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Demikian surat tugas ini diterbitkan untuk dipergunakan sebagaimana mestinya.



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# COVID-19 VACCINATION RIGHTS FOR INDONESIAN CHILDREN<sup>1</sup>

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## ABSTRACT

Children are the future of the nation. This statement is not an exaggeration since they should be well prepared to take the control and grasp the promising future ahead. This pandemic situation are big threat to human life in general. Our data points that children and teenagers who are infected by corona virus show little to no symptoms. Nevertheless, CDC (center of disease control) states that children and teenagers who belong to older group of population, mainly between 10-20 years old, according to recent data may have chance of developing deadlier symptoms and complications, including respiratory failure another research concludes that they belong to relatively saver and healthier group of population. However the author is insisting a particular form of protection needs to be taken to preserve their wellbeingness through this pandemic. This paper aims to study the importance of children protection in form of vaccination for Indonesian children. The method itself is normative-juridical review. Although children and teenager who are infected covid 19 belong to arguably safer and healthier group of people, as well as carry less risk of death than the older member of the population, they still entitled to sound protection and can contribute to overall healthiness of the society if they get vaccinated immediately. This also reflects how the government empower social justice and health prioritization as the practice of human rights.

**Keywords:** Children's health rights, rights to vaccines, covid-19 vaccines, covid vaccines for children.

## INTRODUCTION

Children are the successors for the future of the nation. Their weak bodies, undeveloped minds as well as adults make them need protection, care, and education to develop their minds. They need all protection, from parents, guardians, next of kin, society, and the state. Attention to children should not only be given at the national level but also internationally. It is this international level that encourages countries to pay special attention to children.

<sup>1</sup> Presented on Health Law International Seminar "Covid-19 Vaccine: Health Law, Justice & Human Rights Perspectives", Soegijapranata Catholic University, 5 Juni 2021.

Indonesia provides adequate regulations to protect children, especially after the Convention on the Rights of the Child (CRC) was ratified in 1989 by the United Nations. The Convention on the Rights of the Child is a human rights treaty that guarantees children's rights in the civil, political, economic, social, health, and cultural fields. The CRC was ratified by Presidential Decree No. 36/1999 on the Ratification of the Convention on the Rights of the Child.

One of the impacts of the ratification of the CRC is the recognition that children's rights are human rights. These changes were implemented in the Second Amendment to the 1945 Constitution which was ratified on August 18, 2000, through the MPR Annual Session. The second amendment to the 1945 Constitution includes 5 chapters and 25 articles, namely: Chapter IXA, Chapter X, Chapter XA, Chapter XII, and Chapter XV. And the amended articles include: article 18, article 18A, article 18B, article 19, article 20, article 20A, article 22A, article 22B, article 25E, article 26, article 27, article 28A, article 28B, article 28C, article 28D, Article 28E, Article 28F, Article 28G, Article 28H, Article 28I, Article 28J, Article 30, Article 36A, Article 36B, and Article 36C.<sup>2</sup> Human rights are contained in Articles 28A to 28J. This second amendment has its meaning which is very meaningful because it relates to the constitutional recognition of the child's human rights.

Indonesia specifically regulates children's rights in the Second Amendment to the 1945 Constitution, especially in Article 28 B paragraph (2) which stipulates that: "Every child has the right to survive, grow and develop and has the right to protection from violence and discrimination". In addition, Article 28 H paragraph (1) also stipulates that: "Everyone has the right to live in physical and spiritual prosperity, to live, and to have the right to a good and healthy living environment, and to have the right to health services". This provision stipulates that children have the right to good health. That comes together with another regulations to state that children have the right to health, from the time they are in their mother's womb until they are born, as well as covering their growth and development. In the situation of the Covid-19 pandemic which began to occur at the end of 2019, many things then felt tense. The massive spread of the Covid-19 virus is causing its concern. On the other hand, many community members ignore health protocols, which then makes it difficult to prevent the spread of this virus.

The Covid-19 vaccination program in Indonesia will start in January 2021. The main priorities for receiving this vaccine are health workers, the elderly, and public service providers.

The Covid-19 vaccination program in Indonesia has been started in January 2021 for priority groups, such as health workers, public service providers, to the elderly. The Ministry of Health predicts that the Covid-19 vaccination service for the public will be implemented as early as May-June 2021.<sup>3</sup> The priority for vaccine recipients after vaccination is opened to the public are those who are elderly or those aged 60 years and over. In the next layer, vaccination is intended for those aged 50 years and over. Although currently the opportunity to get the vaccine has been opened, it is still limited to those aged 18 years and over. Children get vaccinated last. This raises various questions among the general public, how is the State's commitment to protecting children from this pandemic.

