



Legal Perspective of Community Participation in The Implementation of The Covid-19 Vaccination

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ABSTRACT

Health is a right but also an obligation for everyone. Not being infected with a disease is a right, but not transmitting a disease to others is an obligation that must be carried out by everyone. The government is responsible for realizing the right to health and the community is responsible for participating in realizing the right to a healthy life. The point is that it is not only the government that must be responsible but also the involvement or participation of the community, including in dealing with the COVID-19 pandemic. This paper is a normative juridical study, using secondary data. One of the coping strategies is through the implementation of the COVID-19 vaccination. Community participation in the implementation of vaccination is an obligation mandated by the Law (Health Law and Epidemic Law) in the effort to prevent, control & eradicate infectious diseases and their consequences. The form of community participation can be carried out individually or organized, in various stages, as an effort to realize the highest level of public health. Participation is done in an active & creative. Vaccination is one of the strategies to deal with COVID-19. The purpose of the implementation of vaccination, as stated in Article 4 Minister of Health regulations (PERMENKES) No. 10 TH 202 among others for: a. reduce the transmission/transmission of COVID-19; b. reduce morbidity and mortality due to COVID-19; c. achieve herd immunity in society and D. protect the community from COVID-19 to remain socially and economically productive. Therefore, community participation in the implementation of vaccination is mandatory, and if this is violated it will result in the application of administrative sanctions as stipulated in Article 13 A paragraph (4) of Presidential Regulation Number 99 of 2020, and criminal sanctions as stipulated in Article 14 paragraph (1) and paragraph (2) of Law no. 4 of 1984 concerning Outbreaks of Infectious Diseases.

Keywords: a legal perspective, community participation, vaccination

INTRODUCTION

Being healthy is a right but it is also an obligation that everyone should do. So not contracting the disease is a right, but not being a source of transmission of the disease is an obligation for everyone. It is guaranteed in various provisions of the legislation. The government is responsible for realizing these rights, but everyone is responsible for participating in or participating in the realization of these healthy rights. The point is that the government will not be able to assume such responsibilities without the involvement or participation of the community.

Similarly, in the response to Covid-19. Community involvement to actively participate is indispensable. Social facts suggest that public participation in Covid-19

prevention is still very low. This is evidenced by the many violations of health protocols in various forms, social distancing is not obeyed, there are still many people everywhere, the use of masks is still ignored and, share other forms of violations.

As a result, positive cases are on the rise, some areas are confirmed as red zones and some are even designated as black zones. Efforts to accelerate covid-19 response have not come to fruition. The impact and problems that arise are still high rates of pain, furthermore, the chain of transmission is still difficult to break. The other thing is that there are delays in prevention and countermeasures caused by various things, one of which is that the burden on curative services becomes increasingly heavy. Resources including Human Resources, health care facilities and pharmaceutical resources, medical devices and, other resources become insufficient.

The government has done its utmost to do prevention and countermeasures. Through the issuance of various legal instruments, it is expected to control the Covid-19 figures. Similarly, various other government instruments are focused on preventing and tackling Covid-19. Therefore, a countermeasures strategy is needed through the involvement or participation of the community as a whole. According to Article 157 paragraph (1) Law No. 36 of 2009 on Health: “Prevention of infectious disease transmission must be done by the community including people with the infectious disease through clean and healthy living behaviors”. Explanation of Article 157 Paragraph (1), Clean and healthy living behavior for people with infectious diseases is done by not taking actions that can facilitate the transmission of the disease to others.

One of the strategies to combat Covid-19 is through the implementation of vaccination. Therefore, the Presidential Regulation No. 99 of 2020 on Vaccine Procurement and Vaccination Implementation in Counter the Corona Virus Disease Pandemic (COVID-19). The implementation of this policy is carried out by providing free vaccines to all Indonesians to reduce the transmission of Covid-19, lowering the rate of pain and death due to Covid-19, as well as achieving herd immunity. Group immunity in the community can only be established when vaccination coverage is high and evenly distributed throughout the region.¹ It is expected that vaccination efforts will protect the public from Covid-19 to remain socially and economically productive. In addition, it is assessed from the economic side, prevention efforts through the provision of vaccination programs will be much more cost-effective than with treatment efforts.

Based on the description above, it can be known that the implementation of Covid-19 vaccination is one of the very important Covid-19 prevention strategies. For the support of community involvement or participation in its implementation. Therefore, it is interesting to conduct a tentative study in this paper conducted a study on “Legal Perspectives on The Participation of The Community in the Implementation of Covid-19 Vaccination”.

Several issues will be discussed in this paper, among others:

- A. How is the community's participation in covid-19 response?
- B. How is the regulation of community participation and penalty how not to participate in the implementation of Covid-19 Vaccination?

