# The Meaning And Development Of State Emergency Laws Based On Constitution In The Indonesian Legal System\

Atma Suganda[1], Musa Anthony Siregar[2]
[1, 2]Universitas Jayabaya, Jakarta-Indonesia
E-mail: atmasuganda7@gmail.com/mousaas@gmail.com

***Abstract--Supremacy of law constitute the main resultant of the principle of the state based on law, which is conserved by legal experts in the legal traditions of Continental Europe and the Anglo-Saxon legal system, is that all government actions must be based on law, governed by law, controlled according to law, and legally accountable. The supremacy of law in the country and guarantee of legal protection for citizens applies in all circumstances. The state is based on law, it is not only assumed that in normal circumstances and conditions of social life and nationalities, but also applies in abnormal conditions. Abnormal state and community life in the terminology of state administration law is known as danger or emergency. The dynamics of national and state life with high intensity of political practice, is usually a source of emergencies. In addition, natural events often lead to state emergencies. Pandemic outbreak of coronavirus disease in 2019 (Covid-19) which hit the world, including Indonesia, is a natural factor that causes emergencies in the country. In the face of abnormal situations suddenly, such as the outbreak of the Covid-19 epidemic, it seems that the country's lack of readiness to overcome them.State emergencies law are in line with the principles of the state based on laws that have been accepted and recognized by almost all modern states as one of the important pillars in administering the state.The interpretation and development of state emergency law based on the constitution as part of the Indonesian legal system, is inadequate and must be directed to the formulation of the closeness of shared perception. This article is the result of a review of secondary data in the form of legal literature, therefore it is methodologically classified as a typological legal research, normative-juridical-doctrinal. Approach to the discussion is descriptive-qualitative.. The meaning of Indonesian state emergency law contains various dimensions, such as aspects of the institutional subject, scope of authority, regional context, and the boundaries of emergency law. The emergency legal provisions of countries are anticipatory to deal with abnormalities or emergencies. The development of state emergency law in the Indonesian legal system is based on the 1945 Constitution, which was revealed in several laws and elaborated further through statutory regulations under the laws.***

***Keywords--Emergency Law; Indonesian Legal System; State Of Law***

## I. INTRODUCTION

It has become a common understanding, at a more basic level, the concept of "a state based on law" (*rechtsstaats*) is the basis for developing legal studies and legal practice. The teaching of "rule of law" which is the embodiment of constitutionalism, was born as a result of the counter-absolutist thought movement[1]. In the context of the Indonesian state, the idea of a rule of law is based on historical perceptions that have been experienced by the Indonesian nation[2]. The fact of the history of the Indonesian nation under the rule of feudal kings and colonialists who oppressed and exploited natural resources and society, gave rise to awareness following the idea of a rule of law based on the principles of democracy and social justice.

The main point in a rule of law is that all activities in the private sector - public life and in the public sector - government, must be based on law. Law is the guideline and the highest determinant (rule of law). The main principle of a state based on law is that on the one hand all government actions must be based on law, regulated and controlled by law, as well as being accounted for legally. On the other hand, there must be a guarantee of legal protection for citizens. This applies in all circumstances, both in normal living conditions and in abnormal conditions. Under any circumstances the state remains responsible for administering the government and protecting its citizens.

There are differences in dimensions and the law applies to different conditions between normal conditions and abnormal conditions. For the field of criminal law or civil law, for example, abnormal conditions can be the reason for the non-effect of legal norms, because they are considered a force majeure. For constitutional law, normal conditions

and abnormal conditions apply to 2 (two) different legal systems. Constitutional law applies in normal circumstances, while in abnormal circumstances applies emergency constitutional law or state emergency law. In the realm of terminology, it is known as 2 (two) identical terms, namely the state is in a state of "danger" or "emergency" which in Dutch constitutional law is called *Staatsnoodrecht*[3]. The constitution includes the basis for state emergency law by determining the arrangements for efforts to overcome a state emergency, if the state is threatened by an extraordinary situation.

