

COVID-19 VACCINE REGULATIONS BASED ON THE LAW ANALYSIS AS A TOOL OF SOCIAL ENGINEERING IN INDONESIA

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Abstract

The COVID-19 pandemic has caused an emergency status in Indonesia. It was through Presidential Regulation Number 14 of 2021 concerning Amendments to Presidential Regulation Number 99 of 2020 concerning Procurement of Vaccinations in the Context of Prevention of the COVID-19 Pandemic. WHO and Indonesia announced the country's health emergency status. Many countries have created vaccines, but the implementation of the vaccine regulation faces pros and cons in society. The goal of the government in issuing the law is to prevent the COVID-19 pandemic so the government creates a scheme to force the community to get the vaccine based on the theory of Law as A Tool of Social Engineering. The results showed that the policy issued by the president through Presidential Regulation Number 14 of 2021 concerning Amendments to Presidential Regulation Number 99 of 2020 concerning the Procurement of Vaccinations in the Context of Prevention of the COVID-19 Pandemic was based on the theory of Law as a Tool of Social Engineering. The vaccination regulation applied by the government uses the Law as a Tool of Social Engineering approach. The concept of this theory is to use the law as a tool to regulate society in order to create justice. Justice is social control. The concept carried out by the government is quite successful in overcoming and handling the COVID-19 pandemic in Indonesia.

Keyword: Covid-19, Vaccination, Law analysis, Tool

INTRODUCTION

At the end of 2019, the world was hit by a deadly disease outbreak (Bank, 2020). The disease massively spreads with a high number of cases and the world has not prepared for it (Kemenkes RI, 2021a). The disease is called Corona virus Disease 2019 (COVID-19) (World Health Organization, 2020). Covid-19 is an infectious disease caused by Severe Acute Respiratory Syndrome Corona virus 2 (SARS-CoV-2) (O, 2021). The most complicated problem of this disease is its easy transmission so that it spreads quickly on a wide scale. The transmission occurs between humans and it is initially believed to be through droplets (World Health Organization, 2020). World Health Organization (WHO) defines the corona virus as a pandemic throughout the world on March 11, 2020 and this pandemic affected all aspects of life (Kemenkes RI, 2021b).

WHO China Country Office found an incidence of pneumonia of unknown etiology in Wuhan City, Hubei Province, China. This case was identified as a new type of corona virus (Kemenkes, 2020). Then, WHO designated the incident as a Public Health Emergency of International Concern (PHEIC) (WHO, 2020a). Indonesia found its first case on March 2, 2020. Then, the cases are increasing and spreading rapidly throughout Indonesia (WHO, 2020b). The spread has almost reached all regions in Indonesia with the increasing number of cases and death which affects various aspects of lives in Indonesia (Eccleston-Turner &

Wenham, 2021). As of July 9, 2020, the Ministry of Health reported 70,736 confirmed cases of COVID-19 with 3,417 deaths (CFR 4.8%)(Kementerian Kesehatan Republik Indonesia, 2021). Indeed, due to these conditions, the government has to take immediate actions in handling the COVID-19 to stop the transmission. This is a form of government protection for its people. As stated in Article 28A of the 1945 Constitution which guarantees that all citizens have the right to live and maintain life(Kementerian Kesehatan Republik Indonesia, 2021).

In preventing the COVID 19 pandemic in Indonesia, the government has collaborated with health workers(Kemetrian Kesehatan Republik Indonesia, 2018). The collaboration produces some rules that can inhibit or address the COVID-19 pandemic in Indonesia, for example, the implementation of the Working from Home Policy, small to large-scale social restrictions, recommendations for applying 5M and 3M health protocols, vaccination regulations for every community by applying sanction for people who don't take the vaccination, and travel requirement in which each person who wants to handle the administration to government agencies should have got vaccinated. This is a form of action taken by the government through the rules(Kementerian Kesehatan Republik Indonesia, 2021). The COVID-19 pandemic is a Public Health Emergency of International Concern (PHEIC) including in Indonesian(Song & Karako, 2020). In a health emergency, the government may make breakthroughs in the field of law by enforcing regulations that can protect the public from the COVID-19 pandemic as long as these rules do not conflict with human rights and existing laws(Soge et al., 2021).

