A COMPARISON OF INDONESIA AND MALAYSIA LEGAL RESPONSES IN HANDLING COVID-19

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ABSTRACT

Objective: This paper aims to know about COVID-19 pandemic has become a global threat and spread of the virus reaches Indonesia and Malaysia. The response to Covid-19 has been governed by Indonesia and Malaysia laws and legislation. This paper aimed at assessing why was the legal response of Malaysia more successful in handling COVID-19 than that of Indonesia?

Method: This research used a normative legal method.

Result: The results revealed that (1) Indonesia and Malaysia issued new laws and regulations, but Indonesia uses a health and disaster management approach, whereas Malaysia uses a health and law enforcement approach; (2) The structure for handling COVID-19 in Indonesia is performed by the COVID-19 Task Force, while Malaysia is carried out by The National Security Council; (3) Indonesia imposes large-scale social restrictions, whereas Malaysia enforces the Movement Control Order.

Conclusion: This paper argues that Malaysia’s legal response through a health and law enforcement approach performed by The National Security Council has been more successful in reducing the number of victims and the spread of COVID-19. Indonesia can emulate Malaysia by using a law enforcement approach to dealing with COVID-19 in addition to a health and disaster management approach. Malaysia has been more successful in handling COVID-19 than Indonesia.

Keywords: Comparison, legal response, Indonesia, Malaysia, COVID-19.

COMPARAÇÃO DAS RESPOSTAS LEGAIS DA INDONÉSIA E DA MALÁSIA NO TRATAMENTO DA COVID-19

RESUMO

Objetivo: Este artigo visa saber sobre a pandemia da Covid-19 se tornou uma ameaça global e a propagação do vírus chega à Indonésia e à Malásia. A resposta à Covid-19 tem sido regida por leis e legislação da Indonésia e da Malásia. Este documento visava avaliar por que a resposta jurídica da Malásia foi mais bem-sucedida no tratamento da Covid-19 do que a da Indonésia?

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Método: Esta pesquisa usou um método legal normativo.

Resultado: os resultados revelaram que (1) a Indonésia e a Malásia emitiram novas leis e regulamentos, mas a Indonésia utiliza uma abordagem de gestão de saúde e desastres, enquanto a Malásia utiliza uma abordagem de saúde e aplicação da lei; (2) A estrutura para lidar com a Covid-19 na Indonésia é executada pela Força-Tarefa contra a Covid-19, enquanto a Malásia é realizada pelo Conselho de Segurança Nacional; (3) a Indonésia impõe restrições sociais em grande escala, enquanto a Malásia aplica a Ordem de Controle de Movimento.


1 INTRODUCTION

COVID-19 has become a global threat, infecting many countries including Indonesia and Malaysia. In less than three months, it has infected more than 126,000 people in 123 countries from Asia, Europe, the US, to South Africa. WHO has established COVID-19 as a pandemic per March 11, 2020. (Kompas, 2020).

The first case in Indonesia was announced by the President of Indonesia on March 2, 2020. The first two patients, a mother and her daughter, contracted the virus from a Japanese person living in Singapore (Kompas, 2020). The first death of COVID-19 was reported on March 11, 2020 (The Jakarta Post, 2020) and coincides with the establishment of COVID-19 as a pandemic.

In response to this outbreak, Indonesia formed a COVID-19 task force named Gugus Tugas COVID-19 on March 13, 2020. One week later, the structure of the Task Force was renewed with the addition of ministries/agencies and the involvement of more stakeholders in the government (Kemlu, 2020). The task force was replaced by another one, named Satuan Tugas Penanganan COVID-19 under the COVID-19 Handling and National Economic Recovery Committee (Kompas. (2020 and Rahman et al., 2022). The government also declared a health emergency on March 31, 2020, and a non-natural national disaster on April 13, 2020 (Setiawan, 2020). The Government Regulation on Large-Scale Social Restrictions (PSBB), as well as Government Regulation In Lieu of Law concerning financial policies and the Indonesian financial system stability was passed to anticipate the impact of COVID-19 on the national economy at the end of March 2020. The 2020 State Budget was also revised due to the pandemic.

Meanwhile, the first case in Malaysia was reported on January 25, 2020, which is 48 hours after the first case in Singapore. This is an imported case from Wuhan, China (A.U,M, 2020). Panic
hit Malaysia when the number of positive cases jumped from 99 cases on March 8 to 200 cases in one week, with 2 deaths in mid-March 2020 (New Straits Times, 2020).