In the course of the history of the life of the Indonesian state since its establishment in 1945, abnormal conditions or state emergencies have often occurred. In every phase of the country with the order of government under the auspices of several different constitutions, there is always a state of emergency. The life phase of the state during the early days of independence, the old order government, the new order government, and the reformation order government, under the auspices of the 1945 Constitution of the Republic of Indonesia, did not escape the abnormal situation. Likewise, as long as the government is run based on the Constitution of the Republic of the United States of Indonesia in 1949 and the Provisional Basic Law of 1950, the country is also experiencing a state of danger or emergency[4]. However, in the context of Indonesian law, state emergency law still occupies a minimal portion of thought and study[5].

Abnormal conditions or state emergencies are characterized by general characteristics, namely a crisis if there is a disturbance that causes a grave and sudden disturbance, and an emergency if a situation has not been calculated beforehand and demands immediate action awaiting prior deliberation[6]. Crisis and emergency or crisis can be triggered by various things or situations that actually occur or have the potential to occur[7]. In the early days of independence, the internal consolidation of the national which was not yet solid and the undermining of the colonial power that was not satisfied, lasted until the enactment of the Constitution of the United Republic of Indonesia in 1949. The friction of armed movements with a background of ideological conflicts had occurred during the period of the Old Order government. Also during the phase of the New Order government, disruption of security stability and economic recession, brought the country in a situation of emergency.

In actual and phenomenal developments, state emergencies are thought to occur due to several factors. First, in the context of an ideology that is considered extreme-external, this is indicated by the emergence of a new ideology, namely the ideology of the Islamic State of Iraq and Syria (ISIS) and several ideologies based on violence. ISIS is considered to have influenced and possessed a small proportion of Indonesian citizens who are thought to have an impact on the emergence of violent actions in society. With the characteristics of a strong ideology, financial network, military training and covert recruitment, ISIS can collaborate with other international network groups such as Al Jamaah al Islamiyah and Mujahidin Islamiyah[8].

Second, the factor of the terrorism movement which has been seen as a crime against civilization and is a serious threat. For some circles, Indonesia has a long and varied experience regarding terrorism, so that terrorism is a very potential threat to emerge at any time. Terrorism can trigger a crisis in a well-organized international context. Third, the threat of narcotics and illicit drugs, which has clearly become a form of threat to the state, nation and society of Indonesia, especially in the segment of the younger generation. On a massive scale, drugs can be hundreds of times more dangerous than other latent factors, such as corruption. The target of drugs is to destroy the nation's children. Fourth, the criminal act of corruption that has the potential to damage the joints of the life of the state, so that it is a threat to political stability at the supra-structural level, because it has been committed by several officials of the leadership of state institutions. Corruption that increasingly penetrates all lines of state institutions, both in the executive, legislative and judicial circles. In terms of quality and quantity, it is also increasing and extending to officials in the regions. There is rampant political corruption in the form of party corruption, general election corruption, parliamentary corruption, government corruption, judicial political corruption, and government bureaucratic corruption[9].

The corona virus disease pandemic in 2019 (Covid-19), which started in Wuhan (China), then hit countries around the world, including in early 2020 hit Indonesia, is a factor that causes a very

extraordinary state emergency[10]. The Covid-19 pandemic is a global and universal disaster that had never been imagined before, so it escaped anticipatory policies. The resulting emergency is more than just a state emergency, but is an international emergency of the nations. Almost all areas of life are seriously affected, be it social, political, economic or legal. The nature and character of the emergency destroys the situation, changes the order, negates logic, suppresses beliefs, even overturns values and norms. The struggle against extreme situation, leading ultimately to the underlying dilemm as the law on state of emergency[11].

