

Vaccines for Tourism Business Actors: Fulfilment or Violation of Human Rights?

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Abstract

Tourism sector is the largest source of income for Bali province of Indonesia. Unfortunately, the Covid-19 pandemic forced the closure of tourism. Therefore, Bali's economic growth is experiencing decrease to -10.98%. To accelerate the reopening of tourism, the government has launched the national vaccine movement that also covers tourism business actors. Unfortunately, some parties resist the vaccination because the vaccine is not believed yet to be safe. By using doctrinal legal research, this study examined two problems: the right to health in the context of tourism and the construction of government policies against vaccine resistance by tourism business actors. It examined legal principles and synchronization of laws on human rights related to vaccination. The state is responsible to provide vaccination for the citizens in fulfilling the right to life and health. Each local government produces policy to deal with vaccine refusal. Jakarta and West Java are two provinces that impose fines for residents who refuse vaccines. On the other hand, Bali province does not impose sanctions on such residents. To ensure safety after the reopening of tourism, any local government can propose the record of vaccination as a requirement for every person who will return to work in the tourism sector.

Keywords: covid-19 pandemic, tourism, vaccine.

A. Introduction

Tourism is a dynamic activity that involves many people and revives various business fields. Tourism contains complex interests, such as personal interests regarding lifestyle, prestige, pleasure (entertainment), satisfaction, freedom, and public interests such as political, economic, cultural, and ideological interests. Spilani explains that tourism is a human phenomenon that is universal, regular, and steady. It often appears without space and time.¹ For decades, communities of either big or small cities and villages have been looking for the effective ways to build and develop brands and attract visitors. For instance, many cities host multinational sport events like Winter Olympic Games or FIFA's World Cup or regional music festivals.² Today, developed healthy communities can do it through

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¹ Maria Madalina Isharyan and Ayub Torry S.K, *Hukum Kepariwisata & Negara Kesejahteraan (Antara Kebijakan dan Pluralisme Lokal)*, Bogor: Halaman Moeka Publishing, 2019, pp. 36-37.

² *Ibid.*

bidding, staging, and managing events in places around the world.³ Tourist attraction is intended to create objects of interest to the people. Of all, music industry can attract people to visit a state or region.

Tourism is a major sector in Bali's economic development. Bali's tourism has grown and developed to contribute significantly to the development of the region and the Balinese people. The tourism development is an effort to establish people's welfare. The Bali's local government has made many efforts to develop local potentials to maintain domestic and foreign tourists' interest in visiting the island.⁴ Tourism industry. Also known as hospitality covers fulfilment of human needs for traveling.⁵ Tourism refers to any activities to provide accommodation, transportation, food, recreation, and other services. A tourism service includes economic, social, cultural, religious, environmental, security, and many other aspects. The economic aspect attracts the most attention in the development of tourism. Hence, tourism is an industry.⁶ The tourism industry provides economic opportunities. Directly, the community can work in the tourism sectors. Indirectly, the community can enjoy economic benefits from the circulation of money in the tourism industry.

The Indonesian government had responded the outbreak of Corona Virus Diseases 2019 (Covid-19) in 2020 with various policies. Initially, the government even provided incentives for the tourism sector to increase tourist visits to Indonesia. Initially, the government believed that Covid-19 would not reach Indonesia. At the same time, other ASEAN states had begun to restrict the visits of tourist to their territory.⁷ This policy changed due to the increasing numbers of the Covid-19 patients. Almost all activities were stopped, including tourism. Various tourism facilities began to be closed. The corona virus pandemic has affected all industries in Indonesia, as well as the world, including the tourism industry. The impact on tourism is massive because the Indonesian tourism industry connects to other industries, such as hospitality and transportation. It also affects micro, small, and medium enterprises, especially the producers of souvenirs, actors of culinary businesses, travel agents, and tour guides.⁸ Indonesia is currently trying to restart a new normal life after the Covid-19 pandemic. New normal is the adaptation of new

³ *Ibid.*

⁴ Ida Bagus Gede Paramita and I Gede Gita Purnama Arsa Putra, "New Normal Bagi Pariwisata Bali di Masa Pandemi Covid 19", *Pariwisata Budaya: Jurnal Ilmiah Agama dan Budaya*, Vol. 5, No. 2, 2020, p. 60.

⁵ Putri Ekaresty Haes and Putu Irma Yunita. "Kontribusi Serikat Pekerja Indonesia pada Organisasi Pariwisata di Kabupaten Badung dalam Perspektif Konflik", *Jurnal Ilmiah Dinamika Sosial*, Vol. 3, No. 1, 2019, p. 117.

⁶ I Putu Gelgel, *Industri Pariwisata Indonesia dalam Globalisasi Perdagangan Jasa (GATS-WTO): Implikasi Hukum dan Antisipasinya*, Bandung: Refika Aditama, 2019, p. 22.

⁷ Dian Herdiana, "Rekomendasi Kebijakan Pemulihan Pariwisata Pasca Wabah Corona Virus Disease 2019 (Covid-19) di Kota Bandung", *Jurnal Master Pariwisata (JUMPA)*, Vol. 1, No. 1, 2020, p. 1.

⁸ Ida Ayu Devi Arini, Ida Bagus Gede Paramita, and Komang Alit Triana, "Ekspektasi, Realisasi dan Negosiasi Tourism Reborn di Masa Pandemi dalam Pariwisata Bali", *CULTOURE: Culture Tourism and Religion*, Vol. 1, No. 2, 2020, p. 108.

habits. The government has started to loosen regulations on restrictions of people's activities while still adhering to the applicable health protocol.

