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TITLE AND ABSTRACT

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

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.

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Vaccines for Tourism Business Actors; The Fulfillment or Violation of Human Rights?

I Wayan Gde Wiryawan*

Abstract

The largest source of income for the province of Bali is through the tourism sector. Unfortunately, the Covid-19 pandemic has implications for the closure of tourism. As a result, economic growth in Bali experienced a deep contraction up to -10.98%. In order to accelerate the reopening of tourism, the government has launched a national vaccine movement, including for tourism business actors. However, there is resistance to vaccination because it has not been believed yet to be safe. This study will examine two problems, namely the right to health in the context of tourism and the construction of government policies against vaccine rejection by tourism business actors. This research is a normative juridical research that examines legal principles and synchronization of laws regarding human rights related to vaccination. Vaccination is the responsibility of the state in fulfilling the right to life and the right to health. Each local government has a policy against vaccine refusal. Jakarta and West Java are the provinces that impose fines for residents who refuse vaccines, while Bali does not impose sanctions on residents who refuse vaccines. In order to ensure safety when tourism reopens, local governments can apply for proof of being vaccinated requirements for every person who will return to work in the tourism sector.

Keywords: Covid-19, Human rights, Tourism, Vaccine.

Vaksin Bagi Pelaku Usaha Pariwisata; Pemenuhan Atau Pelanggaran Hak Asasi Manusia?

Abstrak

Sumber pendapatan terbesar bagi provinsi Bali adalah melalui sektor pariwisata. Sayangnya, pandemi Covid-19 berimplikasi pada penutupan pariwisata. Akibatnya, pertumbuhan perekonomian Bali mengalami kontraksi yang cukup dalam hingga -10,98%. Dalam rangka percepatan pembukaan pariwisata kembali, pemerintah mencanangkan gerakan vaksin nasional, termasuk terhadap pelaku usaha pariwisata. Meskipun demikian, terdapat penolakan terhadap vaksinasi karena belum diyakini keamanannya. Penelitian ini akan mengkaji dua permasalahan yakni mengenai hak atas kesehatan dalam konteks pariwisata dan konstruksi kebijakan pemerintah terhadap penolakan vaksin oleh pelaku usaha wisata. Pemberian vaksinasi merupakan tanggung jawab negara dalam pemenuhan hak untuk hidup dan hak atas kesehatan. Masing-masing pemerintah daerah memiliki kebijakan terhadap penolakan vaksin. Jakarta dan Jawa Barat adalah provinsi yang menjatuhkan pidana denda bagi warga yang menolak vaksin, sedangkan Bali tidak memberlakukan sanksi bagi warga yang menolak vaksin. Dalam rangka menjamin keamanan ketika pembukaan pariwisata kembali, pemerintah daerah dapat mengajukan syarat bukti tervaksinasi bagi setiap orang yang akan kembali bekerja pada sektor pariwisata.

Kata Kunci: Covid-19, Hak asasi manusia, Pariwisata, Vaksin

A. Introduction

Tourism is a major sector in economic development in Bali. Tourism in Bali has grown and developed in such a way as to provide a large contribution to the development of the Balinese region and society, both directly and indirectly. The development of this sector is one of the steps in creating public welfare. Various efforts have been made by the regency or city government in Bali to develop local potentials to keep domestic and foreign tourists interested in visiting the island of the gods.¹ Fulfilling human needs for traveling will be directly or indirectly related to the existence of the tourism industry or what is often called hospitality.²

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The spread of Corona Virus Disease 2019 (Covid-19) that hit the world in 2020 was initially responded differently by the Indonesian government, the belief that COVID-19 will not spread to Indonesia gave rise to the idea of the Indonesian government to provide incentives for the tourism sector to be able to increase tourist visits to Indonesia even though other ASEAN countries have begun to impose restrictions on tourist visits to their countries.³ This policy changes along with the increasing condition of the Covid-19 patient curve. Almost all activities were stopped, including tourism activities. Various tourism facilities began to be closed. The corona virus pandemic affects all industries in Indonesia and even the world, including the tourism industry. The impact of the corona virus on tourism is enormous because the tourism industry in Indonesia has links with other industries, namely hospitality, transportation, micro, small and medium enterprises, especially those that produce souvenirs of culinary businesses, travel agents and tour guides.⁴

Indonesia is currently trying to start a new normal life in the midst of the Covid-19 pandemic. New normal is the adaptation of new habits, namely starting to loosen regulations regarding restrictions on community activities while still adhering to the applicable health protocol. Bali as one of the popular tourism destinations in Indonesia is preparing itself to welcome the new normal of tourism.⁵ Tourism is a business that is very vulnerable to potential crises that come from various things, including external shocks that are unpredictable internally, so that the tourism business actors cannot make preparations to face the crisis.⁶

The Minister of Tourism and Creative Economy, Sandiaga Uno finalized the plan to open a tourist corridor for foreign tourists in Bali under the free Covid-19 corridor scheme or Covid-19 free area. Nusa Penida and Ubud would be pilot locations for opening tours in cooperation with several countries. In parallel, the Ministry of Tourism and Creative Economy and the Coordinating Ministry for Maritime Affairs and Investment would approach ambassadors from foreign tourist market destination countries to establish a Covid-19 free tourism partnership. The target market includes several countries in Asia such as China, Malaysia, Singapore, and India; countries in Europe, the United States, Australia, and the Middle East. The plan to open a corridor for foreign tourists would be immediately socialized to a number of countries. However, the plan for the free Covid-19 corridor is said to still consider data on the spread of the corona virus in Bali and Indonesia as a whole. Before it is realized, the Ministry has also asked for 120 thousand doses of vaccine to be injected for tourism business actors in Bali.⁷ Providing vaccines for the public to tackle Covid-19 is the responsibility of the state in fulfilling human rights to health.

The government needs strong cooperation in carrying out the national vaccination program, especially for workers in the tourism and creative economy sectors, so as 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.

¹ 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, Issue 2, 2020, p.60.

² 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, Issue 1, 2019, p.117.

³ Dian Herdiana, "Rekomendasi Kebijakan Pemulihan Pariwisata Pasca Wabah Corona Virus Disease 2019 (Covid-19) Di Kota Bandung", *Jurnal Master Pariwisata (JUMPA)*, Vol.1, Issue 1, 2020, p.1.