Based on the analysis in terms of the application of the regulation in preventing COVID-19 by the government, it can be said that the regulation adopts the legal theory of Law As A Tool of Social Engineering as proposed by Roscoe(Muljadi, 2020). Pound states that the law is the most important institution in implementing social control(Wahyu, 2018). Law has gradually replaced the function of religion and morality as an important instrument for achieving social order. In addition, he adds that social control is needed to preserve civilization as its main function is to control the "internal aspects of human nature" which is considered indispensable for conquering the external aspect or physical environment. Legal changes that may affect social changes are in line with one of the legal functions, namely as a means of social change, or a means of social engineering. Thus, the law is a tool of social engineering, a term by an American legal expert Roscoe Pound. Based on the above explanation that the main function of Roscoe Pound theory is the law as a tool of social engineering, it means that law is a tool for changing human attitudes(PD et al., 2021).

Law As A Tool of Social Engineering covers four elements that should be fulfilled including an emergency event(Rismana & Hariyanto, 2021). This emergency event can be likened to the condition during the COVID-19 pandemic in Indonesia. Even, WHO has said that the COVID-19 virus is a Public Health Emergency of International Concern? Therefore, the government of Indonesia has to formulate regulations to overcome the COVID-19 pandemic(Pardede, 2021). However, there was a legal vacuum. The COVID- 19 pandemic occurs suddenly and cannot be predicted, so the government needs to quickly create regulations to prevent the spread of the COVID-19. At the time of the COVID-19 pandemic

in Indonesia, regulations concerning the prevention of the Covid-19 virus have not been established (PD et al., 2021). Thus, special rules are needed for the prevention of this virus to avoid a legal vacuum and realize social order. Since the first spread of COVID-19 in Indonesia, it has indirectly caused a commotion in the community, then laws or regulations are needed there to maintain the social order. Therefore, the vaccine regulation uses the Law As A Tool Of Social Engineering approach (Rismana & Hariyanto, 2021).

In preventing the COVID-19 pandemic, the government issued a legal product through the Minister of Health No. 10 of 2021 regarding the implementation of vaccinations in the prevention of the COVID-19 pandemic (Kemenkes, 2020). In this case, people are not aware that the government has carried out social engineering through the implementation of the regulation (Kemenkes RI, 2018). This means that indirectly the community is forced to follow government policies, namely getting vaccinated for public safety. The government applies criminal sanctions, civil sanctions (fines), and social sanctions in the form of cleaning sidewalks or difficulty in public access to travel or civil administration documents in both government and private agencies. Based on the Law as a Tool of Social Engineering approach, the government is successful in carrying out social engineering to the community so that more people are obedient and willing to get vaccinated. But some individuals have not got vaccinated (Rahmadhani, 2021). This is because they still think that vaccines are dangerous to their health and some think that the COVID-19 virus is a global conspiracy. These conditions make the prevention of the spread of COVID-19 in Indonesia slower. In general terms, the government can regulate society through regulatory policies based on the Law As A Tool of Social Engineering approach well (Pratama Sutikno, 2020). Therefore, it can also change the mindset of the people who were previously anti-vaccine to be willing to get the vaccine as there are policies requiring that all Indonesian people must be vaccinated.

METHOD

This study is included in legal research to identify Covid-19 Vaccine Regulation in the Analysis of Law as a Tool of Social Engineering in Indonesia. Many regulations issued by the government in preventing the COVID-19 are generally successful as they can regulate and invite the Indonesian people to carry out vaccines. This cannot be separated from the approach used by the government, namely Law as a Tool of Social Engineering to be able to manipulate the community through statutory regulations. This study used a normative juridical method with the Statute Approach and Conceptual Approach. Sources of data were primary legal materials in the form of legislation relevant to the discussion, secondary legal materials in the form of publications that are not official documents, and tertiary legal materials of non-legal materials from relevant dictionaries, Exopedias and magazines.