Bali is preparing to restart the tourism sector.⁹ Tourism is a very vulnerable business to the potential crises that may come from unpredicted external shocks. Therefore, the tourism business actors reluctantly confront the crisis.¹⁰ The Covid-19 pandemic has certainly given a shock to the tourism industry. Tourist destinations that are usually full of crowds are closed due to the implementation of physical distancing. The outbreak of the Covid-19 pandemic is related to human mobility. On the other hand, tourism, of course, cannot be separated from people's movement.

The Minister of Tourism and Creative Economy, Sandiaga Uno, has finalized the plan to open Bali for foreign tourists under the free Covid-19 corridor scheme, or Covid-19 free area. Nusa Penida and Ubud will be pilot locations for opening in cooperation with several countries.¹¹ In parallel, the Ministry of Tourism and Creative Economy and the Coordinating Ministry for Maritime Affairs and Investment have approached ambassadors of tourist-market destination countries to establish a Covid-19 free tourism partnership.¹² The target market includes several Asian states (such as China, Malaysia, Singapore, and India), European states, the United States, Australia, and the Middle East.¹³ The plan to open a corridor for foreign tourists will be immediately socialized to a number of countries.¹⁴ However, the plan still has to consider data on the spread of the Covid-19 in Bali and Indonesia in general. Previously, the Ministry has also asked for 120 thousand doses of vaccine for tourism business actors in Bali.¹⁵ Vaccines to tackle Covid-19 is the responsibility of the state in fulfilling human rights to health.

Vaccine efficacy measures the reduced risk of infection of vaccinated individuals in controlled situations. These data were obtained from a randomized controlled trial. Vaccine effectiveness measures the reduction of the infection risk on vaccinated individuals related to the implementation of vaccination in the community or in the real world through observational studies. Furthermore, the

⁹ Astrid Krisdayanthi, "New Normal Pariwisata Bali di masa Pandemi pada Daerah Tujuan Wisata Tanah Lot, Kabupaten Tabanan", *Pariwisata Budaya: Jurnal Ilmiah Agama Dan Budaya*, Vol. 5, No. 2, 2020, p. 49.

¹⁰ Putu Eka Wirawan, Sri Pujiastuti, and Ni Nyoman Sri Astuti, "Strategi Bertahan Hotel di Bali Saat Pandemi Covid-19", *Jurnal Kajian Bali (Journal of Bali Studies)*, Vol. 10, No. 2, 2020, p. 584.

¹¹ Rr. Ariyani Yakti Widyastuti, "Sandiaga Uno Finalkan Rencana Pembukaan Bali untuk Turis Asing", 2021, <https://bisnis.tempo.co/read/1439394/sandiaga-uno-finalkan-rencana-pembukaan-bali-untuk-turis-asing>, accessed on September 2021.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

impact of vaccines is to reduce the risk of infection or disease in a population where some people have been vaccinated.¹⁶

The government needs strong cooperation to carry out the national vaccination program, especially for workers of tourism and creative economy sectors, to accelerate the creation of herd immunity and economic recovery throughout Indonesia. Previously, the second phase of the vaccination program for tourism workers was held in Bali. The vaccination for Balinese inhabitants is expected to be revitalization for tourism in the Island. Likewise, there are about 3,000 Tourism and Creative Economy entrepreneurs and tourism-conscious communities (*Masata – Masyarakat Sadar Wisata*) in North Sulawesi.¹⁷ The Bali province provides vaccines for tourism business actors as a policy to prepare the reopening of the tourism sector that is safe and free from Covid-19. Unfortunately, vaccine rejection still occurs with various reasons. The rejection was mostly conveyed through social media. The obligation of vaccination for the community is considered as a violation of human rights.

The Covid-19 vaccination program began on January 13, 2021. It aims to form herd immunity. The Indonesian government has established various policies to reduce the cases and impacts of COVID-19 on people significantly.¹⁸ Unfortunately, people do not support these policies comprehensively. Some parties express criticism. The vaccination program has caused various controversies, ranging from the issues concerning halal status, untested vaccines, up to fake vaccines.¹⁹

The use of Sinovac vaccine in Indonesia has triggered the emergence of hoaxes in various online media. According to Rochani Nani Rahayu, the hoaxes concerning the Covid-19 vaccine is related to composition. For instances, there is a hoax states that the Covid-19 vaccine contains dangerous ingredients such as borax, formalin, and vero cells; and that the vaccine is made from a male fetus. The hoaxes also cover the issues about the side effects such as death, infertility, male genital enlargement, and human DNA modification. The vaccine refusal was triggered by the unwillingness of the Indonesian Doctors Association (*IDI –Ikatan Dokter Indonesia*) to accept the vaccine at the first time.²⁰ This study examines two problems: (1) the right regarding health in the context of tourism; and (2) the

¹⁶ Narila Mutia Nasir (et al.), "Kebijakan Vaksinasi COVID-19: Pendekatan Pemodelan Matematika Dinamis pada Efektivitas dan Dampak Vaksin di Indonesia," *Jurnal Pengabdian kepada Masyarakat UBJ*, Vol. 4, No. 2, 2021, p. 193.

¹⁷ Dinny Mutiah, "100 Ribu Lebih Pekerja Pariwisata dan Ekonomi Kreatif Terdata untuk Divaksinasi Covid-19", 2021, <https://www.liputan6.com/lifestyle/read/4503558/100-ribu-lebih-pekerja-pariwisata-dan-ekonomi-kreatif-terdata-untuk-divaksinasi-covid-19>, accessed on September 2021.

¹⁸ Ibnu Susanto Joyosemito and Narila Mutia Nasir, "Gelombang Kedua Pandemi Menuju Endemi Covid-19: Analisis Kebijakan Vaksinasi dan Pembatasan Kegiatan Masyarakat di Indonesia", *Jurnal Sains Teknologi dalam Pemberdayaan Masyarakat*, Vol. 2, No. 1, 2021, p. 25.

