



Herd Immunity VS Human Rights

Djamaludin Habi^{1}, Lisnawaty W. Badu², Jufryanto Puluhulawa³*

¹²³ Faculty of Law, State University of Gorontalo, Indonesia. Korespondensi: E-mail: djamalhabi02@gmail.com

Abstract: This study aims to analyze law enforcement for people who refuse vaccination from the perspective of human rights, as well as to examine the obstacles faced by law enforcement in enforcing the law for people who refuse vaccination. This type of research is juridical empirical. The approach used in this research is the statute approach and the case approach. The analysis used in this study is descriptive data analysis using a qualitative approach to secondary data and primary data. The results show that the Government and the Covid-19 task force tend to provide education and rewards to people who want to be vaccinated and provide administrative sanctions for those who refuse, especially the space for movement and regulation of vaccine card requirements in receiving public services by the government and the police. The thing that hinders the process of vaccination to the public is the doubts that arise in the community about the safety and halalness of vaccines caused by hoax news from sources that are not credible.

Keywords: Law Enforcement; Public; Vaksinasi;

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1. Introduction

Since the end of January 2020, the Director General of the World Health Organization (WHO) has determined that the Corona Virus Disease 2019 (Covid-19) outbreak is an international public health emergency, as an effort to handle the pandemic, the Indonesian government has rolled out several policies to respond to the impact of the pandemic.

Setya Nugraha said :

“For example, the implementation of PSBB as regulated in Law no. 6 of 2018 concerning Health Quarantine, Presidential Decree no. 11 of 2020 concerning the Determination of the Covid-19 Public Health Emergency and subsequently the government stipulates Government Regulation no. 21 of 2020 concerning Large-Scale Social Restrictions in the context of Accelerating the Handling of the pandemic.”¹

“The Covid-19 pandemic has caused such a significant impact on conditions and stability in the fields of health, economy, culture, society, and politics, to the law in Indonesia”.²The resulting impacts include the decline in people's health conditions, the economic downturn due to some companies having to forcibly close down, to political policies by the government. In addition, the Covid-19 pandemic has also changed the pattern and behavior of people's lives in responding to and responding to the presence of Covid-19, which include staying at home, working from home, washing hands, keeping a distance, wearing masks, and later by vaccinating.

The actions mentioned above, apart from being self-aware by each person, are also policies issued by the government as a form of prevention and handling of the Covid-19 pandemic. “However, at the implementation level, the policies issued by the government certainly invite various responses,”³especially the policy regarding the Covid-19 vaccination. One of the public's responses to the vaccination policy is to refuse to be vaccinated.”⁴“The refusal by people who refuse to be vaccinated has the reason that some people experience bad things until they die.”⁵

¹ Joshua A. Setyanugraha. “Pemidanaan Sebagai Upaya Penanganan Pandemi Covid-19 Dalam Undang-Undang Kekejarantinaan Kesehatan: Mengetahui Legalitas, Konstruksi Dan Konsekuensi Rumusan Delik”. Jurnal Rechtsvinding. Vol. 10 No. 1. (2021). Hal. 64

²Retnowati WD Tuti. “Analisis Implementasi Kebijakan Work From Home pada Kesejahteraan Pengemudi Transportasi Online di Indonesia”. Jurnal Ilmiah Ilmu Administrasi. Vol 3. No. 1. (2020). Hal 73

³Ibid.

⁴ Masih Banyak Warga Tolak Vaksin Covid-19, DPR Minta Pemda Gencarkan Sosialisasi: <https://nasional.kompas.com/read/2021/03/25/16325281/masih-banyak-warga-tolak-vaksin-covid-19-dpr-minta-pemda-gencarkan?page=all> (Diakses pada tanggal 25 Oktober 2021, pukul 12.01 wita)

⁵Warga Tangerang Meninggal Dunia usai Terima Vaksin Covid-19, Belum Diketahui Penyebabnya: <https://megapolitan.kompas.com/read/2021/06/24/14144671/warga-tangerang->

The policy on vaccination is a policy that must be taken by the government to mitigate and deal with the Covid-19 outbreak. Referring to the mandate of Law no. 6 of 2018 concerning Health Quarantine (hereinafter abbreviated as Health Quarantine Law), the vaccination policy is one of the last stages of the recovery process from a disease outbreak that hit this country. The vaccination itself is the process of giving a vaccine to a person to make him immune from disease.

