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[2nd International Conference on Law, Governance and Social Justice \(ICOLGAS 2020\) Criticize The Constitutional Rights Of Citizens On Era And Post Pandemic Covid 19 In State Of The Republic Of Indonesia Nany Suryawati1 1Darma Cendika Catholic University, Surabaya - Indonesia E-mail: nany.suryawati@ukdc.ac.id Abstract--The Constitution of the Republic of Indonesia has been stated in Article 1 paragraph \(3\), that the State of Indonesia is a State based on law \(rechtsstaat\), which places recognition and protection of human rights especially the rights of citizens as the highest, and also shows the harmony of relations between the government and the people based on the principle of harmony. Based on this principle of harmony, developing other elements of the Pancasila Law State concept, namely: the establishment of a proportional functional relationship between the powers of the State, deliberation, and judicial dispute resolution is the last resort, and not only prioritizing rights or obligations, but rather emphasizing the balance between rights and obligations. This balance between rights and obligations by taking into account the needs of life of people who are Indonesian citizens. Based on this, the government has an obligation to pay attention to its citizens in difficult times, such as the current Covid 19 pandemic. In addition, the government needs to prepare itself for the post pandemic, through various policies. The fulfillment of the rights of citizens is balanced with the obligations that must be carried out by citizens, so that government programs and policies can be implemented optimally and provide the expected results with the achievement of goals and objectives precisely and multipurpose. Article 28H of the 1945 Constitution of the Republic of Indonesia \(1945 Constitution\), paragraph \(1\) states that every citizen has the right to live in prosperity physically and mentally, in a good and healthy environment and obtain health services. The government's obligation to fulfill the rights of its citizens, but with the support of citizens to also carry out obligations as citizens to comply with government policies, so that a balance between rights and obligations is based on the principles of harmony and the concept of the Pancasila Rule of Law. Keywords- Balance; Rights And Obligations; The State Of Law Of Pancasila I. INTRODUCTION Amendment to the 1945 Constitution of the Republic of Indonesia \(subsequently referred to as the 1945 CRI\) affirms that Indonesia is a legal state. It places a strong emphasis on the protection of Human Rights \(subsequently referred to as HR\), especially civil rights, and strengthens the](#)

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Criticize The Constitutional Rights Of Citizens On Era And Post Pandemic Covid 19 In State Of The Republic Of Indonesia

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*Abstract-*The Constitution of the Republic of Indonesia has been stated in Article 1 paragraph (3), that the State of Indonesia is a State based on law (*rechtsstaat*), which places recognition and protection of human rights especially the rights of citizens as the highest, and also shows the harmony of relations between the government and the people based on the principle of harmony. Based on this principle of harmony, developing other elements of the Pancasila Law State concept, namely: the establishment of a proportional functional relationship between the powers of the State, deliberation, and judicial dispute resolution is the last resort, and not only prioritizing rights or obligations, but rather emphasizing the balance between rights and obligations. This balance between rights and obligations by taking into account the needs of life of people who are Indonesian citizens. Based on this, the government has an obligation to pay attention to its citizens in difficult times, such as the current Covid 19 pandemic. In addition, the government needs to prepare itself for the post pandemic, through various policies. The fulfillment of the rights of citizens is balanced with the obligations that must be carried out by citizens, so that government programs and policies can be implemented optimally and provide the expected results with the achievement of goals and objectives precisely and multipurpose. Article 28H of the 1945 Constitution of the Republic of Indonesia (1945 Constitution), paragraph (1) states that every citizen has the right to live in prosperity physically and mentally, in a good and healthy environment and obtain health services. The government's obligation to fulfill the rights of its citizens, but with the support of citizens to also carry out obligations as citizens to comply with government policies, so that a balance between rights and obligations is based on the principles of harmony and the concept of the Pancasila Rule of Law.