¹⁹ Ari Sulistyanto and Achmad Jamil, "Narasi Kritis Opinion Leader dalam Kebijakan Vaksin Covid 19", *JRK (Jurnal Riset Komunikasi)*, Vol. 12, No. 1, 2021, p. 39.

²⁰ Rochani Nani Rahayu, "Vaksin Covid 19 di Indonesia: Analisis Berita Hoax", *Jurnal Ekonomi, Sosial & Humaniora*, Vol. 2, No. 7, 2021, p. 48.

construction of government policies against vaccine rejection by tourism business actors.

There have been some previous studies related to this study, such as Sigalingging and Santoso. This study examined the arrangement of penalties for the rejection of the Covid-19 vaccination and the right to reject the Covid-19 vaccination based on the human rights' perspective.²¹ Perbawa conducted a study that discusses the legal instruments for vaccination policy. It aims to examine the policies used by the Indonesian government to handle Covid-19 based on the international legal instruments.²² The question of rights or obligations in vaccination policy had been discussed by Gandryani Fikri Hadi to explain the classification of vaccines as rights or obligations as well as the legality of criminal sanctions for vaccine refusal.²³ This study elaborates the right to health in the context of tourism and the construction of government policies against vaccine refusal by tourism business actors.

B. Right to Health in the Context of Tourism

Health is a basic human need. The right to health is a human right that legally develops both at the level of international and national laws. The right to health as a human right is affirmed in International Covenant on Economic, Social, and Cultural Rights. It was adopted and opened for signature, ratification and accession by the General Assembly Resolution 2200A (XXI) dated December 16, 1966. The resolution was valid in January 3, 1976, in accordance with Article 27. Article 12 states the following.

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; and
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

²¹ Yulia Emma Sigalingging and Aris Prio Agus Santoso, "Analisis Yuridis Pengaturan Sanksi Bagi Penolak Vaksinasi Covid-19", *JISIP (Jurnal Ilmu Sosial dan Pendidikan)*, Vol. 5, No. 3, 2021, p. 52.

²² I Ketut Sukawati Lanang Putra Perbawa, "Kebijakan Pemerintah Indonesia dalam Menanggulangi Covid-19 Berdasarkan Instrumen Hukum Internasional", *Jurnal Ilmu Sosial dan Humaniora*, Vol. 10, No. 1, 2021, pp. 197-205.

²³ Farina Gandryani and Fikri Hadi, "Pelaksanaan Vaksinasi Covid-19 di Indonesia: Hak atau Kewajiban Warga Negara," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, Vol. 10, No. 1, 2021, p. 23.

The discourse on the right to health at the international level can also be seen in CESCR General Comment Number 14: The Right to the Highest Attainable Standard of Health (Art. 12). It was adopted at the Twenty-second Session of the Committee on Economic, Social and Cultural Rights, on 11 August 2000 (Contained in Document E/C.12/2000/4). The general comments of United Nations (UN) human rights treaty is an addition to the human rights treaty provisions. Since 2002, the UN Special Rapporteurs on the right to health have endeavored to apply the treaties and general comments to many themes, states, and other executioners. When rapporteurs have encountered specific issues on which the existing jurisprudence gives no or scant guidance, they have offered their interpretations of the international right to health.²⁴

The components of tourism development in Indonesia consist of several pillars. First, tourism destinations include the development of tourist attractions, accessibility, public and tourism infrastructure and facilities or accommodation, community empowerment through tourism, and investment development in tourism sector. Second, tourism marketing includes tourism market and image development, tourism marketing partnership development, and tourism promotion development. Third, the tourism industry includes the ways to strengthen the structure of the tourism industry, increase the competitiveness of tourism products, develop tourism business partnerships, create business credibility, and develop environmental responsibility. Fourth, tourism institutions include strengthening tourism organizations, developing tourism human resources, conducting research and development.²⁵

The freedom to go from one place to another for traveling and use leisure time by traveling is the consideration of the Law of the Republic of Indonesia Number 10 of 2009 on Tourism. These activities are part of human rights. Tourism is an integral part of national development carried out in a planned, integrated, systematic, sustainable, and responsible manners while constantly protecting the religious and cultural values living in the society, the sustainability and quality of the environment, and the national interests. The development of tourism sectors is needed to promote the same distribution of business chances and gain advantages and be able to face the challenges of changing local, national, and global life.

Tourism is an industry that offers services to tourists. Tourism must meet these four criteria. Firstly, travel is made from one place to another and carried out outside residential area. Secondly, the objective of the trip is carried out just for fun, without earning a living in state, city, or tourist destination area. Thirdly, the money spent by the tourist is brought from the country of origin, where the tourist

²⁴ Paul Hunt, "Interpreting the International Right to Health in a Human Rights-Based Approach to Health", *Health and Human Rights*, Vol. 18, No. 2, 2016, p. 109.

²⁵ Muchamad Zaenuri, *Perencanaan Strategis Kepariwisata Daerah Konsep dan Aplikasi*, Yogyakarta: e-Gov Publishing, 2018, p. 6.

lives or resides; and it is not obtained as the results of the business during the tour carried out. Fourthly, the trip is carried out at least 24 hours or more.²⁶ In the framework of tourism policy, tourism business operators have an obligation to ensure the security when tourists visit the tourist objects and facilities they offer. Security concerns security from the risk of accidents, including the risk of the spread of the Covid-19 pandemic.