“In recent months, as many as 12,320,386 people have been vaccinated by the government through the ministry of health as the executor of this task.”⁶ This is certainly an achievement, considering that many people have not been vaccinated. The government continues to be committed to vaccinating all Indonesian citizens to deal with Covid-19, which will continue to be carried out for the next few months. Therefore, the government asks all levels of society to be ready to receive vaccinations by the government.

Based on the table above, it can be seen that the percentage of vaccination in Gorontalo Province for dose 1 is 75.12% while for dose 2 it is 44.52 and for dose 3, which is 60.05% of the people who have received dose 2. This shows that Vaccination in Gorontalo Province is still not optimal and must continue to be improved with various efforts by the task force formed by the Governor Regents and Mayors in Gorontalo Province. One of the efforts made is the provision of basic material assistance and administrative sanctions in the form of administrative requirements and requests for administration to public service organizations, where this is done because vaccination is part of promotive, preventive, curative, and rehabilitative health services for the people of Gorontalo Province..

To complete the Covid-19 vaccination plan for all citizens, the government also issued Presidential Regulation No. 14 of 2021 concerning the Implementation of Vaccination (hereinafter abbreviated as Perpres Vaccination). In the Presidential Decree on Vaccination, it is stated that people who refuse vaccination will be given sanctions, both administrative sanctions, and criminal sanctions. "This is in line with the nature and character of the law (laws and regulations) which are progressive and responsive,"⁷ "and can have legal consequences." The Presidential Regulation is a regulation issued to carry out the mandate of the Health Quarantine Law in the final stages of recovery from a disease outbreak.

Saputra expressed his opinion:

[meninggal-dunia-usai-terima-vaksin-covid-19-belum?page=all](#) (Diakses pada tanggal 25 Oktober 2021, pukul 12.04 wita)

⁶Jumlah ini didasarkan pada artikel berita yang terbit pada kompas.com dengan judul berita: *12.320.386 Juta Orang Sudah Divaksin Covid-19 Dosis Kedua*, yang terbit pada 21/6/2021.

⁷Jufryanto Puluhulawa. "Reformulasi Pengaturan Aplikasi I-Doser Sebagai Narkotika Digital". *Jurnal Area Hukum*. Vol. 9 No. 3. (2016). Hal 374.

“Various regulations have been implemented including the implementation of Social Distancing for all forms of activity, Large-Scale Social Restrictions (PSBB) as contained in Government Regulation No. 21 of 2020, Health Quarantine, even until the Implementation of Restrictions on Community Activities (PPKM) as contained in the Instruction of the Minister of Home Affairs. Number 1 of 2021 concerning PPKM Java-Bali, as well as government efforts that are being implemented now, namely the vaccination program.”⁸

The Covid-19 vaccination is one of the many government programs in tackling the Covid-19 outbreak. as stated in Presidential Decree No. 12 of 2020 concerning the Determination of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 (COVID19) as a National Disaster.

“However, the government's program related to vaccination is reaping the pros and cons, especially with the news that anyone who refuses to vaccinate will be subject to administrative sanctions and even criminal sanctions. The regulations that have been issued by the government related to sanctions given to someone who refuses to vaccinate are in Presidential Decree No. 14 of 2021 concerning Amendments to Presidential Regulation No. 99 of 2020 concerning Vaccine Procurement and Vaccination Implementation in the Context of Combating the 2019 Corona Virus Disease Pandemic (Covid-19).”