The Prime Minister of Malaysia announced the implementation of the first phase of the Movement Control Order (MCO) from March 18 to 31, 2020, on March 17, 2020. MCO functions as a barricade and preventive measure from the spread of COVID-19 (Sabri et al., 2020). A number of new regulations were made under the Sections of the PCID Act 1988. The State Council has also approved the Temporary Measures for Reducing the Impact of Coronavirus Disease 2019 (COVID-19) Bill 2020 to revitalize the Malaysian economy on 22 September 2020 (Malay Mail, 2020).

Compared to Indonesia, Malaysia has been more successful in reducing the number of victims and deaths of COVID-19. As of September 30, 2020, the number of positive cases was 11,224 with 9,967 successful recoveries or 88.8% of the total cases. The number of active cases was 1,124 with 16 patients in ICU and 3 patients requiring respiratory assistance. The number of deaths was 136 or 1.21% of the total cases (Ministry of Health Malaysia, 2020).

Meanwhile, Indonesia was not successful in dealing with the pandemic. There are two factors, namely low discipline, even by government officials, in implementing health protocols and failing to conduct more testing capacity (The Jakarta Post, 2020). Even though Indonesia is the fourth most populous country in the world, it currently has the lowest number of tests and traces. Indonesia has the highest COVID-19 death count in Southeast Asia (Reuters. 2020). Per September 30, 2020, there are 287,008 positive cases with 214,947 recoveries and 10,740 deaths (Kemenkes, 2020).

Indonesia is a country with a Civil Law system, while Malaysia applies the Common Law system. This means that the forms and ruling methods of these countries are different. Malaysia is a federal state with a parliamentary system, while Indonesia is a unitary state with a presidential system. The comparison of legal responses in handling COVID-19 of these countries according to each legal system is a topic worth studying. Therefore, this paper aims to analyze the success of the legal enforcement of Malaysia in handling the pandemic compared to Indonesia. The problem in this study is: Why was the legal response of Malaysia more successful in handling COVID-19 than that of Indonesia?

2 THEORETICAL FRAMEWORK
2.1 LEGAL RESPONSE

This paper defines law as a legal system, its means a complete unity, consisting of elements closely connected to each other (Astawa, 2012). According to Lawrence Friedman's theory, the legal system contains three elements namely, legal substance, legal structure and legal culture (Friedman, 1975). This study also defines legal as laws and regulations, derived from the constitution, which
hierarchically set up various lower regulations (Mahfud, 2021). Referred to Indonesian Dictionary, "response" its means response or reaction or answer (Language Center, 2008). Meanwhile, Blacks Law Dictionary, "response" which means the answer, commonly used in the term of Patent Law (Garner, 2004). Based on this description, this paper defined a legal response as "a response or reaction or legal answers in the form of substance, structure and legal culture in dealing with Covid-19 pandemic”.

3 METHODOLOGY

This is normative legal or doctrinal legal research. In this study, the law is conceptualized as what is written in statutory regulations (law in books) or as a standard rule or norm for appropriate human behavior (Amiruddin & Zainal, 2004).

This is comparative law research, which compares the legal system of one country with another to determine the similarities and differences of each legal system (Amiruddin & Zainal, 2004). This study uses a micro legal comparison (De Cruz, 2016), namely comparing parts of the Civil Law system (Indonesia) and the Common Law system (Malaysia) that are related to the problems of this research, namely the handling of COVID-19.

Data is collected through literature or document study and consists of primary, secondary, and tertiary legal materials (Soekanto, 1986, Nasution et al, 2022). This research was conducted from early January to late September 2020.