⁴ Ida Ayu Devi Arini, Ida Bagus Gede Paramita, and Komang Alit Triana. (2020). "Ekspektasi, Realisasi Dan Negosiasi Tourism Reborn Di Masa Pandemi Dalam Pariwisata Bali", *CULTOURE: Culture Tourism and Religion*, Vol.1, Issue2, 2020, p.108.

⁵ 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, Issue 2, 2020, p.49.

⁶ 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, Issue 2, 2020, p.584.

⁷ 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 Month Year.

As the area most affected by the Covid-19 pandemic, vaccination for Balinese citizens is expected to be a revival point for tourism in the Island of the Gods. Likewise, there are around 3,000 parecraf entrepreneurs and tourism-conscious communities (MASATA) in North Sulawesi.⁸ Vaccines for tourism business actors are a policy taken by the Province of Bali to prepare for the reopening of the tourism sector that is safe and free from Covid-19. Even so, vaccine rejection still occurs for reasons of vaccine safety. The rejection was conveyed through social media. The obligation to vaccinate for the community is considered a violation of human rights.

The rejection of the Sinovac vaccine used in Indonesia cannot be separated from hoaxes circulating in various online media. According to the results of research conducted by Rochani Nani Rahayu, hoax news about the Covid-19 vaccine is related to composition, namely that the Covid 19 vaccine contains dangerous ingredients including borax, formalin, vero cells, and some even say the vaccine is made from a male fetus. The hoaxes are about side effects include death, infertility, enlarging male genitalia, and modifying human DNA. Hoax on vaccine refusal is the unavailability of the Indonesian Doctors Association as an organization of doctors not willing to be vaccinated for the first time.⁹

Research related to this research includes "Juridical Analysis of Sanctions for Refusal of Covid-19 Vaccination" written by Yulia Emma Sigalingging, and Aris Prio Agus Santoso. This research examines the setting of sanctions for refusal of the Covid-19 vaccination and the right to refuse the Covid-19 vaccination from the point of view of human rights.¹⁰ The research that discusses the use of legal instruments in vaccination policy is "The Policy of the Indonesian Government in Overcoming Covid-19 Based on International Legal Instruments" written by I Ketut Sukawati Lanang Putra Perbawa. The purpose of this study is to analyze the policies of the Indonesian government in tackling COVID-19 based on international legal instruments.¹¹ The question of rights or obligations in vaccination policy was written by Farina Gandryani and Fikri Hadi in their research entitled "The Vaccination of Covid-19 in Indonesia: Citizen Right or Citizen Duty. This study explains the classification of vaccines as rights or obligations as well as the legality of criminal sanctions for vaccine refusal.¹² In this research, we will study 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

Tourism is an industry that offers services to tourists. Tourism must meet the following four criteria, namely: 1) travel is made from one place to another, travel is carried out outside the residence where the person usually lives; 2) the purpose of the trip is carried out solely for fun, without earning a living in the country, city or tourist destination area; 3) the money spent by the tourist is brought from the country of origin, where he can live or reside, and it is not obtained because of the results of the business during the tour carried out; and 4) the trip is

⁸ 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 Month Year.

⁹ Rochani Nani Rahayu, "Vaksin Covid 19 Di Indonesia: Analisis Berita Hoax", *Jurnal Ekonomi, Sosial & Humaniora*, Vol.2, Issue 7, 2021, p.48.

¹⁰ Sigalingging, Yulia Emma, and Aris Prio Agus Santoso, "Analisis Yuridis Pengaturan Sanksi Bagi Penolak Vaksinasi Covid-19," *JISIP (Jurnal Ilmu Sosial dan Pendidikan)* Vol. 5, Issue 3, 2021, p. .

¹¹ Perbawa, I. Ketut Sukawati Lanang Putra, "Kebijakan Pemerintah Indonesia Dalam Menanggulangi Covid-19 Berdasarkan Instrumen Hukum Internasional," *Jurnal Ilmu Sosial dan Humaniora* Vol. 10, Issue.1, 2021, pp. 197-205.

¹² Gandryani, Farina, and Fikri Hadi, "Pelaksanaan Vaksinasi Covid-19 Di Indonesia: Hak Atau Kewajiban Warga Negara," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* Vol. 10, Issue1, 2021, p. 23.

carried out at least 24 hours or more.¹³ In the framework of tourism policy, tourism business operators have an obligation to ensure 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 the Creative Economy has compiled the Cleanliness, Health and Safety (CHS) program as a new normal order in tourist destinations by involving tourism industry and creative economy actors who are expected to be productive and safe from Covid-19. The health protocol system will go through several stages, starting from conducting simulations, socialization and publication to the public and conducting trials. Its implementation will be closely monitored. Regional readiness is a special consideration in implementing this health protocol. Every health protocol is implemented, 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, especially in improving performance. The government must have special programs in the promotion of domestic tourism in the new normal. For example, a change in 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 are the main things that must be considered. For tourism industry managers and creative economic actors, they must really anticipate bad things that can happen to the tourism image.¹⁴

The response to this outbreak is one of the most massive global coordinated actions in modern history. Governments around the world, through the health and medical fields of their respective countries, are working without rest to prevent the spread of this deadly disease. The uniqueness of the transmission pattern and the high mortality rate have led health experts in the world to suggest limiting human-to-human contact until the outbreak can be controlled. The hashtag Flatten the Curve (2020) or Flattening the Curve that calls for joint control of the spread of Covid-19 is a health campaign that has recently surfaced via the internet and social media around the world. Regional quarantine aims at limiting human mobility.¹⁵ Another policy that is also carried out by countries in the world is the policy of giving vaccines to the community which is carried out in stages by taking into account the priority scale. Providing vaccinations for the public to suppress the spread of Covid-19 is an attempt of the government to fulfill human rights, namely the right to life and the right to health.

One of the principles in international law that applies to all countries as stipulated in various international conventions and contained in the WHO Constitution states "The enjoyment of the highest attainable standard of health as a fundamental right of every human being". This principle provides the basis for every country in making a policy that must be able to realize the right to health for every individual, in which 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 respect aspect referred to is a policy that requires the state not to take steps that will result in individuals or groups failing to achieve or fulfill their rights. Meanwhile, fulfillment means that the state must take legislative, administrative, budgetary, judicial or other measures to ensure the realization of the fulfillment of rights.¹⁶

The right to health is a human right. The main basis that the protection of human rights is the obligation of the government is the principle of democracy that in fact the government is

¹³ Ade Kadarisman, "Government public relations dalam pengembangan pariwisata masa pandemi COVID-19 di Geopark Ciletuh", *PROfesi Humas*, Vol.5, Issue 2, 2021, p.271.

