

Syracuse Principles and Public Health Rights during the COVID-19 Pandemics in a Human Rights Perspective

Ahmad Jazuli ^{1,*} Haryono Haryono¹ Adis Nur Hayati¹

¹The Agency of Research and Development of Law and Human Rights of the Ministry of Law and Human Rights of The Republic of Indonesia, Indonesia

*Corresponding author. Email: ahmadjazuli45@gmail.com

ABSTRACT

The Government of the Republic of Indonesia has guaranteed the right to health for the community, especially in Article 28H (1) of the 1945 Constitution. In the situation of the COVID-19 pandemic, it becomes relevant and imperative to put forward the concept of public health. Public health is not a private issue that is a matter for individuals only, as well as the Covid 19 pandemic, which has become a global issue and the wider community, especially in Indonesia, so that behavior that endangers public health both individually and in groups can be considered a threat on public health. The Government's implementation of restrictions on community activities during the Covid-19 pandemic is in line with the Syracuse Principles. Based on a qualitative descriptive approach, the purpose of this study is to answer the problem of how to implement the Syracuse Principles and public health rights during the COVID-19 pandemic from a human rights perspective. The study results show that the state has taken the necessary steps to guarantee the right to public health, such as restrictions on community activities (PSBB, PPKM, WFH) and regulatory guarantees so that people's health is maintained.

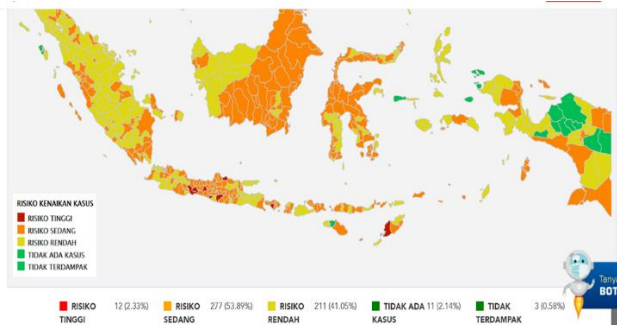
Keywords: Syracuse Principles, Public Health, Covid 19 Pandemic, Human Rights.

1. INTRODUCTION

According to the World Health Organization (WHO), more than 223 countries are infected with coronavirus. Data on March 5, 2021, there were 115,094,614 people affected by COVID-19, with a death toll of 2,560,995 people. As of March 5, 2021, a total of 249,437,147 vaccine doses have been administered. [1]

According to data as of March 5, 2021, from the website of the Committee for Handling Covid-19 and National Economic Recovery, there are 1,368,069 confirmed cases of covid-19, 148,356 active cases (10.8%), with a death rate of 37,026 (2.7%), and recoveries 1,182,687 (86.4%). [2]

Following is the Distribution of Covid-19 in Indonesia as of March 5, 2021:



Source: <https://covid19.go.id/peta-risiko>, March 5, 2021.

In the literature on human rights (HAM), one of the critical issues that invite debate is the limitation of human rights. [3] As stated by Heiner Bielefeldt, former UN special rapporteur on freedom of religion or belief, the issue of limitation is significant because it has real practical significance. [4]

The Covenant on Civil & Political Rights (ratified by Law No. 12/2005), article 18 (3) states that restrictions must be based on law and to the extent necessary to protect:

1. public safety (public),
2. public order,
3. public health,
4. public morals,
5. the fundamental rights and freedoms of others.

The regulations governing the matters mentioned above include the International Covenant on Civil and Political Rights (ICCPR), the 1945 Constitution of the Republic of Indonesia, Law no. 39 of 1999 concerning Human Rights (Human Rights Law), and Law no. 6 of 2018 concerning Health Quarantine. In addition, in the Human Rights Law, there are 3 (three) Articles that mention non-uniform restrictions, as follows:

1. Article 70 states restrictions to guarantee recognition and respect for the rights and freedoms of others and to fulfill fair demands following:
 - a) moral considerations,
 - b) security, and
 - c) public order
2. Article 73 states "solely to ensure recognition and respect for":
 - a) human rights and fundamental freedoms of others,
 - b) decency,

- c) public order, and
- d) the interests of the nation.

On the other hand, in the view of Islam, the term Maqasid Sharia is known, which emphasizes that all activities and worship are carried out in the context of [5]

- 1) Safeguarding religion (hifz al-Din),
- 2) Keeping intellect (hifz al-'Aql),
- 3) Take care of oneself (hifz al-Nafs),
- 4) Maintaining descendants (hifz al-nasl)
- 5) Safeguarding property (hifz al-mal).

