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## State Responsibility in Facing the Pandemic Covid-19 National Disaster

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Abid Zamzami<sup>1(CA)</sup>

<sup>1(CA)</sup>Lecturer, Faculty of Law, Islamic University of Malang (UNISMA), Indonesia;  
[abid\\_zamzami@unisma.ac.id](mailto:abid_zamzami@unisma.ac.id) (Corresponding Author)

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### ABSTRACT

The Covid-19 pandemic, which has an impact on the whole world, including Indonesia. Not only does it affect the health aspect, besides that Covid-19 causes considerable material losses. Various aspects were affected, both the socio-culture and the weakening world economy. Of course, this situation cannot be tolerated because it will cause a prolonged crisis. In order to handle it as a rule of law, of course, a legal instrument is needed in the form of statutory regulations. The President has issued various laws and regulations and policies

**Keywords:** state responsibility; health rights

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### INTRODUCTION

#### Background

The state is a symptom of human life throughout human history. The concept of developing countries starts from the simplest form to the most complex in today's times. As a form of organization of life together in society, the state has always been the center of attention and the object of study along with the development of human knowledge.<sup>(1)</sup>

The existence and sustainability of a country cannot be separated from the spirit of state administrators, in this case a sovereign government. The government as an element of a country has an important role in maintaining and maintaining the existence and sustainability of a country. In essence, the state is a forum for a nation to achieve its goals and realize the goals of a state.<sup>(2)</sup>

The Indonesian state is a forum for the Indonesian people to achieve the ideals of a state<sup>(3)</sup> and to realize the goals of the state.<sup>(3)</sup> This means that as an organization, the Indonesian state needs state administrators in achieving their goals and realizing the goals of the state, in this case the Indonesian government. The government, in the life of the state, apart from acting in a manner also acts on behalf of the state. And in organizing state power, there must be participation from those who are governed, in this case the people.

Often the meaning of "government" is equated with the meaning of government. Even though scientifically, the two meanings actually have different meanings. Government is an organ (tool) of the state that carries out tasks (functions), while Government is all matters carried out by the state in carrying out the welfare of its people and the interests of the state itself. So that it does not only mean the executive, but also the legislative and judicial duties.

Early in 2020 the world was overwhelmed by the Covid-19 Pandemic, there were more than 500,000 people infected and it continues to increase every day and 200 countries affected by Covid-19, including Indonesia.<sup>(4)</sup> Not only does it have an impact on the health aspect, besides that Covid-19 causes considerable material losses. Various aspects were affected, both the socio-culture and the weakening world economy.

The virus that has spread throughout the country under the name Covid-19 has troubled the international community. The large number of lives and the massive spread of this virus is a scourge for all countries, including the superpowers. The tremendous impact of this virus has been felt by every country from the economic, social and cultural sectors. The spirit of the unity of the Pancasila ideals movement began to fade due to panic over the spread of the virus and the loss of people's livelihoods which had an impact on the sluggish national economic movement which could be seen from companies or micro-businesses that could not operate during the Covid-19 period. No doubt this virus also has an impact on legal disabilities with an increase in the crime rate, from simple forms such as theft, robbery, embezzlement to white crimes, namely corruption. The number of complaints to law enforcers related to street crimes and officials indicated that they were corrupt in public money earmarked for social assistance programs.

By looking at the side effects above, if indeed it is necessary for Indonesian citizens to wait for the presence of the state in protecting and protecting its citizens. As stated in the preamble of the 1945 Indonesian Constitution in the fourth paragraph, "Then rather than that, to form an Indonesian State Government that protects the entire Indonesian nation and all Indonesian bloodshed and to promote public welfare, educate the nation's life, and participate in implementing world

order based on independence, peace, lasting and social justice". From the above formulation, it can be seen that there are objectives of "social defense" and "social welfare", which must be reflected in the objectives.<sup>(5)</sup>

### HOW THE STATE RESPONSIBILITY IN FACING THE COVID 19 PANDEMIC

One of the principles of a rule of law is the principle of legality, which implies that every government legal action must be based on the prevailing laws and regulations or every government legal action must be based on the authority granted by statutory regulations.<sup>(6)</sup> By relying on the principle of legality, the government took various legal actions.

In a rule of law, everything must be done according to law. The rule of law determines that the government must obey the law, the law must be placed as a rule of the game in the administration of state, government and society. Meanwhile, the purpose of the law itself is to organize a society that is peaceful, just and meaningful. This means that the goal of a rule of law is the creation of state, government and community activities that are based on justice, peace, and benefit or meaning<sup>(6)</sup>.

In Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI), it is emphasized that the Indonesian state is a constitutional state.<sup>(7)</sup> The rule of law adopted by Indonesia is a modern legal state or also known as a welfare state. Why is that? The reasons that can be put forward for stating that Indonesia adheres to the concept of a welfare state can be found in paragraph 4.

According to Muchsan,<sup>(8)</sup> states that in order for the welfare state to achieve its goals, namely prosperity and welfare for all levels of society and its people, the state is required to interfere with all aspects of life and take care of all the interests of its citizens from the cradle to the grave (from the cradle to the grave). There is not a single aspect of citizen life that is free from state interference. The simplest example is the birth of a baby (requires a birth certificate) and the death of a person (requires a death certificate), both of which require public services from government officials.