1
Keywords- Balance; Rights And Obligations; The State Of Law Of Pancasila

I. INTRODUCTION

Amendment to the 1945 Constitution of the Republic of Indonesia (subsequently referred to as the 1945 CRI) affirms that Indonesia is a legal state. It places a strong emphasis on the protection of Human Rights (subsequently referred to as HR), especially civil rights, and strengthens the constitutional structure of Indonesia as a democratic rule of law. Amendment to the 1945 CRI is not merely about the editorial change, but a change in the basic paradigm of thought.[1] Protection of HR is defined in Articles 27, 28, 28A – 28 J. It is an honor to and a protection of human rights which include social rights, especially public welfare, including fulfillment of rights to services like healthcare during Covid-19 pandemic. Government effort to carry out their duties of fulfilling civil rights will be meaningless when no support was gained from their people. The politics of HR constitute elimination and reduction of universal HR concepts into particular politics of HR. By particular politics we mean: 1) Human rights in Indonesia are those implied in the Pancasila (the Five Principles) and defined in the 1945 CRI. It is stated that human rights that deviate from Pancasila and the 1945 CRI betray the ideology and constitution; 2) Universal human rights are from vicious, interventionist, and individualistic West which are also run contrary to Pancasila and the 1945 CRI.[1] These ideas of the constitutional rights are part of the constitution. The intellectual history of constitutional rights is inseparable from Western intellectual tradition or doctrines of individual rights. However, it is incorrect to say that the ideas of individual rights—which referred to as human rights in subsequent development—are purely Western products. While individual rights are rights inherent to all human beings, they haven't become a fundamental thought

because individual rights are balanced against the individual rights of others. The forerunner of human-rights discourse in the Western world was proposed in the 17th century, although the basic principles had already been expressed in the 13th century's Magna Charta. Magna Charta is one of the first steps toward the recognition of property rights, freedom of religion, the right to equal protection of the law, and certain rights relating to women.

One of John Locke's arguments concerning natural rights of individual, especially the right to life, reads as follows:

Man being born, as has been proved, with a title to perfect freedom, and an uncontrolled enjoyment of all the rights and privileges of the law of nature, equally with any other man, or number of men in the world, hath by nature a power, not only to preserve his property, that is, his life, liberty and estate, against the injuries and attempts of other men; but to judge of, and punish the breaches of that law in others, as he is persuaded the offence deserves, even with death itself, in crimes where the heinousness of the fact, in his opinion, requires it (sect. 87).[2]

Locke's work is considered as having more influence on the Universal Declaration of Human Rights. Human beings and legislative bodies are both subject to natural laws, and therefore any legislation formulated by such institution that runs against natural laws, or violating natural rights of people, will not be applicable. JJ Rousseau agreed with Locke that natural law maintains that human beings are free to enter into contract with other consenting human beings, that the individual realized that he had to deal with challenges for his survival in a natural way, but he also subject to general will in an established society:

Finally since each man gives himself to all, he gives himself to no one, and since there is no associate over whom he does not gain the same rights as others gain over him, each man recovers the equivalent of every thing he loses, and in the bargain he acquires more power to preserve what he has. If then, we eliminate from the social pact everything that is not essential to it, we find it comes down to this: ' each one of us puts into community his person and all his powers under the supreme direction of the general will, and as body, we

incorporate every member as an indivisible part of the whole. [2]

Immanuel Kant disagreed with the proponents of natural rights, arguing that freedom lies in the morality, rather than in natural laws. Freedom means the right to self-determination because only rational human possess moral autonomy, and the duties to abide by categorical imperative.[2] This is in line with the first statement in the preamble of Universal Declaration of Human Rights:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

For that reason, Kant is considered as the inventor of modern understanding of Human Rights in ethical practice.[2]

However, HLA Hart maintained that if, for example, there is such thing as 'moral rights', then they constitute the natural rights.[3] Moral rights defined in moral law are the manifestation of natural law that defines natural rights; this moral law is the embodiment of moral principles. Legal and ethical concepts specify more about what is right or wrong and what one is morally permitted or forbidden in various proportions.[4] It will be meaningless if law is not intended to bring goodness to our life because a good life can serve as a good legal basis—this is the moral basis of law.

Thus, it is not only reason, logic, or intellectual quotient that plays a role, but also intuition, intelligence, and emotional quotient that are driven by judgments of good or bad; here humans also activate their artistic endeavor.[5] By artistic endeavor we mean the art of ethical behavior in constitution making.