As stated in Article 13A paragraph (4), the sanction given to any person who has been designated as the target recipient of the Covid-19 vaccine who does not participate in the Covid-19 vaccination as referred to in paragraph 2 is subject to administrative sanctions in the form of delaying or stopping the provision of social security or social assistance. , postponement or cessation of government administration and fines. "This is certainly contrary to the constitution regarding the rights of citizens as stated in Article 28H paragraph (3) which reads "Everyone has the right to social security that allows his full development as a dignified human being".⁹

We all know that the sanctions are intended to make people willing to vaccinate. This was done by the government to break the chain of the spread of COVID-19, considering that Indonesia is currently in a state of emergency. However, on the other hand, the presidential regulation which contains sanctions is contrary to the hierarchy of statutory arrangements or derivative rules. "Because it is related to sanctions as part of it, Prof. Andi Hamzah emphasized that criminal penalties

⁸Andre Bagus Saputra, 2021 *Vaksinasi Covid-19 Hak atau Kewajiban?* <https://law.uii.ac.id/blog/2021/09/06/vaksinasi-covid-19-hak-atau-kewajiban/> (Diakses 27 Oktober 2021 Pukul 14.00 Wita)

⁹Lihat Pasal 28H ayat (3) UUD NRI Tahun 1945.

must be regulated at the level of the law, not only with government regulation, let alone a regional regulation but possible in autonomous regions by local cultural, social and economic conditions.”¹⁰

Saputrasaid :

“As for other legal products issued by the government related to the sanctions for someone who refuses to vaccinate, they are contained in the "Regional Regulation of the Special Capital City Region of Jakarta Number 2 of 2020 concerning Handling Corona Virus Disease 2019. As stated in Article 30 of the DKI Jakarta Regional Regulation, someone who refuses Vaccination will be subject to A fine of 5 million rupiah.”¹¹

This regional regulation contradicts Law Number 36 of the Year 2009 concerning Health. Article 5 paragraph (30) states firmly that every person has the right to independently and responsibly determine the health services he needs.

The criminal sanctions as referred to in Article 9 in conjunction with Article 93 of Law Number 6 of 2018 concerning Health Quarantine. Article 9 paragraph (1) of the Health Quarantine Law states,

“Everyone is obliged to comply with the implementation of Health Quarantine”

Article 93 of the Health Quarantine Law states:

*“Setiap orang yang tidak mematuhi peraturan Kekarantinaan Kesehatan sebagaimana dimaksud dalam Pasal 9 ayat (1) dan/atau menghalang-halangi penyelenggaraan Kekarantinaan Kesehatan, sehingga menyebabkan Kedaruratan Kesehatan Masyarakat dipidana dengan pidana paling lama 1 (satu) tahun dan/atau pidana denda paling Rp 100.000.000,00 (seratus juta rupiah)”.*¹²

The existence of sanctions against someone who refuses to vaccinate, especially administrative sanctions creates coercion that has violated human rights. Article 41 paragraph (1) of Law Number 39 of 1999 concerning Human Rights states "Every citizen has the right to social security needed for a decent life and his personal development as a whole".

This is the concern of the authors to examine how to analyze law enforcement for people who refuse vaccination from a human rights perspective, as well as to examine the obstacles faced by law enforcement in enforcing the law for people who refuse vaccination.

¹⁰Otth Handayani. “Kontroversi Sanksi Denda Pada Vaksinasi Covid-19 Dalam Perspektif Undang-Undang No. 36 Tahun 2009 Tentang Kesehatan”. *KRTHA BHAYANGKARA*, Vol. 15, No. 1 (2021). Hlm 94.

