

**RESTRICTIONS SOCIAL LARGE SCALE AS
EFFORTS TO CONTROL COVID- 19 PANDEMIC
NATURE FROM HUMAN RIGHTS PERSPECTIVE****Lamria Fitriani Manalu**

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ABSTRACT

State as stakeholders obligation to guarantee the rights of its people in the form of homage (to respect), protection (to protect) and fulfillment (to fulfill) without discrimination. The aim of this study was to determine the Social Restrictions BERs when the Great as an effort to tackling the pandemic COVID-19 in a human rights perspective, which is expected to be useful as a reflection on the application of PSBB in Indonesia. This research is descriptive analytical using data sources obtained through literature study, while data collection techniques and procedures were carried out through document study. Normative data were analyzed qualitatively. The results showed that the PSBB was carried out in accordance with predetermined criteria. Such restrictions are in accordance with statutory regulations, in which the state may only impose restrictions on rights through the enactment of laws and the public has the right to enjoy the highest attainable standard of physical and mental health. The government has made various important efforts to protect the right to life, the right to self-development, and the rights to the welfare of the affected people. This means that the state has carried out its obligations for health services and a healthy and healthy life for everyone as mandated in the 1945 Constitution. The results show that the application of the PSBB as an effort to tackle the COVID-19 pandemic is not contradictory or is in accordance with a human rights perspective.

Keywords: *Restriction Social, Covid-19, Human Rights.*

Journal History

Received : August 18, 2020;
Reviewed : October 01, 2020;
Accepted : October 28, 2020;
Published : November 1, 2020

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INTRODUCTION

A wave of anxiety swept the world after an outbreak of disease in more than 200 countries. China is the country which first reported the *World Health*

Organization (WHO) about some cases of pneumonia that unusual caused by viruses that are not known in Wuhan, a city port with a population of 11 million people in Central Hubei Province. This incident occurred on December 31, 2019. Outbreaks were then called virus *corona* by WHO is growing rapidly. Furthermore, Russia, Spain, Sweden and the UK confirmed their first cases, which will be on January 31, 2020.¹

Until the beginning of May 2020, the number of cases of the virus *corona* have been confirmed worldwide is many of 3.5 million inhabitants. It was recorded that 48,084 were death cases.² The number continues to creep up. As of July 28, 2020, the total global confirmed COVID-19 has reached 650,805 deaths (CFR 4.0%) in 215 affected countries and 171 local transmission countries. Meanwhile in Indonesia, the virus swallow victim

to 4,901 inhabitants of 102 051 confirmed cases.³

Corona which is the cause of Corona Virus Disease 2019 (COVID-19). WHO says in his report that the way propagation of virus *corona* is through saliva droplets (*droplets*) or vomiting (*fomiles*), in close contact without protector. Transmission of the virus *corona* or COVID-19 occurs between people who have been infected with pathogens without the disease. To that end, WHO recommends procedure late to confront the spread of virus *corona* or COVID-19 in aerosols.⁴

COVID-19 is handled differently by countries. Japan, Singapore and Hong Kong are some of the countries that restrict the movement of citizens. Meanwhile, South Korea chose to carry out a mass COVID-19 test and provide mobile clinics. Meanwhile, China, Italy, Spain and France are examples of countries implementing *lockdowns*. Handling is based on the different m conditions

¹ Baharman, *This is the development over time of the corona crisis in the world*, www.mediaindonesia.com, accessed on 29 Juli 2020.

² *World Corona Virus Update May 4: 1.1 Million People Heal, Development of Indonesia to France*, www.kompas.com, accessed on 30 Juli 2020.

³ *Current Situation of Corona Virus Disease (COVID-19) Development 29 Juli 2020*, www.COVID19.kemkes.go.id pada, accessed on 29 Juli 2020.

⁴ Rosmha Widiyani, *How to Spread the Corona COVID-19 Virus According to WHO*, www.health.detik.com, accessed on 29 Juli 2020.

of each foreign country house-cleaning.⁵

The first case of COVID -19 in the country happened to two residents of Depok, West Java. This was announced by President Joko Widodo at the Presidential Palace pad a Monday, March 2, 2020. Both of these residents suspected of contracting *corona* because contact directly with citizens Japan coming to Indonesia.⁶ Subsequently, other cases were discovered and caused unrest among the community.

