

Overview of Covid-19 Vaccination Obligations within the Human Rights Framework in Indonesia

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ABSTRACT

Vaccination obligations become a policy that is widely taken by countries in the world as an effort to minimize the rate of development of pandemic diseases including COVID 19, Indonesia requires vaccination as a way to control pandemics even though the movement of the rejection of vaccination at the beginning rolled out this policy is quite massive and done openly not to receive vaccination with various considerations and campaign openly about this rejection, The government's reaction at the beginning of the wave of vaccination refusal as the contents of article 93 of Law No. 6 of 2018 then the vaccine repellent will be sentenced to imprisonment and fines for violating health quarantine so that if anyone obstructs and does not comply with the implementation of health quarantine is threatened with a 1-year criminal or a fine of 100 Million This Study Is Applied normative legal research method to analyzed two keys issues: how to review mandatory vaccination policies within the framework of human rights, and how to limit human rights fulfillment in the Covid 19 pandemic, as part of the temporary result of the research In terms of mandatory vaccination implementation policies as a form of Restriction or reduction of freedom to exercise human rights for the community, especially to determine the best thing for public health Siracusa Principles open a special restriction space related to this where the State can take Measures specifically aimed at preventing illness or injury or providing care for those who are sick and injured and if later developed into emergencies are required to threaten the life of the nation affecting the entire population and whether all or part of the territory of the country, and threaten the physical integrity of the population, political independence or territorial integrity of the state or the basic functioning of the institution. And emergencies cannot diminish the right to life, the right to be free from torture, cruel or degrading treatment or punishment, and free from medical or scientific experiments without free consent, the provisions of restrictions based on the interests of public health should be based on scientific evidence and not arbitrarily designed or imposed i.e. in an unreasonable or discriminatory manner.

Keywords: Vaccination, Covid 19, Human Rights Restriction.

1. INTRODUCTION

The Covid 19 pandemic that has not ended until now encourages various parties to take concrete steps to inhibit the spread of the virus that continues to grow and infect more than a hundred million people in the world, one of the steps taken by the governments of countries in the world is to require their countries to vaccinate this policy is also followed by the Indonesian government by requiring Covid-19 vaccination for all citizens, but in its development, some parties refuse to

accept vaccination with various considerations including the effectiveness of vaccines and side effects and health risks of participating after the Covid-19 vaccination, this consideration that then requires some elements of society to make a rejection movement and campaign openly about rejection.

The wave of rejection is quite intense not only carried out by ordinary people but some politicians also voiced protests against this policy Pro cons are then responded to with the issuance of Presidential Decree No. 14 of 2021 which imposes Administrative sanctions on everyone who has been determined to be a

recipient of the Covid 19 Vaccine and does not follow vaccinations will get a fine, delay or termination of social security, social assistance or termination of government administrative services and if this refusal is then deemed to violate the provisions of health quarantine including the repellent of vaccination will be punishable by imprisonment and fines following article 93 of Law No. 6 of 2018 on health quarantine where vaccination is part of the health quarantine so that if anyone obstructs and does not comply with the implementation of health quarantine threatened criminally 1 year or fine of 200 million.

This is a big question mark how the health rights of the state in determining the health measures it receives become a state decision accompanied by criminal witnesses or administrative witnesses based on Presidential Decree No. 14 of 2021, although the government rests the obligation of Corona vaccination as part of restrictions and delays in human rights fulfillment for citizens in the event of a health emergency but whether this policy has appropriately reviewed the condition of the state. Emergency as stipulated in the *Siracusa* Principles? The provisions of this article need to be studied more deeply considering that the government does not quarantine areas that are the basis of obligations for all citizens to vaccinate and if they refuse it will be subject to criminal sanctions, consideration of human rights fulfillment for every citizen should also be a consideration considering personal health in determining receiving or denying vaccination is the right of every citizen and an obligation. to respect every individual's choice within his or her country.

2. METHOD

This study uses a normative legal research methodology. Normative legal research as doctrinal research makes legal norms as a study material [1]. This normative research method direct, analyze, systematize, interpret, and evaluate positive law related to the issue of the study [2]. The approach used in this research is a conceptual, comparative, and statutory approach. The conceptual approach is used to find vaccination policy within the framework of fulfilling health rights during the Covid 19 Pandemic and analyzing the sanctions of vaccination rejection during the Health Emergency.