¹¹Andre Bagus Saputra, *Op.cit*

¹²<https://www.hukumonline.com/berita/baca/lt6000489907e09/polemik-jerat-pidana-bagi-penolak-vaksinasi-covid-19?page=2>

2. Method

This type of research is normative legal research or juridical research. Normative legal research is research conducted by examining library materials or secondary data.¹³The approaches used by researchers in compiling this research are, among others: the Legislative Approach (Statue Approach) and; the Case approach (case approach).¹⁴Data collection was carried out through library research, meaning that the technique of collecting data and information from several books and readings and legislation related to the problem under study.¹⁵

3. Law Enforcement for People Who Refuse Vaccination From a Human Rights Perspective

The administration of this vaccine certainly received various responses, both accepting and rejecting from the public, because all of this began with the circulation of a video interview between the former Minister of Health Siti Fadilah Supari and Deddy Corbuzier in a Youtube channel program, where it was stated that it was ineffective and the etiology of the vaccine was unclear. For handling a pandemic, especially a pandemic that is not yet clear how to handle it, especially at the time of the Minister of Health, vaccines were not an option and finally, Indonesia could be free from Avian Influenza¹⁶. This, of course, makes people skeptical about vaccination, which is a government program.

This a statement from the community that rejects the vaccine which states that:

“....I haven't had the vaccine yet because I'm not sure about the benefits of the vaccine, the evidence is that the vaccine is still exposed to Covid-19. Then what's the point of the vaccine if so? Then I also do not depend on social security and others so that there is still room for movement to and fro without vaccines. Moreover, those who say that the vaccine is safe and that the vaccine has been tested are not people who are competent in vaccines and if they are competent, they are not those who carry out clinical trials of the vaccine¹⁷”

The statement from the informant can be interpreted that the community refuses the vaccine because the benefits of the vaccine are not yet clear where many people have received the vaccine at dose 1 and dose 2 but can still get Covid-19 even for the Governor of Gorontalo on February 11, 2022, who has a complete

¹³Soerjono Soekanto and Sri Mamudji. “*Penelitian Hukum Normatif*”. Rajawali Pers. Jakarta. (2013). Hlm. 13

¹⁴Yayuk Rizki Hulukati, Dian Ekawaty Ismail, and Novendri M. Nggilu. “*Penyalahgunaan Narkotika Oleh Pegawai Negeri Sipil Dilihat Dari Perspektif Kajian Kriminologi*”. Jurnal Legalitas Vol. 13 No.1. Gorontalo: Universitas Negeri Gorontalo. (2020). hlm. 18

¹⁵*Ibid.*, hlm. 66.

¹⁶<https://www.youtube.com/watch?v=by3SglhT9Dc> diakses 2 April 2022

¹⁷Hasil wawancara masyarakat penolak vaksin Siti Rahmatia

vaccine can hit Omicron¹⁸. This has increased skepticism for the public to vaccinate at vaccine booths carried out by the local government and the police. Then the controversy related to the Covid-19 vaccine also emerged, where one member of the House of Representatives (DPR) openly refused to be vaccinated against the Covid-19 vaccine and preferred to pay a fine because the vaccine had not yet been in a third clinical trial, resulting in pros and cons in the middle. Public. However, the President of the Unitary State of the Republic of Indonesia, Joko Widodo, became the first person to receive the Covid-19 vaccine as an act of motivation and encouragement to the public not to doubt and not refuse the vaccination.

The government and society are responsible for preventing, controlling, and eradicating infectious diseases and their consequences. So, in principle, vaccination is not just a matter of personal health, but rather to prevent transmission and form immune protection for everyone, because living in society is not only about saving oneself but also saving others who need protection. The goals of the Republic of Indonesia include protection for the community and the rights of the people which are guaranteed in every aspect of their lives. This is of course in line with the concept of a rule of law initiated by F.J. Stahl, one of which is “providing recognition and protection of human rights.”¹⁹

The government itself is responsible for planning, regulating, organizing, fostering, and supervising the implementation of health efforts that are equitable and affordable by the community, which is regulated in Article 14 paragraph (1) of Law Number 36 of 2009 concerning Health. In addition to Article 152 paragraph (1) of Law Number 36 of 2009 concerning Health. The government, local government, and the community are responsible for preventing, controlling, and eradicating infectious diseases and their consequences. So various efforts have been made by the government in the context of persuasive and administrative enforcement to the community, as stated by the people who received the following vaccines:

“...I received the vaccine because we as honorary workers in Gorontalo Province get a reward for a contract extension if the vaccine reaches dose 2, but doctors have to check first if we want the vaccine and if it's not allowed then it's okay not to get vaccinated. Like me yesterday, the 2nd dose of the vaccine was 5 months pregnant but it was still allowed and there were no serious problems. But if I'm honest, I don't want a vaccine because it's not clear how it will benefit, especially many who have been vaccinated but still get the Covid-19 variant of the Omicron yesterday. I

¹⁸<https://gorontaloprov.go.id/gubernur-gorontalo-umumkan-positif-covid-19-varian-omicron>, diakses 2 April 2022

¹⁹Moh. Rusdiyanto U. Puluhulawa, Jufryanto Puluhulawa, dan Moh. Fahrurrozie Hidayatullah Nur Musa, “Kebijakan Kriminal Dalam Penanggulangan Tindak Pidana Penganiayaan Menggunakan Panah Wayer Oleh Anak Di Kota Gorontalo (Studi Kasus Polres Gorontalo Kota)”, *Jurnal Yuridis* Vol. 6 No. 2. Gorontalo: Universitas Negeri Gorontalo. (2019). hlm. 94-95

didn't have the power to refuse because I needed a job. We were even ordered to say a family of 5 people could be vaccinated, in other words, we became vaccine influencers²⁰”

The statement from the informant can be interpreted that people receive vaccines because there are clear rules and stipulations for them that vaccines are an obligation not in the realm of human rights, where this is stated in Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases which states that the public is obliged to comply with various strategic steps of the government so that the outbreak can be quickly resolved, and one way to solve it is by vaccination. Law enforcement on this matter is also carried out by giving strict sanctions to people who are obliged to vaccinate and also issuing various rules that make people think they cannot refuse vaccination as a form of government health service efforts to the community.

Many people think that amid the chaotic governance of handling the pandemic in the face of the current crisis, the Minister of Health as an assistant to the President issued Regulation of the Minister of Health Number 19 of 2021 which makes vaccines a commodity and a privilege. This policy is contrary to the spirit of the previous Regulation of the Minister of Health 10 of 2021 which stated that vaccinations would not be charged to users but the company as usual for other health insurances. The issuance of Regulation of the Minister of Health Number 18 of 2021 in conjunction with Regulation of the Minister of Health Number 19 of 2021 contradicts the public's right to health in the pandemic era. The community has already experienced a heavy economic and social burden and therefore it would not be appropriate if the government interpreted it to invite the community to lighten the burden on the state by imposing vaccination costs on the community. However, charging the fee is one of the strategies taken by the government so that people start to think that if they don't vaccinate now, the vaccine will be paid for in the future and the price is very high.

The government is very nimble in optimizing the goal to achieve Herd Immunity which will ultimately make people's compliance with vaccines better. Various efforts have been made by the government, namely:

“....Actually, on the basis there are regulations, there are epidemic laws, covid laws, and health laws, there are many health ministerial regulations (PMK) that have regulations. If there is an indication that he is slowing down or influencing other people to take preventive measures, of course, there is a law. years in prison. Efforts made to hinder it will certainly be adjusted to the efforts to inhibit it. If he doesn't want it himself, that's his risk, but if he invites him then of course it will get legal sanctions if it is brought to justice, so everything of course has a procedure, we are also not arbitrary to the community, so we must try to

²⁰Wawancara masyarakat penerima vaksin, Ulva Oktaviana

make him understand that what we are doing is for good for protection so that's it²¹"

The statement from the informant can be interpreted that the efforts made by the government tend to be at the level of restorative justice which is a response to criminals to recover losses and facilitate peace between the parties. Restorative justice is a method that is philosophically designed to be a resolution to the resolution of the ongoing conflict by improving the situation or losses caused by the conflict. However, this restorative justice can be implemented if the violation in terms of vaccination is not so serious, then the approach taken by the Gorontalo Provincial government tends to be persuasive by giving rewards to people who want to be vaccinated.