The government responded to the public unrest through the issuance of Presidential Decree Number 7 Year 2020 concerning the Task Force for the Acceleration of Handling Corona Virus Disease 2019 (COVID -19) on March 13, 2020. This task force is under and responsible to the President. In Article 3 of Keppres 7/2020, the Task Force for the Acceleration of Handling COVID -19 aims to:

- a. increasing national resilience in the health sector;
- b. accelerating the handling of COVID -19 through synergy between ministries / agencies and the government
- c. area;
- d. increase anticipation of the development of the escalation of the spread of COVID -19 ;

⁵ ABC, *These are the Strategies of Several Countries to Deal with the Global Corona Virus Pandemic*, www.tempo.co, accessed on 29 Juli 2020.

⁶ Ihsanuddin, *These are the Strategies of a Number of Countries to*

- e. increasing the synergy of operational policy making; and
- f. increase preparedness and ability to prevent, detect and respond to COVID -19 .

Keppres 7/2020 was subsequently amended, namely through Presidential Decree No. 9/2020 concerning Amendments to Presidential Decree No. 7/2020 concerning the Task Force for the Acceleration of Handling Corona Virus Disease 2019 (COVID -19) on March 13, 2020. This task force is chaired by Head of the National Disaster Management Agency (BNPB) where the funding of activities is borne by : APBN, APBD, and / or other sources that are legal and non-binding in accordance with statutory provisions .

President Joko Widodo finally issued Presidential Decree Number 11 Year 2020 concerning the Stipulation Community Emergency Corona Virus Disease 2019 (COVID -19) establishing COVID -19 as the types of diseases that pose a public health emergency. This Presidential Decree was enacted on March 31, 2020. This Presidential Decree was later amended through Presidential Decree Number 12 of 2020 concerning the Determination of Non-Natural Disaster for the Corona Virus Disease

Deal with the Global Corona Virus Pandemic: Complete Facts of the First Case of Corona Virus in Indonesia, www.nasional.kompas.com, accessed on 29 Juli 2020.

2019 (COVID-19) which designated COVID-19 as a national disaster. This Presidential Decree was enacted on April 13, 2020. The situation, with all of the higher quantity positive COVID-19 in Indonesia everyday, the President Decree is suitable with the condition right now to steam the virus.

Handling COVID-19 in the country is guided by the Law No. 6 Year 2018 on Health Kekaratinaan. This law mandates that the central and local governments responsible for protecting public health from disease and / or risk factors that could potentially cause public health emergencies through the organization of community quarantine. In Article 1 point 11 of Law 6/2018 it states: "Large-scale Social Restrictions are restrictions on certain activities of residents in an area suspected of being infected with a disease and / or contamination in such a way as to prevent the possibility of spreading disease or contamination."

The government chose to implement the PSBB in handling COVID-19 in the country. In this regard, Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions (PSBB) in the Context of Accelerating Handling of COVID-19 which was signed by President Joko Widodo on Tuesday, March 31, 2020. This Government Regulation is a very legal basis. important in

limiting the mobility and space for community members.⁷ In the origin 2 paragraph (2) Government Regulation 21/2020 is said to PSBB should be based on epidemiological considerations, the magnitude of the threat, effectiveness, support resources, technical, operational, political considerations, economic, social, cultural, defense and security.

The interesting thing is that a number of regions have implemented the PSBB before Government Regulation 21/2020 was issued. This is also the background of the publication of this decree, with expectations after pouring in Government Regulation, it will create a good synergy and coordination between Central Government and Local Government to deal with the pandemic COVID-19 in all regions of Indonesia.

To follow Government Regulation 21/2020, the Ministry of Health also already Health issued Decree No. 9 Year 2020 on Guidelines for Restriction Large-scale Social in Order to Accelerate Handling Corona Virus Disease 2019 (COVID-19) on April 3, 2020.