The Ministry of Tourism and Creative Economy has arranged the newly CHS (Cleanliness, Health and Safety) program to be applied in tourist destinations. It involves tourism industry and creative economy actors. The actors are expected to be productive but still maintain safety from Covid-19. The health protocol system goes through some stages, starting from conducting simulations, socialization, and publication to public and trials. The implementation of CHS programs will be monitored closely. Regional readiness is a special consideration in implementing this health protocol. Every health protocol is implemented and carried out in stages with a rigorous evaluation and continuous program. The CHS concept is a strategy for the tourism sector and the creative economy to survive and to improve performance. The government must have special programs in the promotion of domestic tourism in the new normal phase. For instance, the trend of tourism has shifted from group tourism to alternative vacation tours that not many people included such as solo travel tours, virtual tourism considering cleanliness, safety, and health. The tourism industry managers and creative economic actors must really anticipate bad things that can happen to the tourism image.²⁷

The Ministry of Tourism and Creative Economy regulates the governance of tourism opening during the Covid-19 pandemic. The governance lays down a legal obligation for tourism actors to notice the recent information as well as appeals and instructions from the Central and Regional Governments related to Covid-19 in their regions. They must have and communicate Standard Operating Procedures for cleanliness, health, safety, and environmental sustainability to the employees, local tour guides, visitors, local communities, and other parties in their tourist attractions through offline and/or online media. The procedures are prepared by considering the characteristics and specificities of managed tourist attractions in natural, cultural, and manufactured tourist attractions. In addition, tourism businesses are required to train employees, local tour guides, and/or communities around the tourist attractions to prepare and implement SOPs before the tourist attraction reopened. They also must conduct trials and simulations. This includes

²⁶ Ade Kadarisman, "Government Public Relations dalam Pengembangan Pariwisata Masa Pandemi COVID-19 di Geopark Ciletuh", *Profesi Humas*, Vol. 5, No. 2, 2021, p. 271.

²⁷ Surya Hendra Putra, "Pengembangan UMKM, Pariwisata dan New Normal", *Merdeka Kreatif di Era Pandemi Covid-19: Suatu Pengantar*, Vol. 1, No. 1, 2020, p. 50.

providing and posting written warnings related to the prevention of the spread of Covid-19.²⁸

The response to Covid-19 outbreak is one of the most massive global coordinated actions in modern history. Governments, through the health and medical fields of their respective states, are working tirelessly to prevent the spread of this deadly disease.²⁹ The uniqueness of the transmission pattern and the high mortality rate has led health experts to suggest the restriction of human-to-human contact until the pandemic can be controlled. The hashtag Flatten the Curve (2020) or Flattening the Curve that calls for joint control of the Covid-19 is a campaign that has recently surfaced via the internet and social media around the world. Regional quarantine aims to restrict human mobility.³⁰ Another policy that is also carried out by states of the world is the policy of vaccines to the community. The vaccination is carried out in stages by considering the priority scale.³¹ The vaccinations for the public aims to suppress the spread of Covid-19. It is an attempt of the government to fulfill the right to life and health.

The law functions to regulate all aspects of national and state life. The state can make a major contribution to the implementation of development if law enforcement officers and all levels of society are subject and obedient to legal norms. This principle provides the basis for every state in making a policy to realize the right to health for every individual. The right to an optimal degree of health is a basic right for every individual. In this case, the state is required to respect, fulfill, and protect the right to health. The aspect is a policy that requires state not to take the efforts resulting in individuals or groups failing to achieve or fulfill their rights. On the other hand, fulfillment means that the state has to various measures like legislative, administrative, budgetary, judicial or others to ensure the realization of the rights' fulfillment.³²

The state has an obligation to guarantee the fulfillment of the right to health. Therefore, the government issues policies through the law. Article 1 number 1 of the Law Number 36 of 2009 on Health states that health is a healthy condition in physical, mental, spiritual, and social ways that allow everyone to live productively both in social and economic ways. Health is a condition in which the human body feels well and able to properly influence the spiritual condition so that all activities carried out can be carried out optimally and bring benefits to oneself and others.

²⁸ Kementerian Pariwisata and Ekonomi Kreatif, *Panduan Pelaksanaan Kebersihan, Kesehatan, Keselamatan, dan Kelestarian Lingkungan di Daya Tarik Wisata*, Jakarta: Kementerian Pariwisata dan Ekonomi Kreatif, 2020, p. 6.

²⁹ M. Galieh Gunagama, Yumna Rana Naurah, and Arganis Ellyza P. Prabono, "Pariwisata Pascapandemi: Pelajaran Penting dan Prospek Pengembangan", *LOSARI: Jurnal Arsitektur Kota dan Pemukiman*, Vol. 1, No. 1, 2020, p. 57.

³⁰ *Ibid.*

³¹ World Health Organization, *COVID-19 Vaccines: Safety Surveillance Manual*, Geneva: World Health Organization, 2021, p. 1.

³² Rico Mardiansyah, "Dinamika Politik Hukum dalam Pemenuhan Hak Atas Kesehatan di Indonesia", *Veritas et Justitia*, Vol. 4, No. 1, 2018, p. 236.

Health can be obtained in simple ways, like exercising, consuming vitamin-rich foods, drinking water, getting used to communicating with positive things, helping others, etc. human being needs health to live and to produce brilliant works. Everyone, despite the social status, has the right to live a life in healthy way.³³

Democracy has a principle that the protection of human rights is the government's obligation. One of the human rights is the right to health. The mandate of power is given to the government to protect the rights of the citizens. In addition, the concept of the welfare state as a modern state concept has given more power to the government to do required action. This power is simply to advance and achieve the human rights' fulfillment. The government is no longer just keeping someone from violating rights or violated. The government must struggle to fulfill the rights. The right to health is also the government's duty to be fulfilled.³⁴

Article 12 paragraph (1) of the International Convention on Economic, Social, and Cultural Rights adopted by the United Nations General Assembly 2200 A (XXI) on December 16, 1966, also guarantee the right to health. The states parties to the covenant must acknowledge the right of everyone to get the best standard that can be attained in physical and mental health. At the national scope, Article 28 H paragraph (1) of the 1945 Constitution states that living in prosperity physically and spiritually, having a place to live, a good and healthy living environment, and the right to get health services is the right of every citizen. Article 9 of the Law Number 39 of 1999 on the Human Rights states that everyone has the right to live, maintain life and improve standard of living. Everyone has the right to live in peace, security, happiness, and prosperity physically and mentally. Everyone has the right to a proper and healthy environment.