Every Muslim is obliged to protect himself from various dangers that threaten his safety. The two main principles that are used as guidelines for life from the hadith below, namely not to harm oneself and not to harm others based on the hadith of the Prophet SAW:

لَا ضَرَرَ وَلَا ضَرَارَ « قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: عَنْ ابْنِ عَبَّاسٍ، قَالَ رَوَاهُ ابْنُ مَاجَةَ. «ضِرَارًا»

From Ibn Abbas, he said that Rasulullah Saw. has said: "There must be no harm (to oneself) and there should be no harm to others (harming each other). [5]

As well as the Rules:

رَدُّ الْمَفَاسِدِ مُقَدَّمٌ عَلَى جَلْبِ الْمَصَالِحِ.

"Rejecting mafsadah should take precedence over seeking benefit."

Mafsadah: something that is bad for oneself, such as damage, danger, calamity. Maslahah: goodness for oneself.

This rule shows that a person must prioritize avoiding dangers that threaten the safety and security of his soul rather than doing something that creates maslahat (goodness) for him. [5]

Analysis of the World Health Organization (WHO) states that Covid-19 will not be stopped entirely. It will take 4-5 years to control it. Soumya Swaminathan (WHO Chief Scientist) said: "I would say in a four to five year timeframe, we could be looking a controlling this." [5]

The preamble to the Health Law states that health is a human right and one of the elements of welfare that must be realized following the ideals of the Indonesian people as referred to in Pancasila and the 1945 Constitution of the Republic of Indonesia (letter a); and that every development effort must be based on a health perspective in the sense that national development must pay attention to public health and is the responsibility of all parties, both the Government and the public; (letter d) [6]

This article wants to discuss how the restrictions are carried out based on the Syracuse Principles and the right to public health during the COVID-19 pandemic from a human rights perspective. The Syracuse Principles have indirectly been accommodated in the existing regulations

on public health rights, so this needs to be implemented to minimize the spread of the coronavirus in Indonesia.

2. RESEARCH METHOD

This legal study uses a normative legal approach [7, p. 14] with a descriptive analysis method. The legal approach is carried out by reviewing Law Number 36 of 2009 concerning Health, Law Number 6 of 2018 concerning health quarantine, and Fatwa of the Indonesian Ulema Council Number 02 of 2021 concerning Covid-19 Vaccine Products from Sinovac Life Sciences Co. Ltd. China and PT. Bio Farma (Persero) The qualitative approach was chosen because of its ability to gain a deep, authentic, and basic understanding of the phenomenon being observed. The descriptive analysis method is used because the collected data focus on the actual phenomenon or problem through data collection, preparation, processing, and concluding. All this attempts to describe an objective empirical state of the phenomenon or problem being studied.

While the data collection techniques used are literature study, books, journal articles, newspapers, online news, and websites of authoritative institutions. The method was chosen because of the limitations in directly interviewing authoritative sources at the time of writing.

Based on a qualitative descriptive approach, this study aims to answer how to implement the Syracuse Principles and public health rights during the COVID-19 pandemic from a human rights perspective.

3. FINDINGS AND DISCUSSION

This normative legal research is only limited to the regulatory side, and its application is related to Syracuse's principles in the implementation of public health rights. The author describes it according to the current situation, especially restrictions on community activities during the COVID-19 pandemic in Indonesia.

One of the starting points to clarify the meaning of limitation is the Syracuse Principles, where the main objective is to identify three things: the sound purpose of the limitation, the interpretive principles that form the framework for its application, and some of the main characteristics of the basis of limitation [8] and derogation. (delaying the rights concerned). [9, p. 3]o

Syracuse principles are used in: [8]

- a) Community safety (public safety). The Syracuse Principles translate public safety as protection against harm to people's safety, their lives, physical integrity, or severe damage to their property. The need to protect public safety can justify the limitations provided by law. It cannot be applied to vague or arbitrary restrictions and can only be enforced when

adequate and effective safeguards against abuse are available. [8]

Based on the Syracuse Principles above, public safety has a broad dimension, from safety due to technical matters (such as building strength) to security (such as terror attacks), "starting from the risks posed by crime, conflict, to natural disasters." [10]

Therefore, matters affecting public safety are also broad, starting with police officials, courts, and military officials being unresponsive, criminal, corrupt, and poorly trained. Other factors affecting safety are ineffective crime detection, investigation, and resolution mechanisms in communities and institutions where fundamental human rights are not fulfilled. Weak safety is one of the most apparent indicators of a weak rule of law. [10]

b) Public order

Public order must be interpreted in the context of the objectives to be achieved by certain rights, which are limited on that basis. When exercising power, state instruments or agents responsible for maintaining the public order (*ordre public*) must be supervised or controlled by the parliament, court, or competent (authorized?) Independent institution. [8]