4 RESULT AND DISCUSSION
4.1 INDONESIAN LEGAL RESPONSE

The Indonesian Government issued several new laws and regulations from January to September 2020 regarding the handling of COVID-19. In hierarchical order, the regulations are: 1 Government Regulation in Lieu of Law, 1 Law, 1 Government Regulation, 3 Presidential Regulations, 4 Presidential Decrees, 2 Presidential Instruction, 1 Decree of the Chief of Police, and 6 Ministerial Regulations, as follows:

Table 1. List of New Laws and Regulations Regarding the Handling of COVID-19 Based on Hierarchy

<table>
<thead>
<tr>
<th>No</th>
<th>Regulation Name</th>
<th>Issue Date</th>
<th>Issuing Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Government Regulation In Lieu of Law No. 1 of 2020 concerning State Financial Policies and Financial System Stability for Handling the Corona Virus Disease 2019 (COVID-19) Pandemic and/or in the Context of Facing Threats that Endanger the National Economy and/or Financial System Stability.</td>
<td>13/3/2020</td>
<td>President</td>
</tr>
</tbody>
</table>
and/or in the Context of Facing Threats that Endanger the National Economy and/or Financial System Stability into Law.


4. Presidential Regulation No. 54 of 2020 concerning Posture and State Budget Changes for the 2020 Fiscal Year. 3/4/2020 President

5. Presidential Regulation No. 82 of 2020 concerning the Corona Virus Disease 2019 (COVID-19) Handling and National Economic Recovery Committee 20/7/2020 President


14. Minister of Finance Regulation No. 19/PMK/07/2020 concerning Distribution and Use of Profit-Sharing Funds, General Allocation Funds, and Regional Incentive Funds for the 2020 Fiscal Year in the Context of Handling the Corona Virus Disease 2019 (COVID-19). 16/3/2020 Minister of Finance

15. Minister of Finance Regulation No. 23/PMK/03/2020 concerning Tax Incentives for Taxpayers Affected by the Corona Virus Disease (Ramadhany et al., 2022). 23/3/2020 Minister of Finance

16. Minister of Health Regulation No. 7 of 2020 concerning Amendments to the Minister of Health Regulation No. 51 of 2014 concerning the Procurement of Medical Devices through the Special Access Scheme 27/3/2020 Minister of Health


18. Minister of Transportation Regulation No.41 of 2020 concerning Control of Transportation during the 1441 Hijriah Eid Al-Fitr Homecoming Period in the Context of the Corona Virus Disease 2019 (COVID-19) Spread Prevention. 23/4/2020 Minister of Transportation

19. Minister of Transportation Regulation No.41 of 2020 concerning Amendments to the Regulation of the Minister of Transportation No.18 of 2020 concerning Control of Transportation in the Context of the Corona Virus Disease 2019 (COVID-19) Spread Prevention. 8/6/2020 Minister of Transportation


These statutory regulations do not include other regulations, such as ministerial-level agencies regulations, joint ministerial decrees, ministerial decrees, ministerial circular letters, director-general ministerial circular letters, regional regulations and regional head decrees.

The large number of laws and regulations in handling COVID-19 is mainly due to the Civil Law system used by Indonesia. In the Civil Law system, Code (law) is the main source of law. Laws
are sets of clauses and general legal principles that are authoritative, comprehensive, and systematic, made in books or sections that are logically arranged according to the related law (De Cruz, 2016). Thus, these are applicable laws.

All regulations related to COVID-19 are directly related to norms regarding disease outbreaks, health, and disaster management. These norms include Law 4/1984 on Communicable Disease Outbreaks, Law 24/2007 on Disaster Management, Law 36/2009 on Health, and Law 6/2018 on Health Quarantine. This is in accordance with the opinion of Hans Kelsen, who stated that the relationship between norms that governs norm-making and other norms is referred to as a super-relationship and subordination in a spatial context. The norm above is superior, while the norm below is inferior, forming a hierarchy of different levels. Higher norms become the reason for the validity of the entire legal system which forms a unity (Asshiddiqie, 2010).

Apart from relating to norms regarding health and disaster, new laws and regulations for handling COVID-19 also intersect with legal norms regarding state institutions, state finances, public order, regional governments, hospitals, transportation, youth, sports, education, and religion.

In Indonesia, COVID-19 was initially handled by the COVID-19 Task Force. It was later replaced by the Corona Virus Disease 2019 (COVID-19) Handling and National Economic Recovery Committee based on Presidential Regulation No. 82 of 2020. This committee was formed to accelerate the handling of COVID-19 as well as to revitalize and transform the national economy. The committee is under and reports to the President.

The committee consists of:

1) The Policy Committee;
2) The COVID-19 Task Force; and

The Policy Committee consists of a Head, assisted by 6 Vice Heads, a Chief Executive, and 2 Executive Secretaries. The Coordinating Minister of Economic Affairs is the current Head and the Minister of State-Owned Enterprises is the current Chief Executive. The Head of the Policy Committee reports every three months to the President or at any time if needed.