The policy issued by the president through Presidential Regulation Number 14 of 2021 concerning Amendments to Presidential Regulation Number 99 of 2020 concerning the Procurement of Vaccinations in the Context of Overcoming the COVID-19 Pandemic was based on the Law as a Tool of Social Engineering. The law functions as a tool to regulate and manage society in a state emergency due to the COVID-19 pandemic so that legal justice can be realized.

RESULT AND DISCUSSION

1) Vaccination in Law Perspectives

Health is a state of health covering physically, mentally, spiritually and socially that enables each person to run socially and economically productive lives as stated in Article 1 paragraph 1 of law number 35 of 2009 concerning health (Kemenkes, 2020). As health is the basis for recognizing the degree of humanity, without health, one becomes conditionally unequal. Therefore, besides the level of education and economy, health becomes a measure of the quality of human resources (Human Development Index). Regarding the handling of the COVID-19 pandemic in Indonesia, the government has initiated actions to protect public health by determining a health emergency status through presidential decree number 11 of 2020 regarding the establishment of a COVID-19 public health emergency. The government applies 3T (testing, tracing, treatment) and builds emergency hospitals and even imposes restrictions on many regions as stated in the government regulation number 21 of 2020 regarding large-scale social restrictions (PERMENKES, 2021).

Another effort made by the government to protect the public health is the implementation of vaccination which has been started on January 13, 2021, with the first recipient of the vaccine is the president of the Republic of Indonesia, Joko Widodo (Permenkes, 2021). The implementation of vaccination refers to Presidential Regulation Number 14 of 2021 concerning Amendments to Presidential Regulation Number 99 of 2020 concerning Procurement of Vaccinations in the Context of Overcoming the COVID-19 Pandemic. It is reinforced by the Minister of Health Regulation Number 10 of 2021 concerning the Implementation of Vaccination in the Prevention of the COVID-19 Pandemic which was also amended by the Regulation of the Minister of Health Number 18 of 2021. The government's efforts regarding the implementation of vaccination causes pro and cons in the society. However, based on the conditions in Indonesia during the COVID-19 pandemic, the implementation of the vaccination program can be mandatory. There are some reasons related to this (Permenkes RI, 2021).

Based on Law Number 36 of 2009 concerning Health, Article 14 paragraph 1 of Law Number 4 of 1984 concerning the epidemic of infectious diseases states that "Whoever hinders the implementation of epidemic control as regulated in this Law, is threatened with imprisonment for a maximum of 1 year and/or a maximum fine of Rp. 1,000,000 (one million rupiahs)" (Rismana & Hariyanto, 2021). Then article 93 of Law number 6 of 2018 concerning health quarantine states that everyone is obliged to comply with the implementation of health quarantine and to participate in the implementation of health quarantine. Based on the current condition in Indonesia that has declared a health emergency status through presidential decree number 11 of 2020 concerning the determination of a public health emergency of COVID-19 and if vaccination is one way to reduce the transmission of COVID-19, then it is mandatory (Lathif, 2017).

The corona virus is quite worrying for the citizens throughout the world, including in Indonesia. Many people have become paranoid due to the massive spread of the virus. Even, the news massively reports the case and the death rate. Based on the behavior of the community, it cannot be denied that this virus is a dangerous epidemic. The dangers of the corona virus can be seen below.

a. Coronavirus has spread 10 times more than the SARS cases

A report by aljazeera.com reveals that the COVID-19 has infected at least more than 70,000 people or reached 80,000 people. Then, Business Insider states there are at least 113,000 confirmed COVID-19 cases. Compared with SARS cases with 8,100 confirmed cases in 2003-2004, the number of the COVID-19 cases is 10 times higher.

b. The rapid spread due to its easy transmission process

The Centres for Disease Control and Prevention (CDC) reports that the transmission of the COVID-19 is through the droplets of saliva or nasal mucus. If the droplet is splashed or attached to an object, then it can transmit the virus. Therefore, the CDC emphasizes the campaign to maintain body hygiene by washing hands.

c. What makes the Coronavirus scary is our ignorance

Live Science hypothesizes why the Corona virus is scarier than the flu, even though the number of deaths is not far apart. In the influenza virus cases, researchers have conducted research on microorganisms for at least more than a decade so this provides more information about the flu and how to deal with it. Even, the researchers also understand when the flu spreads widely. Unlike the Corona virus. The Corona virus appears suddenly and many researchers wonder about this virus. They do not know how to deal with it considering this is a new type of virus. Thus, the community feels worried about this virus. Considering this situation, concerns about the Corona virus will decline as knowledge about the microorganism increases.