## **PROBLEMS**

The problems to be studied in this paper are: What about vaccinations for children? Why children who need more protection, including in the health sector, are not prioritized to get vaccines earlier?

<sup>2</sup><https://kumparan.com/berita-update/amandemen-uud-1945-daftar-pasal-yang-mengalami-perubahan-1voko5aYl9K>, accessed on June 4, 2021.

<sup>3</sup><https://health.detik.com/berita-detikhealth/d-5500499/kemenkes-perkiraan-vaksinasi-covid-19-untuk-umum-mulai-mei-juni>, accessed on June 4, 2021.

## DISCUSSION

### 1. The Definition of Child

Regarding who is meant by a child, this is regulated by Article 1 of the CRC which states that: "For use in the current Convention, a child means any human being under the age of eighteen years, except under the law applicable to children. child, maturity has been reached more early." The age limit for children up to 18 years is also used in Law Number 23 of 2002 concerning Child Protection in conjunction with Law Number 35 of 2014. Even the Child Protection Law extends the reach of child protection to the time the child is still in the mother's womb.

The age limit for children is those aged up to 18 years which is also known in Law Number 1 of 1974 concerning Marriage. However, the provisions in the Marriage Law relate to the interests of managing children. Children who have not reached the age of 18 years or have never been married, who are not under the control of their parents, will be placed under guardianship.

### 2. Children's Right to Health

Children's rights are included in human rights. Abdusallam said that children's rights are human rights plus. This means that children must receive special attention related to protection, so that newborn children, grow and develop, receive full human rights. Human rights include all that is needed to build oneself as a whole human being where positive law is needed to support the required social institutions.<sup>4</sup>

The Convention on the Rights of the Child (CRC) in its consideration as stated in the Declaration of the Rights of the Child, that children due to their physical and mental immaturity need special protection and care, including appropriate legal protection, before and after birth. In other words, children also really need special protection.

According to the Convention on the Rights of the Child, children's rights are recognized as human rights. Children's rights can be grouped as follows:

a) Right to Survival

The right to survival includes the right to preserve life and maintain life as well as good health and care.

b) Right to Protection

The right to protection includes protection and discrimination, acts of violence, and neglect.

c) Right to Grow

The right to grow and develop includes both formal and non-formal education as well as achieving physical, mental, spiritual, moral, and social development.

d) Right to participate

The right to participate includes the right to express an opinion in all matters.

The right to health is not a fundamental human right. However, the right to health will be closely intertwined with the fulfillment of other human rights.

The Convention of the Rights of the Child regulates the right to health in Article 24 which states the following:

Verse-(1): States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

Verse (2): States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

<sup>4</sup> H.R. Abdussalam, 2014, *Hukum Perlindungan Anak*, Publisher: PTIK, Jakarta, Page. 11.

- (b) To ensure the provision of necessary medical assistance and health care to all children with an emphasis on the development of primary health care;
- (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

How does the Child Protection Act regulate children's health rights? The right to health is regulated in Article 8 which states: "Every child has the right to obtain health services and social security following physical, mental, spiritual and social needs." In addition, it is also stated in Article 44 that:

- (1) The government is obliged to provide facilities and organize comprehensive health efforts for children so that every child obtains optimal health degrees from the time he is in the womb.
- (2) The provision of facilities and the implementation of comprehensive health efforts as referred to in paragraph (1) is supported by the participation of the community.

The Health Law regulates the right to children's health in Article 131 which states:

- (1) Efforts to maintain the health of infants and children must be aimed at preparing future generations to be healthy, intelligent, and of good quality and to reduce infant and child mortality.
- (2) Efforts to maintain children's health are carried out since the child is still in the womb, born, after birth, and until the age of 18 (eighteen) years.

### 3. Covid-19 Vaccine for Children

Vaccines are germs (eg smallpox) that have been weakened and used for vaccination.<sup>5</sup> This vaccine is inserted into a person's body to form an active immune system. Vaccination is a method used by the government as a preventive effort to prevent certain diseases. In Indonesia, immunization by vaccination has been carried out since 1956 with smallpox vaccination, measles vaccination (1963), BCG vaccine for Tuberculosis (1973) followed by tetanus toxoid immunization for pregnant women (1974); immunization of diphtheria, pertussis, tetanus (DPT) in infants (1976); then polio (1981); measles (1882); and hepatitis B (1997); until the initiation of Haemophilus Influenza type B immunization given in the form of a pentavalent vaccine.<sup>6</sup>

When the Covid-19 pandemic occurred, medical science developed a Covid-19 vaccine as an effort to form human immunity when exposed to the coronavirus. It has been a long journey and various clinical trials have been carried out to obtain a vaccine that is safe for humans.