What should be noted from Article 18 of the ICCPR paragraph 3 is that restrictions can be made on the condition that it is "written in law" and "necessary" to protect public order. Thus, restrictions can be made to maintain public order as long as it has been stated in law and is deemed necessary. [8]

In Indonesia, restrictions are included in the 1945 Constitution and Laws. The 1945 Constitution provides for it in Article 28J. It is important to note that in the context of Indonesia, public order is regulated, one of which is the KUHP (Criminal) Law in Chapter V concerning Crimes against Public Order, Articles 154-181, which discusses everything from hate-based crimes, desecration of the state symbol, blasphemy, sedition, to crimes such as breaking and entering, committing violence to others, disturbing the peace, and others. Apart from that, there are many other regulations. [8]

The application of this limitation is not only sufficient to write in the law, but the most important thing is to assess the "necessity" of the limitation to be implemented. In many countries (p. 12), this necessity test has also experienced ups and downs in its conception. This test is put in place to provide the space for freedom for each society and state to determine whether implicit restrictions are needed. When restrictions are deemed unnecessary, the implementation and protection of human rights in that country are relatively safe and without problems. [8]

Per General Comment 22, restrictions are to be applied only for the purpose for which they are intended and must be directly related and proportionate to the specific needs on which they are based. Limits cannot be imposed for discriminatory purposes or applied in a discriminatory manner. For this reason, this public order-based restriction must look at many things:

- a) Determined based on law
- b) Required
- c) Proportional
- d) Has no effect or is applied in a discriminatory manner.[8]

c) Public health

The Syracuse Principles describe public health as follows: "Public health can be applied as a basis for limiting certain rights to enable a country to take steps related to severe threats to the health of the population or individual members of the population. These measures should be specifically aimed at preventing illness or injury or providing care for the sick and injured.

In this regard, international health regulations from WHO must be used (*International Health Regulation*, most recently 2005). [8]

Restrictions may also occur concerning a "public health risk," that is, the likelihood of an event that could affect the health of the human population, emphasizing that it could spread internationally or could pose severe and immediate harm. [8]

Special conditions also need attention, namely a public health emergency that is of international concern, which is defined as an extraordinary event as regulated in this Regulation: (i) which creates a public health risk to other countries through the spread of international disease and (ii) which has the potential to require a coordinated international response. [8]

d) Moral society (public morals)

Article 18 (3) of the ICCPR states that freedom to exercise restrictions to protect public morals is controversial. Therefore, the Syracuse Principles (1984) seem to be very careful in discussing this matter. In it, it is stated that the limitation (p. 16): "... shall demonstrate that the limitation in question is essential to the maintenance of respect for fundamental values of the community". It is emphasized that society's morals are values or norms essential to develop in society. These moral values are subjective and can change from one time to another.[8]

The discussion about public health cannot be separated from the right to health, recognized in the *Universal Declaration of Human Rights (UDHR)* and the *International Covenant on Economic, Social and Cultural Rights*.

Article 25 paragraph (1) of the UDHR states: [11] Every person has the right to a standard of living adequate for the health and welfare of himself and his family, including the right to food, clothing, housing, and health care and necessary social services, and is entitled to security. At the time of unemployment, suffering from illness, disability, being a widow/widower, reaching old age, or other conditions resulting in lack of a living, which is beyond his control.

Meanwhile, in the Covenant on Economic, Social and Cultural Rights, it is stated in Article 12: [12]

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps which a State party to the present Covenant will take to achieve the full realization of this right shall include those necessary to achieve:
 - a) Provisions for the reduction of the stillbirth and child mortality rates and the healthy development of the child;
 - b) Improvement of all aspects of environmental and industrial health;
 - c) Prevention, treatment, and control of all infectious, endemic, and other occupational diseases;
 - d) The creation of conditions that will warrant all medical care and attention in the event of a person's illness.

The right to health as a fundamental right is then emphasized in the general comments of the Committee on Economic, Social and Cultural Rights on the right to health which states, "Health is a fundamental human right indispensable for the exercise of other human rights." This general comment from the Committee on Economic, Social and Cultural Rights emphasizes placing the right to health as a fundamental human right and should be prioritized for the implementation of other human rights. [13]

General Comment No. 14 concerning the right to the highest attainable standard of health, the Covenant explains that: "[...] the right to health covers a wide range of economic and social factors that influence the creation of conditions under which people can achieve a healthy life, it also includes factors - determinants of health such as food and nutrition, shelter, access to healthy drinking water and adequate sanitation, safe and healthy working conditions and a healthy environment. " [8, p. 47]

General Comment No. 14 also explained that: "The right to health cannot be interpreted as the right to be healthy, the right to health contains the right to freedom and the right to something (entitlement). Freedom includes the right to have a physical health check, including freedom of sexual and production and the right to be free from interference or interference by others, the right to be free

from persecution, medical action without consent, and experimentation. [8]