Facing an abnormal situation with an extraordinary nature of emergency, it seems that there is panic in enforcing state emergency laws in Indonesia. For example, there is uncertainty in determining the type of law and regulation as a buffer for overcoming emergency situations. Of course, because it is not easy to interpret the Covid-19 pandemic which affects Indonesia's emergency qualifications[12]. One thing that is most obvious, crisis and emergency due to Covid-19 is translated to be equivalent to the element of compelling urgency which is the reason for the issuance of a Government Regulation in lieu of Law (Perppu)[13]. Along with the development of the world, science, information technology with the 4.0 era, in navigating the life of the country, nation and society in the future, it is very possible for various internal and external factors to emerge as the cause of the abnormal situation of state emergencies. For this reason, it is necessary to develop new touches of thought related to state emergency law.

## II. PROBLEMS

This article describes a discussion based on 2 (two) problems, namely: first, how is the meaning of emergency law in line with what is outlined in the Indonesian constitution? Second, how is the development of emergency legal arrangements in the Indonesian legal system?

## III. RESEARCH METHOD

In research or legal writing, the research method is basically considered simple. Typology of legal research in its general understanding is based on normative-doctrinal legal research (legal research) on the one hand and sociological-empirical legal research (socio legal research) on the other. This article is the result of a research library, because it is classified as juridical-normative-doctrinal legal research. Research on literature and legal materials, both primary legal materials, secondary legal materials, and tertiary legal materials. The research method uses a statutory law study approach. The method of discussion is descriptive-analytical-qualitative.

## IV. DISCUSSION

In a constitutional law perspective, the discussion of the meaning and development of state emergency law in Indonesia is based on a constitutional foundation in the Indonesian legal system. The terminology of state emergency law according to the Indonesian constitution is principally reflected in the constitutional construction which states that "the President declares a state of danger, the conditions and consequences of a state of danger are stipulated by law" (Article 12 of the 1945 Constitution of the Republic of Indonesia) and that "In case of crisis that forces the President to have the right to stipulate a government regulation in lieu of a law "(Article 22 of the 1945 Constitution of the Republic of Indonesia).

Relevant to that, as a unified legal system, at the level of the constitution it was once determined that "The government has the right to its own power and responsibility to enact emergency laws to regulate matters of federal government administration which due to urgent circumstances need to be regulated immediately" (Article 139 of the 1949 Constitution of the Republic of Indonesia). Also, it was found that "The government has the right to its own power and responsibility to stipulate emergency laws to regulate matters of government administration which due to urgent circumstances need to be regulated immediately" (Article 96 of the 1950 Constitution).

The terminology of state emergency law has experienced a dimensional development and expansion of meaning through several laws, more than just a state of danger, emergency, or compelling emergency. Law Number 27 of 1997 concerning Mobilization and Demobilization, defines the meaning of "A state of danger is a condition that can pose a threat to the unity and integrity of the nation

and the survival of the nation and the Republic of Indonesia". In the context of a more specific scope of disaster emergency, Indonesia also has Law Number 24 of 2007 concerning Disaster Management. A state of disaster emergency is defined as "a state of disaster emergency", that is, a state determined by the Government for a certain period of time based on the recommendation of the Agency assigned the task of overcoming a disaster ".

Based on the textual of the constitution, state emergencies are implied in several formulations, namely "danger", "compelling emergency", "emergency", and "urgent circumstances". The Indonesian constitutional system adopts a brief and simple arrangement of state emergencies. The general pattern of state emergency arrangements in the constitutions of several countries varies, both those regulating in general terms and those regulating in detail[14]. This constitutional formulation requires further elaboration, in terms of the meaning and development of state emergency law within the framework of the Indonesian legal system. Understanding the meaning and development of state emergency law in this paper, is carried out at least according to the doctrinal dimension, according to the aspects of international law, and according to the dogmatics of national law.

The important doctrine of constitutional law, recognizes constitutional dualism, namely the notion that there should be provisions for two legal systems, one the operates in normal circumstances to protect rights and liberties, and another that it suited to dealing with emergency circumstances[15]. Constitutional law according to the first category is the law that applies in normal circumstances, while in the second category is the law that applies in unusual circumstances (*etat de siege*). In unusual circumstances, there are urgent threats that must be addressed immediately to reduce or stop all the impacts that occur without being able to wait for discussions by representative institutions to determine policies regulated by law.