These thoughts can be useful in building a strong and harmonious relationship between the government and the people. However, this does not mean that no dispute will occur between the government and the people; therefore a dispute resolution body will be needed. If we refer back to Pancasila as the philosophical basis of state, the principle of harmonious relationship between the government and the people as the first and foremost principle will ultimately lead to the balance between

rights and duties. When a plague like Covid-19 occurred, it is the government that serves the foremost function to ensure a balance between rights and duties. This is because, in principle, a democratic legal state gives birth to responsive and, even, progressive laws when it comes to basic and fundamental human values based on the protection of human dignity as a gift from the Almighty God.

II. PROBLEMS

How the Indonesian government's efforts related to the constitutional rights of citizens during the Covid 19 pandemic era and post

III. RESEARCH METHOD

This research uses a normative juridical method, by observing the applicable laws and regulations, based on the 1945 Constitution of the Republic of Indonesia.

IV. DISCUSSION

A. Human Rights and Civil Rights

Other terms related to human rights include Natural Rights and Fundamental Rights, all of which are the absolute rights of every human being—a gift from the Almighty God to mankind in the course of their lives in the world. Article 1 of Law Number 39 of 1999 concerning Human Rights that adopt the Covenant on Human Rights defines human rights as "a set of rights bestowed by God Almighty in the essence and being of humans as creations of God which must be respected, held in the highest esteem and protected by the state, law, Government, and all people in order to protect human dignity and worth".[6] The philosophy of human rights is freedom or liberty that respects or appreciates the freedom of others. This implies that the freedom of human rights is not unlimited, because violations of this limit will end the freedom itself. Human life in the world includes the life of the people in a region or country ruled by a government that is responsible for protecting human rights as defined in the state constitution. Rule of law requires the supremacy of law if we are to limit government caprice based on the principles of legality. Such a position of law makes it a tool or means to realize the ideals or hopes

of human justice, and the latter will only materialize if human rights are respected.[6]

Law and human rights constitute an inseparable unit. If a legal system is built without any human rights protection, the system will serve as a tool for the rulers to perpetuate their power and to be used at will by them, and therefore it is highly likely that human rights will be violated. Thus, law must serve as a juridical instrument that respects the principles of human rights. This means that it is the law that serves the functions of realizing human right values.

A group of people living in a territory of a country that uphold human rights will gain respect and appreciation as well as protection they deserve. Respects for human rights can be ensured when democracy is practiced. This is because human rights and democracy constitute human endeavor to defend their dignity. Therefore, it is only the concepts of human rights and democracy that are proven to best recognize human dignity. The Universal Declaration of Human Rights defines basic human rights that all human beings deserve, and it is hoped that every state includes these rights in their Constitution. Human rights in the Constitution consist of civil rights and the rights of non-citizen that differ fundamentally. Citizens are the subjects of Constitution because the latter is made for the former. The rights to self-determination are the basic rights of Indonesian citizens to free themselves from the shackles of colonialism and to fight for independence and defend their own country—and non-Indonesian citizens may not own these rights. Human rights that adopt the principles in the Universal Declaration of Human Rights are defined in Constitution as citizen rights. Therefore, the rights of non-citizens simply be regulated in general laws. The fundamental rights of citizens in the Constitution must be formulated in a clear, concise and detailed manner. This enables Indonesian people to know exactly what rights that were previously seized by the colonialists and have been restored to them today. In addition, these citizen rights must serve as the driving force in combating imperialism and feudalism in order to defend the independence of Indonesia. Human rights belong to every person; therefore the state and all its governmental institutions must recognize and respect them. Human rights protection is among its first and foremost duties. As for the relationship between

human rights and religion, there can be different opinions; especially when it comes to separation of state and religion, bans on anti-religion propaganda, and freedom to have or adopt a religion or belief. The State guarantee of religious freedom applies to all groups of various religions and beliefs. Religious freedom is one of the most important rights among other human rights, because God created humans with the freedom to live their lives according to their respective beliefs in God's law. This is the essence of religious freedom. Despite difference of opinion over human rights, civil rights and the rights to adopt religion, these in fact enrich the pragmatic meaning of human rights as adopted by constitutional state.