In Indonesia, the implementation of the Covid 19 vaccination will begin in early 2021. The vaccination is carried out under a permit from the Food and Drug Supervisory Agency and the opinion of the Indonesian Ulema Council regarding the halalness of the vaccine. Decree of the Minister of Health No. HK.01.07/MENKES/12758/2020 has determined seven types of Covid-19 vaccines that can be used in Indonesia, namely the production of Bio Farma (Persero), Astra Zeneca, China National Pharmaceutical Group Corporation (Sinopharm), Moderna, Novavax Inc, Pfizer Inc. . and BioNTech, and Sinovac Life Sciences Co., Ltd.<sup>7</sup>

From several studies that have been carried out, children aged 18 years and under are not reported as research subjects in this Covid-19 vaccine clinical trial. Doctor Adib Khumaidi, the elected chairman of the Executive Board of the Indonesian Doctors Association (PB IDI) stated that until now there has been no clinical trial process (Covid-19 vaccine) for children. To provide the

<sup>5</sup>Ministry of National Education, 2016, Indonesian Dictionary, Language Center, Fourth Edition, Gramedia Main Library, Jakarta, page 1543.

<sup>6</sup> Ministry of Health of the Republic of Indonesia, 2018, "This is the State's Efforts to Protect Generations of the Nation from the Threat of Dangerous Diseases", <https://www.kemkes.go.id/article/print/18011500006/inilah-upaya-negara-melindungi-generasi-bangsa-dari-ancaman-penyakit-berbahaya.html>, accessed June 22, 2021.

<sup>7</sup>Tjandra Y. Aditama, Perkembangan Vaksin COVID-19, *eJurnal Kedokteran Indonesia* (eJKI) Universitas Indonesia, Vol. 8 No. accessed on December 3, 2020, page 1.

vaccine requires a clinical trial process. Vaccines can be given to children when clinical trials have been declared safe.<sup>8</sup>

One of the vaccines that are claimed to be safe and effective for children aged 12-15 years is the Covid-19 Vaccine made by Pfizer-BioNTech. However, the Indonesian Ministry of Health is not in a hurry to give it to children. Indonesia will wait for recommendations from the Indonesian Pediatrician Association (IDAI), professional organizations, and ITAGI. This is done to see which vaccines can be applied to children later.<sup>9</sup>

The health report states that, based on available data, most children and adolescents infected with the Covid-19 virus have only mild symptoms or even no symptoms at all. However, there are some conditions in children that make them vulnerable to serious complications, as: asthma, obesity, heart disease, neurological conditions, child development.

Doctor Jose Romero of the Centers for Disease Control and Prevention (CDC) Immunization Practice Advisory Committee said he hopes to see trials of a child coronavirus vaccine in the second quarter of 2021. If the vaccine proves to be safe and effective, children aged 18 years and under can receive the vaccine in mid to late 2021. In general, vaccine trials are for adults first. After the trial is declared successful and safe, then adults get the vaccine. There are several corona vaccine candidates, but none of the children's vaccine candidates are ready, including for emergency use. Followed up immediately to protect children's health from the covid 19 outbreak.

#### 4. What Parents Should Do

Parents should try to prevent their children from becoming infected. This can be done by:

- a. Strictly implement health protocols. Parents are role models for children. The habits of parents will certainly greatly affect the child in this case.
- b. Keeping children at home.
- c. Do not take children to leave the house if it is not urgent.

Children are not only victims, but they can also act as carriers (if exposed to Covid-19) for their parents and grandparents. For this reason, the government can take steps to start preparing the provision of Covid-19 vaccines to children.

## CONCLUSION

Based on the description above, it can be concluded that:

1. Children have the right to get priority in health services, including vaccination.
2. Given that the Covid-19 vaccine for children is still in the development stage, it is necessary to wait for the right moment to give it.
3. If access to vaccines for children has been opened, there must be easy access to vaccine services for children.

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<sup>8</sup> Bisnis.com, 2021, Kasus Covid-19 Tinggi, IDI Berharap Segera Ada Vaksin untuk Anak", diakses dari <https://lifestyle.bisnis.com/read/20210622/236/1408740/kasus-covid-19-tinggi-idi-berharap-segera-ada-vaksin-untuk-anak>, accessed 23 June 2021.

<sup>9</sup> <https://health.detik.com/berita-detikhealth/d-5588481/sudah-ada-vaksin-covid-19-untuk-anak-kemenkes-ri-tunggu-rekomendasi-idai>, accessed 23 June 2021.

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