Based on the formula above problems, the researcher's was done in order to determine Pembatasan Social BERs when the Great as u marsh pandemic COVID-19 does not contradict or are in accordance with the perspective of human rights. Hopefully the authors of the

⁷ Aji Prasetyo, *Check it out! Constitutional Law Lecturers Talk about Large-Scale Social Restrictions*,

www.hukumonline.com, accessed on 29 Juli 2020

results of this study are useful as a reflection of the implementation of the PSBB as an effort to tackle the COVID- 19 pandemic in Indonesia.

METHOD

The research use in this journal is normative by analytical⁸, namely describing systematically, factually, and accurately concerning Large-Scale Social Restrictions (PSBB) in accordance with the provisions of laws and regulations which are then analyzed. Sources of data in spell is acquired through the study of literature in the form of material of law primary, namely 1945, Law No. 39 of 1999 on Human Rights, Law No. 6 of 2018 on quarantine poor living conditions Health, and legislation during the COVID- 19 pandemic occurred in Indonesia.

Furthermore, the opinion of the experts is also used as a secondary law and the internet as a tertiary legal materials in the research of this. The techniques and data collection procedures from study the document, which is based on a legal document that is written (legislation). Analysis the data carried normative qualitative, that starts from the norm of law through interpretation (interpretation) or statistical techniques .

⁸ Mukti Fajar ND dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, (Yogyakarta: Pustaka Pelajar, 2010), p. 183.

⁹ Cynthia Hadita, Regional Autonomy Political Politics Of Regional

DISCUSSION

Pancasila as the philosophy of life of the nation which is also the source of all legal sources has high-dimensional values and is in accordance with the values that live in society, because Pancasila is also a national character that can distinguish Indonesian people from other nations so that Pancasila also becomes a reference against various rules which are then followed by the constitution and various other organic regulations. The 5th precept "Social justice for all Indonesians", if interpreted, can be a fundamental foundation for the existence of rights and obligations between regional heads who provide LKPJ to the DPRD to achieve justice for the people at the regional level in upholding transparency and accountability towards the implementation of regional government.⁹

In the Big Indonesian Dictionary, the word discussion itself means limiting processes, methods, actions. According to Professor of Political Science and Political Policy at Northeastern University, Daniel Adrich, " *social distancing* refers to the creation of the physical space between one another and avoid a meeting n large. " That's why Aldrich proposed to WHO to turn it into *physical distancing* . He said, " done to slow the spread of the

Liability Reports To Regional Representatives In The Implementation Of Local Government, *Nomoi Law Review*, Volume 1, Issue 1, May 2020, p. 91.

virus *corona* should encourage the strengthening of social bonds deng 's keep physical distance."¹⁰

In Act No. 6 Tear in 2018 about Health quarantine Large-scale Social Restriction is "restriction of certain activities population in an area suspected of being infected diseases and / or contaminated in such a way to prevent possible deployment disease or contamination." Furthermore, in Government Regulation Number 21 of 2020 concerning Large- Scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease 2019 (COVID -19) it says:

article 1

In this Government Regulation, what is meant by Large-Scale Social Restrictions are restrictions on certain activities of residents in an area suspected of being infected with COVID -19, in such a way as to prevent the possible spread of COVID -19.

The definition in the Government Regulation above is the same as that contained in the Minister of Health Regulation Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating Handling of

Corona Virus Disesase 2019 (COVID -19).

Moh. Mahfud MD stated that the rule of law in the concept of *rechstaat* is rooted in the civil law legal system which focuses on administration and prioritizes *wetmatigheid* and *rechmatigheid* . On the other hand, *the rule of law* is rooted in the *common law* system which focuses on the judicial aspect and prioritizes the principle of *equality before the law*.¹¹

Furthermore, according to Sri Soemantri , in general the material of the constitution or constitution includes three fundamental things: 1) There is a guarantee for human rights and its citizens; 2) Determination of the constitutional structure of a country which is fundamental in nature; 3) There is a division and limitation of administrative duties which are also fundamental in nature.¹²

Indonesia is a country that is committed to the human rights of its citizens. This has been reflected in the Preamble to the 1945 Constitution of the Republic of Indonesia which animates all the articles in its body, in particular: equal position of citizens in law and government; the right to work and a decent living; freedom of association and assembly ; the right to express thoughts verbally

¹⁰ Nur Fitriatus Shalilah, *Pandangan Para Ahli Soal Social Distancing dan Physical Distancing*, www.kompas.com, accessed on 29 Juli 2020.