Due to the dangers of the COVID-19, the declaration of a state of emergency is also known as staatsnoodrecht or state emergency law, in which in his book, Duulemen states that staatsnoodrecht has met the following conditions:

- a. The action is taken due to no other option to save the country.
- b. The statement of the state of emergency is pronounced before the parliament
- c. The action is temporary.

Another principle that is closely related to emergencies is the principle of the slus populisuplemalex. This principle states that people's safety is the highest law. COVID-19 is declared a non-natural national disaster based on the Presidential Decree No. 12 of 2020 on the basis of the impact on the victim, property, and objects. All regions in Indonesia are affected by this pandemic. The important is the impact on the economic aspect. On the one hand, there is no cure for COVID-19 so vaccination is very important in order to stop the transmission. The COVID-19 vaccination aims to reduce the transmission, morbidity, and mortality of the COVID-19 and achieve group immunity in the community.

Vaccines are biological products containing antigens in the form of microorganisms or substances that have been processed in such a way that they are safe and can activate the immune against a certain disease after the injection. The government tries to continue the implementation of the Covid-19 vaccination for all people in Indonesia. Vaccines have been distributed to all regions in Indonesia from early 2021 to the present. Vaccination is the most appropriate solution to reduce and stop the transmission of COVID-19. Vaccination aims to provide specific immunity against a particular disease so that if a person is exposed to the disease, the person will only experience mild symptoms. The latest recommendations from the Indonesian Society of Internal Medicine (PAPDI), COVID-19 survivors have to immediately get the Covid-19 vaccine with a span of 3 months after being declared COVID-19 free. This is done to prevent the second infection with a different variant.

Vaccines have more benefits than side effects. They can provide higher antibodies and protection against the Covid-19 virus. Natural changes experienced by pregnant women make the immune system in the body also change. Centres for Disease Control and Prevention (CDC) stated that pregnant women and breastfeeding mothers may get the COVID-19 vaccine to reduce the potential for infection. However, in the implementation, pregnant women in Surakarta City are still not allowed to get the COVID-19 vaccine.

Law number 33 of 2014 concerning guarantees for halal products explains that the SINOVAC vaccine is a halal product and has passed the drug and food test by BPOM. The Covid-19 vaccination has many benefits, not only for oneself but also for many people. The Covid-19 vaccine is safe and halal as conveyed by the MUI's Fatwa Commission. Therefore, although there are many rumours or hoaxes about vaccines, the public does not need to hesitate and worry about getting the COVID-19 vaccine for the common good.

2) Vaccination as Law As A Tool of Social Engineering

Vaccination is the government's effort and responsibility in order to reduce unwanted risks and form group immunity. Vaccination is also a form of fulfilment of the right to health, "This vaccine is a form of human rights fulfilment obtaining benefits from scientific progress". The need for vaccination is because COVID-19 is a global pandemic. Considering health rights are the most important part of ESCR rights as stipulated in 1) Article 25 paragraph 1 of the General Declaration of Human Rights, 2) Article 12 of the International Covenant on Economic, Social and Culture, 3) Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia which essentially states that everyone has the right to live in prosperity and obtain health services, 4) Article 9 of Law Number 39 of 1999 concerning Human Rights (UU HAM), and 5) Article 4 and Article 5 of Law Number 36 of 2009 concerning Health.

