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# THE ROLE OF STATE ADMINISTRATIVE LAW IN MASS VACCINATION IMPLEMENTATION FOR COMMUNITY IMMUNITY IN INDONESIA

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ABSTRACT: Today's world is confronted with a slew of growing and more complex health issues, one of which is the issue of epidemiological transmission. Epidemiology of transition or changes in disease patterns is a state of change in disease patterns in which infectious diseases remain unresolved while non-communicable diseases continue to rise. Several factors contribute to this change, including an unhealthy lifestyle such as smoking, imbalance, sedentary body habits, no diet, accidents, and acts of violence. Because of the rapid pace of modernization and the development of new values as a result of the current swift currents of globalization, these lifestyle changes tend to be unhealthy. Transitional epidemiology is characterized by re-emerging diseases such as polio, as well as new types of infectious diseases that did not previously exist (new emerging diseases) such as the Corona Virus (Covid-19). Indonesia is currently undergoing a Covid-19 vaccination program. The Covid-19 vaccination campaign began on January 13th, 2021, with President Joko Widodo (Jokowi) receiving the first injection. The government intends to inject the vaccine into as many as 181.5 million people, or 70% of the total population, within 12 months to achieve community immunity, also known as herd immunity. The program is implemented through two schemes: free government vaccinations and independent pathways for workers and workers whose costs are borne by the company.

**Keywords:** community, role, constitutional law, mass vaccination, immunity

#### I. INTRODUCTION

Covid-19 is a disease caused by the Corona virus, which attacks the respiratory tract. This disease was discovered for the first time in Wuhan, China. SARS-Cov-2 is not a new type of virus (Heldavidson, 2020), but a virus can mutate to form a new genetic composition; in other words, the virus remains the same type and only changes uniformly. The corona virus shares a close genetic relationship with the viruses that cause SARS and MERS, thus the name SARS-Cov-2.

DNA from the SARS-Cov-2 virus is known to be similar to DNA from bats. It is also believed that this virus originated in Wuhan's wet market, where many exotic Asian animals of various kinds are sold, some of which are cut directly at the market to be purchased fresh. Because of the close interaction between animals and humans, this market is regarded as a virus breeding ground. So, to control the Covid-19 pandemic, a vaccine is required.

There is also another immune system. Specifically, adaptive immunity, which can be triggered by germ exposure. One method is through vaccination, while another is through direct natural exposure. This adaptive system causes the formation of antibodies, which in turn causes cellular immunity to be activated. Herd immunity, also known as community immunity, is only achieved when 60 to 80 percent of a population is naturally or through vaccination exposed. If the number of people infected as a result of natural exposure is 286 million, then approximately 160-215 million people will be infected. There is a chance that 9.1 million to 12.2 million people will perish (predicted case fatality rate (CFR) of 5.7 percent). Given the high CFR, researchers from all over the world are currently working together to develop vaccines. The vaccine, it is hoped, will stimulate the formation of antibodies against the cause of COVID 19. Taking the CFR into consideration, it is hoped that herd immunity can be achieved through vaccines. With vaccination, it is hoped that those who have been immunized will serve as protectors for other small groups of people who have not been immunized. Adherence to health protocols must be maintained for many years during the process of herd immunity through vaccination (https://fin.co.id/2020/12/07/covid-19-timbulkan-effects-dangerous/).

Vaccines are the result of virus-based biotechnology. Biotechnology is defined as the use of living organisms to make or change substances, or the use of living organisms to create products (Insan Budi Maulana, 2009). Vaccines are human self-defense weapons against viral diseases. The immune system is stimulated by injecting vaccines into the human body; this is one method of reducing mortality from a deadly disease outbreak.

The Netherlands had planned to follow the British example; however, the Netherlands canceled the herd immunity strategy in order to stop the corona in the country. Dutch Prime Minister Mark Rutte also confirmed that the lockdown would be extended until the end of April. Given that the death toll in the Netherlands appears to be relatively high for a population of 17.2 million, while the death toll is also high in neighboring Belgium, which has a smaller population and stricter lock downs. Previously, Rutte proposed allowing the corona virus to spread more slowly among the population in order to "build herd immunity". The greater the number of people who develop immunity, the less likely it is that the virus will spread to vulnerable older people or people with underlying health problems. However, as has been widely criticized, allowing a deadly virus to spread through society in order to create a level of immunity implies implicitly accepting that people will die. Finally, he clarified his statement. Rutte then emphasized that the government's primary goal in containing the outbreak was not the herd immunity program. However, he believes that if the virus spreads further, such immunity will develop.