¹¹ Janedri M. Gaffar, *Demokrasi dan Pemilu di Indonesia*, (Jakarta: Konstitusi Press, 2013), p. 56

¹² C. Anwar, *Teori Hukum Konstitusi*, (Malang: In-Trans Publishing, 2011), p. 61.

and deaf san ; freedom to have religion and to worship according to his religion and belief ; and the right to obtain education and teaching. All these rights are covered by Chapter XA which regulates Human Rights, namely Article 28A to Article 28J of the 1945 Constitution .

Human Rights is a set of rights attached to nature and human existence as a creature of God Almighty and it is His grace that must be respected, upheld and protected by the state , law and government, and everyone for the respect and cloned partitions n dams dignity and human dignity.¹³

The right to life which is part of human rights in this study can be seen in the human rights law:

Article 9

- (1) Everyone has the right to live, to maintain life and to improve his standard of living.
- (2) Everyone has the right to live in peace, security, peace, happiness, prosperity, physical and spiritual.
- (3) Everyone has the right to a good and healthy environment.

Furthermore, the right to self-development, which is also part of human rights in this study, can be seen in the Human Rights Law:

¹³ Article 1 Number (1) Law Number 39 Year 1999 concerning Human Rights.

¹⁴ Part considering letter b Government Regulation Number 21 of

Regulation about Large-Scale Social Restrictions

Taking into account that the impact of the spread of Corona Virus Disease 2019 (COVID -19) has resulted in certain circumstances so it is necessary to take countermeasures, one of which is by taking large-scale social restrictions.¹⁴ However, local governments cannot automatically impose PSBB in their respective territories, this is regulated in Article 2 of Government Regulation 21/2020 which states:

- (1) With the approval of the minister who administers government affairs in the health sector, the Regional Government can carry out PSBB or restrict the movement of people and goods for a certain province or regency / city;
- (2) Based on epidemiological considerations, the magnitude of the threat, effectiveness, support resources, technical operational, political considerations, economic, social, cultural, defense and security.

The implementation of the PSBB can not only be proposed by the governor / regent / mayor / as the regional head, in Government Regulation 21/2020 it also states that the Chief Executive of the 2019

2020 concerning Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019 (COVID-19).

Corona Virus Disease Handling Task Force (COVID -19) can also propose to the Indonesian Minister of Health to determine PSBB in certain areas.

Large-scale Social Restrictions must meet the following criteria (Article 3):

- a. the number of cases and / or the number of deaths due to the disease increased and spread significantly and rapidly to several regions; and
- b. there is an epidemiological link with similar incidents in other regions or countries.

Large-scale Social Restrictions own at least (Article 4):

- a. school and work vacations;
- b. restrictions on religious activities; and / or
- c. restrictions on activities in public places or facilities.

The following are a number of provinces that have implemented the PSBB based on the Covid-19 Response Task Force report until Wednesday, 13 May 2020 in Indonesia¹⁵:

- a. DKI Jakarta
PSBB Period: 10 April-22 May 2020
- b. West Sumatra
PSBB Period: 22 April-29 May 2020
- c. Gorontalo
PSBB Period: 4 May-18 May 2020
- d. West Java
PSBB Period: 6 May-19 May 2020

Meanwhile , for districts or cities are as follows:¹⁶

- a. Tangerang City
PSBB Period: 18 April-17 May 2020
- b. Tangerang Regency
PSBB period: 18 April - 17 May 2020
- c. South Tangerang City
PSBB period: 18 April - 17 May 2020
- d. Pekanbaru City
PSBB period: 17 April - 14 May 2020
- e. Makassar city
PSBB Period: April 24 - May 21 2020
- f. Tegal City
PSBB Period: 23 April-22 May 2020
- g. Banjarmasin City
PSBB Period: April 24-May 21 2020
- h. Tarakan City
PSBB Period: 26 April - 30 May 2020
- i. City of Surabaya
PSBB Period: 28 April - 25 May 2020
- j. Sidoarjo Regency
Ma sa PSBB: 28 April - May 25, 2020

In fact, apart from being useful for cutting down the spread of COVID-19, the implementation of PSBB in a number of areas also has a negative impact on economic sectors such as transportation and tourism

¹⁵ Clarissa Fauzany Priastuti, 31 *Wilayah Telah Terapkan PSBB Berikut 5 Aturan Berkendara Pribadi yang Harus*

Dicermati, www.palu.tribunnews.com, accessed on 30 Juli 2020.