Constitutional law is identical to the constitution which determines the legal aspects of state emergencies. In general, constitutional state of emergency clauses are created four indicators of constitutional regulation of states of emergency. The four variables: (1) states of emergency (declared by the executive) are explicitly subject to confirmation by the legislature; No mention of who has the power to declare such a state; and the executive branch is explicitly given the power to declare a state of emergency with no mention of a role for the legislature or courts. (2) No mention of dissolving legislature in regard to states of emergency; and automatically suspends the legislature during a state of emergency or gives the executive explicit power to do so. (3) Duration of the emergency is specified for a set time period and extensions are subject to legislative approval; duration is specified or legislative approval is specified but not both; No mention of duration or extension process. (4) Constitutions give that certain rights/freedoms cannot be revoked during states of emergency[16].

State emergency law, can be characterized by a constitutional crisis and a crisis in the political order[17], which results in an extraordinary situation. In a pragmatic practical sense, the law of state emergencies regulates extraordinary circumstances that are excluded from a state of an exception. Circumstances the state of exeption as the situation in which a state is confronted by a mortal threat and responds by doing things that would never be justifiable in normal times, given the working principles of that state[18]. The state of exception uses justifications that only work in extremis, when the state is facing a challenge so severe that it must violate its own principles to save itself. The concept of exclusion in state emergencies is used to justify things that are of an extreme nature, because the state is facing such a serious threat that in order to save itself, the state is forced to violate the principles it adheres to.

State of emergency or state of exception, constitutes an extraordinary or unusual situation, outside the normal condition, namely when the legal norms and institutions that administer state power cannot function according to the provisions of the constitution and statutory regulations as in normal circumstances. State emergency law requires that abnormal conditions be faced and resolved with the intention of returning the country to a normal state.

There is no exact definition that could be provided that would leave no grey edges. This is widely recognized, and political thinkers have sometimes accused these grey edges of providing room for politicians to abuse emergency powers, a concern that is well founded. But this is not a reason

to reject the entire category of emergency, or to fault those whose definitions have proved imprecise. The central concept of emergency, it is important to keep in mind that no set of characteristics precisely defines an emergency. The key characteristics or 'symptoms' of emergencies are urgency and scale. To say that a situation is urgent is to say that it poses an immediate threat, one too pressing to be dealt with through the normal, years-long process of policy and legislation making. An urgent threat is one that must be dealt with immediately, if it is to be eliminated or mitigated. Citizens cannot wait for lengthy bicameral debate to decide on the best way to confront an epidemic, at the risk of allowing the epidemic to spread exponentially, with exponentially greater loss of life.It is noteworthy that the idea of urgency does not necessarily entail temporal containment. Conceivably, something can remain urgent for a while[19].

The meaning of emergency law according to doctrine has various categories and scope. The categories of state emergency law are (1) emergencies due to armed war, (2) emergencies due to tension, including the definition of natural disasters or social tensions due to political events, and (3) emergencies due to compelling internal government interests (*Innere Notstand*)[20]. Meanwhile, the scope of the definition of a state of emergency contained in it, if specified, may include (1) a state of war in the country, due to *external aggression*; (2) a state of war abroad, because of confrontation; (3) the state of armed rebellion by the domestic separatist movement; (4) the state of armed rebellion due to power struggles; (5) a natural disaster that causes panic, social tension, and causes the constitutional government not to function as it should; (6) chaotic social conditions or widespread social unrest which have caused the constitutional government not to function properly; and (7) unfavorable financial and administrative conditions so that the legal and constitutional government administration cannot function properly, while the need to act is very urgent and urgent[21]. State emergency law is an institution that regulates extraordinary state authority to in a short time eliminate the dangers that threaten to ordinary life[22]