#### II. LITERATURE REVIEW

#### **Human Rights to Health Insurance**

The State Guidelines of the Republic of Indonesia include the philosophy and foundation of the Indonesian state, Pancasila, particularly in the fifth precept, which recognizes citizens' human rights to health. This is also stated in the 1945 Constitution, articles 28H and 34, and is governed by Law.No.23/1992, which was later replaced by Law No.36/2009 on Health. In Law No. 36/2009, it is emphasized that everyone has the same rights in terms of gaining access to health-care resources and receiving safe, high-quality, and affordable health-care services. On the other hand, everyone is required to participate in the government-run national health insurance program.

The right to health is a human right that is inherent in a person from birth and cannot be taken away by anyone or the state; thus, it cannot be revoked by anyone. The right to health entails the government creating conditions that allow each individual to live a healthy life. This means that the government must provide adequate and affordable health care for all citizens. Constitutional rights are rights that citizens have and that are governed by the 1945 Constitution. Its existence ensures the lives of citizens, particularly Indonesian citizens. However, not all citizens are aware of or understand this constitutional right as a guarantee of their life, and as a result, they may believe that they are not being provided with a proper life and livelihood as citizens.

Citizens' constitutional rights are governed by CHAPTER XA on Human Rights. The chapter covers everything from the right to live and live life to the right to a decent living for humanity. This is due to the fact that Indonesia is a country that recognizes a high level of respect for human rights while imposing limitations on the human rights of others. Individual human rights are recognized in Indonesia, as are community (social) human rights. Even Jimly Ash Shiddiqie, in his book The Idea of People's Sovereignty in the Constitution and Its Implementation in Indonesia, claims that the concept of human rights in Indonesia is not secular, there must be a balance between human rights and obligations. In Indonesia, the concept of human rights is based on Pancasila, which means that individual rights guaranteed by the Constitution cannot be separated from social rights. That is, every individual has rights and obligations that must be fulfilled in his or her social environment, regardless of where he or she is.

Human rights are fundamental rights that humans are born with as a gift from God Almighty. It is critical to understand that these human rights are not derived from the state or the law, but solely from God as the creator of the universe and its contents, so that in principle, human rights cannot be reduced by anyone, including the state. The preceding definition of human rights is consistent with the definition formulated in Article 1 number 1 of the Human Rights Law Number 39 of 1999: "A set of rights that are inherent in the nature of human existence as God's creatures and are His gifts that must be respected, upheld, and protected by the state, the law, the government, and everyone for the sake of human dignity and honor". According to the concept of natural law, the basic human rights that are a gift from God Almighty and inherent in every human being are: the right to life, the right to liberty, and the right to property.

#### The Role of Constitutional Law in Vaccination Implementation

The Covid-19 pandemic has changed all of the arrangements that humans have lived in all countries around the world; new rules that will change human life or lifestyle are required. New legal rules are required to govern life following the Covid-19 Pandemic. Why is there a need for the rule of law? Because of the need to prevent and contain the spread of Covid-19 from one human to another.

As the party responsible for managing the country, the State/Government has an obligation to establish the rule of law so that its people can live well and healthy in the midst of the Covid-1 Pandemic. According to some sources, constitutional law is the law that governs positions in the state or governs the authority of state institutions. The state has the following powers: 1) making the rule of law, 2) implementing the rule of law, and 3) forcing people to obey the rule of law. Whatever the state of the country, the state/government is required to create legal rules that will be used to regulate the lives of its citizens in order for them to live better lives.

The government coined the term "New Normal" to try to combat the Covid-19 pandemic. In order to deal with Covid-19, people must begin a new life with a new pattern or lifestyle. To deal with all of this, legal rules must be established to govern society and allow people to live their new lives.

#### **Constitutional Law's Role**

Making laws and regulations is one of the constitutional law's powers. The New Normal necessitates legal regulations that ensure people can live comfortably in the midst of the Covid-1 Pandemic. Making laws and regulations is determined to be the authority of the government in the Constitutional Law. The process of drafting laws and regulations must be tailored to the conditions and circumstances that exist in society, in this case the New Normal situation. And it is the Government that has the authority to make laws and regulations; if it is in the form of a law, it is formed by the House of Representatives and the President; if it is in the form of another government regulation, it is formed by the President and his staff or the executive.