¹⁶ *Ibid.*

services. Finance Minister Sri Mulyani said that the Large-Scale Social Restriction (PSBB) policy in the midst of the *corona* virus pandemic hit the country's financial system and economic defense.¹⁷ People who work in the informal sector are also affected by the PSBB, such as street vendors and others. They really need help from the government to meet their daily needs.

The government has made various efforts which are considered important, especially for workers who are threatened with losing their jobs or have already lost their jobs (company layoffs), namely as follows:¹⁸

1. Pre-employment Card
2. Incentives for victims of layoffs
3. Issue Notes
4. Incentives for Medical Workers
5. Eid allowance certainty

The Indonesian Minister of Social Affairs Juliari P. Batubara said that the social safety net programs implemented by the Indonesian Ministry of Social Affairs consist of two social safety nets, namely as follows:¹⁹

1. Regular social assistance or social assistance

Consists of two programs, namely: the Family Hope Program (PKH) and the Basic Food Program (BPNT). Especially to

anticipate COVID -19, PKH disbursement, which was originally every 3 months, has now become monthly. Meanwhile, the Basic Food Program was increased to 20 million Beneficiary Families (KPM) from 15.2 million KPM, with the index also being increased from IDR 150,000 to IDR 200,000 per month per KPM. The end of May 2020 is targeted to reach 20 million KPM.

2. Non-regular social assistance or specifically for COVID -19

This social assistance consists of 2 parts, namely:

- a. social assistance groceries for the wilaya h Jabodetabek: Jakarta, Depok, South Tangerang City, Tangerang City, and as the city of Bogor (not the entire city of Bogor) with a target of 1.3 million households and 600,000 households to Jakarta for Bodetabek for 3 month with 1 month per beneficiary family is Rp . 600,000.00 with distribution every 2 weeks, with a value of Rp . 300,000.00 per package. The President of the Republic of Indonesia has ordered that this social assistance from 6 stages is divided into 4 distribution in the form of basic food packages and two times distribution in the form of rice. Rice is a fallow s Bulog.

¹⁷ Sri Mulyani Call PSBB Policy "Punch" RI Economy, www.cnn.indonesia.com, accessed on 29 juli 2020.

¹⁸ Muhammad Idris, 5 Jokowi's Efforts to Save Employees' Fate During

Virus Outbreak, www.kompas.com, accessed on 29 Juli 2020.

¹⁹ Humas, Atasi Dampak COVID-19, Kemensos Berikan Bansos Regular dan Non Regular, Setkab.go.id, accessed on 29 Juli 2020.

b. Social assistance for affected residents outside Jabodetabek, namely in the form of cash assistance, the amount of which is Rp. 600,000.00 per household per month for 3 months, the target is 9 million households. The data was obtained from level 2 regions, namely the district government and municipal government, while the Integrated Social Welfare Data (DTKS) submitted by the Minister of Social Affairs was only a reference. Therefore, it is hoped that the Regency and City Governments will provide accurate data so that the social assistance distributed is right on target. The distribution of funds itself is through Bank Himbara and the Post Office. The President has ordered that the third stage of providing cash and basic food assistance can be completed before Eid.

State Obligations in Pandemic Control

The state is obliged to be responsible for over service health and life of physical and spiritual prosperity everyone sebagaimana a mentioned in the Constitution of the Republic of Indonesia in 1945, namely :

Article 28 H paragraph (1)

Everyone 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.

Article 34 paragraph (3)

The state is responsible for the provision of adequate health care facilities and public service facilities.