Viewed from the point of view of international legal aspects, the meaning of state emergency law can be found in the Paris Minimum Standard document. It is formulated that (1) there is a public emergency that threatens the life of the nation, and which is officially proclaimed, will justify the declaration of a state of emergency; (2) a public emergency means a crisis or public situation of extraordinary danger, actual or imminent, which affects the entire population or the entire population of an area, and is a threat to life; (3) the constitution of each country should prescribe procedures for declaring a state of emergency, competent executive authority, and confirmation by the legislature; (4) the emergency period is strictly time-limited; (5) determine the specific areas that are really affected and prevent the expansion of the state of emergency to other areas of the country; (6) the legislature may not be dissolved during the emergency period; and (7) the end of the emergency is carried out by the executive or legislature[23]. Important elements of emergency law based on an international law perspective include: the status of the emergency must be declared or declared in advance by the Head of Government, is limited by time, must obtain legislative approval, and the enforcement of norms especially regarding the rights of the ruler is determined in law[24].

Another dimension of emergency law in the perspective of international law is contained in International Covenan on Cicil and Political Right (1966) which has been ratified by Indonesia with Law Number 11 of 2005. The meaning of emergency law is related to "situations that threaten the life of the nation and its existence". States can take the necessary measures, without contravening obligations under international law and without discrimination based on ethnicity, color, sex, language, religion or social origin[25].

The perspective of international law on state emergency law is thick with the dimensions of human rights. In the context of the global human rights dimension, state emergency law includes several elements, namely: (1) there is a threat to the life of the nation and its existence; (2) threatens the physical integrity of the population, whether in all or part of the territory; (3) threatens political independence or territorial integrity; (4) disturbance of the basic functions of government institutions, thereby affecting the obligation to protect the rights of citizens; (5) an official statement of emergency; (6) the threat is actual or imminent; (7) restrictive measures are permitted for the maintenance of

safety, health and public order; and (8) are temporary in nature or within a certain period of time.

The dogmatic perspective shows that modern constitutions in several countries in the world have outlined the state's emergency law[26]. Modern constitutions include provisions regulating the possibility to declare emergency regimes during which ordinary constitutional protections do not apply to the same extent. Modern constitutional document, recognises the possibility of declaring a state of emergency by an Act of Parliament when the life of the nation is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency. And when 'the declaration is necessary to restore peace and order'. In such circumstances legislation may derogate from the ordinary level of protection of constitutional rights. However, the constitution puts additional limitations on such legislation, which may do so only when 'the derogation is strictly required by the emergency' and consistent with the obligations of the state under international law.

The dogmatic approach to the meaning of emergency law in the Indonesian state is placed within the framework of the history of the Indonesian state administration which has had historical experience of emergency law practice, including the features and levels of the emergency. Since the state constitution (UUD 1945) was passed on August 18, 1945, further regulations regarding state emergency law have been determined in several laws. One year after the Indonesian state was established, the state emergency law as a description that regulates the state of danger as confirmed in the constitution, was formed through Law Number 6 of 1946 concerning conditions of danger. The main content is similar to that regulated in *Regeling op de Staat van Oorlog en van Beleg* (*Regeling SOB*) of 1939. Broadly speaking, state emergency law is differentiated between a state of emergency (*staat van beleg*) and a state of war (*staat van oorlog*)[27].

At present, the main source of Indonesian state emergency law is in Law Number 23 Year 1959 which was promulgated on December 16, 1959. Various matters are regulated with regard to the enforcement and termination as well as on the requirements and legal consequences of the enforcement of this hazard situation. In terms of the main meaning of emergency law, it contains a new dimension as a development of the constitution, namely regarding the distinction of emergency law in stages according to the status of emergency, starting from the rulers of civil emergency, military emergency and the state of war. Defined several rights which are the authorities and obligations of the emergency ruler.

The operationalization of its powers and obligations, both the civil emergency authorities, the military emergency authorities, and the martial law authorities, is carried out in a tiered and vertical manner, in the regions according to instructions and orders given by the center and is accountable to the authorities emergency center[28]. This is in line with the different scope of emergency laws. According to the regional point of view, emergency law applies, in general there are: (1) national emergency, which applies to the entire territory of the Republic of Indonesia; (2) regional emergency, which applies to all regions between certain provinces; (3) provincial emergency that applies to all provincial areas; and (4) local emergencies that apply only to certain areas within regencies or cities.

