

*Discussion Series on Economic Justice*

**Knowledge Monopoly in the course of COVID-19**

**Access on Health Innovation and Equitable Common Use**

**Jakarta, 11 July 2020** – Almost all countries in the world have been affected by the COVID-19 pandemic, not only developed countries such as the United States of America, the European Union (countries), and the United Kingdom, but also developing countries, for instance, Indonesia. For Indonesia, as a developing country, handling the COVID-19 pandemic is such a huge challenge, moreover due to its limitation and dependability towards imported medical equipment for overcoming the pandemic. Economic Justice Discussion series with a topic on Knowledge Monopoly in the course of COVID-19, Access on Health Innovation and Equitable Common Use aims to observe how international structure affects knowledge regarding COVID-19 for developing countries, regulations, and the state budget of the Indonesian Government in handling the COVID-19 pandemic.

**Inequality among Developed and Developing Countries affects access to health**

Handling the COVID-19 pandemic must not be separated from the need for medical equipment such as Personal Protective Equipment (PPE), test kits, ventilators, medicines, vaccines, and many more. As a result, various kinds of medical equipment have become a challenge for many countries, causing their prices to be unaffordable. Especially when there are several countries which are able to pay higher prices, hence that equipment which has been scheduled-to-export can be canceled in order to be purchased by other countries.<sup>1</sup> Furthermore, a similar case happened to medicines, although the WHO states that no medicines have been proven effective, medicines such as *remdisivir* and *lopinavir* are also contested. In the midst of this condition, several pharmaceutical companies such as Gilead, which produces remdisivir and Sanofi that conducted research upon vaccines, has stated that it will prioritize large markets such as the United States.

Global initiatives need to be encouraged to ensure access for developing countries. Several initiatives have been initiated by WHO even though there are also several groups involved, such as the European Union which has agreed to jointly fund vaccine research. Moreover, the European Union has proposed a draft resolution for COVID-19, but the draft has not been able to ensure access and distribution for others. In this global

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<sup>1</sup> Delivered by Lutfiah Hanim, Third World Network in the Discussion Series on Economic Justice, Knowledge Monopoly in the course COVID-19, Access to Health Innovation and Equitable Common Use

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initiative, the Government needs to push for a WHO draft resolution that supports developing countries in access to medicines. Domestically, several universities are encouraged to conduct researches related to medical needs. MSMEs are also encouraged to make various medical devices such as PPE and ventilators.

### **Overlapping Domestic Regulations**

In implementing policies concerning COVID-19, the Government needs various legal instruments. This regulation will serve as a basis for the government. However, in its practice, it is often less than optimal. For instance, the government is often in dilemma in issuing legal instruments to control society. As cases increase, the government has apparently loosen the regulations. Efforts to research and managing the pandemics have been hampered by overlapping regulations.

The government issued four policies, First, forming a covid research and innovation consortium. Second, membership of COVID-19 research and innovation. Third, conducting a research consortium program. Fourth, collaboration between the consortium and Non-Ministerial State Institutions. However, these policies are still overlapping. In the search for vaccines, for example, there is no term referring to the formation of a special team to seek the discovery or supply of vaccines<sup>2</sup>.

The government must resolve these overlapping regulations immediately because in handling such a pandemic, strong legal instruments are needed for the public interest. Overlapping regulations will hamper several other regulations, such as the compulsory license which has been accommodated by the Patent Law, yet still requires more specific legal instruments regarding public emergencies. Moreover, the broad definition of a public emergency in Article 109 of the Patent Law is in line with Article 31 of the TRIPS.

### **Maximizing the Use of the COVID-19 Budget**

The government in making policies related to the budget should be the focus on three priorities; namely, first, the health sector of IDR 75 trillion, *social safety net* of IDR 110 trillion, and supports from the business world (DTP Taxation /borne by the government (DTP Tax and DTP Import Duty) of IDR 70.1 trillion.<sup>3</sup>

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<sup>2</sup> Delivered by Muhammad Azhar, an academic from the Faculty of Law of Diponegoro University, in the Discussion Series on Economic Justice, Knowledge Monopoly in the course of COVID-19, Access to Health Innovation and Equitable Common Use

<sup>3</sup> <https://ekonomi.bisnis.com/read/20200511/10/1238791/ini-rincian-belanja-sosial-covid-19-dan-dukungan-umkm-dari-pemerintah>

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The budget for handling the COVID-19 does not only involve the Central Government but also involves the Regional Government. The government issued the Regulations of the Minister of Domestic Affairs Number 20 of 2020 which regulates the acceleration of the handling of COVID-19 within the Regional Government. Some regions procured their own medical devices outside of those provided by the Central Government.

Seeing from this case, the government is also encouraging the production of medical equipment such as PPE and medicinal raw materials in the country.<sup>4</sup> The government, through Ministries and Agencies led by National Development Planning Agency (*Bappenas*), has also prepared a road map for health insurance and reform of the National Health System.

Handling COVID-19 requires comprehensive efforts from the Government. The government must be able to make a strong commitment to utilizing existing resources such as maximizing the use of TRIPS flexibility in order to encourage access to medicines and promote health as a public good, not as a commodity. On the other hand, the government must also anticipate external forces, specifically from foreign countries that continue to demand a more comprehensive regulation of TRIPS, commonly known as TRIPS Plus in various FTAs.

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<sup>4</sup> Delivered by Yenny Sucipto, an expert of Public Budget, in the Discussion Series on Economic Justice, Knowledge Monopoly in the course of COVID-19, Access to Health Innovation and Equitable Common Use