The Covid-19 Task Force is lead by the Head of the National Disaster Management Agency. Its members come from elements of the government and others as needed. The membership composition and organizational structure are determined by the Head of the Policy Committee. The Head of the Task Force is obliged to provide a daily report, or at any time if needed or urgent, to the President and the Head of the Policy Committee.

The National Economic Recovery and Transformation Task Force is lead by the Vice Minister I of State-Owned Enterprises and is obliged to report once a month or whenever necessary to the
President and Head of the Policy Committee. Article 6 of the Presidential Regulation 82/2020 states that the duties of the COVID-19 Task Force are:

a. conduct and control the implementation of strategic policies related to the handling of COVID-19;

b. solve problems that arise in the implementation of strategic policies related to the handling of COVID-19 quickly and precisely;

c. supervise the implementation of strategic policies related to the handling of COVID-19; and,

d. establish and implement policies and other necessary steps in order to accelerate the handling of COVID-19.

The Presidential Regulation 82/2020 revokes the Presidential Decree 7/2020 as amended by the Presidential Decree 9/2020. Therefore, based on the Presidential Regulation 82/2020, the COVID-19 Task Force, named Gugus Tugas Covid-19, was disbanded and replaced with Satuan Tugas Penanganan Covid-19. This also applies to regional task forces, following the duties and authorities stipulated in the Presidential Regulation 82/2020.

As previously mentioned, the legal norm that is directly in line with disease outbreaks in Indonesia is Law 6/2018 on Health Quarantine. Materials include public health emergency regulations, regional quarantine, and large-scale social restrictions.

Article 1 point 10 of Law 6/2018 defines regional quarantine as a quarantine of the population in an area, including the area of entry and its contents suspected of being infected with a disease and/or contamination in such a way as to prevent the possibility of spreading disease or contamination.

Article 1 point 11 of Law 6/2018 states that Large-scale Social Restrictions are restrictions on certain activities of residents in an area suspected of being infected with a disease and/or contamination in such a way as to prevent the possibility of spreading disease or contamination.

Although there are legal norms to impose regional quarantine based on Law 6/2018, the Government of Indonesia prefers to impose a Large-Scale Social Restriction (PSBB) to prevent the spread of COVID-19. This is evidenced by the adoption of the Government Regulation 21/2020 concerning Large-Scale Social Restrictions in the Context of the Corona Virus Disease 2019 (COVID-19) Handling Acceleration along with the announcement of a health emergency on March 31, 2020.

The obligations and responsibilities of the government in regional quarantine and PSBB are different. Article 55 paragraph (1) of Law 6/2018 states that “During a Regional Quarantine, necessities and livestock feeds in the quarantine area are the responsibility of the Central
Government". This has a large impact on the state budget as Indonesia has a population of more than 268 million (Kompas, 2020).

Article 28 paragraph (1) of Government Regulation 28/2008 on Funding and Management of Disaster Assistance, in essence, emphasizes that assistance for basic needs is provided in the form of temporary shelter, food, clothing, clean water and sanitation, and health services.

Regional quarantine also prohibits economic and social activities, in which people are not allowed to enter and exit the quarantine area. The government prioritizes the national economy and thus does not impose a regional quarantine policy but rather PSBB (Kompas, 2020).

PSBB is regulated in Government Regulation 21/2020, which in essence states that PSBB is carried out by suspending school and work activities while also restricting religious activities and activities in public places or facilities. It is only enforced in areas with the approval of the Government, namely the Minister of Health, after being proposed by the governor or regent/mayor.

From April to June 2020, 4 provinces and 27 regencies/cities have implemented PSBB. The provinces are Jakarta, West Java, West Sumatra and Gorontalo while the regencies/cities are Tangerang City, Tangerang Regency, South Tangerang City, Surabaya City, Sidoarjo Regency, Gresik Regency, Palembang City, Prabumulih City, Buol Regency, and Baritokuala Regency (CNN Indonesia, 2020). Additional regencies/cities include Pekanbaru City, Makassar City, Tarakan City, Banjarmasin City, Gowa Regency, Palangka Raya City, Banjar Regency, Banjar Baru City, Malang City, Batu City, Malang Regency, Kampar Regency, Pelalawan Regency, Siak Regency, Bengkalis Regency, Dumai City, and Ambon City.