B. Types of Human Rights

Human rights, as we all know, can be divided into four types as follows:[5]

I. Civil Rights, which comprise of:

1. Integrity Rights
2. Due process Rights

Integrity Rights, comprising of:

1. Rights to Live
2. No death Penalty
3. No Torture
4. Freedom of Residence
5. Freedom of Movement
6. Rights to Leave any Country
7. Rights to Return
8. Protection of Privacy
9. Honor and Reputation
10. Protection of Property
11. Freedom of Thought
12. Conscience and Religion
13. Rights to seek Asylum from Persecution
14. Rights to Nationality
15. Rights to Family Lift

Due Process Rights include:

1. No Arbitrary Arrest, No Detention or Exile
2. Rights to Effective Remedy
3. Rights to Fair Trial
4. Equality before The Courts
5. Rights to be Accused
6. Nulla poena sine lege

II. Political Rights

Political Rights include:

1. Opinion and Expression
2. Assembly and Association
3. Take part in Government

4. Equal access to public service
5. Elect and be elected

III. Socio Economic Rights

Socio Economic Rights include:

1. Rights to Work
2. Equal pay for equal work
3. No forced Labour
4. Trade Union
5. Organize and Bargaining
6. Rest and leisure
7. Adequate standard of living
8. Rights to food
9. Rights to health
10. Rights to housing
11. Rights to education

IV. Cultural Rights

Cultural Rights include the following:

1. Take part in cultural life
2. To benefit from scientific progress
3. Protection of authorship and copyright
4. Freedom in scientific research and creative activity

In addition to the four groups presented above, there is also other grouping as follows:

1. Rights to self determination
2. Women's Rights
3. Non discrimination
4. Protection of children
5. Protection of minority /classical rights
6. Rights to development
7. Rights to information.

The above human rights typology is not static in nature and will subject to dynamic changes in domestic and global spheres; and, therefore, it is not impossible that additional details will follow because the ideas of human rights might change over generations. The regulations of human rights in the 1945 Constitution of the Republic of Indonesia are defined in Chapter X.A, Articles 28A – 28J.

Among the articles concerning HR in the 1945 CRI read as follows: "Every person shall have the right to lead a physically and mentally prosperous life, to obtain health services, to have social security allowing him/her to develop completely as a dignified human being". To ensure the protection of human rights of every citizens, KOMNAS HAM (an independent National Commission on Human

Rights) was established in accordance with the applicable provision of laws.

For that reason, every citizen is obliged to comply with the restrictions set by law whose purpose is to guarantee recognition and respect for the rights and freedoms of others. Also, it is intended to fulfill demands for justice in accordance with moral considerations, religious values, security, and public order in a democratic society.

Legal norms concerning human rights reach not only domestic public sphere, but also that of global or international sphere. Human rights as the rights inherent to all human beings constitute the legal subject that must be respected and protected in order to realize human values. God has bestowed these rights upon us and therefore no one can deny them, including the state and the government. Upon this basis, the state and the government must respect, uphold and protect human rights. Conceptually, democratic legal states shall comply with their obligation to respect, appreciate, and protect the rights of their citizens.

C. Human Rights in the Ideology of the Republic of Indonesia

Discussion about the state ideology means discussing about Pancasila as the foundational principle of the Republic of Indonesia. Every nation that stands firm, strong and secure should have known and understood clearly towards which the goal of the Nation will lead to. Therefore, guidelines in life are necessary things to have because these will enable a nation to deal with the problems that occur; either in political, economical, social, or cultural aspects that arise from the changes in and the dynamics of the movement of people in their endeavor to realize a developed country. The basic concepts and the life aspired by a nation are defined in these guidelines. The Resolution Number II/MPR/1978 states that Pancasila is the soul, personality and fundamental basis of the Republic of Indonesia. For us, Pancasila is the guidance in life and the moral awareness and ideals that deeply rooted in the culture of Indonesia.[7]

Changes that occur after 1998 reform require reorientation and restructuring in order to reconstruct many aspects of the government and society. Pancasila as a political basis and basic principles in the life of the state, nation and society

is not a totalitarian ideology that governs all aspects of human life. The philosophy of Pancasila further elaborates the principles as the foundation of the state that relates to the concept of *menegara* (the life of a state). The term *menegara*, according to Driyarkara, implies dynamic activities in the life of the people in developing the order of the national and state life.[7]