General Elucidation of the Law Number 36 of 2009 on Health states that health is a human right and an element of welfare that must be realized according to the ideals of the Indonesian people as referred in Pancasila and the Preamble of the 1945 Constitution of the Republic of Indonesia. Therefore, every action and attempt to improve the highest public health level is done in accordance to non-discriminatory, participatory, protective, and sustainable principles that are very crucial for the formation of human resources in Indonesia to increase the resilience and competitiveness of the people, as well as national development.

The government has the responsibility to fulfill the right of health as a basic human right. The implementation is not only significant but also serves as a benchmark to improve people's lives based on the human rights. The recognition and affirmation of the right to health certainly refers to the obligation of state. The

³³ Chontina Siahaan and Donal Adrian, "Komunikasi dalam Persepsi Masyarakat Tentang Kebijakan Pemerintah di Masa Pandemi", *Kinesik*, Vol. 8, No. 2, 2021, pp. 158-167.

³⁴ Mikho Ardinata, "Tanggung Jawab Negara Terhadap Jaminan Kesehatan dalam Perspektif Hak Asasi Manusia (HAM)", *Jurnal HAM*, Vol. 11, No. 2, 2020, p. 321.

state is responsible to prepare the healthy public services for all citizens. On the other hand, every citizen must have access to health services prepared by the state without any discriminatory on any basis. The state, in this case, must not differ health services for every citizen based on ethnicity, religion, race, inter-group, social status, economic status, etc.³⁵

The 1946 Constitution of the World Health Organization (WHO) also explains that “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being”. Therefore, the right to health is recognized as the “basic or fundamental right”. The presence of this right is referred in the general comments of the Committee on Economic, Social, and Cultural Rights on the right to health: “Health is a fundamental human right that is indispensable for the exercise of other human rights.”³⁶

Article 1 number 11 of the Law Number 36 of 2009 on Health states that health efforts refer to every activity and/or a series of activities carried out in an integrated and sustainable manner to maintain and improve the level of public health especially in disease prevention, health improvement, disease treatment, and health restoration done by the government and/or the people. The health efforts carried out by the government are through the vaccination policies. As a form of fulfilling the right to health, Indonesian government purchased the Sinovac vaccine.

Indonesia has ordered the Sinovac vaccine which arrived in December 2020 (Batch 1) and January 2021 (Batch 2). The government has also made agreements with other vaccine providers (Astra Zeneca and Novavax) until 2022. The policy has raised debate among the people. One of the debate’s topics is about the stages of clinical trials that must be carried out to determine vaccine’s effectiveness. Indonesia is testing the effectiveness of the Sinovac Vaccine. Brazil and Turkey have announced the effectiveness level of this Sinovac Vaccine. Turkey released the effectiveness range of Sinovac above 50% - 90%. In January 2021, the government through Biofarma distributed this vaccine to 34 provinces. The President wanted this pandemic to end soon. Therefore, vaccine distribution was carried out quickly. Vaccination policy is the right step considering the Covid-19 pandemic has been going on for too long.³⁷ Indonesia has also imported 7.5 million doses of Moderna and 2.6 million doses of Pfizer to facilitate the national vaccination program.³⁸

³⁵ Hernadi Affandi, "Implementasi Hak Atas Kesehatan Menurut Undang-Undang Dasar 1945: Antara Pengaturan dan Realisasi Tanggung Jawab Negara", *Jurnal Hukum Positivum*, Vol. 4, No. 1, 2019, p. 38.

³⁶ See the general comments of the Committee on Economic, Social and Cultural Rights on the right to health in Siti Nurhalimah, "Covid-19 dan Hak Masyarakat Atas Kesehatan", *SALAM: Jurnal Sosial dan Budaya Syar-I*, Vol. 7, No. 6, 2020, p. 543.

³⁷ Dimas Ahmad Rifandi and Irwansyah, "Retorika Juru Bicara Satgas Covid-19 di Platform Youtube", *Jurnal Teknologi dan Sistem Informasi Bisnis*, Vol. 3, No. 1, 2021, p. 66.

³⁸ Cindy Mutia Annur, "Indonesia Impor 201,9 Juta Dosis Vaksin hingga Agustus 2021 Impor Vaksin Covid-19 Indonesia", 2021, <https://databoks.katadata.co.id/datapublish/2021/08/26/indonesia-impor-2019-juta-dosis-vaksin-hingga-agustus-2021>, accessed on November 2021.

The Covid-19 pandemic has affected Bali economically. The economy of Balinese is influenced significantly by the pandemic. In the second quarter of 2020, the growth of the Balinese economy experienced a deep contraction to -10.98%.³⁹ In an effort to reopen the tourism sector, the government has issued a policy to provide vaccines for tourism business actors. This policy was implemented after the vaccines to health workers and the elderly. This policy was issued to guarantee the right to health for tourism business actors and the prospective tourists. However, there is still a resistance to the vaccine program by tourism business actors.