¹ <https://kompaspedia.kompas.id/baca/paparan-topik/program-vaksinasi-covid-19-tahapan-distribusi-dan-efikasi>

Method

The approach method used in this study is normative juridical and the research specifications are descriptives analytic. The type of data uses qualitative data and the data source is secondary data with the priority of literature study, and the method of analysis used is qualitative analysis.

Discussion

A. Community participation in Covid-19 response

To discuss this, it is necessary to start with a discussion about the understanding of participation and community participation. The role or participation according to Soerjono Soekanto is a dynamic process of position (status). When a person performs his rights and obligations according to his position, he performs a role. The difference between position and role is for the benefit of science. The two are not separated because one depends on the other and vice versa.² Merton said that role is defined as the pattern of behavior that people expect from people who occupy a certain status. Some roles referred to as role tools are the completeness of relationships-relationships based on roles that people have because they occupy special social statuses.³ The most common definition of “role” is that a role is a set of benchmarks, which limits what behavior a person who occupies a position should do.⁴

In the concept of health development, the role of the community is defined as, “circumstances in which individuals, families and the general public participate responsibly to the health of themselves, their families, or the health of the community of the environment”. According to Soekidjo Notoatmodjo (2007), it is stated that “the participation or participation of the community is the participation of all members of the community in solving the problems of the community. Participation in the field of health means the participation of all members of the community in solving their health problems”.⁵ Active community participation is the key to the success of the community development process. Community participation in community development programs is the participation or involvement of the community in the process of identifying problems, potential in the community, elections and taking Alternative decision solutions, implementation of efforts to overcome problems, and evaluation changes that occur.⁶

The urgency to develop this participation as Mayo's opinion that states that partnerships can encourage community participation, community development and, empowerment. However, partnerships can also cause helplessness in the community as well as the community. professionals involved in it. These partnerships need to be

² Soerjono Soekanto . 2009 . *Sociology An Introduction*. new edition. Jakarta: Rajawali Pers. p. 212 – 213

³ *Ibid.*, p. 67

⁴ Edy Suhardono, 1994, "*The Theory of The Role of Concepts, Derivations, and Implications*", Jakarta: Gramedia Pustaka Utama, p.3.

⁵ Soekidjo Notoatmodjo, 2007, *Health Promotion and Behavioral Sciences*, Jakarta: Rineka Cipta,

⁶ Adi, I. R. (2013). *Community Intervention and Community Development: As a Community Empowerment Effort*, (Rev. ed) Jakarta: PT PT Raja Grafindo Persada, p. 230

maintained and supported on a regular and sustainable basis if they are to survive and thrive,⁷ including in building community participation in the Covid-19 response.

Based on the description, it can be interpreted that the role of the community in covid-19 prevention is the participation of the community entirely in efforts to counter Covid-19 without exception. Each community empowerment activity runs with different challenges, including building community participation in the COVID-19 response.

The next issue that needs to be discussed is why the community needs to participate in tackling Covid-19. As outlined above that the government is unlikely to be able to cope on its own, it needs community involvement. The community is at the forefront of Covid-19 prevention efforts. Juridically it is the mandate of the law. In Article 152 paragraph (1) of Law No. 36 of 2009 on Health, (Health Law) it is stated that “The government, local government and, the community are responsible for preventing, controlling, and eradicating infectious diseases and their consequences”.

This provision stipulates that the responsibility in the prevention, control and, prevention of infectious diseases is not only the responsibility of the government but also the responsibility of the community. Therefore, the community must participate in the prevention of Covid-19, because it has been designated as an infectious disease outbreak.

As for law No. 4 of 1984 on Infectious Disease Outbreaks (Plague Law) mentioned in Article 6 that:

- (1) Efforts to contain the plague as referred to in Article 5 paragraph (1) shall be conducted by actively involving the community
- (2) The procedures and conditions of community participation as referred to in paragraph (1) shall be stipulated by a government regulation

Furthermore, article 182 paragraph (4) states that, "The Minister in carrying out supervision includes the community.

It is clear that to counter Covid-19 community involvement is a mandatory juridical obligation. The community is responsible for the prevention and control of Covid-19. This means that people must participate in covid-19 prevention including the impacts.

B. Community participation arrangements and sanctions for those who do not participate in the implementation of Covid-19 Vaccination

In discussing this, it is necessary to elaborate on legal instruments in tackling Covid-19, among others:

1. Law No. 4 of 1984 on Infectious Disease Outbreaks
2. Law No. 24 of 2007 on Disaster Management
3. Law No. 36 of 2009 on Health
4. Law No. 23 of 2014 on Local Government
5. Law No. 6 of 2018 on Health Quarantine
6. Government Regulation No. 40 of 1991 on The Prevention of Infectious Disease Outbreaks.