Pancasila as the state foundation organizes and directs the ins and outs of living a *menegara* life, not the life of all human beings. Pancasila teaches noble values, and it serves as an expression and answer to religious life, humanitarian problems, justice and statehood. The first principle, 'Belief in the One and Only God', promotes religious tolerance and goes against religious discrimination. The second principle, 'a just and civilized humanity', indicates the protection of a critical and essential right: the right to life. That is why the right is referred to as the primary human right, followed by social, economic, and political rights alongside the rights of indigenous people. The third principle, 'Unity of Indonesia', encourages an effort to unite diverse traditions and cultures of various tribes throughout this country into the Unitary State of the Republic of Indonesia; a country of thousands of islands that complement each other for brighter future. The fourth principle, 'Democracy led by collective wisdom in consultation/representation', promotes democratic principles that allows different opinions and representative system that conveys the aspirations and dissatisfactions of the people to the government. The fifth principle, 'Social justice for all the people of Indonesia', indicates that the national ideal of Indonesia is to realize a just and prosperous society. To achieve this, the least developed regions shall be paid the highest attention while, at the same time, the most developed regions shall be paid the lowest attention in order to mitigate the gap between them up to the relatively equivalent level. The phenomenon of globalization has caused various changes in life patterns and human behavior and, even worse, it is contrary to Pancasila. Globalization runs contrary to the first principle of Pancasila because it grows the commercialization of religion, in which various aspects of religion are treated like commodities. Consequently, religion fell into the state of losing substance. Contrary to the second principle, human beings in a globalized era have been pushed aside by technology and the zeal

for efficiency and, even worse, their rights were violated to the benefit of the power that be. What also runs contrary to the third principle includes the symptoms in a society which considers that nationalism, the nation state, ideology and people's welfare have ended. Globalization also runs contrary to the Fourth Principle as the former increases per capita income but, at the same time, raises poverty rate and, thus, drives the reconfiguration of socioeconomic units. Last but not least, globalization also runs against the Fifth Principle, because the former rendered justice a tradable and distributable commodity. In a globalized era, democracy has fallen into a state of losing substance. In such unfortunate situation, the principles in Pancasila need to be practiced in the national and social life. All of these affect the fulfillment of citizens' rights in an effort to realize the national ideals of a just and prosperous society. To deal with the wave of changes in the current situation, we need to raise collective awareness that relies on Pancasila values. These values treat human beings as social creatures that need binding moral rules to guide their behaviors in a sociopolitical interaction; this will enable the state to perform its obligation to fulfill the rights of its citizens. The main postulates of Pancasila are further elaborated below:[7]

1. Pancasila gives adequate foundation of life for the people of Indonesia who tend to be more religious and, therefore, rely more on faith rather than simply reason.
2. 'Belief in the One and Only God' in Pancasila is not simply the first principle, but also the core concept that unites all religions and inspires the next principles: humanity, nationalism, democracy and social justice—it (the first principle) represents the Alpha and Omega (the beginning and the end).
3. 'Belief in the One and Only God' as the first and foremost principle in Pancasila provides the State and Government a solid foundation upon which they perform their duties of ensuring justice, virtue, and honesty as well as internal and external ties of brotherhood.
4. 'Belief in the One and Only God' serves as the principle that guide the government, through its ideals, in bringing any benefit to the people. Meanwhile, the principle of humanity

is intended to bring the first principle into practice.

5. The first principle, Belief in the One and Only God, is not against democratic system, otherwise it implements the system.
6. 'Belief in the One and Only God' in the practice of state politics serves the function of educating the people dan political endeavor to promote:
 - a. Brotherhood;
 - b. Justice;
 - c. Equality;
 - d. Humanity; and
 - e. Honesty.
7. Pancasila fully guarantees equal rights for every citizen—either human rights or other fundamental rights.

The postulates elaborated above affirm clearly that Pancasila as the core ideology and the state foundation underlie the fulfillment of human rights, especially citizen rights, as a guarantee of prosperous life to realize social justice for the people of Indonesia.

In relation to this matter, the aims of the fulfillment of citizen rights inspired by the noble values of Pancasila are as follows:

- a. citizens are highly aware of their rights and obligations as individuals, members of the community, and as citizens;
- b. citizens understand and are able to exercise their rights and duties in compliance with applicable laws and regulations, obediently implement all provisions of laws and regulations on their own will; and
- c. citizens understand what activities that should be done and prioritized in effort to build a just, prosperous and happy society.

Therefore, cultivation of noble values of Pancasila is necessary in an alarming social condition today.