Constitutional law empowers legislators to enact laws and regulations that reflect their preferences. Laws and regulations are made in accordance with the legislators' vision and mission; however, the contents of the legislation must be adjusted to the conditions that existed at the time the legislation was formed in accordance with the conditions of this Covid-19 pandemic. Living a clean lifestyle, wearing masks, social and physical distance, and mass vaccinations are all ways to help prevent the spread of Covid-19. In order to prevent the spread of Covid-19, the holder of the authority to form laws and regulations must be able to incorporate the above elements. Whereas the Constitutional Law teaches that in order for legislation to be accepted by the community, it must contain three elements: philosophical elements, juridical elements, and sociological elements.

#### III. RESEARCH METHOD

The author employs a qualitative descriptive method in this study, as well as a literature review. This paper's research is in the field of juridical-normative law. Juridical-normative writing, also known as normative legal research, is a type of library research that focuses on secondary data. This study employs a review of the literature on phenomena that can be studied and observed. The author will first define what will be studied in this study. Then, based on the pre-determined goals, carry out all of the actions. The unit of analysis in this study is a reference, which is a series of words or sentences that indicate something with meaning in accordance with the category of Government Regulations related to the handling of Covid-19 and its impact on the socioeconomic life of the community. Implementation of health protocols and mass vaccinations to prevent the spread of Covid-19. Researchers gather information about the government's mass vaccinations to prevent the spread of Covid-19. The content of electronic, print, and online media, as well as articles in national and international journals, was analyzed.

## IV. RESULTS AND DISCUSSION

As stated in the United Nations (UN) Declaration of Human Rights on November 10, 1948, health is an important aspect of human rights. According to Article 25 paragraph (1) of the Declaration of Human Rights, "everyone has the right to an adequate standard of living for the health and well-being of himself and his family." The International Convention on Economic, Social, and Cultural Rights, adopted by the United Nations in 1966, also recognizes everyone's right to the highest attainable standard of physical. The right to health, as a human right, is one that is attached to a person because of his birth as a human being, not because of a gift from someone or the state, and thus cannot be revoked or violated by anyone (Eka Ryanda Pratiwi, Mahdi Syahbandir, Azhari, 2017). Human rights debates today seem to go on indefinitely. How could it not, since the most incredible event in history, "Black Tuesday," occurred on September 11, 2001, the topic of human rights has received special attention from many circles, particularly academics and legal practitioners.

# 1. Implementation of Mass Vaccination of Indonesians for Community Immunity, particularly in relation to the Covid-19 Pandemic

Although coined nearly a century ago, the term Herd Immunity was not widely used until the current decade. The term is usually used for increased vaccine use, disease eradication discussion, and cost-benefit analysis of vaccination programs (Fine P, Eames K, Heymann, 2011). Herd Immunity is an epidemiological concept that describes a situation in which a population - typically people - is immune to a disease to the point

where infection does not spread within that group and susceptible people are protected. Herd immunity is a concept associated with vaccination campaigns. Immunity can be gained through infection or vaccination. The reproductive rate, or RO, is closely related to the concept of herd immunity. The proportion of people in a population who must be immune to induce herd immunity (H) is proportional to R 0 and can be calculated using the formula H = 1 - (1 / R 0). Vaccination, social distancing, and travel bans are examples of public health disease control strategies that aim to reduce the R value below one, thereby halting the epidemic. The R modified by these measures manifests as "curve flattening," which dampens the natural trajectory of the epidemic that would otherwise occur, so the key to reducing the spread of this epidemic is to flatten the epidemic curve that lies at R0 (base reproduction number). In a truly susceptible population, R 0 is the number of secondary cases resulting from one index case. The mathematical definition of the epidemic threshold is when R 0 exceeds 1, which creates the conditions for an epidemic, though an epidemic does not always occur. If R 0 is less than one, the epidemic cannot be sustained because one case of infection infects fewer than one person on average, and the infection will vanish (MacIntyre CR and Heslop DJ, 2020).

COVID-19, with an estimated R0 of around 3, is far less contagious than mumps and measles. Other experts estimate the RO value for the Wuhan corona virus to be between 1.4 and 5, while WHO believes it is only between 1.4 and 2.5. With this figure, the proportion of people who need to be infected is lower but still significant, accounting for roughly 70% of the total population. One must consider why herd immunity can never be considered a preventative measure. If 70% of a country's population must be infected with a disease, that is not prevention. Because the majority of people in a country are sick! And it is impossible to believe that 70% of children are easily infected. If only young people are immune, you will have an older population with no immunity or people with underlying diseases who are especially vulnerable (Sciencealert. Gideon Meyerowitz-Katz, 2021).