C. Government Policy Construction Contrary to Vaccines Refusal by Tourism Business Actors

The development of a tourist attraction must meet several tourism development criteria to attract visitors. Firstly, there must be something to see. The tourism object must have special thing that can be seen or made into a performance for tourists. in other words, the place must have a special attraction to attract the visitors' interest to come. Secondly, the place must have something to do by the tourists. The tourists must have an activity that can give a feeling of pleasure, happiness, and relax in the recreational facilities or playground. The place can also provide food, especially the typical food of the place, that makes the tourists comfortable to visit. Thirdly, the place provides goods to be bought. There should be facilities for shopping characteristic or icon of the place to be souvenirs.⁴⁰

The perspective of state-based political economy essentially places state as the center of various interests of groups and society into national interests. The state, in this case, is as an institution that is responsible to determine the values for the people. People are the main subject in the value induction process. In other words, the government must see the condition of people more openly and also the current objective capacity of people. The government can make various attempts to fulfill the people's right to health, either in the form of prevention and treatment. The preventive effort covers the creation of adequate conditions for health, such as ensuring the availability of the good and healthy foods, occupations, housing, and environment. The provision of optimal health services is an effort of treatment.⁴¹

A vaccination activity for tourism actors is related to the principles of tourism implementation. Article 5 of the Law Number 10 of 2009 on Tourism states that tourism is arranged with the principles to maintain human rights and to provide the advantages for people's prosperity, justice, equality, and proportionality.

³⁹ Bali Province, "Berbagai Upaya Dilakukan Pemprov Bali untuk Pemulihan Ekonomi", 2021, <https://www.baliprov.go.id/web/berbagai-upaya-dilakukan-pemprov-bali-untuk-pemulihan-ekonomi/>, accessed on September 2021.

⁴⁰ Oka A Yoeti, *Pengantar Ilmu Pariwisata*, Bandung: Angkasa, 2016, p. 15.

⁴¹ Latipah Nasution, "Hak Kesehatan Masyarakat dan Hak Permintaan Pertanggungjawaban terhadap Lambannya Penanganan Pandemi Global Coronavirus Covid-19", *ADALAH*, Vol. 4, No. 1, 2020, p. 21.

Vaccination is the government's policy to fulfill the right to public health. However, some groups of people reject the vaccination policy. The government faces the rejection as a problem in the fulfilment of the right to health to the citizens. Some people may wonder about the law of certain religion on the vaccine's materials. Some people also discuss the feasibility test of the vaccine on Twitter. People are worried about the status of use and the side effects of the vaccines considering that the vaccination plan is rushed. The issue of the vaccine as the means of business also becomes one of the hot topics of conversation on Twitter. It is also normal for people to voice their distrust of the COVID-19 vaccine.⁴²

According to Loomba, a novel Covid-19 vaccine can be successful if it is also widely accepted and can be proven as safe and efficacious.⁴³ Belief in the benefits of the vaccines is the key to healing the disease. Psychological factors are important in increasing immunity. The rejection of vaccines is usually caused by inaccurate information about the safety of vaccines. Bell stated that the government must communicate clearly the information on how the Covid-19 vaccines are developed and tested, including their safety and efficacy, to the public. It aims to prevent inequalities in uptake. It is crucial to understand and address the factors that may affect COVID-19 vaccine acceptability in minority ethnics and lower-income groups who are disproportionately affected by the Covid-19.⁴⁴

Vaccination must be carried out comprehensively to every member of the people, except for those who are not medically recommended to receive vaccines to form the herd immunity. Vaccines for tourism business actors are needed to make sure the tourists' safety from the Covid-19 pandemic. Indonesian laws and regulations allow the imposition of criminal sanctions for anyone who refuses vaccines. Article 93 of the Law of the Republic of Indonesia Number 6 of 2018 about Health Quarantine states that every person who does not comply the implementation of Health Quarantine as referred to in Article 9 paragraph (1) and/or obstructs the implementation of Health Quarantine to cause a Public Health Emergency will be sentenced to imprisonment of up to one year and/or a maximum fine of one hundred million rupiah.

The policies to deal with the Covid-19 pandemic does not cover only national regulations. It also encompasses regional regulations. Jakarta and West Java are provinces that impose fines for residents who refuse vaccines. Bali does not impose fines for vaccine refusal. A persuasive approach is still being used to increase the number of vaccine's recipients. In comparison, Western Australians will not be fined for refusing the Covid-19 vaccine. Vulnerable workers and patients are

⁴² Fajar Fathur Rachman and Setia Pramana, "Analisis Sentimen Pro dan Kontra Masyarakat Indonesia tentang Vaksin COVID-19 pada Media Sosial Twitter", *Indonesian of Health Information Management Journal (INOHIM)*, Vol. 8, No. 2, 2020, p. 106.

⁴³ Loomba, Sahil, (et al.), "Measuring the Impact of Exposure to COVID-19 Vaccine Misinformation on Vaccine Intent in the UK and US", *Nature Human Behaviour*, Vol. 5, 2021, p. 7.

⁴⁴ Sadie Bell, (et.al.), "Parents' and Guardians' View S on the Acceptability of A Future COVID-19 Vaccine: Multi-Methods Study in England", *Vaccine*, Vol. 38, No. 49, 2020, p. 3.

prioritized for the Pfizer vaccine. Western Australians are unlikely to be forced to receive the vaccine. However, there will be a requirement for people working in certain areas to be vaccinated.⁴⁵ In the future policy framework, although the Bali provincial government does not impose fines or imprisonment for residents who refuse vaccines, the government can implement a policy of vaccination evidence requirements for residents who return to work as tourism business actors.

