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### The Nature of Overmacht/Force Majeure and Its Implications in Various Agreements in the Covid-19 Era

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#### ABSTRACT

This research aims to analyze the nature of *overmacht/force majeure* according to Indonesian legislation. The type of research used is normative legal research (*Doxtrinal*). The results of the study show that the nature of *Overmacht / force majeure* according to Indonesian legislation is to provide legal protection to anyone who neglects his obligations due to events beyond his control, which prevents him from fulfilling his obligations, for which he cannot be blamed and cannot be charged. compensation. (2). That Covid 19 is a National Disaster according to the laws and regulations, including the *Overmacht/force majeure* which is the juridical basis so that a person cannot be categorized as negligent or in default. (3). That the legal consequences caused by Covid 19 as a National Disaster are included in the category of *overmacht/force majeure* or coercive circumstances, namely: a). Giving freedom to debtors/creditors to pay compensation (*schadevergoeding*), and b). Freeing debtors/creditors from the obligation to fulfill achievements (*making*).

**KEYWORDS:** Overmacht/Force Majeure; Agreement; Covid-19

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#### I. Introduction

In the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, it is mandated that the Government of the Unitary State of the Republic of Indonesia protect the entire nation and the entire homeland of Indonesia, promote public welfare, educate the nation's life and participate in implementing world order based on independence, eternal peace and social justice.<sup>1)</sup>

As the implementation of this mandate, national development is carried out which aims to create a just and prosperous society that always pays attention to the right to life and protection for every citizen within the framework of the Unitary State of the Republic of Indonesia. The Unitary State of the Republic of Indonesia has a wide area and is located at the equator at a cross position between two continents and two oceans with natural conditions that have various advantages, but on the other hand, its position is in an area that has geographical, geological, hydrological, and demographic conditions that are prone to flooding, occurrence of disasters with a fairly high frequency,<sup>2)</sup> thus requiring systematic, integrated, and coordinated handling. Potential causes of disasters in the territory of the unitary state of Indonesia can be grouped into 3 (three) types of disasters, namely natural disasters, non-natural disasters, and social disasters.

Natural disasters include earthquakes due to nature, volcanic eruptions, hurricanes, landslides, droughts, forest/land fires due to natural factors, plant pests, epidemics, epidemics, extraordinary events, and space events/cosmic bodies. Non-natural disasters include forest/land fires caused by humans, transportation accidents, construction/technology failures, industrial impacts, nuclear explosions, environmental pollution and space activities.

Social disasters include social unrest and social conflicts in society that often occur. Disaster Management is one part of national development, namely a series of disaster management activities before, during and after a disaster occurs. So far, there are still weaknesses in the implementation of disaster management as well as those related to the legal basis, because there is no law specifically dealing with disasters.

As understood, the Unitary State of the Republic of Indonesia is responsible for protecting the entire Indonesian nation and the entire homeland of Indonesia to provide protection for life and livelihood, including protection against disasters, in the context of realizing public welfare based on Pancasila, as mandated in the Constitution of the Republic of Indonesia, 1945.<sup>3)</sup>

On the other hand, it is also known that the Territory of the Unitary State of the Republic of Indonesia has geographical, geological, hydrological and demographic conditions that allow disasters to occur, whether

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1 | Page