Intervention of the state (through its government apparatus) in all matters for the implementation of the prosperity and welfare of the people is a logical consequence for a state that calls itself a modern legal state. To carry out tasks in order to achieve the goals of the state, the government needs to be given broad executive powers and even if necessary have apparatuses of general power. The public power apparatus, if necessary, can impose its will on anyone who disobeys or undermines government policy.<sup>(9)</sup>

Looking at the significant role of government in every aspect of citizen life on the one hand, and the broad powers that need to be given to the government on the other, it is deemed necessary to limit this broad power and accommodate its significant role. If power is not restricted, as history has proven, it tends to be abused, in this case Acton<sup>(10)</sup> describes power as saying that power tends to corrupt, absolute power tends to corrupt absolutely. Therefore, in accordance with the assertion in the 1945 Constitution of the Republic of Indonesia, Indonesia as a modern legal state in interfering in every aspect of the life of its citizens, must act based on and or in accordance with the applicable legal regulations (rechmatig).

The state's obligation to fulfill the right to health is inseparable from the concept of a welfare state that is adhered to by Indonesia as the 5th Pancasila principle which reads "Social Justice for All Indonesian People" and the goals of the Indonesian nation as contained in the Preamble to the Constitution, namely to protect the entire Indonesian nation and all the blood of Indonesia and to promote public welfare, educate the life of the nation, and participate in implementing world order. The state not only takes action against human rights violators, but also must protect and fulfill human rights which include health.

According to Ross Cranston, the definition of welfare state is always associated with the responsibility of government in relation to health, unemployment and housing which provides protection for citizens against minimum standards of income, nutrition, health, housing and education, job security, as a political right and not voluntary donations. Even the aspects of welfare are also related to social services in the form of social welfare, taxes and job security.<sup>(11)</sup>

Four things are provided by the welfare state to its people, among others:<sup>(12)</sup>

- 1) Creating security
- 2) Supply social services (including health)
- 3) Reducing the social costs of society
- 4) Controls reproduction numbers

Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that every person has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and the right to obtain health services. The Covid-19 pandemic has made us all aware that what the state must fulfill is not always about the economy, health is equally important. Many countries are overwhelmed by this pandemic, including Indonesia. There are concerns in the community for how long this situation will end. However, we still have to give appreciation to the country, especially the government, which is working hard to overcome the pandemic as a form of responsibility for fulfillment.

Health is a state of health, whether physically, mentally, spiritually or socially, which enables everyone to live productively socially and economically.<sup>8</sup> Health is the most expensive asset owned by humans, this is true because without health, humans will not be able to become human beings as they should be, they will not be maximized in their activities or work, gather to express opinions and enjoy education. It can be said that Health is the key to access to other rights.

Since the first time the Indonesian government announced positive cases of Covid-19 in Indonesia in early

March 2020 to date (29/5/2020) the number of positive cases of Covid-19 has reached 25,216 cases.<sup>(13)</sup> Of these positive cases, the total number of recovered patients was 6,492 people, while the number of patients who died was 1520 people (13). The existence of Covid-19 is a real reality in the life of the Indonesian state. Because it has become a reality, various efforts to handle Covid-19 have been made by the government of the Republic of Indonesia. However, until when the Covid-19 Pandemic will end, no one can predict with certainty.

The Indonesian government does not remain silent in the face of the spread of Covid-19 in Indonesia which is increasing day by day, therefore here I am giving a few legal actions that have been taken by the government, all of which are listed in the laws and regulations. The criteria for this statutory regulation are based on Law Number 12 Year 2011 in Article 7 paragraph 1 concerning the hierarchy of statutory regulations.

First, namely the 1945 Constitution of the Republic of Indonesia. If we look at the legal norms contained therein, we can see in Article 28A and 28H paragraph 1. The content of article 28A "Everyone has the right to live and has the right to defend his life and life" then article 28H paragraph 1 "Every person has the right to live in physical and mental prosperity, to have a place to live, and get a good and healthy environment and the right to obtain health services" and also regulated in article 34 paragraph 3 "the state is responsible for the provision of health service facilities and facilities. decent public services".

Second, if we look at the products of the Law, there are at least some Shrimp Laws that were used as references when the President issued Presidential Decree No.7 of 2020 concerning the Task Force for the Acceleration of Handling Corona Virus Disease 2019 (Covid-19) as amended by Presidential Decree No. 9 of Year 2020 concerning amendments to Presidential Decree No.7 of 2020 concerning the Task Force for the Acceleration of Handling Corona Virus Disease 2019 (Covid-19), namely:

- 1) Law Number 4 of 1984 concerning Outbreaks of infectious diseases (State Gazette of the Republic of Indonesia of 1984 Number 20, Supplement to the State Gazette of the Republic of Indonesia Number 3273)
- 2) Law Number 24 of 2007 concerning Disaster Management (State Gazette of the Republic of Indonesia of 2007 Number 66, Supplement to the State Gazette of the Republic of Indonesia Number 4723);
- 3) Law Number 36 Year 2009 concerning Health (State Gazette of the Republic of Indonesia Year 2009 Number 144, Supplement to the State Gazette of the Republic of Indonesia Number 5063); and
- 4) Law Number 6 of 2018 concerning Health Quarantine (State Gazette of the Republic of Indonesia of 2009 Number 128, Supplement to the State Gazette of the Republic of Indonesia Number 6236).