In comparison, the right to something includes the right to a health protection system that provides equal opportunities for everyone to meet adequate and affordable health standards. " [8]

Given that the right to health depends a lot on internal factors that exist in a person, such as genetic inheritance, the right to health must be understood as the right to be able to enjoy various facilities, goods, services, and conditions needed to achieve an adequate and affordable standard of health, and not the right to be healthy. Thus, the right to health is related to health services and all factors that determine health, such as access to clean water, availability of food, nutrition, safe housing, supportive environmental conditions, access to health-related information, and most importantly, participation of the population who are most affected in health-related policymaking at the community, national, and international levels. [8, pp. 46-47]

For this reason, four things need to be considered in the right to health, namely: [8, pp. 47-48]

1. Availability. The implementation of public health functions and health care facilities, health goods and services, and programs must be available in sufficient quantities in a country.
2. Accessibility. Health facilities, goods, and services must be accessible to everyone without discrimination within the jurisdiction of the state. Accessibility has four interrelated dimensions, namely: non-discrimination (open to anyone), physical accessibility (physically accessible to anyone, including those with special needs), economic accessibility (economic affordability), the right to information.
3. Acceptance. All health facilities, goods, and services must respect medical ethics and be culturally accepted.
4. Quality. Apart from being culturally acceptable, health facilities, goods, and services must be scientifically and medically appropriate and of good quality.

According to the right to health concept, public health is all efforts made to prevent disease, promote health, and promote a better life expectancy for the community. The World Health Organization (World Health Organization: 2004) even emphasizes the three functions of public health, namely: ([14, p. 48]

1. Health assessment and monitoring of communities/residents and populations at risk to identify health problems and priorities.
2. Formulating public policies designed to address health problems at the local and national levels and their priorities
3. Ensure that all populations have access to appropriate and cost-effective health services, including health promotion, disease prevention services, and evaluation of service effectiveness.

Meanwhile, public health coverage is epidemiology and biostatistics; environmental health; health and behavior education; public health administration; public health nutrition; occupational health and safety; reproduction health; health information system; and, finally, surveillance of infectious and non-communicable diseases. [8, p. 49]

In the context of health, the definition of public or society can be contrasted with individuals. The public here is a multitude, and usually, a community can be based on a geographic area or a group of people with a particular identity.

Public health targets the health of all people in a particular area or community. So, public health is not only about the disease but the behavior of individuals or society that is harmful to health, both individuals and society, especially when it can be endemic or contagious and widespread. [8, p. 49]

The conditions of limitation that have been set explain that restrictions can be carried out to protect public health, as long as there is a legal basis (legislation), and to the extent necessary for protecting public health. [8, p. 50]

Indonesia has a Health Law no. 36 of 2009, which defines health as a state of health, physically, mentally, spiritually, and socially, allowing everyone to live productively, socially and economically.

This concept has positive consequences in which public health becomes the central pillar to ensure health can occur. In addition to individual health services, public health services are made in such a way as to maintain and improve the public health status in the form of disease prevention, health improvement, disease treatment, and health restoration by the Government and/or the community. Thus, health services must prioritize helping the safety of patients' lives over other interests, both in emergencies and in ordinary situations. [8, p. 50]

The main challenge for public health in Indonesia is precisely the perception that health matters are private (individual) matters, not public affairs because those affected are themselves. It is provided for in Article 56 of the Health Law, where the medical world cannot force patients to take specific medical actions without prior information. Article 56 of the Health Law provides a guarantee of informed consent in which everyone has the right to accept or reject part or all of the help measures that will be given to him after receiving and understanding the complete information regarding the action. [15]

However, it was also emphasized that the right to accept or reject the aid action did not apply to sufferers of a disease whose disease can quickly spread to the broader community, the condition of an unconscious person, or who has severe mental disorders. The concept of public or society in health seems only relevant and vital when an

infectious or epidemic disease occurs. As a result, behavior that is harmful to health is not considered a threat to public health. [8, p. 51]

An example is the case of refusal of vaccination because it is considered haram for using ingredients from pork which are considered haram by Islamic teachings. Even though COVID-19 vaccination is vital to prevent the spread of the disease, the widespread behavior of residents who do not want to vaccinate will encourage the expansion of the transmission of Covid-19. However, over time the community can accept reasons for getting the vaccine due to a fatwa from the Indonesian Ulema Council (MUI), which guarantees the sanctity and halalness of the Covid-19 Vaccine products from Sinovac Life Sciences Co. Ltd. China and PT. Bio Farma (Persero). [16]