⁷ Kania Saraswati Harisoesyanti & Annisah (2020), *Urgency of Community Participation in the Process of Community Development in Urban Poor Communities*, Journal of Community Empowerment, Vol.2, No.2, <https://journal.prasetiyamulya.ac.id/journal/index.php/JPM/article/view/533/399>

7. Government Regulation No. 21 of 2008 concerning the Implementation of Disaster Management in Indonesia
8. Government Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions (PSBB) to Accelerate the Handling of Corona Virus Disease (COVID-19)
9. Presidential Regulation No. 17, 2018 on The Implementation of Disaster Emergencies Under Certain Conditions.

The instruments of implementation include:

1. Presidential Decree No. 7, 2020 on The Task Force to Accelerate the Handling of Corona Virus Disease 2019 (COVID-19).
2. Decree of the Minister of Health No. 104 of 2020 concerning the Determination of Infection 2019- N.COv as a Disease That Can Cause Outbreaks and Countermeasures.

In the implementation of vaccination, as mentioned above, there have been issued several legal instruments that specifically regulate covid-19 vaccination, namely:

1. Presidential Regulation No. 14/2021 concerning Amendments to Presidential Regulation No. 99 the Year 2020 on Vaccine Procurement and Vaccination Implementation to Counter the COVID-19 Pandemic.
2. Regulation of the Minister of Health No. 79 of 2020 concerning Amendments to Regulation of the Minister of Health No. 28 of 2020 concerning the Implementation of Vaccine Procurement to Counter the COVID-19 Pandemic.
3. Regulation of the Minister of Health No. 10 of 2021 concerning the Implementation of Vaccination in the Framework of Pandemic Prevention COVID-19

As it is known the government plans at least four groups set out in the priority list of recipients of the coronavirus vaccine (SARS-CoV-2). The timeline of the Covid-19 vaccination is prepared for the next 15 months until March 2022.⁸ Free vaccination by the government will be done gradually. The government has issued technical guidance regarding the Covid-19 vaccination. The rule is contained in the Decree of the Director-General of Disease Prevention and Control Number HK.02.02/4/1/2021 concerning Technical Guidelines for The Implementation of Vaccination in the Framework of Covid-19 Pandemic Prevention.⁹

If we look in-depth why the government issued a policy on the implementation of this vaccination, we can know from Presidential Regulation No. 99 of 2020, in the section considering it as follows:

- a. *that the spread of Corona Virus Disease 2019 (COVID-19) has been declared by the World Health Organization (WHO) as a global pandemic and the Government has also designated the non-natural disaster of the spread of COVID-19 as a national disaster;*
- b. *that to combat the COVID-19 outbreak/pandemic and maintain public health, it is necessary to accelerate and ensure the procurement of THE COVID-19 Vaccine and the implementation of COVID-19 Vaccination with the availability and needs set by the Government;*

⁸ <http://dinkes.malangkab.go.id/pd/page/detail?title=dinkes-opd-tahapan-dan-prioritas-vaksinasi-covid-19>

⁹ <https://www.covid19.go.id/>



- c. that in accelerating the procurement of COVID-19 Vaccine and COVID-19 Vaccination requires extraordinary measures and special arrangements for procurement and implementation;
- d. that based on the considerations referred to in letters a, b, and letter c, it is necessary to establish the Presidential Regulation on Vaccine Procurement and Vaccination Implementation to Counter the Corona Virus Disease Pandemic 2019 (COVID-19)

The essence of the regulation on the implementation of Covid-19 vaccination is as an effort to accelerate the response to the Covid-19 pandemic. As mentioned above that vaccination is one of the strategies to combat Covid-19, various legal instruments are made as juridical measures, as stated in Article 2 of Regulation of the Minister of Health No. 10 of 2021, "This Ministerial Regulation is a reference for the Central Government, Provincial Government, District /City Government, health workers, stakeholders, and the public in the implementation of COVID-19 Vaccination. Furthermore, Article 4 states that: "The implementation of COVID-19 Vaccination aims to:

- a. reduce the transmission/ of COVID-19;
- b. reduce the rate of pain and death due to COVID-19;
- c. achieve group immunity in the community (herd immunity); and
- d. protect people from COVID-19 to remain socially and economically productive.

The regulation of community participation obligations in the implementation of Covid-19 vaccination is based on several provisions of the legislation as follows: Law No. 36 of 2009 on Health, specifically concerning Community Participation in CHAPTER XVI, Article 174 as follows:

- (1) The community participates, both individually and organized in all forms and stages of health development to help accelerate the achievement of the highest level of health.
- (2) Participation as referred to in paragraph (1) shall include active and creative participation.