3. RESULT AND DISCUSSION

I. VACCINATION POLICY WITHIN THE FRAMEWORK OF FULFILLING THE RIGHT TO HEALTH DURING THE COVID- 19 PANDEMIC

Discussions about the usefulness of vaccinations, belief in vaccines, vaccination coverage, and measurement costs have been controversial in the media. Questions about ethics are also mentioned. Pros and contra about vaccinations have emerged to date in the community and are reinforced by anti-vaccine campaigns that are not only carried out by individuals but also by journalists and some doctors conveying negative images through social media. But in general, the national media supports the implementation of vaccination obligations by conducting campaigns and appeals about vaccinations and broadcasting the latest updates on vaccinations and their impact on society. In general, vaccination is supported by the majority of doctors and parents despite concerns about the side effects of vaccines so persuasive, transparent and massive public communication efforts are needed to reassure the public [3].

The growing anti-vaccination movement is already moving under the "right" discourse to oppose the COVID-19 vaccine [4]. Although the discourse on the right to be opposed to vaccination is evolving as part of human rights, it does not negate the human rights obligation to ensure access to essential medicines. In realizing the highest health standards attainable through vaccination, human rights law provides an international obligation to progressively realize the prevalent prevention, treatment, and control of disease so that States are obliged to balance this out.

States assume an international legal obligation to progressively realize universal access to vaccines, demanding that national resources and international assistance move "as quickly and effectively as possible towards the full and sustainable realization of the right to exercise human rights to the Covid-19 vaccine, ease of access to vaccines as one way to minimize the spread and transmission of the Covid-19 virus, Vaccination policies are expected to save more lives so that states can carry out their obligations to protect the right to life that are the core obligations of human rights. Massive immunization efforts to the public are the best prevention efforts in science and remain a very important essential element of the right to the highest attainable health standards [5].

The United Nations Special Rapporteur on the right to health concluded that states are obliged to "do all they can to make sure that existing medicines are available in sufficient quantities" [6]. Extensively verified provision is available. In realizing these rights, COVID-19 vaccination, similar to lifesaving antiretroviral for HIV, will almost certainly be classified by WHO as an "essential medicine," increasing national and international obligations to ensure access to Covid-19 Vaccine [7].

The progressive realization of access to vaccines is part of the fulfillment of human rights that is part of international law enforcement where Covid-19 not only endangers the health of a country but globally also poses a threat to lives, especially to the disadvantaged and marginalized. The principle of non-discrimination becomes an absolute requirement of access to vaccination, because pandemic conditions are manifestly burdening the poor, sick and disadvantaged, justice can be realized by recognizing the equal dignity of all people by ensuring vaccination is implemented by a State based on fair policies in access vaccine campaigns and promotions must also be carried out massively to ensure the equitable distribution of vaccinations to all communities [8].

Countries should also ensure that every vaccination is safe and effective by ensuring that vaccinations:[9]

- a. **Available**, countries must ensure availability, vaccines and meet national needs and ensure fair and rapid distribution.
- b. **Accessible**, ensuring vaccine distribution takes into account the barriers faced by vulnerable and marginalized populations, ensuring vaccines are affordable, within safe physical range, and delivered with all the necessary information.
- c. **Acceptable**, the Vaccination Process should be implemented in respect of medical ethics such as a statement of consent of sufficient information and designed to take into account different cultural considerations across the population.
- d. **Adequate Quality requires** that the vaccine be "scientifically and medically appropriate and of good quality," avoids counterfeit and substandard vaccines and uses skilled and approved personal equipment.
- e.

II. REVIEW OF WITNESS DENIAL OF VACCINATION DURING HEALTH EMERGENCY.

The rejection of Covid-19 vaccination is done for various reasons not only on effectiveness but also other reasons driven by political ideological factors indirectly, with the aim of increasing the perception of trust in vaccine repellent by providing a statement contrary to the government's decision on vaccination campaigns. This is undeniably a strong enough reason in the effort to shape your overall public perception, although there are many other factors that encourage a person to accept, or reject, vaccines as heterogeneous and more complex [10].