The Fatwa Commission of the Indonesian Ulema Council (MUI) issued a fatwa on the COVID-19 vaccine produced by Sinovac Lifescience Co Ltd China with two dictums or decrees. The Chairman of the MUI Fatwa Body, KH Asrorun Niam Sholeh, explained the first dictum, namely that the Covid-19 vaccines produced by Sinovac Life Sciences Co Ltd., China and PT Bio Farma (Persero) are holy and halal. Second, the Covid-19 vaccines produced by Sinovac Life Sciences Co. Ltd China and PT Bio Farma (Persero) in the number 1 (first dictum) may be used by Muslims as long as its safety is guaranteed, according to a credible and competent expert. [17]

The Food and Drug Supervisory Agency (BPOM) itself, when announcing Emergency Use Authorization (EUA), said that the Sinovac vaccine has an efficacy (efficacy) of 65.3 percent. This figure is above the standard set by WHO, which is 50 percent. [17]

On January 11, 2021, BPOM has approved the first use of the Covid-19 vaccine for the Coronavax vaccine produced by Sinovac in collaboration with PT Biofarma," and The results of the analysis of the efficacy of the Sinovac vaccine and clinical trials in Bandung showed an efficacy of 65.3 percent, [17]

Article 9 of Law Number 6 of 2018 concerning Health Quarantine states that the implementation of quarantine aims to protect people from diseases and/or public health risk factors that have the potential to cause a public health emergency, prevent and ward off disease and/or public health risk factors that have the potential to cause health problems. Furthermore, Public Health Emergencies increase national resilience in the field of public health, provide protection and legal certainty for the public and health workers.

As part of the world community, Indonesia is also obliged to prevent the occurrence of Public Health Emergencies that are troubling the world (Public Health Emergency of International Concern) as mandated in international regulations in the health sector (International Health Regulations / IHR 2005). [18, p. 9] In carrying out

this mandate, Indonesia must fully respect human dignity, human rights, the principles of individual freedom, and their universal application. The 2005 International Health Regulations (IHR) requires Indonesia to increase its capacity and capabilities in health surveillance and response and Health Quarantine in the region and at Entrance Gates, both ports, airports, and national land border posts. [19]

Health Law, Article 1 regulates the types of health services, namely:

- (12) Promotive health service is an activity and/or a series of health service activities that prioritize health promotion activities.
- (13) Preventive health service is an activity to prevent a health problem/disease.
- (14) Curative health service is an activity and/or a series of medical activities aimed at healing a disease, reducing suffering due to disease, controlling disease, or controlling disability so that the sufferer's quality of life can be maintained optimally.
- (15) Rehabilitative health service is an activity and/or a series of activities to return a former patient to the community so that they can function again as a member of the community that is useful for himself and the community to the maximum extent possible according to his abilities.

Article 5 of the Health Law states that: (1) Everyone has the same rights in gaining access to resources in the health sector; (2) Everyone has the right to obtain safe, quality, and affordable health services; and (3) Every person has the right to independently and responsibly determine the health services that are needed for himself.

Based on the Health Law, the Government is responsible for planning, regulating, organizing, developing, and supervising the implementation of health efforts that are evenly distributed and affordable to the community. (Article 14 paragraph 1) which is devoted to public services (paragraph 2); by taking into account the availability of the environment, structure, health facilities, both physical and social, for the community to achieve the highest health standard (Article 15), the availability of resources in the health sector that is fair and equitable for all people to obtain the highest health degree. (Article 16), availability of access to information, education, and health service facilities to improve and maintain the highest health status (Article 17), to empower and encourage the active role of the community in all forms of health efforts (Article 18), availability of all forms of quality, safe, efficient and affordable health efforts (Article 19), as well as the implementation of public health insurance through the national social security system for individual health efforts (Article 20 paragraph 1).

The state's obligation to provide protection for the right to health possessed by all citizens is in line with what is stated by WHO, namely the state, in this case, the Government has responsibility for the health of its citizens.

According to WHO, "Government has a responsibility for the health of their people which can be fulfilled only by the provision of adequate health and social measures. [20, p. 15]

The state's responsibility to fulfill the right to health as a fundamental right is reinforced by the Declaration of Almaata adopted at the International Conference on Primary Health Care in 1978, also used similar language: The Conference strongly reaffirms that health, which is a state of complete physical, mental and social wellbeing, and not merely the absence of disease or infirmity, is a fundamental human right and that the attainment of the highest possible level of health is a most important worldwide social goal whose realization requires the action of many other social and economic sectors in addition to the health sector. [21] The declaration made by WHO and UNICEF reaffirms the right to health which is part of human rights; thus, the fulfillment of the right to health is the responsibility of the state and a goal of all over the world, which various sectors must also support.