Within the framework of the Indonesian legal system, the characteristics and boundaries of emergency law include: (1) threats to the unity and survival of the nation; (2) disturbance of security or legal order throughout the territory or parts of the country, either in the form of rebellion, riots or natural disasters; (3) due to the threat, the institutions that administer state power cannot function properly, thus requiring extraordinary handling; (4) determined by means of an official statement of emergency from the government, in this case the President, for the entire region or certain areas; (5) The state of emergency is valid for a specified period of time.

Elements of the meaning of state emergency law in 3 (three) perspectives, namely doctrine, international law and national law, are explained as follows:[29]

| Doctrine | International Law | National Law |
|---|---|---|
| a. there is a threat to the existence of the state;<br>b. permissibility of responsive actions that deviate from normal law principles;<br>c. issued by means of an official state statement;<br>d. stipulation of an emergency only applies for a certain period of time;<br>e. there must be clear boundaries regarding the scope of effect of an emergency; and<br>f. permitting reduction of citizens' rights to derogatory rights. | a. there is a threat to the life of the nation and its existence;<br>b. threatens the physical integrity of the population, whether in all or part of the area;<br>c. threatens political independence or territorial integrity;<br>d. disruption of the basic functions of government institutions so that it affects the obligation to protect the rights of citizens;<br>e. state of emergency is officially declared by means of a state of emergency declaration;<br>f. the threat is actual or imminent;<br>g. restrictive measures are permitted for the maintenance of safety, health and public order;<br>h. temporary in nature or within a certain period of time. | a. there is a threat to the unity and survival of the nation;<br>b. disturbance of security or legal order throughout the territory or parts of the country, either in the form of rebellion, riots or natural disasters;<br>c. as a result of the threat the state power administering institutions could not function properly, thus requiring extraordinary handling;<br>d. determined by means of an official statement of emergency from the government, in this case the President, for the entire region or certain areas;<br>e. The state of emergency is valid for a specified period of time;<br>f. the reduction of certain rights of citizens can be done. |

The main characteristic of emergency law is that it reduces, limits or freezes certain human rights. This can be justified on the condition that it is temporary in nature, intended for the purpose of overcoming a crisis situation, with the aim of returning to normalcy as usual in order to defend fundamental human rights. The philosophy of emergency law must consider that human rights are respected properly and are not completely abolished, but only in a short and temporary period.

The general principle affirms that the nature of emergency law is to overcome extraordinary abnormal situations, where an act of breaking the law (onrechtmatig daad) has a legal basis and is considered an act according to law, so that the emergency law justifies the validity of activities that are not in line with the law. Emergency law as a means of overcoming an emergency situation, the principle should not apply for a long period of time. In principle, emergency laws are issued to quickly eliminate the dangers to the life of the country in order to return to a state of peace, safety and normalcy[30]. Thus, the main function of state emergency law (staatsnoodrecht) is to immediately eliminate the danger, so that it returns to normal.

There are special principles and formulations in the constitutional construction of Indonesian emergency law according to the 1945 Constitution. The principle of there is danger in state emergency law in relation to the subject of emergency attorney at the President. The president declares danger and sets the law in compelling urgency. Basically, the essence of a state emergency situation subjectively becomes the President's consideration. If the president considers the country in a state of emergency, then he can act against the rules, even violating the constitution[31] or violating human rights. There is no other state institution that can test the president's subjective assessment that a state emergency is really happening. There is no time limit yet, when the president will declare the danger and how long the emergency status will last.

The president's great powers can pose grave dangers in state emergency law, in the form of excessive use of power or abuse of power. In the context of positive law (Law Number 23 Year 1959), the attributes of the president as commander-in-chief of the armed forces and the pattern of accountability to the MPR, are even more dangerous. The president's status as commander-in-chief of the armed forces applies legally, while the accountability pattern is no longer valid.