¹⁴ Surya Hendra Putra. "Pengembangan UMKM, Pariwisata dan New Normal." *Merdeka Kreatif Di Era Pandemi Covid-19: Suatu Pengantar*, Vol. 1, Issue 1, 2020, p.50.

¹⁵ 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, Issue 1, 2020, p. 57.

¹⁶ Rico Mardiansyah, "Dinamika Politik Hukum Dalam Pemenuhan Hak Atas Kesehatan Di Indonesia", *Veritas et Justitia*, Vol.4, Issue 1, 2018, p.236.

given the mandate of power to protect the rights of citizens. Moreover, the concept of the welfare state as a modern state concept has given more power to the government to act. This power is solely for advancing and achieving the fulfillment of human rights. The government is no longer just keeping someone from violating or violated their rights, but must strive to fulfill these rights. Likewise, with the right to health, it is the government's obligation to fulfill it.¹⁷

The government is responsible for fulfilling the right to health as part of human rights. The implementation of government responsibilities is not only important but will also serve as a benchmark in improving people's lives as the embodiment of human rights. On the one hand, recognition and affirmation of the right to health as part of human rights certainly emphasize the responsibility of the state in its fulfillment. In this case, the state has the responsibility to provide health and public service facilities for all citizens. On the other hand, every citizen must be guaranteed an access to health services provided by the state without any discriminatory differentiation on any basis. The state in this case must not neglect health services for every citizen on the basis of ethnicity, religion, race, inter-group (SARA), social status, economic status, and so on.¹⁸

Not only in Indonesia, the global community through the 1946 World Health Organization (WHO) Constitution has also outlined that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being". Based on this, the right to health is recognized as a "basic right" or "fundamental right". The existence of the right to health as a fundamental right is then emphasized in the general comments of the Committee on Economic, Social and Cultural Rights on the right to health which states "Health is a fundamental human right indispensable for the exercise of other human rights."¹⁹ As a form of fulfilling the right to health, the Indonesian government has purchased the synovac vaccine.

Indonesia has ordered the synovac vaccine which would arrive in December 2020 Batch 1, Batch 2 in January 2021, the government has also pressed agreements with other vaccine companies, namely Astrazeneca, Novavax, which are planned to come in until 2022. This is what is becoming a debate in the public. A hot topic, there are several stages of clinical trials that must be carried out to determine the effectiveness of each vaccine, Indonesia is testing the effectiveness of the Sinovac Vaccine. Brazil and Turkey have announced the effectiveness level of this Sinovac Vaccine. Above 50% - 90% is the effectiveness range of Sinovac released by Turkey. In January 2021, the government through Bio-Farma distributed this vaccine to 34 provinces in Indonesia, the President wanted this pandemic to end soon; therefore, vaccine distribution was carried out quickly. This step is right because the public is tired of all the extraordinary events that have befallen the entire population of the world, namely the Covid-19 outbreak.²⁰

Bali Province is an area that has been heavily affected economically due to the Covid-19 pandemic. The Covid 19 pandemic had a significant impact on the economy of the Balinese people in which in the second quarter of 2020 the growth of the Balinese economy experienced a deep contraction of up to -10.98%.²¹ In an effort to reopen tourism, the government issued a policy to provide vaccines for tourism business actors. This policy was implemented after giving vaccines to health workers and the elderly. This policy was issued to

¹⁷ Mikho Ardinata, "Tanggung Jawab Negara Terhadap Jaminan Kesehatan Dalam Perspektif Hak Asasi Manusia (HAM)", *Jurnal HAM*, Vol. 11, Issue 2, 2020, p.321.

¹⁸ Hernadi Affandi, "Implementasi Hak Atas Kesehatan Menurut Undang-Undang Dasar 1945: Antara Pengaturan Dan Realisasi Tanggung Jawab Negara", *Jurnal Hukum Positum*, Vol.4, Issue 1, 2019, p.38.

¹⁹ Siti Nurhalimah, "Covid-19 dan hak masyarakat atas kesehatan", *SALAM: Jurnal Sosial dan Budaya Syar-I*, Vol.7, Issue 6, 2020, p.543.

²⁰ Dimas Ahmad Rifandi and Irwansyah Irwansyah, "Retorika Juru Bicara Satgas Covid-19 Di Platform Youtube", *Jurnal Teknologi Dan Sistem Informasi Bisnis*, Vol.3, Issue 1, 2021, p.66.

²¹ Provinsi Bali, *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 Month Year.

guarantee the right to health for tourism business actors themselves and others who will become tourists later. Even so, resistance to the provision of this vaccine still occurs, including by tourism business actors.

C. Government Policy Construction Against Vaccines Refusal by Tourism Business Actors

The perspective of state-based political economy basically places the state as the center of various interests of groups (private) and society into national interests. The state in this case is as an institution that is responsible for determining the values used in determining the usefulness for society. Society is as the main subject in the value induction process. In other words, in simple terms, the government once again must see the condition of society more openly and also see the objective capacity of society at this time. Efforts to fulfill the right to health can be carried out in various ways, in the form of prevention and cure. Prevention efforts include the creation of conditions that are adequate for health, such as ensuring the availability of food and jobs, good housing, and a healthy environment. Meanwhile, healing efforts are carried out by providing optimal health services.²²

Rejection of vaccines is a problem faced by the government in fulfilling the right to health for the community. People wonder about the law of consuming vaccines in religion considering the ingredients used in these vaccines. Not only from a religious perspective, the feasibility test for the vaccine to be used is also a topic of conversation that is often discussed by the public on Twitter. The public is very worried about the status of use and the side effects that will result from the vaccines that will be given considering that the vaccination activity plan looks like it is rushed. Talks about vaccines that are said to be just a business have also become one of the hot topics of conversation on Twitter. In fact, it is not uncommon for public talks to voice their distrust of the COVID-19 vaccine even against COVID-19 itself.²³

According to Sahil Loomba, et.al., "In order for a novel COVID-19 vaccine to be successful, it needs to not only be proven as safe and efficacious, but also widely accepted."²⁴ Belief in the benefits of the drugs or vaccines used is the key to healing disease. Psychological factors are important in increasing body immunity. Rejection of vaccines is actually caused by inaccurate information about the safety of vaccines. Related to this, Sadie Bell, et.al. state as follows:

Information on how COVID-19 vaccines are developed and tested, including their safety and efficacy, must be communicated clearly to the public. To prevent inequalities in uptake, it is crucial to understand and address factors that may affect COVID-19 vaccine acceptability in ethnic minority and lower-income groups who are disproportionately affected by COVID-19.²⁵

Vaccination must be carried out thoroughly to every member of the community, except for those who are not medically recommended to receive vaccines, with the aim of forming herd immunity. Vaccines for tourism business actors are needed to ensure the safety of tourists from the Covid-19 pandemic virus later. Indonesian laws and regulations allow the imposition of criminal sanctions for anyone who refuses vaccines. This provision can be seen in Article 93 of the Law of the Republic of Indonesia Number 6 of 2018 concerning Health Quarantine which states as follows:

²² Latipah Nasution, "Hak Kesehatan Masyarakat dan Hak Permintaan Pertanggungjawaban Terhadap Lambannya Penanganan Pandemi Global Coronavirus Covid-19", *ADALAH*, Vol.4, Issue 1, 2020, p.21.

²³ 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 (INOHIIM)*, Vol. 8, Issue 2, 2020, p.106.

²⁴ Loomba, Sahil, et al. (2020). "Measuring the Impact of Exposure to COVID-19 Vaccine Misinformation on Vaccine Intent in the UK and US," 7.

²⁵ Sadie Bell, et al, "Parents' and guardians' views on the acceptability of a future COVID-19 vaccine: A multi-methods study in England", *Vaccine*, Vol.38, Issue 49, 2020, p. 7789.

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Every person who does not comply with the implementation of Health Quarantine as referred to in Article 9 paragraph (1) and / or obstructs the implementation of Health Quarantine so as to cause a Public Health Emergency will be sentenced to imprisonment of up to 1 (one) year and / or a maximum fine of Rp 100,000,000.00 (one hundred million rupiah).

Jakarta and West Java are provinces in Indonesia that impose fines for residents who refuse vaccines. Meanwhile, Bali does not impose fines for vaccine rejecters. A persuasive approach is still being used to increase the number of recipients of the vaccine. In comparison, Western Australians will not be fined for refusing the COVID-19 vaccine. Vulnerable workers and patients will be 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.²⁶ 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 wish to return to work as tourism business actors.

D. Conclusion

The right to health in the context of tourism is carried out by providing vaccines for tourism business actors. The right to health is a human right that is regulated in international legal instruments and national law in each country, including Indonesia. Vaccination is a government effort to stop the transmission of the Covid-19 virus. However, public belief in the safety of the Synovac vaccine is still questionable. This is due to the circulation of hoaxes about the safety of this vaccine. In the context of tourism policy, the provincial government of Bali has prioritized the provision of vaccines for tourism business actors in preparation for reopening tourism. The construction of government policies against vaccine rejection by tourism business actors does not entirely impose fines for vaccine rejectionists. The Provincial Government of Bali does not impose sanctions for vaccine rejecters. However, in order to accelerate the reopening of tourism, the provincial government of Bali can make proof of vaccine requirements for everyone who wants to return to work in the tourism sector. The conclusion contains a description that should answer the objectives of the research, and not a duplication of the Abstract. This section requires a clear and concise explanation of the result of the research.

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2 Attachments

Vaccines for Tourism Business Actors; The Fulfillment or Violation of Human Rights?

I Wayan Gde Wiryawan*

Abstract

The largest source of income for the province of Bali is through the tourism sector. Unfortunately, the Covid-19 pandemic has implications for the closure of tourism. As a result, economic growth in Bali experienced a deep contraction up to -10.98%. In order to accelerate the reopening of tourism, the government has launched a national vaccine movement, including for tourism business actors. However, there is resistance to vaccination because it has not been believed yet to be safe. This study will examine two problems, namely the right to health in the context of tourism and the construction of government policies against vaccine rejection by tourism business actors. This research is a normative juridical research that examines legal principles and synchronization of laws regarding human rights related to vaccination. Vaccination is the responsibility of the state in fulfilling the right to life and health. Each local government has a policy against vaccine refusal. Jakarta and West Java are the provinces that impose fines for residents who refuse vaccines, while Bali does not impose sanctions on residents who refuse vaccines. In order to ensure safety when tourism reopens, local governments can apply for proof of being vaccinated requirements for every person who will return to work in the tourism sector.

Keywords: human rights, tourism, vaccine.

Vaksin Bagi Pelaku Usaha Pariwisata; Pemenuhan Atau Pelanggaran Hak Asasi Manusia?

Abstrak

Sumber pendapatan terbesar bagi provinsi Bali adalah melalui sektor pariwisata. Sayangnya, pandemi Covid-19 berimplikasi pada penutupan pariwisata. Akibatnya, pertumbuhan perekonomian Bali mengalami kontraksi yang cukup dalam hingga -10,98%. Dalam rangka percepatan pembukaan pariwisata kembali, pemerintah mencanangkan gerakan vaksin nasional, termasuk terhadap pelaku usaha pariwisata. Meskipun demikian, terdapat penolakan terhadap vaksinasi karena belum diyakini keamanannya. Penelitian ini akan mengkaji dua permasalahan yakni mengenai hak atas kesehatan dalam konteks pariwisata dan konstruksi kebijakan pemerintah terhadap penolakan vaksin oleh pelaku usaha wisata. Pemberian vaksinasi merupakan tanggung jawab negara dalam pemenuhan hak untuk hidup dan hak atas kesehatan. Masing-masing pemerintah daerah memiliki kebijakan terhadap penolakan vaksin. Jakarta dan Jawa Barat adalah provinsi yang menjatuhkan pidana denda bagi warga yang menolak vaksin, sedangkan Bali tidak memberlakukan sanksi bagi warga yang menolak vaksin. Dalam rangka menjamin keamanan ketika pembukaan pariwisata kembali, pemerintah daerah dapat mengajukan syarat bukti tervaksinasi bagi setiap orang yang akan kembali bekerja pada sektor pariwisata.

Kata Kunci: hak asasi manusia, pariwisata, vaksin.