In 2018, Indonesia issued the latest regulations regarding health quarantine in Law Number 6 of 2018 concerning Health Quarantine (Health Quarantine Law). The Health Quarantine Law defines health quarantine as an effort to prevent and prevent the exit or entry of diseases and/or public health risk factors that have the potential to cause a public health emergency. [22] To carry out the health quarantine, the Government must determine that the country is in the status of a Public Health Emergency. Public Health Emergencies are public health events of an extraordinary nature characterized by the spread of infectious diseases and/or events caused by nuclear radiation, biological pollution, chemical contamination, bioterrorism, and food that cause health hazards and have the potential to spread across regions or countries. [22]

Article 3 of the Health Quarantine Law explains that the Implementation of Health Quarantine aims to protect the public from diseases and/or Public Health Risk Factors that have the potential to cause Public Health Emergencies, prevent and ward off diseases and/or Public Health Risk Factors that have the potential to cause Public Health Emergencies, increase resilience in the field of public health, and provide protection and legal certainty for the public and health workers. The point of emphasis in the implementation of this health quarantine is that the Central Government and Regional Governments are responsible for the availability of resources needed in the implementation of Health Quarantine [22]

There are four types of health quarantine regulated in the Health Quarantine Law: home quarantine, hospital quarantine, regional quarantine, and large-scale social restrictions. The four types of quarantine are carried out to mitigate risk factors in a Public Health Emergency area. Home quarantine is the restriction of occupants in a house

and their contents suspected of being infected with a disease and/or contamination in such a way as to prevent the possibility of spreading disease or contamination. Furthermore, it is explained that Hospital Quarantine is the restriction of a person in the hospital who is suspected of being infected with the disease and/or contaminated in such a way as to prevent the possibility of spreading the disease or contamination. Meanwhile, what is meant by Regional Quarantine is the restriction of the population in an area, including the area of entry points and their contents suspected of being infected with a disease and/or contaminated in such a way as to prevent the possibility of spreading disease or contamination. It is further defined that Large-Scale Social Restrictions are restrictions on certain activities of residents in an area suspected of being infected with a disease and/or contaminated.

Government efforts: [23] as a form of responsibility mandated by the Health Quarantine Act [22], take several steps that are replicated from countries that have succeeded in reducing the spread of the coronavirus, such as imposing social distancing; stop learning in schools and colleges by replacing it with learning at home; dismissing and closing factories, tourist attractions, malls, private offices, cinemas, and other gathering places; carry out a COVID-19 test both quickly (rapid-test) and swab; carry out limited isolation in areas that have a high infection rate in the form of Large-Scale Social Restrictions (PSBB); converting the function of hotels and meeting buildings into a referral hospital for handling the coronavirus; and others. Even so, there are several things that, according to the author, have not been done, but are essential to implement, namely first, to collect data on exposed residents and open the data to the public as widely as possible so that the public can avoid direct contact or contact (for the time being) with people infected people. Second, increase the number of tests to detect people who are infected or not. Third, adding health workers and nurses from areas with low infection rates to the epicenter of COVID-19 while protecting them by providing complete personal protective equipment (PPE), adding medicines, equipment, and special medical devices to deal with COVID-19. 19. Fourth, as a last resort, carry out a strict and firm micro-lockdown to control the spread of the coronavirus in Indonesia.

Meanwhile, on the health side, the Indonesian Government is providing personal protective equipment (PPE), masks, medicines, converting several hotels and meeting halls into a special hospital for handling COVID-19. The Indonesian Government is also optimizing the COVID-19 test, both through rapid tests and through PCR. The goal is that the spread of the coronavirus can be localized so that the Government has a map of the distribution of COVID 19 through the results of these tests. [23]

These policies were taken because the Indonesian Government realized that the COVID-19 outbreak was a national-scale disaster that had to be resolved in an extraordinary way. Therefore, it is not surprising that the

President of Indonesia issued Presidential Decree (Keppres) Number 12 of 2020 concerning the Determination of Non-Natural Disasters Causing Corona Virus Disease 2019 (COVID-19) As National Disasters on April 13, 2020. [24]

Various government policies to prevent the spread of Coronavirus transmission in society, which have been implemented during the transmission period of the COVID-19 outbreak, are as follows: [25]

- (1) Stay at Home policy;
- (2) Social Distancing Policy;
- (3) Physical Distancing Policy;
- (4) Policy on the Use of Personal Protective Equipment (Masks);
- (5) Policy on Maintaining Personal Hygiene (Washing Hands);
- (6) Work / Study From Home Policy;
- (7) Suspend all crowd-gathering activities;
- (8) Large-Scale Social Restriction Policy (PSBB); until the last,
- (9) Enforcement policy