Vaccination in the community is also actively carried out by the Gorontalo Police as a form of responsibility in public safety. This certainly has an impact on the efforts of the Gorontalo Regional Police in law enforcement efforts in vaccination and those who refuse vaccination. The statement from the Gorontalo Police Biddokes regarding this matter is as follows:

"...Police statutes stop people, and search it's all in police statutes. We carry out our duties as a police officers, if he has to be incapacitated, then he will be disabled. If he can be advised, then the police will take action by urging him first, if for example he cannot be appealed, then it will be escalated. We also in carrying out the vaccine must first test health, whether or not the community is vaccinated. That's the National Police Chief Regulation No. 1 of 2009 I've not mistaken the use of force by the police if I'm not mistaken, so it's about chaos or what's wrong with the community, so people still act according to the rules. Then there is also a circular from the Chief of Police that public safety is the highest law, so what we do is for the safety of the community²²"

The statement from the informant can be interpreted that the efforts of the Gorontalo Regional Police are active in administering vaccines as a form of health service to the community where health services are defined as giving attention to the community regarding or relating to health facilities and infrastructure, including health workers so that people feel safe and secure in their care. check his health. Health services are an effort that can be carried out either individually or jointly by health service institutions in the context of maintaining public health.

Efforts to make this vaccination a success were also carried out by the Gorontalo Regional Police, which is by the decree of the head of the state police of the Republic of Indonesia Number: Mak/2 /III/2020 concerning Compliance with

²¹Wawancara kepada Dinas Kesehatan Provinsi Gorontalo

²²Wawancara kepada Biddokes Polda Gorontalo

Government Policies in Handling the Spread of the Corona Virus (COVID-19) that to protect the public The National Police always refers to the principle that people's safety is the highest law (*Salus Populi Suprema Lex Esto*) so that the Gorontalo Police are active in vaccinating the community and assisting the government in vaccinating.

4. Barriers Faced by Law Enforcement in Law Enforcement for People Who Refuse Vaccination

Vaccines are biological products containing antigens in the form of dead or alive microorganisms that are attenuated, still intact or parts thereof, or in the form of microorganism toxins that have been processed into toxoids or recombinant proteins, which are added with other substances, which when given to a person will cause immunity. specific action against a particular disease. Vaccination is the provision of vaccines that are specifically given to actively generate or increase a person's immunity against a disease so that if one day they are exposed to the disease, they will not get sick or only experience mild illness and will not become a source of transmission. The provision of this vaccine is a step for the government to optimize the role of the state in handling disease outbreaks in a country's territory, but indeed this is sometimes contradictory due to various stigmas that are not good for the public regarding the vaccine.

Various reasons were said by the public for refusing the Covid-19 vaccine, which forced the government to move and deal with it so that it would not become a bigger obstacle in carrying out the vaccination program in Indonesia. The various rejections as stated by the community are:

“...I try to say that I have been exposed to Covid-19 several times because my husband has also been exposed to it. Wasn't at the beginning of the vaccine regulation that Covid-19 survivors were not required to be vaccinated, why is it inconsistent now? Accepting and rejecting vaccines is a citizen's right, indeed the legal basis is clear that there are consequences, but I am not sure about vaccines until now. I still want the vaccine but I need to be sure of the benefits first, not just the words²³”

The statement from the informant can be interpreted that people are still very doubtful about the Covid-19 vaccine even though the vaccine is given for free, there has been approval from the drug and food regulatory agency, and there has been a fatwa from the Indonesian Ulema Council, and there have been people who have been vaccinated, even President Joko Widodo. already assured of its safety by being the first to receive the vaccine. However, the facts on the ground are that there are still many people who are still doubtful and afraid and even refuse to be vaccinated, and many people are also asking whether giving vaccines is a right or an obligation.