A. Introduction

Tourism is a dynamic activity involving many people and reviving 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 even ideological interests. Spilani explains that tourism is a human phenomenon that is universal, regular, and steady, often appearing without space and time. For decades, all communities from the big to small town and village have been looking for the effective ways to build their brands and attract visitors, like by hosting planned events from sport events (e.g. Olympic Game or World Cup) to regional music festivals. Today, developing

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healthy communities can be done by bidding, staging and managing events in many places around the world.¹

Tourism is a major sector in economic development in Bali. Tourism in Bali has grown and developed in such a way as to provide a large contribution to the development of the Balinese region and society, both directly and indirectly. The development of this sector is one of the steps in building public welfare. Many efforts have been made by the regency or city government in Bali in developing local potentials to keep domestic and foreign tourists interested to visit this island.² Fulfilling human needs for traveling will be directly or indirectly related to the existence of the tourism industry or what is often called hospitality.³ Tourism is an activity that provides accommodation, transportation, food, recreation and other services. Trade in tourism services involves several aspects, namely economic, social, cultural, religious, environmental, security and other aspects. Of these various aspects, it is the economic aspect that gets the most attention in tourism development; therefore, the tourism is said an industry.⁴

The spread of Corona Virus Disease 2019 (Covid-19) that hit the world in 2020 was initially responded differently by the government in Indonesia, in which the government provided the incentives for the tourism sector to increase tourist visits to Indonesia because of the belief that COVID-19 will not spread to Indonesia, even though other ASEAN countries have begun to restrict the tourist visits to their countries.⁵ This policy changes along with the increasing condition of the Covid-19 patient curve. Almost all activities were stopped, including tourism activities. Various tourism facilities began to be closed. The corona virus pandemic affects all industries in Indonesia and even the world, including the tourism industry. The impact of the corona virus on tourism is enormous because the tourism industry in Indonesia has links with other industries, namely hospitality, transportation, micro, small and medium enterprises, especially those that produce souvenirs of culinary businesses, travel agents and tour guides.⁶ Indonesia is currently trying to start a new normal life in the middle of the Covid-19 pandemic. New normal is the adaptation of new habits, namely starting to loosen regulations regarding restrictions on community activities while still adhering to the applicable health protocol. Bali as one of the popular tourism destinations in Indonesia is preparing itself to welcome the new normal of tourism.⁷ Tourism is a very vulnerable business to potential crises that come from various things, including external shocks that are unpredictable internally; therefore, the tourism business actors cannot make preparations to face the crisis.⁸

The Minister of Tourism and Creative Economy, Sandiaga Uno finalized the plan to open a tourist corridor for foreign tourists in Bali under the free Covid-19 corridor scheme or Covid-19 free area. Nusa Penida and Ubud would be pilot locations for opening tours in cooperation with several countries. In parallel, the Ministry of Tourism and Creative Economy and the Coordinating Ministry for Maritime Affairs and Investment would approach ambassadors from

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

² 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.

³ 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.

⁴ I Putu Gelgel, *Industri Pariwisata Indonesia Dalam Globalisasi Perdagangan Jasa (GATS-WTO) Implikasi Hukum dan Antisipasinya*, Bandung: Refika Aditama, 2019, p. 22.

⁵ 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.

⁶ 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.

⁷ 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.

⁸ 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.

foreign tourist market destination countries to establish a Covid-19 free tourism partnership. The target market includes several countries in Asia such as China, Malaysia, Singapore, and India; countries in Europe, the United States, Australia, and the Middle East. The plan to open a corridor for foreign tourists would be immediately socialized to a number of countries. However, the plan for the free Covid-19 corridor is said to still consider data on the spread of the corona virus in Bali and Indonesia as a whole. Before it is realized, the Ministry has also asked for 120 thousand doses of vaccine to be injected for tourism business actors in Bali.⁹ Providing vaccines for the public to tackle Covid-19 is the responsibility of the state in fulfilling human rights to health.

Vaccine efficacy measures the reduced risk of infection in vaccinated individuals in controlled situations. These efficacy data were obtained from a randomized controlled trial. Vaccine effectiveness measures the reduction in the risk of infection occurring in vaccinated individuals related to the implementation of vaccination in the community or in the real world using observational studies. Furthermore, the impact of vaccines is to reduce the risk of infection or disease in a population where some of the people have been vaccinated.¹⁰

The government needs strong cooperation in carrying out the national vaccination program, especially for workers in the tourism and creative economy sectors, so as 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. As the area most affected by the Covid-19 pandemic, vaccination for Balinese citizens is expected to be a revival point for tourism in the Island of the Gods. Likewise, there are around 3,000 parecraf entrepreneurs and tourism-conscious communities (MASATA) in North Sulawesi.¹¹ Vaccines for tourism business actors are a policy taken by the Province of Bali to prepare for the reopening of the tourism sector that is safe and free from Covid-19. Even so, vaccine rejection still occurs for reasons of vaccine safety. The rejection was conveyed through social media. The obligation to be vaccinated for the community is considered as a violation of human rights.

The COVID-19 vaccination program, began on January 13, 2021, aims to accelerate the formation of herd immunity. The various policies carried out by the Indonesian government are expected to significantly reduce the cases and negative impact of COVID-19 on society.¹² In dealing with the COVID-19 pandemic, the Indonesian government has issued various policies. One of them is the vaccination program. However, not all of these policies are supported. There are several parties who express criticism; therefore, the vaccination program has caused various controversies, ranging from halal and haram vaccines, untested vaccines, vaccine business to fake vaccines.¹³

The rejection of the Sinovac vaccine used in Indonesia cannot be separated from hoaxes circulating in various online media. According to the results of research conducted by Rochani Nani Rahayu, hoax news about the Covid-19 vaccine is related to composition, namely that the Covid 19 vaccine contains dangerous ingredients including borax, formalin, vero cells, and

⁹ 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.

¹⁰ 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.

¹¹ 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.

¹² 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. 5.

¹³ 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.

some even say the vaccine is made from a male fetus. The hoaxes are about side effects include death, infertility, enlarging male genitalia, and modifying human DNA. Hoax on vaccine refusal is the unwillingness of the Indonesian Doctors Association as an organization of doctors to be vaccinated for the first time.¹⁴ This study will examine two problems, namely the right to health in the context of tourism and the construction of government policies against vaccine rejection by tourism business actors.