D. The Effort of Indonesian Government to Fulfill its Duties Based on the 1945 Constitution of the Republic of Indonesia

1. The Era of Covid 19 Pandemic

According to L.M. Friedman[8] law enforcement is, in fact, a variable that correlates to and

interdependent with determining factors such as substantive, structural and cultural components. Failure on one component will affect others. Respect for human rights in all aspects, including economic, social, cultural, civil and political rights, constitutes a response to the social situation and condition during the Covid-19 pandemic. Since Covid-19 is a global pandemic, all countries have the duties to devise responsive policies to fulfill the needs of their respective citizens. Therefore, the pandemic will not hamper any effort to respect human rights, let alone posing a threat to democracy.

Article 28I paragraph (4) of the 1945 Constitution of the Republic of Indonesia stated that the fulfillment of human rights is the responsibility of the state, especially the government. Article 28 H paragraph (1) of the 1945 CRI stated that every person shall have the right to lead a physically and mentally prosperous life, to have residence, and to obtain a proper and healthy living environment as well as to obtain health services. Services are closely related to, or even inseparable from, human life. Human life, from birth to death, is inseparable from the services provided by public organizations.

Excellent public service requires professional, effective and efficient providers. Public service providers are state administrative agencies, either those of the government or the independent ones, established by laws for the purpose of public services, or other legal bodies specially established for public service activities. In addition, people, without exception, have the right to access valid and trustworthy information that continually updated concerning Covid-19 pandemic and the treatment. Dissemination of incomplete information will cause doubt and uncertainty, or even worsen the situation. The above descriptions are based on the articles below:

- Article 9 paragraph (2) d of Law Number 14 of 2008 concerning Public Information Disclosure;

- Article 14 of Law Number 39 of 1999 on Human Rights defining that Everyone has the right to seek, obtain, own, store, process, and convey information;

- Article 1 point 1 of Law Number 25 of 2009 on Public Service that oblige every public service provider to provide high quality services to every user;

- Article 5 paragraph (2) of Law Number 25 of 2009 on Public Service defining that the scope of public service include social and healthcare security;

- Article 4 of Law Number 25 of 2009 on Public Service defining the principles of public service: equal rights, equal treatment, facility and special treatment for vulnerable groups;

- Article 19 of Law Number 12 of 2005 concerning International Covenant on Civil and Political Rights;

The preamble to the Law Number 25 of 2009 on Public Service asserts that:

1. The state is obliged to serve every citizen and resident for the fulfillment of their basic rights and needs within the framework of public services which are mandated by the 1945 Constitution of the Republic of Indonesia;
2. As an effort to improve quality and to guarantee the public service provision in compliance with the general principles of good corporate governance;
3. To protect each citizen and resident from any power abuse in the implementation of public service provision.

The purpose of the state in improving the welfare of its people based on the concept of welfare state requires a civilized society within which no individuals should be in a situation where they were unable to fulfill their basic needs.

The purpose of the State of Indonesia as elaborated in the preamble to the 1945 CRI includes:

1. to protect the entire Indonesian nation and the entire Indonesian native land,
2. to advance general welfare,
3. to develop the intellectual life of the nation, and
4. to partake in implementing world order based upon independence, eternal peace and social justice.

The elements of the rule of law which are transformations of the noble values of Pancasila include the following:[9]

- a. Harmonious relationship between the government and the people;

- b. Acknowledgement of a guaranteed balance between rights and duties of the citizens; and
- c. Guaranteed social justice for all the people's right to clothing, food, shelter, and a sense of security.

The Government in the Welfare State must play an active role in managing and organizing the economy. By doing so, the government will be able to perform their responsibility of ensuring the basic service provision to a certain level for the citizens. At the same time, they can devise a social policy which constitutes their strategy and effort to improve people's welfare, social protection as well as public welfare and social security.

Article 1 paragraph (9) of Law Number 11 of 2009 on Social Welfare defines that social protection is all efforts directed to prevent and deal with risks from shocks and social vulnerability.

Article 14 of Law Number 11 of 2009 affirms further that this social protection is to prevent and deal with risks from the social shocks of a person, family, group, and/or community to ensure their survival by meeting their minimum basic needs.

The social protection can be implemented through the following programs:

- 1. Social Security;
- 2. Social Assistance;
- 3. Legal Aid;
- 4. Social Advocacy; and
- 5. Social Safety Net.