Receiving vaccinations is a moral obligation that we don't owe ourselves, but rather something we owe to others. In addition, it is also said that the state must uphold this obligation. The reason is because states have an obligation to protect third parties who cannot be vaccinated for various reasons related to serious harm and death as a side effect of vaccination [11].

Indonesia responds to the vaccination obligation by establishing an emergency which is stipulated through Presidential Decree of the Republic of Indonesia Number 11 of 2020 concerning the Establishment of a COVID-19 Public Health Emergency. This is different from the implications of the exception in the protection of human rights when compared to Civil and Military Emergency. In accordance with the *Siracusa* Principle, the Civil and Military Emergency gives the state authority to reduce human rights. In martial law, for example, states ignore international obligations to fulfil human rights. The reduction policy is carried out by the government of a country by making official national announcements and sending letters regarding the derogation policy to all States Parties to the International Covenant on Civil-Political Rights through the Secretary General of the United Nations [12].

Meanwhile, the Health Emergency gives the state authority to limit the fulfillment, protection and respect of human rights under certain conditions. Among the considerations of the limitation is in order to protect public health, which is in accordance with developments as regulated and introduced by the World Health Organization [13]. Restrictions and reductions in human rights as contained in Article 4 of the 1966

SIPOL Convention (ICCPR) shall be carried out in accordance with the provisions of the law and such restrictions are in accordance with the nature of restricted rights with the sole purpose of improving the general welfare in a democratic society[12].

In the event that the restriction of the reduction of the Right of *Siracusa* Principles opens a space of restrictions that are specific to public health contained in provisions 1 (B) which is then interpreted in the Principles of Interpretation related to the Provisions of Special Restrictions point B no. 25 as Public health can be used as a basis for limiting certain rights for states to take steps related to serious threats to the health of the population or Also individual members of the community. These measures should be specifically aimed at preventing illness or injury or providing care for those who are sick and injured and if these public health conditions then escalate into emergencies regarding the impact of the follow-up of the policy on public health and trigger the required emergency situation should threaten the life of the nation and the threat first, affecting the entire population and whether all or part of the territory of the country, the second threatens the physical integrity of the population, political independence or territorial integrity of the state or the existence or basic functioning of institutions necessary to ensure and project the rights recognized in the conventions [12]

In the act of reduction and restriction in accordance with this principle the fulfillment of rights under the provisions of the covenant cannot be reduced even if there is an emergency in a state i.e. the right to life, the right to be free from torture, cruel or degrading treatment or punishment is not necessary, and free from medical or scientific experiments without free consent. Although in *Siracusa* has contained about the provisions of restrictions based on the interest of public health but this restriction must be based on scientific evidence and not designed or imposed arbitrarily in a way that is unreasonable or discriminatory [14].

So that the issuance of Presidential Decree No. 14 of 2021 which imposes Administrative sanctions on everyone who has been determined to be a recipient of the Covid 19 Vaccine and does not follow vaccination in the form of fines, delays or terminations of social security, social assistance or termination of government administrative services and if this refusal is then considered to violate the provisions of health quarantine

including the repellent of vaccination will be punishable by imprisonment and fines in accordance with article 93 of Law Nom or 6 of 2018 on health quarantine where vaccination is part of health quarantine so that if anyone obstructs and does not comply with the implementation of health quarantine is threatened with a 1-year criminal or a fine of 100 Million, this provision is still in the corridor in accordance with *Siracusa*

Principles despite restrictions on the freedom to make choices on personal health treatments that are part of health rights but the interests of the public are more importantly, and it should be underlined that the application of sanctions must also be implemented in accordance with the regulation of *Siracusa* and its enforcement does not deviate from the contents of the *Perpre*.

4. CONCLUSION

Vaccination policy within the framework of fulfilling health rights during the Covid 19 Pandemic Progressive realization of access to vaccines is part of the fulfillment of human rights that are part of international law enforcement where Covid-19 not only endangers the health of a country but globally also poses a threat to life, especially to disadvantaged and marginalized people. The principle of non-discriminatory is an absolute requirement of access to vaccines. Witnesses to the denial of vaccination during the Health Emergency can be said to be in the corridors in accordance with *Siracusa* Principles despite restrictions on health rights but the interests of the community more importantly, and it should be underlined that the application of sanctions must also be implemented in accordance with the principle of *Siracusa*.

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