Research related to this research includes "Juridical Analysis of Sanctions for Refusal of Covid-19 Vaccination" written by Yulia Emma Sigalingging, and Aris Prio Agus Santoso. This research examines the setting of sanctions for the refusal of the Covid-19 vaccination and the right to refuse the Covid-19 vaccination from the human rights' point of view.¹⁵ The research that discusses the use of legal instruments in vaccination policy is "The Policy of the Indonesian Government in Overcoming Covid-19 Based on International Legal Instruments" written by I Ketut Sukawati Lanang Putra Perbawa. The objective of this study is to analyze the policies used by the Indonesian government in tackling COVID-19 according to the international legal instruments.¹⁶ The question of rights or obligations in vaccination policy was written by Farina Gandryani and Fikri Hadi in their research entitled "The Vaccination of Covid-19 in Indonesia: Citizen Right or Citizen Duty". This study explains the classification of vaccines as rights or obligations as well as the legality of criminal sanctions for vaccine refusal.¹⁷ In this research, we will study 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

The components of tourism development in Indonesia consist of several pillars. First, tourism destinations include the development of tourist attractions, tourism accessibility, public and tourism infrastructure and facilities, community empowerment through tourism, and development of investment in tourism; 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.¹⁸

The basis for considering the Law of the Republic of Indonesia Number 10 of 2009 concerning Tourism states that the freedom to go from one place to another for travelling and use leisure time in the form of traveling is part of human rights. Tourism is an integral part of national development carried out in a planned, systematic, integrated, sustainable and responsible manner while still protecting the religious and cultural values living in the society, environmental sustainability and quality, and national interests. In order to encourage equal distribution of business opportunities and gain benefits and be able to face the challenges of changing local, national and global life, the tourism development is needed.

¹⁴ Rochani Nani Rahayu, "Vaksin Covid 19 di Indonesia: Analisis Berita Hoax", *Jurnal Ekonomi, Sosial & Humaniora*, Vol. 2, No. 7, 2021, p. 48.

¹⁵ 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

¹⁶ 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.

¹⁷ 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.

¹⁸ Muchamad Zaenuri, *Perencanaan Strategis Kepariwisata Daerah Konsep dan Aplikasi*, Yogyakarta: e-Gov Publishing, 2018, p. 6.

Tourism is an industry that offers services to tourists. Tourism must meet these four criteria, namely: 1) travel is made from one place to another and carried out outside the residence where the person usually lives; 2) the objective of the trip is carried out just for fun, without earning a living in the country, city or tourist destination area; 3) the money spent by the tourist is brought from the country of origin, where he can live or reside, and it is not obtained as the results of the business during the tour carried out; and 4) the trip is carried out at least 24 hours or more.¹⁹ 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 the Creative Economy has compiled the Cleanliness, Health and Safety (CHS) program as a new normal program in tourist destinations by involving tourism industry and creative economy actors who are expected to be productive and safe from Covid-19. The health protocol system will go through several stages, starting from conducting simulations, socialization and publication to the public and conducting trials. Its implementation will be closely monitored. Regional readiness is a special consideration in implementing this health protocol. Every health protocol is implemented, 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, especially in improving performance. The government must have special programs in the promotion of domestic tourism in the new normal. For example, a change in 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 are the main things that must be considered. For tourism industry managers and creative economic actors, they must really anticipate bad things that can happen to the tourism image.²⁰

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 pay attention to the latest information as well as appeals and instructions from the Central and Regional Governments related to Covid-19 in their regions, to 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 who are active in tourist attractions through offline and/or online media. SOPs are prepared by taking into account the characteristics and specificities of managed tourist attractions in natural, cultural and man-made 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 reopens, including trials and simulations, in stages. This includes providing and posting written warnings related to preventing the spread of Covid-19.²¹

The response to this outbreak is one of the most massive global coordinated actions in modern history. Governments around the world, through the health and medical fields of their respective countries, are working without rest to prevent the spread of this deadly disease. The uniqueness of the transmission pattern and the high mortality rate have led health experts in the world to suggest limiting human-to-human contact until the outbreak can be controlled. The hashtag Flatten the Curve (2020) or Flattening the Curve that calls for joint control of the

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

²⁰ 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.

²¹ Kementerian Pariwisata dan Ekonomi Kreatif, *Panduan Pelaksanaan Kebersihan, Kesehatan, Keselamatan, dan Kelestarian Lingkungan di Daya Tarik Wisata*, Jakarta: Kementerian Pariwisata dan Ekonomi Kreatif, 2020, p. 6.

spread of Covid-19 is a health campaign that has recently surfaced via the internet and social media around the world. Regional quarantine aims at limiting human mobility.²² Another policy that is also carried out by countries in the world is the policy of giving vaccines to the community which is carried out in stages by taking into account the priority scale. Providing vaccinations for the public to suppress the spread of Covid-19 is an attempt of the government to fulfill human rights, namely 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. However, sometimes the criminal gradation imposed has two sides, one is the protection of society and on the other hand is the threat of crime. The sentence imposed is considered as a violation of human rights.²³ One of the principles in international law that applies to all countries as stipulated in various international conventions and contained in the WHO Constitution states "The enjoyment of the highest attainable standard of health as a fundamental right of every human being". This principle provides the basis for every country in making a policy that must be able to realize the right to health for every individual, in which 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 respect aspect referred to is a policy that requires the state not to take the efforts resulting in individuals or groups failing to achieve or fulfill their rights. Meanwhile, fulfillment means that the state has to various measures like legislative, administrative, budgetary, judicial or others to ensure the realization of the rights' fulfillment.²⁴

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 allowing everyone to live productively both in social and economic ways. Health is a condition in which the human body feels healthy 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. Health can be obtained in simple ways, starting from exercising, consuming vitamin-rich foods, drinking water, getting used to communicating with positive things, helping others and so on. Health is the main factor needed by humans to be able to live productively by producing brilliant works. Everyone has the right to live a healthy life, from the lower middle class to those with a very good financial level.²⁵

The right to health is a human right. The principle of democracy is that the protection of human rights is as the government's obligation. In fact, 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 act. This power is simply for advancing and achieving the human rights' fulfillment. The government is no longer just keeping someone from violating or violated his rights, but must struggle to fulfill them. Likewise, with the right to health, it is the government's obligation to fulfill it.²⁶

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, namely that the states parties to the covenant recognize the right of everyone to enjoy the highest standard that can be attained in physical and mental

²² 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.

²³ Muladi dan Barda Nawawi Arief, *Teori-teori dan Kebijakan Pidana*, Bandung: Alumni, 2019, p. 2.

²⁴ Rico Mardiansyah, "Dinamika Politik Hukum Dalam Pemenuhan Hak Atas Kesehatan di Indonesia", *Veritas et Justitia*, Vol. 4, No. 1, 2018, p. 236.