D. Conclusion

The provision of vaccines for tourism business actors aims to fulfill the right to health in the context of tourism. The right is a human right that is regulated in international legal instruments and national law of many states, including Indonesia. Based on human rights and the obligations of the state, the Indonesian government issued a policy to deal with the Covid-19 pandemic. Vaccination is a government's effort to discontinue the transmission of the Covid-19 pandemic. However, there is an issue of public belief in the safety of the Sinovac vaccine. It is due to the circulation of hoaxes concerning the vaccine's safety. In the setting of tourism policy, the Bali province government has prioritized the provision of vaccines for tourism business actors to prepare the reopening tourism sector. The construction of government policies against vaccine rejection by tourism business actors does not include fines to the vaccine rejectionists. To accelerate the reopening of tourism, the government can require everyone who wants to return to work in the tourism sector to provide vaccine proof. In put the protection of human rights into practice, the government cannot force vaccinations to people refusing vaccines. The government can take policies to raise public awareness on the importance of vaccination.

References

Books

- I Putu Gelgel, *Industri Pariwisata Indonesia Dalam Globalisasi Perdagangan Jasa (GATS-WTO): Implikasi Hukum dan Antisipasinya*, Refika Aditama, Bandung, 2019.
- Kementerian Pariwisata and Ekonomi Kreatif, *Panduan Pelaksanaan Kebersihan, Kesehatan, Keselamatan, dan Kelestarian Lingkungan di Daya Tarik Wisata*, Kementerian Pariwisata dan Ekonomi Kreatif, Jakarta, 2020.
- Maria Madalina Isharyan and Ayub Torry S.K., *Hukum Kepariwisata & Negara Kesejahteraan (Antara Kebijakan dan Pluralisme Lokal)*, Halaman Moeka Publishing, Bogor, 2019.

⁴⁵ David Weber and Erin Parke, "No fines for COVID-19 vaccine refusal, WA Health Minister confirms", 2021, <https://www.abc.net.au/news/2021-01-13/no-fines-for-covid-19-vaccine-refusal-in-wa-health-minister-says/13053618> accessed on September 2021.

- Muchamad Zaenuri, *Perencanaan Strategis Kepariwisata Daerah Konsep dan Aplikasi*, e-Gov Publishing, Yogyakarta, 2018.
- Muladi and Barda Nawawi Arief, *Teori-teori dan Kebijakan Pidana*, Alumni, Bandung, 2019.
- Oka A Yoeti, *Pengantar Ilmu Pariwisata*, Angkasa, Bandung, 2016.
- World Health Organization, *COVID-19 Vaccines: Safety Surveillance Manual*, World Health Organization, Geneva, 2021.

Other Documents

- Ade Kadarisman, "Government Public Relations dalam Pengembangan Pariwisata Masa Pandemi COVID-19 di Geopark Ciletuh", *Profesi Humas*, Vol. 5, No. 2, 2021.
- Ari Sulistyanto and Achmad Jamil, "Narasi Kritis Opinion Leader dalam Kebijakan Vaksin Covid 19," *JRK (Jurnal Riset Komunikasi)*, Vol. 12, No. 1, 2021.
- Astrid Krisdayanthi, "New Normal Pariwisata Bali di Masa Pandemi pada Daerah Tujuan Wisata Tanah Lot, Kabupaten Tabanan", *Pariwisata Budaya: Jurnal Ilmiah Agama dan Budaya*, Vol. 5, No. 2, 2020.
- Bali Province, "Berbagai Upaya Dilakukan Pemprov Bali untuk Pemulihan Ekonomi", 2021, <https://www.baliprov.go.id/web/berbagai-upaya-dilakukan-pemprov-bali-untuk-pemulihan-ekonomi/>.
- Bell, Sadie, (et al.), "Parents' and Guardians' Views on the Acceptability of a Future COVID-19 Vaccine: A Multi-methods Study in England", *Vaccine*, Vol. 38, No. 49, 2020.
- Chontina Siahaan and Donal Adrian, "Komunikasi dalam Persepsi Masyarakat Tentang Kebijakan Pemerintah Dimasa Pandemi", *Kinesik*, Vol. 8, No. 2, 2021.
- Cindy Mutia Annur, "Indonesia Impor 201,9 Juta Dosis Vaksin hingga Agustus 2021 Impor Vaksin Covid-19 Indonesia", 2021, <https://databoks.katadata.co.id/datapublish/2021/08/26/indonesia-impor-2019-juta-dosis-vaksin-hingga-agustus-2021>.
- Dian Herdiana, "Rekomendasi Kebijakan Pemulihan Pariwisata Pasca Wabah Corona Virus Disease 2019 (Covid-19) di Kota Bandung", *Jurnal Master Pariwisata (JUMPA)*, Vol. 1, No. 1, 2020.
- Dimas Ahmad Rifandi and Irwansyah, "Retorika Juru Bicara Satgas Covid-19 di Platform Youtube", *Jurnal Teknologi dan Sistem Informasi Bisnis*, Vol. 3, No. 1, 2021.
- Dinny Mutiah, "100 Ribu Lebih Pekerja Pariwisata dan Ekonomi Kreatif Terdata untuk. Available from: Divaksinasi Covid-19", 2021, <https://www.liputan6.com/lifestyle/read/4503558/100-ribu-lebih-pekerja-pariwisata-dan-ekonomi-kreatif-terdata-untuk-divaksinasi-covid-19>.
- Fajar Fathur Rachman and Setia Pramana, "Analisis Sentimen Pro dan Kontra Masyarakat Indonesia tentang Vaksin COVID-19 pada Media Sosial Twitter",