²³Wawancara masyarakat penokak vaksin, Siti Rahmatia

For some people who refuse vaccination, WHO does not recommend imposing or requiring vaccination. The world health organization explained that countries in the world should take the path of persuasion and an approach that is embraced. WHO emphasizes that governments around the world should first use discussion and arguments to encourage voluntary vaccination before setting up mandatory vaccinations. Such an approach is expected to explain the benefits of vaccines and the dangers of not getting vaccinated. Regulations and sanctions are a last resort if the recommended methods prove unsuccessful. Of course, taking into account the humanitarian and ethical aspects of the application of a more severe law. So these things encourage the government to be active in educating the public about vaccination.

These various obstacles are of course the steps and efforts made by the government to reduce barriers to law enforcement in refusing vaccination by the community. This is as stated by the Gorontalo Provincial Health Office, namely:

“...So, of course, here we provide clear understanding education to the community so that the community can consciously accept it. Because it could be that people who reject it have been consumed by the wrong understanding circulating on social media, for example by accepting hoaxes, for example, some die from vaccines, and there are incidents of people getting sick because of vaccines. they are people who of course only accept half measures, so we certainly don't give sanctions, but the community will accept obstacles or obstacles in public services, for example.²⁴”

The statement from the informant can be interpreted that the challenges and obstacles experienced by the government in carrying out vaccinations are a large number of hoax news or piecemeal news circulating on social media so that people are increasingly skeptical of vaccines. The government is trying to make efforts to educate the public on this matter, where the provision of basic materials for community needs is budgeted through spending on social assistance for vaccinations so that more people want to be vaccinated. Article 14 of the Minister of Health 10/2021 stipulates that every person who has been designated as the target recipient of the COVID-19 vaccine based on data collection is required to take part in the COVID-19 vaccination by the provisions of the legislation. However, based on our investigation, the legal consequences are not further regulated if these obligations are not complied with.

Obstacles to vaccination were also experienced by the Gorontalo Regional Police who became the main companion of the Gorontalo Provincial government in vaccinating the community where the obstacle was the attitude of not accepting the community for the vaccine, so various efforts were made as stated by the BiddokesPolda Gorontalo, namely:

²⁴Wawancara Dinas Kesehatan Provinsi Gorontalo

“...One of the efforts of this activity is to go to school, while for new children, there are other efforts. Members directly bring the community to carry out pick-up and drop-ball vaccinations, in other words, there are also door-to-door when we carry out operations on the streets like that. If they refuse, it is not carried out, there is no coercion, so one of them is stopping or stopping so they are directed to the vaccine site, so if they don't want it, they are not forced, so there is no provision for coercion. So there is an appeal, an invitation like that, but because the police have the authority to stop them, they use that authority to stop people. To be persuasive, we will approach and explain what the benefits of the vaccine are and also what are the consequences of not getting the vaccine according to the central government's circular.²⁵”

Based on the statement above, the Gorontalo Police are active in preventing the spread of Covid-19 by maximizing vaccination. Prevention is carried out by the Medicine and Health Sector (Biddokkes) of the Gorontalo Police in collaboration with various parties, especially in terms of vaccination to prevent the transmission of Covid-19 to members of the Gorontalo Police and the community. There is an increase in vaccinations in Gorontalo Province which of course cannot be separated from the role of the Gorontalo Police, especially the Medical and Health Sector (Biddokkes) of the Gorontalo Police who are always active and present in various vaccination activities both at the Gorontalo Police and Resort Police points in each Regency/City in Gorontalo Province. Vaccinations carried out by the Gorontalo Police are part of the task of health services for preventive aspects or in terms of prevention.

This vaccine policy is mandatory and by Law no. 6 of 2018 Article 93 which states, that anyone who does not comply with the implementation of health quarantine and/or hinders the implementation of health quarantine so that it causes a public health emergency can be punished with imprisonment for a maximum of one year and/or a fine of a maximum of Rp. 100 million. Every person has the right to determine for himself the health services he needs. However, this is not about taking away the human rights of others, but it is about mutual interests and agreements. Because this vaccine is also for the common good. So there needs to be socialization carried out by the government and related institutions to provide education and counseling about the importance of vaccines, their work, and the positive impact of the vaccine itself so that people will understand and obey the rules made by the government.