To avoid the dangers of abuse of power, a balance parameter is needed between the state of danger and the effort of the pan, according to the balance theory (*evenwichtstheorie*)[32]. The construction of the Indonesian constitution (Article 12 and Article 22 UUD 1945), outlines a system of supervision of the power of the president in state emergency law. According to the constitutional law system, constitutional oversight of government is the most important supervision. The president is a symbol of government with the definition of the authority to implement laws. In the Indonesian constitution, there is a supervisory mechanism that is preventive and repressive in the state administration, namely supervision by means of the formation of laws, supervision by means of determining the state revenue and expenditure budget, and repressive supervision by asking for accountability[33]. State emergency law adheres to the principle of the supervision system for preparing legislation. Based on the 1945 Constitution, the law of emergency state is law that allow to solve emergeny problems in short time if there is no other way to solve it, namely martial law[34].

## V. CONCLUSION

In general, state emergency law with various formulations is part of the legal system in modern countries. The constitutions of countries always accommodate the predictions of the state of emergency situation which is expected to occur at any time in the course of the administration of the state and government. As a state based on law, the Indonesian constitution explicitly regulates the anticipation of state emergencies, both in terms of the state of danger, emergency, and urgency. Indonesian state emergency law is part of constitutional law that applies specifically for a certain period of time, during a state of danger or a state emergency. As a constitutional law institution, state emergency law has a legal character to anticipate and overcome an abnormal situation with extraordinary impacts. With a strong constitutional foundation, the holder of the right to determine emergency law is the President, which has the potential to also pose a danger. The pattern of constitutional construction implies a limitation on the authority of the president by the parliament

through the oversight mechanism of the formation of laws. In principle, emergency law can reduce, limit, and even negate human rights. Therefore, emergency law provides limits on the protection of human rights. Indonesian emergency law regulates levels of a civil, military or war nature, as well as the area of validity of local, regional, or national law. Within the framework of the Indonesian legal system, emergency law based on the 1945 Constitution, develops slowly. Further elaboration through several laws is inadequate, even positive emergency laws that apply are not in line with the development of a system of constitutional norms.

## ACKNOWLEDGEMENT

The author feels proud and congratulates the committee who continues to strive so that the implementation of the second International Conference of Law, Governance and Social Justice (ICOLGAS) in 2020 can be carried out well in the midst of the uncertain Covid-19 pandemic situation. Thank for acceptance and permission to the author to participate in this good scientific activity, so as to get a very valuable experience. Hopefully, our involvement in this international conference can further develop the science of law, governance and social justice, in order to be devoted to life together.

## REFERENCES

[1] J. Asshiddiqie, *Konstitusi dan Konstitusionalisme*. Jakarta: Sekretariat Jenderal Mahkamah Konstitusi, 2006.

[2] A. Hakim, *Politik Hukum Indonesia*. Jakarta: YLBHI, 1988.

[3] K. Arifin, *Peraturan Pemerintah Pengganti Undang-Undang tentang Keadaan Bahaya sebagai Hukum Tata Negara darurat posititip dan latar belakangnya*. Jakarta: Permata, 1999.

[4] J. Asshiddiqie, *Perihal Undang-Undang*. Jakarta: Rajawali Press, 2011.

[5] H. Sihombing, *Hukum Tata Negara Darurat di Indonesia*. Jakarta: Djambatan, 1996.

[6] B. Manan, *Lembaga Kepresidenan*. Yogyakarta: Pusat Studi Hukum Universitas Islam Indonesia dan Gama Media, 1999.

[7] N. Huda, *Politik Ketatanegaraan Indonesia*. Yogyakarta: FH UII Pres, 2003.

[8] A. Wahid, *Kejahatan Terorisme Perspektif Agama HAM dan Hukum*. Bandung: Refika Aditama, 2004.

[9] M. Reksodiputro, *Arah Pembangunan Hukum Nasional*. Jakarta: KHN RI, 2013.

[10] H. Armiwulan, "Pembatasan Hak Asasi Manusia dan Tanggung Jawab Negara dalam Penanganan Pandemi Covid-19," Jakarta, 2020.