- Indonesian of Health Information Management Journal (INOHIM)*, Vol. 8, No. 2, 2020.
- Farina Gandryani and Fikri Hadi, "Pelaksanaan Vaksinasi Covid-19 di Indonesia: Hak atau Kewajiban Warga Negara", *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, Vol. 10, No. 1, 2021.
- Hernadi Affandi, "Implementasi Hak Atas Kesehatan Menurut Undang-Undang Dasar 1945: Antara Pengaturan dan Realisasi Tanggung Jawab Negara", *Jurnal Hukum Positum*, Vol. 4, No. 1, 2019.
- Hunt, Paul., "Interpreting the International Right to Health in a Human Rights-Based Approach to Health", *Health and Human Rights*, Vol. 18, No. 2, 2016.
- I Ketut Sukawati Lanang Putra Perbawa, "Kebijakan Pemerintah Indonesia Dalam Menanggulangi Covid-19 Berdasarkan Instrumen Hukum Internasional", *Jurnal Ilmu Sosial dan Humaniora*, Vol. 10, No. 1, 2021.
- Ibnu Susanto Joyosemito and Narila Mutia Nasir, "Gelombang Kedua Pandemi Menuju Endemi Covid-19: Analisis Kebijakan Vaksinasi dan Pembatasan Kegiatan Masyarakat di Indonesia", *Jurnal Sains Teknologi dalam Pemberdayaan Masyarakat*, Vol. 2, No. 1, 2021.
- Ida Ayu Devi Arini, Ida Bagus Gede Paramita, and Komang Alit Triana, "Ekspektasi, Realisasi Dan Negosiasi Tourism Reborn di Masa Pandemi Dalam Pariwisata Bali", *CULTOURE: Culture Tourism and Religion*, Vol. 1, No. 2, 2020.
- Ida Bagus Gede Paramita and I Gede Gita Purnama Arsa Putra, "New Normal Bagi Pariwisata Bali di Masa Pandemi Covid 19", *Pariwisata Budaya: Jurnal Ilmiah Agama dan Budaya*, Vol. 5, No. 2, 2020.
- Latipah Nasution, "Hak Kesehatan Masyarakat dan Hak Permintaan Pertanggungjawaban terhadap Lambannya Penanganan Pandemi Global Coronavirus Covid-19", *ADALAH*, Vol. 4, No. 1, 2020.
- Loomba, Sahil (et.al)., "Measuring the Impact of Exposure to COVID-19 Vaccine Misinformation on Vaccine Intent in the UK and US", *Nature Human Behaviour*, Vol. 5, 2021.
- M. Galieh Gunagama, Yumna Rana Naurah, and Arganis Ellyza P. Prabono, "Pariwisata Pascapandemi: Pelajaran Penting dan Prospek Pengembangan", *LOSARI: Jurnal Arsitektur Kota dan Pemukiman*, Vol. 1, No. 1, 2020.
- Mikho Ardinata, "Tanggung Jawab Negara Terhadap Jaminan Kesehatan dalam Perspektif Hak Asasi Manusia (HAM)", *Jurnal HAM*, Vol. 11, No. 2, 2020.
- Narila Mutia Nasir (et.al)., "Kebijakan Vaksinasi COVID-19: Pendekatan Pemodelan Matematika Dinamis pada Efektivitas dan Dampak Vaksin di Indonesia", *Jurnal Pengabdian kepada Masyarakat UBJ*, Vol. 4, No. 2, 2021.
- Putri Ekaresty Haes and Putu Irma Yunita, "Kontribusi Serikat Pekerja Indonesia pada Organisasi Pariwisata di Kabupaten Badung dalam Perspektif Konflik", *Jurnal Ilmiah Dinamika Sosial*, Vol. 3, No. 1, 2019.

- Putu Eka Wirawan, Sri Pujiastuti, and Ni Nyoman Sri Astuti, "Strategi Bertahan Hotel di Bali Saat Pandemi Covid-19", *Jurnal Kajian Bali (Journal of Bali Studies)*, Vol. 10, No. 2, 2020.
- Rico Mardiansyah, "Dinamika Politik Hukum dalam Pemenuhan Hak Atas Kesehatan di Indonesia", *Veritas et Justitia*, Vol. 4, No. 1, 2018.
- Rochani Nani Rahayu, "Vaksin Covid 19 di Indonesia: Analisis Berita Hoax", *Jurnal Ekonomi, Sosial & Humaniora*, Vol. 2, No. 7, 2021.
- Rr. Ariyani Yakti Widyastuti, "Sandiaga Uno Finalkan Rencana Pembukaan Bali untuk Turis Asing", 2021, <https://bisnis.tempo.co/read/1439394/sandiaga-uno-finalkan-rencana-pembukaan-bali-untuk-turis-asing>.
- Siti Nurhalimah, "Covid-19 dan Hak Masyarakat Atas Kesehatan", *SALAM: Jurnal Sosial dan Budaya Syar-I*, Vol. 7, No. 6, 2020.
- Surya Hendra Putra, "Pengembangan UMKM, Pariwisata dan New Normal", *Merdeka Kreatif di Era Pandemi Covid-19: Suatu Pengantar*, Vol. 1, No. 1, 2020.
- The United Nations High Commissioner for Human Rights World Health Organization and World Health Organization, "The Right to Health Fact Sheet No. 31", <https://www.ohchr.org/documents/publications/factsheet31.pdf>.
- Weber, David., and Erin Parke, "No fines for COVID-19 vaccine refusal, WA Health Minister confirms", 2021, <https://www.abc.net.au/news/2021-01-13/no-fines-for-covid-19-vaccine-refusal-in-wa-health-minister-says/13053618>.
- Yulia Emma Sigalingging and Aris Prio Agus Santoso, "Analisis Yuridis Pengaturan Sanksi Bagi Penolak Vaksinasi Covid-19", *JISIP (Jurnal Ilmu Sosial dan Pendidikan)*, Vol. 5, No. 3, 2021.

Legal Documents

- The Law Number 6 of 2018 on Health Quarantine [*Undang-Undang Nomor 6 Tahun 2018 tentang Karantina Kesehatan*].