At the end of May 2020, the Government issued the new normal policy in dealing with COVID-19 (Tribun Kaltim, 2020). New normal is a policy to restore public productivity and revitalize economic conditions (CNN Indonesia, 2020) and coexist with COVID-19, with several conditions to remain productive but safe from the virus. These conditions are: a) adjustment of PSBB based on data and science; b) the specified zone is a consideration for PSBB; c) strict application of health protocols; and, d) implementation review, where PSBB will be re-enforced if the community is not disciplined in following the health protocols (Muhyiddin, 2020, Patra et al., 2023).

The health protocol compliance law was enforced on August 4, 2020, through Presidential Instruction 6/2020 concerning Increasing Discipline and Law Enforcement of Health Protocols in the Prevention and Control of the Corona Virus Disease 2019 (COVID-19).

These instructions were followed by Operasi Yusisti, which is the implementation of health protocols by local law enforcement officials. Sanctions include fines and physical punishment such as push-ups and sit-walking on waterways. Social work was also given to offenders, such as cleaning or sweeping the streets/public facilities to written warnings. Several cases have been processed
through the court with fines of up to IDR. 750,000 (seven hundred and fifty thousand rupiahs) (Hukumonline.com, 2020) whereas in article 93 Law 6/2018, states the penalty is maximum imprisonment of 1 year and fine not exceeding IDR. 100,000,000.

The number of positive cases, recoveries, and deaths in Indonesia due to COVID-19, before and after PSBB, can be seen by comparing the data at the start of PSBB in early April 2020 and after its enactment at the end of June 2020.

Per April 6, 2020, there were 2,491 positive cases, with 192 recoveries and 209 deaths (Kemenkes, 2020). Whereas on June 29, 2020, there were positive cases 55,092, with 23,800 recoveries and 2,805 deaths (Kemenkes, 2020). [This means that PSBB has not been able to break the chain of transmission and prevent deaths due to COVID-19.

4.2 MALAYSIAN LEGAL RESPONSE

In Malaysia, COVID-19 is handled based on the norms in The Prevention and Control of Infectious Diseases Act 1988 (PCID Act 1988). This law was approved by the King on August 13, 1988, and promulgated on September 8, 1988. It consists of 6 parts and 33 sections as well as schedules.

Section 2 paragraph (1) of the PCID Act 1988 defines infectious disease as any disease specified in the First Schedule; In the First Appendix of Section 2, disease outbreaks that are mentioned include Cholera, Measles, Ebola, Leprosy, Malaria, and Yellow Fever. The Corona Virus Disease 19 is not included in the list. However, the schedule contains a clause “Any other life-threatening microbial infection”. Therefore, COVID-19 is regulated according to the PCID 1988.

Based on Section 5 of the PCID Act 1988, in handling and preventing the spread of disease outbreaks, royal institutions and officials are to provide assistance and work collaboratively with the Ministry of Health.

Section 11 paragraph (1) of the PCID Act 1988 states that “If the Minister is satisfied that there is an outbreak of an infectious disease in any area in Malaysia, or that any area is threatened with an epidemic of any infectious disease, he may, by order in the Gazette, declare such area to be an infected local area”. Based on this section, the Minister of Health on 17 March 2020 declared all states and territories of the Malaysian Federation as areas affected by COVID-19 (Skrine, 2020). Therefore, under Section 11 paragraph (2) of the PCID Act 1988, the Minister of Health is authorized through regulations created under the PCID 1988 to define steps to be taken in dealing with or preventing the spread of the outbreak.

Section 11 paragraph (3) of the PCID Act 1988 gives broad authority to each officer to direct any person or group living in an infected area to be the target of actions deemed necessary to control
disease outbreaks. The Royal Malaysian Police and the Malaysian Volunteer Department (RELA) have been appointed as officers under the PCID Act. They are officers by law and are authorized to use force, with or without assistance, as needed and use certain methods to ensure compliance with the directives issued (Christopher & Lee Ong, 2020)