The WHO constitution in 1946 also states that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being..." in other words, the highest degree of health is a human right for everyone. Therefore, health rights are recognized as a fundamental right. It was emphasized in the general comments of the Committee of ESCR rights that the right to health is a fundamental human right, and this

needs to be prioritized for the realization of other human rights. This right demands the active participation of the government in its fulfilment.

In general, the individual is the holder of the rights, and the state (the government) is the bearer of the obligations. The obligations are obligation to respect, obligation to protect, and obligation to fulfil. As stated in Article 28 I paragraph 4 of the 1945 Constitution of the Republic of Indonesia, the protection, promotion, enforcement and fulfilment of human rights are the responsibility of the state, namely the government. It is also supported by Article 8 of Law Number 39 of 1999 concerning Human Rights and reaffirmed in Article 71. In particular, it is also stated in Law Number 36 of 2009 concerning Health in Articles 14 to 20.

When COVID-19 started to appear in Indonesia, many people panicked about it causing an un conducive situation. So, as explained above, the government has to protect each citizen from being exposed to COVID-19. Therefore, a coercive regulation is needed to create social control in order to regulate human behaviour that has suddenly changed due to the emergence of the virus. The regulation covers the obligation to wear masks, and the prohibition to have activities outside and gathering. It is not easy to change habits or behaviour so people don't seem to care about the efforts made by the government to protect every community from the COVID-19 (PD et al., 2021).

As Pound stated, the law is the most important institution in implementing social control. Law has gradually replaced the function of religion and morality as important instruments for achieving social order. He adds that social control is needed to preserve civilization because its main function is to control "internal aspects of human nature" which is considered indispensable to conquer external aspects of the physical environment (Djasmani, 1986).

Social control is needed to strengthen the civilization of human society AS it controls antisocial behaviour that is contrary to the rules of social order. Law, as a mechanism of social control, is the main function of the state and works through the application of systematic and regular force by an agent designated to perform that function. However, Pound adds that the law is not enough and it needs support from family, educational, moral and religious institutions. Therefore, the Indonesian government implements a coercive rule for the community, including the Presidential Regulation Number 14 of 2021 concerning Amendments to Presidential Regulation Number 99 of 2020 concerning Procurement of Vaccinations in the Context of Prevention of COVID-19 Pandemic which requires all people to be vaccinated and restriction in travelling and handling state administrative documents at government agencies (Ariska & Arifin, 2017).

The Law as a tool of social engineering is needed to create legal justice or social order. Law as a Tool of Social Engineering explains that law enforcement/social control cannot only be carried out by the government, but it also needs support from people to be obedient to the law. Obedience and adherence to the law can be done by applying strict laws in order to change the existing social values.

The formulations and classifications in Roscoe Pound's social engineering can be interpreted as the law is considered an engineer in revealing the basics of reform in society and directing

and regulating the society. So, the law serves as a tool to regulate and manage society. Based on the explanation above, it can be concluded that requiring all Indonesian people to get the COVID-19 vaccine can be interpreted as a way for the government to enforce legal justice by using a law approach as a tool of social engineering. In other words, the government forces the community by providing rules and followed by coercive policies. For example, when Presidential Regulation Number 14 of 2021 concerning Amendments to Presidential Regulation Number 99 of 2020 concerning the Procurement of Vaccinations in the Context of the Prevention of the COVID-19 Pandemic is implemented, the government indirectly applies regulation by restricting travelling and others.

The implementation of the vaccine policy by the government with the legal approach of Law as a Tool of Social Engineering can be said very successfully in regulating and controlling society (social control). So at first, it was very difficult to ask society to get the COVID-19 vaccine with the spreading argument that COVID is just a conspiracy, vaccines are useless, vaccines are haram, etc. However, with the vaccine regulation scheme from through the Law as a Tool of Social Engineering approach, it can change people's minds about the COVID-19 vaccine so that the government of Indonesia can control the COVID-19 properly.

CONCLUSION

The vaccination regulation applied by the government is based on the Law as a Tool of Social Engineering approach. This concept is to use the law as a tool to regulate society in order to create justice. Justice is social control. This concept carried is quite successful in handling the COVID-19 in Indonesia.

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