Besides the Law above, there is also a legal product issued by the government in dealing with Covid-19, namely Government Regulation in lieu of Law No.1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 Corona Virus Disease Pandemic (COVID-19).) and / or in the context of Facing Threats that Endanger the National Economy and / or Financial System Stability (State Gazette of the Republic of Indonesia of 2020 Number 87, Supplement to State Gazette of the Republic of Indonesia Number 6485), effective from March 31, 2020. Then, the Perppu is stipulated as Law with Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 concerning State Financial Policies and Financial System Stability for Handling Pandemic Corona Virus Disease 2019 (COVID-19) and / or in the context of Facing Dangerous Threats National Economy and / or Financial System Stability Gan To become a law (State Gazette of the Republic of Indonesia of 2020 Number 134, Supplement to the State Gazette of the Republic of Indonesia Number 6516), effective from 18 May 2020.

Third, it is imperative that laws that are born or Perpu be followed up with implementing regulations, from Presidential Regulations to Ministerial Regulations, even to Ministerial decrees and Ministerial Circular Letters (although not included in statutory regulations).

- 1) Government Regulation Number 21 of 2008 concerning the Implementation of Disaster Management (State Gazette of the Republic of Indonesia of 2008 Number 42, Supplement to the State Gazette of the Republic of Indonesia Number 4828);
- 2) Government Regulation Number 22 of 2008 concerning Disaster Aid Funding and Management (State Gazette of the Republic of Indonesia of 2008 Number 43, Supplement to the State Gazette of the Republic of Indonesia Number 4829);
- 3) Government Regulation Number 12 of 2017 concerning Guidance and Supervision of Regional Government Administration (State Gazette of the Republic of Indonesia of 2017 Number 73, Supplement to State Gazette of the Republic of Indonesia Number 6041);
- 4) Government Regulation Number 12 of 2019 concerning Regional Financial Management (State Gazette of the Republic of Indonesia of 2019 Number 42, Supplement to State Gazette of the Republic of Indonesia Number 6322);
- 5) Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions in the context of the Acceleration of Handling Corona Virus Disease 2019 (Covid-19) (State Gazette of the Republic of Indonesia of 2020 Number 91, Supplement to the State Gazette of the Republic of Indonesia Number 6487);
- 6) Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods and Services (State Gazette of the Republic of Indonesia of 2018 Number 33);
- 7) Presidential Regulation Number 17 of 2018 concerning the Implementation of Emergency Disasters in Certain Conditions (State Gazette of the Republic of Indonesia of 2018 Number 34);
- 8) Presidential Decree Number 7 of 2020 concerning the Task Force for the Acceleration of Handling Corona Virus Disease 2019 (COVID-19)

- 9) Presidential Decree Number 9 of 2020 concerning Amendments to Presidential Decree Number 7 of 2020 concerning Task Force for the Acceleration of Handling Corona Virus Disease 2019 (COVID-19);
- 10) Presidential Decree Number 11 of 2020 concerning the Determination of the Public Health Emergency for Corona Virus Disease 2019 (COVID-19);
- 11) Presidential Decree Number 12 of 2020 concerning the Designation of Non-Natural Disaster for the Spread of Corona Virus Disease 2019 (COVID-19) as a National Disaster;
- 12) Regulation of the Minister of Health Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the context of the Acceleration of Handling Corona Virus Disease 2019 (COVID-19) (State Gazette of the Republic of Indonesia of 2020 Number 326);
- 13) Decree of the Minister of Health Number HK.01.07 / Menkes / 247/2020 concerning Guidelines for the Prevention and Control of Corona Virus Disease 2019 (COVID-19);
- 14) Circular Number HK.02.01 / MENKES / 334/2020 concerning the Protocol for the Prevention of Corona Virus Disease 2019 (Covid-19) for Apparatus Carrying Out Security and Control Duties in the context of Accelerating Covid-19 Handling;  
Circular Letter Number HK.02.01 / MENKES / 335/2020 concerning the Protocol for the Prevention of Corona Virus Disease (Covid-19) Transmission in the Workplace of the Service and Trade Sector (Public Area) in Support of Business Continuity;

### CONCLUSION

From the description above, I can conclude that the state's responsibility in dealing with the Covid-19 pandemic has been carried out, namely that there are at least six types of laws and twelve types of laws under laws and three types of ministerial decrees and circular.

Not a single country in the world is ready to face the Covid-19 Pandemic. Covid-19 has made us aware that health is important and must be fulfilled by the state as a human right. The fulfillment of the right to health has been recognized in several conventions that have been ratified by Indonesia. It is constitutionally clear that every citizen has the right to a healthy environment and the state is obliged to provide adequate health facilities

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