Therefore, in order to control the spread and reduce the mortality rate of COVID-19, the Movement Control Order (MCO) was applied on March 18, 2020, which is stated in the Prevention and Control of Diseases (Measures Within The Infected Local Areas) Regulations 2020. The MCO prohibits population movement, whether entering or leaving an area. The MCO was enacted under the PCID Act 1988 and the 1967 Police Law and is expected to be able to control the spread of the virus. (A.U.M. Shah, 2020). The MCO is divided into several phases, based on a series of regulations under the clause of Section 11 paragraph (2) of the PCID Act 1988, as listed in the Table 2 below:

<table>
<thead>
<tr>
<th>No.</th>
<th>Regulation Name</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>Prevention and Control of Infectious Diseases (Measures within the Infected Local Areas) (No. 2) Regulations 2020 [P.U.(A) 109/2020]</td>
<td>1 April - 14 April 2020</td>
</tr>
<tr>
<td>3.</td>
<td>Prevention and Control of Infectious Diseases (Measures within the Infected Local Areas) (No. 3) Regulations 2020 [P.U.(A) 117/2020]</td>
<td>15 April - 28 April 2020</td>
</tr>
<tr>
<td>4.</td>
<td>Prevention and Control of Infectious Diseases (Measures within the Infected Local Areas) (No. 4) Regulations 2020 [P.U.(A) 133/2020]</td>
<td>29 April -12 Mei 2020</td>
</tr>
<tr>
<td>5.</td>
<td>Prevention and Control of Infectious Diseases (Measures within the Infected Local Areas) (No. 5) Regulations 2020 [P.U.(A) 136/2020]</td>
<td>4 May - 12 May 2020</td>
</tr>
<tr>
<td>7.</td>
<td>Prevention and Control of Infectious Diseases (Measures within the Infected Local Areas) (No. 7) Regulations 2020 [P.U.(A) 181/2020]</td>
<td>10 June – 31 August 2020</td>
</tr>
<tr>
<td>8.</td>
<td>Prevention and Control of Infectious Diseases (Measures within the Infected Local Areas) (No. 8) Regulations 2020 [P.U.(A) 254/2020]</td>
<td>1 September – 31 December 2020</td>
</tr>
</tbody>
</table>


During the first to the third phase of the MCO, from March 18 to April 28, 2020, Malaysians are prohibited from carrying out all forms of movement and mass gatherings, including religious, sports, social, and cultural activities. Places of worship and businesses are closed, except for essential services such as supermarkets, public markets, shops, and convenience stores selling daily necessities, broadcasting services, financial services, banks, health services, pharmacies, fire departments, prisons, ports, airports, security services, defense departments, cleaning services, retail, and food supply services (Sabri et al., 2020).

All kindergartens, public and private schools, public and private higher education institutions, including skill training centers, were closed. All international travel is prohibited. Malaysian citizens arriving from abroad are required to undergo a medical
examination and quarantine (or self-quarantine) for 14 days. In addition, the MCO prohibits tourists and foreigners from visiting Malaysia (Sabri et al., 2020).

Movement from one place to another within the infected area is prohibited, unless with written permission from the police, and is limited for the purposes of:

- official duties;
- travel to and from any place providing essential services;
- buying, supplying, or delivering food or daily necessities;
- seeking health care or medical services; or
- other special purposes as authorized by the Director-General of Health (Christopher & Lee Ong, 2020).

MCO is carried out with strict law enforcement for several regions. Access roads were closed and guarded by the police and assisted by soldiers. Starting from April 1, 2020, operating hours of all businesses are limited from 8 am to 8 pm. Trips are limited to a radius of 10 km. Travel to purchase basic necessities is limited to one person at a time from each household. Residents in COVID-19 hotspots undergo a stricter MCO. Permanent and temporary residents (visitors) are prohibited from leaving their homes and entry is prohibited for non-residents. Food was provided by the government to affected individuals, and medical bases were established in the area (Tang, 2020).

In commemoration of Labor Day on May 1, the Prime Minister of Malaysia announced the enactment of a Conditional Movement Control Order (CMCO), namely the easing of the MCO to stimulate the national economy within controlled limits. In this phase, business activities, including land and air transportation, have been opened under the application of health protocols. Business operating hours are determined by the National Security Council and depend on the type of service (The Star, 2020). This phase is valid until June 9, 2020.

