majeure* steps taken can be properly mitigated.

achievements Now, banks as creditors are also in a very difficult position, of course it is also difficult for banks to actually give concessions. Naturally, if there are a lot of *non-performance loans* (NPL) / bad loans, the bank must be prepared to face an unhealthy financial position. This very difficult condition for banks and debtors has finally made OJK issue POJK No.11/POJK.03/2020, so that banks are willing to open the door to relaxation . The stimulus offered in POJK No.11/POJK.03/2020 is in the form of loosening business loans for micro and small businesses (SMEs) for a value below Rp. 10 billion. This does not only apply to credit or financing provided by banks, but also includes industry. non-bank finance. The type of relaxation provided is a delay in credit payments for up to one year and a reduction in interest.

If you are a debtor, this stimulus can certainly be used to reduce business risk. Even if the debtor's credit value is above Rp. 10 billion, "But there are certain procedures from the banking sector that must be passed for loans with a value of above Rp. 10 billion,"

In addition, it is important for debtors to analyze what obligations to creditors and *counterparts* cannot be carried out if they want to use the *force majeure* argument. To strengthen the argument, the debtor needs to collect supporting evidence that the force majeure event has a direct impact on the debtor's business activities.

**e. Involve External Council if it is deemed necessary**



Business actors are encouraged to do the FAQ as described in point 2 first before involving external legal counsel. In a condition where almost all business lines are experiencing difficulties, they say that it is appropriate for *external counsel* or legal advisers to be chosen who prioritize *win-win solutions* to mediate creditors and debtors .

### CONCLUSIONS

1. In the event that a contract review (renegotiation) is carried out and an agreement is reached therein, then the contract law which has its specificity and validity is binding as stipulated in Article 1338 of the Civil Code, all agreements made legally valid as law for those who make it. The agreement cannot be withdrawn other than by agreement of both parties or for reasons determined by law. In renegotiating the freedom of contract can only provide justice if the parties have a balanced *bargaining power* .
2. Legal protection for the parties who renegotiate the contract must be provided by using the principles of equality and not harming one party or another. This requires renegotiation of the contract. For each clause that will be agreed upon, it is necessary to make it possible to adjust it to fit the law, but its achievement will not always be as expected .

### Suggestion

1. For the government to be able to develop laws and regulations and government regulations regarding the renegotiation of business contracts to be able to provide justice, benefit and legal certainty for the parties to the

contract in the event of an unexpected event such as Covid-19.

2. For parties to the contract, so that debtors and creditors who are bound by a business contract during the Covid-19 pandemic and can regenerate business contracts through extending the credit period, reducing or eliminating interest rates or other conditions in order to achieve a win-win solution in the contract
3. For further researchers to be able to develop the content of this research by making adjustments to regulations or laws and regulations and policies related to the implementation of business contracts during the Covid-19 pandemic .

### REFERENCES

- Ahmadi Miru.(2013) Hukum Kontrak & Perancangan Kontrak, PT RajaGrafindo Persada, Jakarta, hal. 30
- Anand, G.(2011) "Prinsip Kebebasan Berkontrak dalam Penyusunan Kontrak." Yuridika, 26, No. 26 hal 91
- Dini Selasi.(2020) "Dampak Pandemic Disease Terhadap Perkembangan Pasar Modal Syariah Di Indonesia" Jurnal Ilmiah Indonesia hal 47.
- Gugus Tugas Percepatan Penanganan COVID-19. "Infografis COVID-19 (31 Maret 2020)". <https://covid19.go.id/p/berita/infografis-covid-19-31-maret-2020>, diakses 1 Juli 2021
- Hadiwardoyo,W. (2020). Kerugian Ekonomi Nasional Akibat Pandemi Covid-19. Journal Of Business And Entrepreneurship. 2. 83-84. Diakses dari

- <https://jurnal.umj.ac.id/index.php/baskara/article/view/6207/4026>
- Isradjuningtias, A. C. "Force majeure (overmacht) dalam hukum kontrak (perjanjian) indonesia." *Veritas et Justitia*, 1, No.1. (2015): 136-158.
- Marzuki, Peter Mahmud.(2011) *Penelitian Hukum*. (Jakarta: Kencana Prenida Media, hal 34.
- Peeri, N. C, et. al. (2020)"The SARS, MERS and novel coronavirus (COVID-19) epidemics, the newest and biggest global health threats: what lessons have we learned?". *International Journal of Epidemiology*. hal 1-10.
- Pusat Penyuluhan Sosial Kementerian Sosial Republik Indonesia.(2020) "Menganalisa Masalah Sosial Ekonomi Masyarakat Terdampak Covid-19". <http://puspensos.kemsos.go.id/en/Publikasi/topic/591>, (2020). diakses 3 Juli 2021
- Ricardo Simanjuntak. (2018) *Teknik Perancangan Kontrak Bisnis*, Edisi Ketiga, Kontan Publishing, Jakarta, hlm. 56
- Rusyida, W.Y.& Pratama, V.Y. (2020). *Prediksi Harga Saham Garuda Indonesia di Tengah Pandemi Covid-19 Menggunakan Metode ARIMA*. *Journal of Mathematics and Mathematics Education*. 2. 74-75. Diakses dari <https://journal.walisongo.ac.id/index.php/square/article/view/5626/2596>
- Salim Hs, S.H.(2020) *Perkembangan Hukum Kontrak Innominaat di Indonesia Buku Kesatu*. (Jakarta: Sinar Grafika, )hal 1
- Wibawa, P. P. A., & Artadi, I. K. "Akibat hukum terhadap debitur atas terjadinya force majeure (keadaan memaksa)." *Kertha Semaya: Journal Ilmu Hukum* 2 No.6: 1-5.