Furthermore, Article 4 of Law No. 12 of 2005 on Ratification of the International Covenant on Civil and Political Rights states that the state may only impose restrictions on the rights through legislation, in so far as it is in accordance with the nature of rights such and merely - eyes to maximize the common good in a democratic society. This is in line with Article 12 where the right to enjoy the highest standard of physical and mental health can be achieved. The two articles in this law clearly imply that the state is given a space to restrict a person's movement when the state is truly facing a health emergency. Positive law isn't conjunction with human rights, because the regulation is not suitable from human rights perspective.

Democracy is something that is universal, because in general modern countries classify themselves as countries that uphold democracy, even though the implementation mechanisms, both involving political infrastructure and supra political structure, differ from one another, this is more due to differences in life views. from each country. The modern constitutional state always has a nationalist or national

background and tends to be democratic.²⁰

In the Siracusa Principles (Siracusa Principles) regarding the provisions of the Limitation and Reduction of Human Rights (HAM) in the International Covenant on Civil and Political Rights in 1984, it is stated that restrictions on the movement of people can be carried out by the government based on clear national laws, apply general, and not arbitrary and democratically made. Restrictions aimed at public order and run by the state apparatus that can be controlled in a democratic system.²¹

This can be done, for example because of a serious threat to the health of the population or community members which is specifically aimed at preventing the spread of disease or providing care for those who are sick. It is also intended for public safety from real dangers that threaten. Thus, the restrictions must not conflict with the protection of the rights that can not be reduced.²²

Task Management Acceleration COVID -19 (date have been the Corona Virus Disease Management Committee in 2019 (COVID -19) and the National Economic Recovery) pursuant to Presidential Decree No. 82 T ear 2020) is a representation of the state in implementing the state's obligation

to care facilities health includes ensuring the availability of medical equipment and personnel during a pandemic . Not only that, the Task Force must also be able to facilitate everyone who is suspected of being infected, especially during the implementation of the PSBB.

CONCLUSION

Nowadays human rights must be implemented in regulations and policies as mandated in the 1945 Constitution In this case , the state is a stakeholder obligation to ensure human rights the people in the form of homage (*to respect*), protection (*to protect*), and compliance (*to fulfill*) without any discrimination.

Covid-19 is actually a pandemic that has hit many countries and has claimed many victims, including in Indonesia. Deployment virus *corona* that through saliva droplets (*droplets*) or vomiting (*fomiles*), in close contact without protection. Very difficult to apply maintain a distance in a crowd, especially in places - a public place that is very. Therefore , the government needs to control the mobility and space for people to move to prevent the spread of this epidemic.

In connection with the 19th COVID be a threat in the country the government deems it necessary to take important steps in

²⁰ Eka N.A.M Sihombing, Pemberlakuan "Parliamentary Threshold" dan Kaitannya dengan Hak Asasi Manusia, *Jurnal Konstitusi*, Vol. 1, No. 1, Juni (2009), p. 26-27.

²¹ Amiruddin al-Rahab, *Mobility Restrictions and the Role of the Corona Task Force*, www.kolom.tempo.co, accessed on 29 Juli 2020.

²² *Ibid.*

an effort to tackling this pandemic. One way is to implement actions PSBB set out in Regulation 21/ 2020 Restriction which includes schools holiday and workplaces, restrictions on religious activity, and / or restriction on activities in place or facility general must meet several criteria. This is in accordance with Law 12/2005, which states that the state can only impose restrictions on rights through the enactment of laws and that society has the right to enjoy the highest attainable standard of physical and mental health .

The implementation of PSBB certainly has a negative impact , especially on the economy of the community. Therefore, the government has disbursed a number of assistance to communities affected by the pandemic, including social assistance or regular social assistance and non-regular social assistance or specifically COVID-19 for people affected by COVID-19 . The assistance is part of the social safety net implemented by the Ministry of Social Affairs of the Republic of Indonesia

In connection with the application of the PSB B in overcoming the pandemic COVID-19 in the country, the author can menyimpulkan that the government has made significant efforts to protect the right to life, the right to develop themselves, and the right to well-being of the affected community. Through Task Management Acceleration COVID-19 , the state providing health care

facilities, including ensuring the availability of tools and health care workers during a pandemic lasts and facilitate any person suspected of being infected, especially during PSBB. The state has been fulfilling the obligations of health services and the life of physical and spiritual prosperity of every person as mandated in the 1945 Constitution.

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