²⁵ Chontina Siahaan and Donal Adrian, "Komunikasi Dalam Persepsi Masyarakat Tentang Kebijakan Pemerintah di Masa Pandemi," *Kinesik*, Vol. 8, No. 2, 2021, p.158-167.

²⁶ Mikho Ardinata, "Tanggung Jawab Negara Terhadap Jaminan Kesehatan dalam Perspektif Hak Asasi Manusia (HAM)", *Jurnal HAM*, Vol. 11, No. 2, 2020, p. 321.

health. The protection of the rights of mothers and children has also got an attention, especially in the Convention on the Rights of the Child. 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, having a good and healthy living environment and having the right to obtain 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 his life and improve his 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 one of the elements of welfare that must be realized in accordance with the ideals of the Indonesian nation as referred to in Pancasila and the Preamble of the 1945 Constitution of the Republic of Indonesia. Therefore, every activity and attempt in improving the highest public health level is carried out based on non-discriminatory, participatory, protective and sustainable principles which are very important for the formation of Indonesian human resources, increasing the resilience and competitiveness of the nation, as well as national development.

It is the government's responsibility in fulfilling the right to health of its citizens as a part of human rights. The implementation of these responsibilities is not only significant but will also serve as a benchmark to improve people's lives based on the human rights. The recognition and affirmation of the right to health as part of human rights certainly emphasize the responsibility of the state in its fulfillment. The state is responsible to prepare the healthy public service facilities for all citizens. On the other hand, every citizen must be guaranteed an access to health services provided by the state without any discriminatory differentiation on any basis. The state in this case must not neglect health services for every citizen on the basis of ethnicity, religion, race, inter-group (SARA), social status, economic status, and so on.²⁷

Indonesia is not the only one country, but the global community through the 1946 World Health Organization (WHO) Constitution has also outlined that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being". Based on this statement, the right to health is recognized as a "basic or fundamental right". The existence of this right is then pointed in the general comments of the Committee on Economic, Social and Cultural Rights on the right to health stating "Health is a fundamental human right that is indispensable for the exercise of other human rights."²⁸

Article 1 number 11 of the Law Number 36 of 2009 on Health states that health efforts are 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 in the form of disease prevention, health improvement, disease treatment, and health restoration by the government and/or the community. 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 synovac vaccine which would arrive in December 2020 Batch 1, Batch 2 in January 2021, the government has also pressed agreements with other vaccine companies, namely Astrazeneca, Novavax, which are planned to come in until 2022. This is what is becoming a debate in the public. A hot topic, there are several stages of clinical trials that must be carried out to determine the effectiveness of each vaccine, Indonesia is testing the effectiveness of the Sinovac Vaccine. Brazil and Turkey have announced the effectiveness level of this Sinovac Vaccine. Above 50% - 90% is the effectiveness range of Sinovac released

²⁷ 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, p. 38.

²⁸ Siti Nurhalimah, "Covid-19 dan Hak Masyarakat Atas Kesehatan", *SALAM: Jurnal Sosial dan Budaya Syar-I*, Vol. 7, No. 6, 2020, p. 543.

by Turkey. In January 2021, the government through Bio-Farma distributed this vaccine to 34 provinces in Indonesia, the President wanted this pandemic to end soon; therefore, vaccine distribution was carried out quickly. This step is right because the public is tired of all the extraordinary events that have befallen the entire population of the world, namely the Covid-19 outbreak.²⁹

Bali Province is an area that has been heavily affected economically because of the Covid-19 pandemic. The economy of Balinese people is significantly affected by the Covid 19 pandemic in which in the second quarter of 2020, the growth of the Balinese economy experienced a deep contraction of up to -10.98%.³⁰ In an effort to reopen tourism, the government issued a policy to provide vaccines for tourism business actors. This policy was implemented after giving vaccines to health workers and the elderly. This policy was issued to guarantee the right to health for tourism business actors themselves and others who will become tourists later. Even so, resistance to the provision of this vaccine still occurs, including by tourism business actors.

C. Government Policy Construction Against Vaccines Refusal by Tourism Business Actors

The development of a tourist attraction must meet several tourism development criteria; therefore, the tourism objects can attract visitors. These criteria include 1) Something to see in which the tourism object must have special thing that can be seen or made into a performance by tourist visitors. It can be said that the object must have a special attraction that can attract the interest of tourists to come. 2) Something to do in which the tourists coming there can do useful activity that can give a feeling of pleasure, happiness, relax in the form of recreational facilities, playground or a place to eat, especially the typical food of the place that makes the tourists are more comfortable to visit it. 3) Something to buy in which there are facilities for shopping which in general is a characteristic or icon of the area; therefore, it can be used as souvenirs.³¹

The perspective of state-based political economy basically places the state as the center of various interests of groups (private) and society into national interests. The state in this case is as an institution that is responsible for determining the values used in determining the usefulness for society. Society is as the main subject in the value induction process. In other words, in simple terms, the government once again must see the condition of society more openly and also see the objective capacity of society at this time. Various ways can be done as the attempts to fulfill the right to health, they are in the form of prevention and cure. The prevention efforts can be done through the creation of adequate conditions for health, such as ensuring the availability of the good and healthy foods, occupations, housing, and environment. Meanwhile, providing optimal health services is one of the healing efforts that can be carried out.³²

In relation to vaccination activities for tourism actors, it can be 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 following principles:

- a. maintain religious norms and cultural values as the embodiment of the concept of life in a balanced relationship between humans and God Almighty, humans and other human beings, and humans and the environment;

²⁹ Dimas Ahmad Rifandi and Irwansyah Irwansyah, "Retorika Juru Bicara Satgas Covid-19 di Platform Youtube", *Jurnal Teknologi dan Sistem Informasi Bisnis*, Vol. 3, No. 1, 2021, p. 66.

³⁰ Provinsi Bali, "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.

³¹ Oka A Yoeti, *Pengantar Ilmu Pariwisata*, Bandung: Angkasa, 2016, p. 15.

³² 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.

- b. maintain human rights, cultural diversity, and local wisdom;
- c. provide benefits for people's welfare, justice, equality, and proportionality;
- d. maintain the preservation of nature and the environment;
- e. empower local communities;
- f. ensure the integration between sectors, between regions, between the center and the regions which are a systemic unit within the framework of regional autonomy, as well as integration between stakeholders;
- g. comply with the world tourism code of ethics and international agreements in the tourism sector; and
- h. strengthen the integrity of the Unitary State of the Republic of Indonesia.