According to the World Health Organization (WHO), 16-21 percent of people infected with this virus in China developed severe illness, with 2-3 percent dying. The ability of the virus to spread without symptoms, either during the incubation period (the time before a person appears sick) or in people who have never been sick, is a key factor influencing transmission. Influenza gives an overview of how the virus can spread when a person has no symptoms. A person with SARS, on the other hand, can only spread the virus if he or she has symptoms of the disease. There is no published research data to back up the Chinese government's claim about the spread of the Wuhan corona virus during the incubation period.

To halt the spread of the corona pandemic, Britain became the first country to unofficially introduce the concept of herd immunity. According to British media, "the UK government allowed the virus to reach the entire population in order to gain herd immunity" and reduce the impact of Covid-19. According to Conversation, it is estimated that 47 million people in the UK must be infected before herd immunity can be achieved. If herd immunity is implemented, more than one million Britons are expected to die and another eight million to develop severe symptoms and require hospitalization, based on an estimated mortality rate of 2.3 percent and 19 percent of cases with severe symptoms. Finally, the British government chose lockdown over herd immunity. So far, 33,718 corona virus cases have been reported in the United Kingdom. Two thousand nine hundred of them died, and more than a hundred have been declared cured.

Sweden is still allowing its citizens to gather outside their homes during the corona virus pandemic. Swedes are not immune to the corona virus; they simply deal with it differently. There will be no shutdowns or lock downs. According to experts, Sweden's response may be aided by the high level of trust Swedes have in their government and their willingness to follow its guidelines, as well as the already high proportion of countries working in the country. However, critics are concerned that the strategy will produce the same results as Britain's original "herd immunity" plan to combat the virus, which was scrapped after modeling revealed that it could result in 250,000 deaths.

# 2. The role of State Constitutional Law in the Implementation of Mass Vaccination in Indonesia for Community Immunity

Vaccination has historically aided in the eradication of certain diseases. For example, the disappearance of small pox disease is frequently cited as an example of vaccination's most spectacular success. Vaccination has been used to eradicate the disease since the early twentieth century. Prior to vaccination, one out of every three people infected with the disease died. Polio has been eradicated in Indonesia thanks to vaccination. Vaccines are the most effective preventive measure in the fight to eradicate Covid-19. This is due to the specific nature of the vaccine's protection. The Hepatitis B vaccine, for example, is only for hepatitis prevention. So is the measles vaccine, which is only for measles. This is a benefit that other preventative measures do not have. Vaccines are safe to use if they are approved for marketing. In Indonesia, the distribution permit is issued by BPOM. The distribution permit reflects that the procurement of vaccines went through a lengthy process. The manufacturing of vaccines is a very complicated process. Starting with formulations, preclinical trials involving

animals, and then progressing to clinical trials involving tens of thousands of humans if the preclinical trials are successful. Clinical trials with a large number of participants must go through three stages.

The ultimate goal of a clinical trial is to ensure safety. Security, according to him, is not negotiable. The effectiveness is the second goal. If the vaccine is found to be safe and effective, it will be approved for distribution. Covid-19 is a new infection, and experts and scientists around the world are working to identify the characteristics of the virus that causes Covid-19, which will be used to develop vaccines. In Indonesia, the vaccine procurement process is divided into several stages. Various ministries, state institutions, and SOEs are involved.

The government strictly regulates the process of obtaining the Covid-19 vaccine. The government coordinates everything from the amount to the procurement to the distribution, in this case through BUMN, as outlined in Presidential Regulation Number 99 of 2020 concerning Vaccine Procurement and Vaccination Implementation in the Context of Combating the 2019 Corona Virus Disease Pandemic. In Presidential Decree 99, everything is consolidated under the Ministry of Health, including the decision on the type of vaccine, distribution, and price. However, issues arise in the supply of vaccines, and there are indications that state-owned enterprises (BUMN), in this case PT. Biopharma, have a monopoly on the vaccination process. According to Presidential Regulation Number 99 of 2020 and its derivative regulations, Regulation of the Minister of Health (Permenkes) Number 10 of 2021 concerning the Implementation of Vaccination in the Context of Combating the Covid-19 Pandemic, the government is currently strictly regulating the procurement of Covid-19 vaccines, in fact, the quantity, procurement, until the distribution 2020 (Bisnis.com).