In the Health Act other than specifically formulated in Article 174, this regulation on community participation may be interpreted from several provisions governing the

- a. The obligations of each person formulated in Articles 9, 10, 11, 12 and, 13;
- b. Provisions on infectious diseases formulated in Articles 152 &157 and Article 158 and Article 160

Meanwhile, in Regulation of the Minister of Health No. 10 of 2021 concerning the Implementation of Vaccination in the Framework of Pandemic Response COVID-19, it is mentioned in Article 14 that, "Everyone who has been designated as a target recipient of the COVID-19 Vaccine based on the data collection as referred to in Article 13 must follow the COVID19 Vaccination with the provisions of the legislation."

Furthermore, Article 41 Minister of Health Regulation this regulates how the government's efforts in encouraging or motivating community participation in the implementation of Covid-19 vaccination, mentioned that:

- (1) understanding, attitudes and, behaviors of the community to be motivated to get Vaccinated To foster widespread public acceptance of COVID-19 Vaccination, the Central Government and local government

shall develop and implement communication strategies by improving COVID-19.

- (2) The communication strategy as referred to in paragraph (1) shall be intended to:
- a. improve people's understanding of COVID-19 Vaccination;
 - b. provide the public with the right and correct information to avoid misinformation/ hooks;
 - c. increase the participation of the community and stakeholders in the implementation of COVID19 Vaccination; and
 - d. increase people's willingness to get COVID-19 Vaccination

Given the importance of community participation in the implementation of the Covid-19 vaccination, as a strategic step in tackling Covid-19, sanctions arrangements are also carried out for violators of this mandatory provision. As formulated in Presidential Regulation No. 14 of 2021 concerning Amendments to Presidential Regulation No. 99 the Year 2020 on Vaccine Procurement and Vaccination Implementation to Counter the COVID-19 Pandemic, especially Article 13A paragraph (2) and paragraph (4) and Article 13B. mentioned as follows:

Article 13A paragraph (2) "every person who has been designated as the target recipient of the COVID-19 Vaccine based on the data collection as referred to in paragraph (1) must follow the COVID-19 Vaccination."

Article 13A paragraph (4)

“Any person who has been designated as a target recipient of the COVID-19 Vaccine who does not follow the COVID-19 Vaccination as referred to in paragraph (2) may be subject to administrative sanctions, in the form of: a. delay or termination of the provision of social security or social assistance; b. delay or termination of government administration services; and/or c. fines. (5) The imposition of administrative sanctions as referred to in paragraph (4) shall be carried out by ministries, institutions, local governments, or bodies with their authority.”

As for Article 13B, it is stated that:

“Any person who has been designated as a target recipient of the COVID-19 Vaccine, who does not follow the COVID-19 Vaccination as referred to in article 13A paragraph (2) and obstructs the implementation of COVID-19 spread prevention, in addition to being penalized as referred to in article 13A paragraph (a) may be penalized with the provisions of the law on infectious disease outbreaks.”

According to the provisions of article 13B that sanctions for violators of the implementation of Covid-19 vaccination are with the provisions of the Infectious Disease Outbreak Act, then the intended provisions of Article 14 of Law No. 4 of 1984 governing that:

- (1) *Whoever deliberately obstructs the implementation of the outbreak as stipulated in this Law, shall be threatened with imprisonment for 1 (one) year and/or a fine as high as Rp 1,000,000.00 (one million rupiahs).*
- (2) *Whoever because of his omissions results in the obstruction of the implementation of the prevention of the plague as stipulated in this Law, shall be threatened with imprisonment for 6 (six) months and/or a fine as high as Rp 500,000.- (five hundred thousand rupiah).*

- (3) (3) The crime as referred to in paragraph (1) shall be a crime and the crime as referred to in paragraph (2) shall be an offense.

So it can be interpreted that the legal consequences against violators of provisions on the implementation of Covid-19 vaccination are in article 14 of the Plague Law, namely prison sentences and fines, both for those who are intentional and negligent.

CONCLUSION

The Covid-19 pandemic needs to accelerate handling, one of the strategies to overcome this is by implementing Covid-19 vaccination. It needs community involvement or participation. Juridically the role of the community is defined as an obligation. The implementation of vaccination is based on several laws and regulations, especially the Health Law and the Plague Act and the Presidential Regulation on Vaccine Procurement and the Implementation of covid-19 vaccines

The form of regulation is outlined in the Regulation of the Minister of Health on the Implementation of Covid-19 Vaccination, by setting the target of vaccination participants and is a mandatory provision for all people. Thus resulting in sanctions for violators or vaccination repellents. Namely in the form of administrative sanctions in Minister Oh Health Regulation as well as prison sentences and fines as stipulated in Article 14 of the Plague Law.

RECOMMENDATIONS

Recommendations on the concept of community participation in the implementation of Covid-19 vaccination:

1. Placing the community as the subject of the implementation, not as an object or target as formulated in the Covid-19 vaccination regulation
2. Facilitating public access to information and vaccination mechanisms
3. Enforcement of regulations is more persuasive
4. Foster public awareness through various electronic media and social media.

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