As an implementing rule of the Government Health Quarantine Law, the Government has issued Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019 (COVID-19). However, if examined comprehensively, the content regulated in this Government Regulation is only limited to regulating the procedures for establishing Large-Scale Social Restrictions through the authority of the Regional Government, the Task Force for the Acceleration of Handling Corona Virus Disease (Covid-19), and the Central Government, in this case, the Ministry of Health. [26]

All legal policies chosen by the Government must be aimed at the benefit of the community, especially in the health sector. In this epidemic, public health and safety are very threatened, so the Government must be cautious in taking any action so as not to cause harm to the community. It is also essential to pay attention to the principle of legal certainty not only in ensuring the safety of the general public, but orders must also be at the forefront of protecting medical personnel who are struggling to treat thousands of patients infected with the coronavirus. Especially if one looks at the laws and regulations regarding health workers, in fact, there is no further regulation from Law Number 36 of 2014 concerning Health Workers (Law on Health Workers), which guarantees legal certainty for health workers. Thus the Government needs to readily issue implementing regulations and technical guidelines for the Health Workforce Law and other laws that regulate legal protection and work safety for health workers. [27]

4. CONCLUSION

Based on the discussion above, it is clear that The right to health is a demand for individual rights as citizens who want to live healthy lives according to the guidance of their

respective religions and beliefs and the state's interests to ensure healthy future generations.

The restrictions on people's freedoms, especially the public health rights carried out by the Indonesian Government, have accommodated the 3 (three) Syracuse Principles described above, namely: "prescribed by law," "in a democratic society," and "necessary to protect" (necessary to protect) as well as "proportionate."

Based on the Syracuse Principles, there are at least 7 (seven) things to contain restrictions on public freedom based on a human rights perspective, namely:

1. The basis for the limitation is only in article 18 (3).
2. The limitation regulated in the law is proportional to the specific purpose, which becomes the reason for the limitation.
3. Legal rules that limit the implementation of human rights must be clear.
4. Laws that impose restrictions on the implementation of human rights must not be arbitrary or unreasonable. (Syracuse Principle.)
5. With general provisions consistent with the Covenant and adequate Protection.
6. Cannot be imposed for discriminatory purposes.
7. The limitation for protecting morals must be based on the principle of not being derived exclusively from one tradition (social, philosophical, and religious).

Finally, it is recommended to set standard norms that can provide clear parameters for restrictions on the protection of public health, including establishing other recovery mechanisms to promote public health assurance. These standard norms also need to encourage changes in the community's responsibility to maintain and fulfill public health.