Three principles of just social protection are as follows:

- 1. Equally distributed: the coverage and distribution reach all social layers.
- 2. Accountably delivered: reliable quality and service.
- 3. Sustainably provided: distributed through institutions on a sustainable basis.

There are four social protection models, namely:

- 1. Residual – Selective: Social protection partially conferred to certain groups (poor, vulnerable, and people with disability) in a short term.
- 2. Residual – Universal: Social protection conferred partially, yet in a relatively large number.

- 3. Residual – Institutional: Social protection conferred partially, yet in a relatively longer continuing term.
- 4. Institutional – Universal: Social protection conferred through institutions on a sustainable basis with extra large coverage.

The existence of social protection principles and model facilitates the implementation of social protection to ensure the fulfillment of citizen rights during Covid-19 pandemic. To improve people's welfare, the government, as a welfare state, provides social protection for every citizen through institution; this reflects the existence of citizen rights on the one hand and state obligation on the other. The institutionalization of state system is conducted on a structured basis at the national level and on a decentralized basis at the regional level. The social protection program is promoted from the grass root; i.e. through people's initiatives and participation.

Article 28I paragraph (4) of the 1945 CRI defines that the state or government bears responsibility to protect, enforce, and fulfill the human rights of citizens.

The implementation of social protection during the Covid-19 pandemic remains less than optimal. This is due to a number of obstacles that include: minimal access to information; shortage of medical personnel (as more doctors and nurses die at the forefront of Covid-19 battlefield), lack of facilities and infrastructure to support health services, and the absence of special procedures for people who want to do Covid-19 tests.

As for the health protocols, the Presidential Decree Number 19 of 2020 had been issued on the Stipulation of Public Health Emergency Due to Covid-19.

2. Post-Covid-19 Era

Covid-19 pandemic is not over yet, and currently we still in a period of adaptation to new habit that require us to care for the environmental and personal hygiene. The period is also called a relaxing phase that start from June 2020. The relaxing phases are elaborated below, with Samarinda City as an example:

First Phase (June 01, 2020):

- a. The Community Health Center (*Puskesmas*) offers in-building medical

care for pregnant women, immunizations, health care, and other related health services;

- b. Temporary suspension of integrated service center (*Posyandu*); and
- c. Regional Apparatus Organization for Public Service, places of worship, shopping places, entertainment venues, restaurants, night fairs adopt health standards and protocols;

Second Phase (June 15, 2020):

- a. Community Health Centers open 24-hour inpatient service and all healthcare services, especially in-building MSS health care;
- b. Fifty percent of Integrated Service Posts are open to provide services with health standard and protocol;
- c. RAO other than the first phase, tourism attractions without water parks are open;
- d. Regional Offices of General Election Commission are open;

Third Phase (July 01, 2020):

- a. Community Health Centers open in-building and out-building services with the adoption of health standard and protocol;
- b. One hundred percent of Integrated Service Posts are open;
- c. Schools and education facilities are also open.

These precautionary measures show the serious intent of Samarinda Municipality to suppress the spread of Covid-19 in the city as the potential for local transmission of the virus kept increasing. Social protection from the Samarinda Municipal Government is given to the people affected by Covid-19 in the form of food aid which is distributed evenly and right on target. This social program has broad effects on the people's economy, so that it can be counted as the achievement of economic programs, namely: empowering online motorcycle taxi drivers, shops, and stalls.

The policy implemented by the Samarinda Municipal Government can serve as an example for other municipal governments so that the Relaxation Phase with the adaptation to this new habit can be adopted in the entire territory of this country. This needs to be done not only during the Covid-19 pandemic because, unbeknown to us, this pandemic changed people's habits to live by paying more

attention to personal hygiene and clean environment as well as to do exercise under morning sunlight. If the government, from the lowest level civil servants up to the highest, implements this policy with public participation and innovative health care facilities and infrastructure, Indonesia can become the cleanest and safest country in terms of health services. This could be true if the people of Indonesia have become increasingly concerned about personal health and clean, healthy, beautiful environment with oxygen-rich air to breath.

Public policies that pay attention to the needs of citizens and residents require supervision from institutions such as the National Commission on Human Rights, the Information Commission, and community organizations and journalists. This supervision is one component of public participation. Public participation and initiatives from those who are members of community groups are highly expected and require supporting facilities from the government in the form of easy access to information and permits, so that the spread of Covid-19 can be further suppressed.