[11] A. Jakab, "German Constitutional Law and Doctrine on State of Emergency - Paradigms and Dilemmas of a Traditional (Continental) Discourse," *SSRN Electron. J.*, 2012.

[12] S. D. Hatijanti, "Hak atas Pendidikan dan Hak atas Informasi: Perlindungan dan Pemenuhan pada Masa Covid-19," Jakarta, 2020.

[13] Isnawati, "Supremasi Hukum dalam Pemenuhan Hak Asasi Manusia di Masa Covid-19," Jakarta, 2020.

[14] N. Devins, *Shaping Constitutional Values: Elected Government-The Supreme Court*. Baltimore: Johns Hopkins University Press, 2005.

[15] J. Ferejohn and P. Pasquino, *Constitutional Rights and State of Emergency*. London: Macmillan, 2017.

[16] L. C. Keith and S. C. Poe, *Effectifity of Constitutional State of Emergency Clauses: An Empirical Exploration*. New York: Oxford University Press, 2017.

[17] B. Hardiman, *Filsafat Fragmentaris*. Yogyakarta: Penerbit Kanisius, 2007.

[18] J. Asshiddiqie, *Hukum Tata Negara Darurat*. Jakarta: Raja Grafindo Persada, 2007.

[19] N. C. Lazar, *State of Emergency in Liberal Democracies*. New Haven: Yale University Press, 2009.

[20] B. R. S.E. Finer, Vernon Bogdanor, *Comparing Constitution*. London: Clarendon Press, 2015.

[21] J. Asshiddiqie, *Pokok-Pokok Hukum Tata*

*Negara Indonesia Pasca Reformasi*. Jakarta: Bhuana Ilmu Populer, 2008.

[22] J. H. dan M. Lufti, "Ketentuan Konstitusional Pemberlakuan Keadaan Darurat Dalam Suatu Negara," *J. Konstitusi*, vol. 8, no. 1, 2011.

[23] K. Lawson, *Cases in Constitutional Law*. London: Sweet and Maxwel, 2001.

[24] L. Fisher, *Introduction to the Constitution of India*. Nagpur: Wadhwa Co, 2000.

[25] B. Manan, *Dimensi-Dimensi Hukum Hak Asasi Manusia: Butir-Butir Pemikiran dalam rangka Purnabakti*. Bandung: Pusat Studi Kebijakan Negara Fakultas Hukum, UNPAD, 2009.

[26] C.F. Strong, *Modern Political Constitutions: An Introduction to the Comparative Study of Their History and Existing From*. London: Sidgwick & Jackson Ltd, 1966.

[27] Djokosutono, *Pemikiran-Pemikiran Hukum Tata Negara*. Jakarta: Ghalia Indonesia, 1996.

[28] S. S. Martosoewignjo, *Hukum Tata Negara Indonesia: Pemikiran dan Pandangan*. Bandung: Rosda Karya, 2015.

[29] Tisyanto, "Kewenangan Presiden dalam Keadaan Bahaya Menurut Undang-Undang Dasar 1945 dalam Keseimbangan Kepentingan Negara dengan Warga Negara," Universitas Jayabaya, Jakarta, 2018.

[30] A. D. Busroh and A. Bakar Busroh, *Asas-Asas Hukum Tata Negara*. Jakarta: Ghalia Indonesia, 2003.

[31] H. Alrasyid, *Presiden Republik Indonesia: Sebuah Tinjauan Hukum Tata Negara*. Yogyakarta: UII Press, 2009.

[32] V. Dullemen, *Staatsnoodrecht en Democratie*. Utrecht, 1977.

[33] P. Wahjono, *Negara Republik Indonesia*. Jakarta: Rajawali, 1988.

[34] R. P. P. M. Hasibuan and A. Ashari, "Optimasi Peran Negara Menghadapi Pandemi Corona Virus Disease 2019 dalam Perspektif Hukum Tata Negara Darurat," *SALAM J. Sos. dan Budaya Syar-i*, vol. 7, no. 7, 2020.