REFERENCES

- [1] WHO Coronavirus (COVID-19) Dashboard, "Overview," WHO, March 5, 2021. [Online]. Available: <https://covid19.who.int/>. [Accessed Friday, March 2021].
- [2] Komite Penanganan Covid-19 dan Pemulihan Ekonomi Nasional, "Peta Sebaran Covid-19," Satuan Tugas Penanganan Covid-19, 5 March 2021. [Online]. Available: <https://covid19.go.id/peta-sebaran-covid19>. [Accessed 5 March 2021].
- [3] Zainal Abidin Bagir, Asfinawati, Suhadi, Renata Arianingtyas, *Membatasi Tanpa Melanggar Hak Kebebasan Beragama atau Berkeyakinan*, Yogyakarta: Center for Religious and Cross-cultural Studies (CRCS), Progam Studi Agama dan Lintas Budaya, Sekolah Pascasarjana Lintas Disiplin, Universitas Gadjah Mada, 2019.
- [4] H. Bielefeldt, Writer, *Religion and Human Rights*. [Performance]. CRCS UGM-NHCR Oslo University-DIAN/Interfidei, 2017.
- [5] N. Burhanuddin, Writer, *KEBEBASAN BERAGAMA DALAM KONTEKS PSBB ((Teologi dan Pemikiran Maqashid)*. [Performance]. IAIN Bukittinggi, 2020.
- [6] Pemerintah Republik Indonesia, Undang-undang Kesehatan, Jakarta, Nomor 36 Tahun 2009.
- [7] S. S. d. S. Mamudji, *Penelitian Hukum Normatif*, Jakarta: PT. Raja Grafindo, 2004, Cetakan ke-8.
- [8] A. S. R. A. Zainal Abidin Bagir, *Membatasi Tanpa Melanggar Hak Kebebasan Beragama atau Berkeyakinan*, Yogyakarta: Center for Religious and Cross-cultural Studies (CRCS), Sekolah Pascasarjana Lintas Disiplin, Universitas Gadjah Mada, 2019.
- [9] ELSAM, "KEBEBASAN ATAS NFORMASI: PERSPEKTIF HAK ASASI MANUSIA," 12 2014. [Online]. Available: <http://referensi.elsam.or.id/wp-content/uploads/2014/12/KEBEBASAN-ATAS-INFORMASI-pointers.pdf>. [Accessed 9 March 2021].
- [10] "Military and Public Safety," World Justice Project, [Online]. Available: <https://worldjusticeproject.org/resource-hub/military-and-public-safety>. [Accessed March 5, 2021].
- [11] "Deklarasi Universal Hak Asasi," Komisi Nasional HAM, [Online]. Available: [https://www.komnasham.go.id/files/1475231326-deklarasi-universal-hakasasi--\\$R48R63.pdf](https://www.komnasham.go.id/files/1475231326-deklarasi-universal-hakasasi--$R48R63.pdf). [Accessed 5 March 2021].
- [12] Pemerintah Republik Indonesia, UNDANG-UNDANG REPUBLIK INDONESIA No. 11 Tahun 2005 tentang PENGESAHAN INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (KOVENAN INTERNASIONAL TENTANG HAK-HAK EKONOMI, SOSIAL DAN BUDAYA), Jakarta: Pemerintah Republik Indonesia, 2005.
- [13] UN Economic and Social Council, "General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)," UN Committee on Economic, Social and Cultural Rights (CESCR), Geneva, 2000.
- [14] WHO Centre for Health Development, "A GLOSSARY OF TERMS FOR COMMUNITY HEALTH CARE AND SERVICES FOR OLDER PERSONS," WHO, Geneva, 2004.
- [15] Pemerintah Republik Indonesia, Undang-undang Kesehatan, Jakarta, Nomor 36 Tahun 2009.
- [16] Majelis Ulama Indonesia, "PRODUK VAKSIN COVID-19 DARI SINO VAC LIFE SCIENCES CO. LTD. CHINA DAN PT. BIO FARMA (Persero)," Jakarta, Nomor 02 Tahun 2021.
- [17] Majelis Ulama Indonesia, "BPOM Terbitkan EUA Komisi Fatwa MUI Vaksin Sinovac Halal dan Boleh Digunakan Muslim," Majelis Ulama Indonesia, 11 Januari 2021. [Online]. Available: <https://mui.or.id/berita/29419/bpom-terbitkan-eua-komisi-fatwa-mui-vaksin-sinovac-halal-dan-boleh-digunakan-muslim/>. [Accessed 4 March 2021].

- [18] World Health Organization, *International Health Regulations*, Geneva, Switzerland: World Health Organization Press, 2005 Third Edition.
- [19] N. R. Y. Annissa Rezki, "Kebijakan Pemberlakuan Lock down Sebagai Antisipasi Penyebaran Corona Virus Covid-19," *Salam: Jurnal Sosial dan Budaya Syar-i*, Vols. Vol. 7, No. 3, no. -, p. 233, March 2020.
- [20] T. S. Kurnia, *Hak Atas Derajat Kesehatan Optimal Sebagai HAM di Indonesia*, Bandung: PT. Alumni, 2007.
- [21] WHO, "Declaration of Alma-Ata," WHO dan UNICEF, Kazakhstan, 1978.
- [22] Pemerintah Republik Indonesia, "Undang-undang Karantina Kesehatan," Jakarta, 2018.
- [23] L. Agustino, "Analisis Kebijakan Penanganan Wabah Covid-19: Pengalaman Indonesia (Analysis of Covid-19 Outbreak Handling Policy: The Experience of Indonesia)," *Jurnal Borneo Administrator*, vol. 16 No. 2, no. Covid-19, pp. 253-270, 2020.
- [24] Gugus Tugas Percepatan Penanganan COVID-19, "Covid.go.id," Komite Penanganan Covid-19 dan Pemeulihan Ekonomi Nasional, 27 Mei 2020. [Online]. Available: <https://covid19.go.id/p/berita/gtppc19-keluarkan-surat-edaran-pertegas-status-bencana-nasional>. [Accessed 9 March 2021].
- [25] D. Tuwu, "KEBIJAKAN PEMERINTAH DALAM PENANGANAN PANDEMI COVID-19," *Journal Publicuho*, Vols. Volume 3 Number 2 (May-July), no. Covid-19, pp. 267-278, 2020.
- [26] Pemerintah Republik Indonesia, "Pembatasan Sosial Berskala Besar dalam Rangka Percepatan Penanganan Corona Virus Disease 2019 (Covid-19)," Jakarta, Nomor 21 Tahun 2020.
- [27] S. Nurhalimah, "Covid-19 dan Hak Masyarakat atas Kesehatan," *SALAM; Jurnal Sosial & Budaya Syar-i*, vol. 7 Nomor 6, no. Covid-19, pp. 543-554, 2020.