However, the implementation of service standards without any compliance with health protocol will results in various types of dominant behavior of government officials which is compounded with maladministrative conducts, such as:

- a. Chaotic procedures;
- b. Uncertain service duration;
- c. Illegal levies (extortion);
- d. Corruption;
- e. Abuses;

All these have led to lower quality public services, higher economic cost, and lower investment growth as well as hampering public services for goods and services, and administration. Moreover, these have decreased public trust in government apparatus and caused public apathy.

Therefore, public service providers must also pay attention to the following matters:

- a. Competency of Organizing Apparatus;
- b. Open managerial practices that are easily accessible through trusted information facility;
- c. Easy and fast service mechanism;
- d. Open access to information with controlled security;

- e. Strict compliance with Work from Home (WFH) and Social Distancing policies under the watchful eyes of the security forces

Cooperate with government officials for security matters in order to monitor the level of mistrust of the people, for the sake of national security and the sustainability of the Indonesian State.

V. CONCLUSION

1. The state, in this case the government, bears responsibility for protecting, advancing, and respecting human rights, especially in the current era of Covid-19 pandemic. This can be done by providing social protection such as:
 - a. Social Security;
 - b. Social assistance;
 - c. Legal aid;
 - d. Social advocacy; and
 - e. Social safety net
2. The implementation of social protection has three important aspects:
 - a. Equally distributed: the coverage and distribution reach all social layers.
 - b. Accountably delivered: reliable quality and service.
 - c. Sustainably provided: distributed through institutions on a sustainable basis.
3. The term 'New Normal' or to 'Live with Covid-19' has changed to 'Adapting to New Habits'. This means that we have to leave unhealthy and unclean living habits in order to realize a clean and healthy Indonesian society;
4. In the transition phase of Covid-19 pandemic, or the 'Adapting to New Habits' phase, the government is obliged to provide citizens and residents with their basic needs. It also bears the responsibility to guarantee the public service provision in compliance with the principles of good corporate governance while maintaining strict implementation of health protocols and standards.
5. Health services are equipped with supporting facilities and infrastructure in the form of, among other things, medical equipment for Covid-19 positive patients, and isolation facilities for patients who need to be monitored during the incubation period in order to suppress the spread.
6. Involvement of relevant stakeholders to drive the coordination between them to ensure health service provision that needs more attention between agencies.
7. Monitoring public service delivery to ensure that:
 - a. The services are delivered in compliance with the Standard Operating Procedure (SOP);
 - b. The services are delivered in a quick and easy process;
 - c. The corrupt and abusive behaviors of government officials have been minimized;
 - d. Aid packages for the vulnerable, poor and people with disability actually reached the target group;
 - e. The aid packages really help mitigate the suffering of vulnerable and poor families and people with disability;
 - f. The roots of the problem with the aid packages that can not help mitigate the suffering of those groups are identified;
 - g. Public services during the 'adaptation to new habits' phase that involve the community have been evaluated;
 - h. Public policies dealing with the problems relating to public service delivery and restoring public trust in the government and state officials have been devised.
8. Health services are equipped with supporting facilities and infrastructure in the form of, among other things, medical equipment for Covid-19 positive patients, and isolation facilities for patients who need to be monitored during the incubation period in order to suppress the spread.

In addition, the implementation of public policy must be closely monitored to find out the link between the implementation and the results. The Government and the State are obliged to ensure the achievement of the country's goals to overcome the crisis of the Covid-19 pandemic in all aspects, especially in social protection and social justice for the people. This is because Indonesia is a democratic state ruled by law that guarantees the fulfillment of the rights of its citizens as elaborated in paragraph IV of the Preamble of the 1945 Constitution of the Republic of Indonesia. This also described further in

the body of the 1945 Constitution of the Republic of Indonesia, which originates from the noble values of Pancasila, which had inspired Indonesian society before the adoption of the Pancasila precepts.

We recommend our research paper to serve as guidelines for the government in its coordination with all elements at the community level in order to maintain a high level of trust in the government. Attention shall be paid to finding better solution for the problems that remain unsolved this far and therefore the objectives of the state to improve people's welfare can be achieved.

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