The refusal was based on the fact that there was a lot of false information regarding the results of clinical trials, the level of efficacy, vaccine efficacy, safety, and halalness of vaccines which made the public confused, plus there were not many studies on how long vaccines can provide immunity to the body besides

²⁵Wawancara Biddokkes Polda Gorontalo

there are still many people who have been vaccinated but are still exposed to the virus. Covid-19 so people are reluctant to be vaccinated but choose to obey health protocols, therefore several countries such as Brunei Darussalam, and Australia do not require their citizens to be vaccinated but voluntarily. In contrast to Indonesia, which requires vaccination, this is stated in Presidential Regulation Number 14 of 2021 concerning Amendments to Presidential Regulation Number 99 of 2020 concerning Vaccine Procurement and Vaccination Implementation in the Context of Combating the Corona Virus Disease 2019 (Covid-19) Pandemic, containing provisions for administrative and criminal sanctions. Article 13A states that people who have been appointed as recipients of the Covid-19 vaccine and who do not vaccinate against Covid-19 may be subject to Administrative Sanctions including delaying or stopping the provision of social security or social assistance, delaying or discontinuing government administration services, and/or fines, furthermore Article 13B Anyone who obstructs the implementation of the prevention of the spread of Covid 19 may be subject to sanctions by the provisions of Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases with a maximum imprisonment of 1 (one) year and/or a maximum fine of Rp. 1.000.000,- (one million rupiah) while in articles 15A and 15B it is explained that if a follow-up event occurs after the Covid-19 vaccination, treatment and subsequent treatment will be compensated if it causes disability or dies.²⁶

In the understanding of the rule of law, the law holds the highest command in the administration of the state. What leads to the administration of the state is the law itself following the principle of the rule of law, and not of man, which is in line with the notion of democracy, namely, power is exercised by law. The rule of law in a material sense aims to protect citizens against arbitrary actions from the authorities to enable humans to gain their dignity as human beings. Therefore, the essence of the rule of law in a material sense is the existence of guarantees for community members to obtain social justice, namely a condition that is felt by members of the community with reasonable respect from other groups; while each group does not feel disadvantaged by the activities of other groups.²⁷

5. Conclusion

Law enforcement for people who refuse vaccination from the perspective of human rights is carried out with a persuasive approach and puts forward the principles of social and restorative justice in the success of vaccination. The government and the Covid-19 task force tend to provide education and rewards to people who want to be vaccinated and provide administrative sanctions for

²⁶Sanjaya, Muhamat Agung; Dewi Asri Puannandini & Ida Kurniasih. " *Kajian Hukum Pelaksanaan Vaksinasi Covid-19 Di Indonesia Ditinjau Dari Perspektif Hak Asasi Manusia*". Jurnal Pemuliaan Hukum – ISSN: 2654-2722 (p)Vol. 4, No. 1. (2021). Hlm. 83-98

²⁷Lisnawaty W. Badu dan Ahmad, " *Purifikasi Pemberian Amnesti dan Abolisi: Suatu Ikhtiar Penyempurnaan Undang-Undang Dasar 1945*". Jurnal Ius Civile Vol. 5 No. 2., Aceh: Universitas Teuku Umar. (2021). hlm. 104-105

those who refuse, especially space and regulation of vaccine card requirements in receiving public services by the government and the police. Vaccination is closely related to obligations and human rights where people who do not want or refuse vaccines certainly do not carry out their obligations and violate other human rights who are vulnerable and have low immunity which can certainly cause death.

The obstacles faced by law enforcement in enforcing the law for people who refuse vaccination are a large number of hoax news or only news snippets from sources that are less credible so that people are again skeptical of this vaccination as well as obstacles from the government itself which is less consistent in vaccination rules, were to The vaccination, which was only planned for 2 doses, became a third dose (booster) and even the mandatory vaccine requirements became wider for the elderly and former Covid-19 survivors who already have strong immunity to prevent Covid-19 transmission.

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