On 7 June 2020, the Prime Minister of Malaysia announced the implementation of the Recovery Movement Control Order (RMCO) which will be held until 31 December. This decision was taken into consideration with new clusters and the number of COVID-19 cases per day in Malaysia. RMCO replaces CMCO and is considered to be able to withstand the spread of COVID-19. In this phase, all sectors of the economy are opened except for nightclubs and nightlife activities as they are difficult to monitor. Several areas still have strict quarantine regulations. If there is an increase in cases, a tighter MCO will be considered. Tourists are still prohibited while sports activities
without foreign participants and spectators are permitted (The Star, 2020). Almost all social, educational, religious, business, and economic activities will be reopened gradually, with standard operating procedures that must be followed (Channel News Asia, 2020).

Although the Minister of Health has the authority to take steps in dealing with COVID-19, the National Security Council (NSC) has decided that COVID-19 is a threat to Malaysia. Therefore, the NSC took over the handling of COVID-19 in Malaysia (Bharian.com, 2020). NSC is a federal government agency under the Prime Minister, which coordinates the handling of the COVID-19 outbreak in Malaysia (The StraitsTimes, 2020).

The National Security Council (NSC) or Majlis Keselamatan Negara (MKN) was formed through the National Security Council Act 2016. Section 3 paragraph (2) of the 2016 NSC Act states that the National Security Council is a central government body that has the power to consider all matters relating to state safety. Under Section 4 of the 2016 NSC Act, the functions of the NSC are:

a. formulating the basis and strategic steps regarding state safety, including sovereignty, territorial integrity, defense, socio-political stability, economic stability, strategic resources, and state integration with other parties related to state safety;

b. monitor the implementation of basic and strategic steps regarding state safety;

c. provide advice regarding security area statements;

d. carry out other functions related to the safety of the country and the implementation of this law.

Based on Section 5 of the 2016 NSC Act, the authority of the NSC deviates from the provisions of the law, where the NSC has the power to do everything necessary or create any policy to carry out its functions, including overseeing and coordinating government agencies in carrying out their duties related to state safety, as well as providing directions to each government agency concerning state safety. According to Section 6 of the 2016 NSC Act, the structure of the NSC consists of:

a. Prime Minister as Chairman;

b. Deputy Prime Minister as Deputy Chairman;

c. The Minister of Defense;
d. The Minister of Home Affairs;

e. The Minister of Communications and Multimedia;

f. Main Secretary of the Government (Chairman of the Setiausaha Negara);

g. The Chief of Defence Force; and

h. Chief of the State Police.

Section 6 letter b was approved to be amended by the House of Representatives on 18 August 2020, which states that the Chair of the NSC shall appoint a Deputy Chairperson from one of the members of the NSC. Thus, the Deputy Prime Minister is no longer necessarily the Deputy Chair of the NSC (The Star, 2020).

Sanctions for MCO violation is not only aimed at individuals but also legal entities or corporations. The penalty is a fine not exceeding RM 1,000 and/or maximum imprisonment of six months. These sanctions are based on the 2020 Prevention and Control of Infectious Diseases (Measures within the Local Infected Areas) Regulations. Sanctions can be imposed jointly or separately on legal entities or companies, directors, managers, secretaries, or anyone in such positions (The Star, 2020).

During the MCO period from March 18 to April 11, 2020, there were violations by 8,125 individuals, and 2,156 were sentenced to fines (New Straits Times, 2020). As of July 31, 2020, 21,664 individuals were arrested and processed in court. 14,957 of them, consisting of businesses, individuals, and companies, were sentenced to fines by the police (Code Blue, 2020).

The fine is considered too small, and the Malaysian government plans to increase the amount from RM 1,000 to RM 10,000. However, this will be done after the PCID Act 1988 is amended, in particular Section 24 and 25 (New Straits Times, 2020).

MCO is considered effective in dealing with the spread of COVID-19 in Malaysia (Tang, 2020). According to the Global COVID-19 Index (GCI) report released on July 28, 2020, Malaysia is the fourth country in the world after Thailand, South Korea, and Latvia, to successfully handle and recover from COVID-19 (The Star, 2020 and Cui et al., 2022). This means that MCO succeeded in reducing the spread and victims of COVID-19 in Malaysia.
5 CONCLUSION

The legal response of Malaysia, through a health and law enforcement approach by implementing MCO and coordinated by The National Security Council, has been successful in reducing the mortality rate and spread of COVID-19. Indonesia can emulate Malaysia by using a law enforcement approach in dealing with COVID-19, in addition to a health and disaster approach.
REFERENCES