Essentially, the State/Government, as the party in charge of managing the country, has an obligation to establish the rule of law so that its people can live well and healthy in the midst of the Covid-19 Pandemic and vaccination implementation. In this regard, before delving into the role of constitutional law, it is necessary to define State Constitutional Law. According to some sources, constitutional law is the law that governs positions in the state or governs the authority of state institutions. The state has the following powers: 1) making the rule of law, 2) implementing the rule of law, and 3) forcing people to obey the rule of law. Whatever the state of the country, the state/government is required to create legal rules that will be used to regulate the lives of its citizens in order for them to live better lives.

Health is one of the fundamental human needs that has recently been recognized as a constitutional right. Indeed, the right to health has been guaranteed by the Constitution of the United Republic of Indonesia since 1949. (RIS). The provisions of Article 40 of the RIS Constitution were adopted into Article 42 of the UUDS after the union state's form was reverted to that of a unitary state and the entry into force of the 1950 Provisional Constitution (UUDS) (Perwira, Indra, 2021).

Considering the state of emergency, the spread of the corona virus, which has currently infected over a thousand people, this virus can be classified as the spread of infectious diseases that can trigger a public health emergency, so that national quarantine can be implemented, especially with the authority clearly stated in the legislation. invitation. The law, as widely translated through textual materialization, has established itself as a functioning political configuration. That is, the law was made consciously by the makers/policymakers with a variety of understandings and interests. As a result, despite the fact that law is thought to have very important values and meanings in organizing social life, it is still the result of friction and tug-of-war between political-economic representations with certain powers to influence it (R. Herlambang Perdana W, 2006). In other words, when the practices of politicization outnumber the actual practice of law, the law that is in the power of the state becomes increasingly powerless. In relation to this, Ronald Katz stated that what is happening in Indonesia is law without law, that there are laws but they are useless (Jimly Asshiddiqie, 2006).

Because the state and citizens have a reciprocal relationship in the life of the nation and state, the importance of the relationship between the state and citizens cannot be overstated. Where the state owes a duty to its citizens and vice versa. To put together "The state is a territorial area whose people are ordered by a number of officials and which successfully demands from its citizens obedience to the laws and regulations through monopolistic control of legitimate power," wrote by Miriam Budiardjo (Suryo, 2008: 49).

Making laws and regulations is one of the constitutional law's powers. The implementation of mass vaccination of the Indonesian people necessitates the development of legal regulations to ensure that people can live well in the midst of the Covid-19 Pandemic, particularly in terms of Community Immunity. Making laws and regulations is determined to be the authority of the government in the Constitutional Law. The process of drafting laws and regulations must be tailored to the conditions and conditions that exist in society, in this case toward Community Immunity. The government has the authority to make laws and regulations; if it is a law, it is formed by the House of Representatives and the President; if it is another government regulation, it is formed by the President and his staff or the executive. Constitutional law empowers legislators to enact laws and regulations that reflect their preferences.

In order to prevent the spread of Covid-19, the holder of the authority to form laws and regulations must be able to incorporate the above elements. It is also taught in Constitutional Law that good legislation must include three elements: philosophical elements, juridical elements, and sociological elements.

If a law is passed to allow something to be implemented, the standards it contains can be "mandatory" or "directory." If it is obeyed or fulfilled substantively, it is considered sufficient. If the "mandatory" provisions are not followed correctly, the actions taken will be invalid. On the other hand, if a provision is only "directory," it is irrelevant as long as it is related to the validity of something done, whether the provision is completely fulfilled or not.

#### V. CONCLUSION

Health is one of the fundamental human needs that has recently been recognized as a constitutional right. Indeed, the right to health has been guaranteed by the Constitution of the United Republic of Indonesia since 1949 (RIS). The provisions of Article 40 of the RIS Constitution were adopted into Article 42 of the UUDS after the union state's form was reverted to that of a unitary state and the enactment of the 1950 Provisional Constitution (UUDS). Then, in 2000, the Second Amendment to the 1945 Constitution was amended to include health as a component of human rights. According to Article 28H paragraph (1), "everyone has the right to live in physical and spiritual prosperity, to have a place to live, to have a good and healthy living environment, and to receive health services." The inclusion of these provisions in the 1945 Constitution represents a remarkable paradigm shift. Health is no longer viewed as a personal matter related to fate or God's gift with no bearing on state responsibility, but as a legal right guaranteed by the state.

Making laws and regulations is one of the constitutional law's powers. The implementation of mass vaccination of the Indonesian people necessitates the development of legal regulations to ensure that people can live well in the midst of the Covid-19 Pandemic, particularly in terms of Community Immunity. Making laws and regulations is determined to be the authority of the government in the Constitutional Law. The process of drafting laws and regulations must be tailored to the conditions and conditions that exist in society, in this case toward Community Immunity.

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