Rejection of vaccines is a problem faced by the government in fulfilling the right to health for its citizens. People wonder about the law of applying vaccines in certain religion considering their materials. Not only from a religious perspective, the feasibility test for the vaccine to be used is also a topic of conversation that is often discussed by the public on Twitter. The public is very worried about the status of use and the side effects that will result from the vaccines that will be given considering that the vaccination activity plan looks like it is rushed. Talks about vaccines that are said to be just a business have also become one of the hot topics of conversation on Twitter. In fact, it is not uncommon for public talks to voice their distrust of the COVID-19 vaccine even against COVID-19 itself.³³

According to Sahil Loomba, et.al., "In order for a novel COVID-19 vaccine to be successful, it needs to not only be proven as safe and efficacious, but also widely accepted."³⁴ Belief in the benefits of the drugs or vaccines used is the key to healing disease. Psychological factors are important in increasing body immunity. Rejection of vaccines is actually caused by inaccurate information about the safety of vaccines. Related to this, Sadie Bell, et.al. state as follows:

"Information on how COVID-19 vaccines are developed and tested, including their safety and efficacy, must be communicated clearly to the public. To prevent inequalities in uptake, it is crucial to understand and address factors that may affect COVID-19 vaccine acceptability in ethnic minority and lower-income groups who are disproportionately affected by COVID-19".³⁵

Vaccination must be carried out thoroughly to every member of the community, except for those who are not medically recommended to receive vaccines, with the aim of forming herd immunity. Vaccines for tourism business actors are needed to make sure the safety of tourists from the Covid-19 pandemic virus later. Indonesian laws and regulations allow the imposition of criminal sanctions for anyone who refuses vaccines. This provision is in Article 93 of the Law of the Republic of Indonesia Number 6 of 2018 about Health Quarantine stating as follows:

"Every person who does not comply with the implementation of Health Quarantine as referred to in Article 9 paragraph (1) and / or obstructs the implementation of Health Quarantine so as to cause a Public Health Emergency will be sentenced to imprisonment of up to 1 (one) year and / or a maximum fine of Rp 100,000,000.00 (one hundred million rupiah)."

Jakarta and West Java are provinces in Indonesia that impose fines for residents who refuse vaccines. Meanwhile, Bali does not impose fines for vaccine rejecters. A persuasive

³³ 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.

³⁴ Loomba, Sahil, (et al).."Measuring the Impact of Exposure to COVID-19 Vaccine Misinformation on Vaccine Intent in the UK and US", 2020, p. 7.

³⁵ Bell, Sadie, (et.al, "Parents' and Guardians' View S on the Acceptability of A Future COVID-19 Vaccine: A Multi-Methods Study in England", *Vaccine*, Vol. 38, Issue 49, 2020, p. 7789.

approach is still being used to increase the number of recipients of the vaccine. In comparison, Western Australians will not be fined for refusing the COVID-19 vaccine. Vulnerable workers and patients will be 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.³⁶ 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 wish to return to work as tourism business actors.

D. Conclusion

The right to health in the context of tourism is carried out by providing vaccines for tourism business actors. The right to health is a human right that is regulated in international legal instruments and national law in each country, including Indonesia. Vaccination is a government effort to stop the transmission of the Covid-19 virus. However, public belief in the safety of the Synovac vaccine is still questionable. This is due to the circulation of hoaxes about the safety of this vaccine. In the context of tourism policy, the provincial government of Bali has prioritized the provision of vaccines for tourism business actors in preparation for reopening tourism. The construction of government policies against vaccine rejection by tourism business actors does not entirely impose fines for vaccine rejectionists. The Provincial Government of Bali does not impose sanctions for vaccine rejecters. However, in order to accelerate the reopening of tourism, the provincial government of Bali can make proof of vaccine requirements for everyone who wants to return to work in the tourism sector. The conclusion contains a description that should answer the objectives of the research, and not a duplication of the Abstract. This section requires a clear and concise explanation of the result of the research.

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Vaccines for Tourism Business Actors; The Fulfillment or Violation of Human Rights?

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Vaccines for Tourism Business Actors; The Fulfillment or Violation of Human Rights?

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Abstract

The largest source of income for the province of Bali is through the tourism sector. Unfortunately, the Covid-19 pandemic has implications for the closure of tourism. As a result, economic growth in Bali experienced a deep contraction up to -10.98%. In order to accelerate the reopening of tourism, the government has launched a national vaccine movement, including for tourism business actors. However, there is resistance to vaccination because it has not been believed yet to be safe. This study will examine two problems, namely the right to health in the context of tourism and the construction of government policies against vaccine rejection by tourism business actors. This research is a normative juridical research that examines legal principles and synchronization of laws regarding human rights related to vaccination. Vaccination is the responsibility of the state in fulfilling the right to life and health. Each local government has a policy against vaccine refusal. Jakarta and West Java are the provinces that impose fines for residents who refuse vaccines, while Bali does not impose sanctions on residents who refuse vaccines. In order to ensure safety when tourism reopens, local governments can apply for proof of being vaccinated requirements for every person who will return to work in the tourism sector.

Keywords: human rights, tourism, vaccine.

Vaksin Bagi Pelaku Usaha Pariwisata; Pemenuhan Atau Pelanggaran Hak Asasi Manusia?

Abstrak

Sumber pendapatan terbesar bagi provinsi Bali adalah melalui sektor pariwisata. Sayangnya, pandemi Covid-19 berdampak pada penutupan pariwisata. Akibatnya, pertumbuhan perekonomian Bali mengalami kontraksi yang cukup dalam hingga -10,98%. Dalam rangka percepatan pembukaan pariwisata kembali, pemerintah mencanangkan gerakan vaksin nasional, termasuk terhadap pelaku usaha pariwisata. Meskipun demikian, terdapat penolakan terhadap vaksinasi karena belum diyakini keamanannya. Penelitian ini akan mengkaji dua permasalahan yakni mengenai hak atas kesehatan dalam konteks pariwisata dan konstruksi kebijakan pemerintah terhadap penolakan vaksin oleh pelaku pariwisata. Pemberian vaksinasi merupakan tanggung jawab negara dalam pemenuhan hak untuk hidup dan hak atas kesehatan. Masing-masing pemerintah daerah memiliki kebijakan terhadap penolakan vaksin. Jakarta dan Jawa Barat adalah provinsi yang menjatuhkan pidana denda bagi warga yang menolak vaksin, sedangkan Bali tidak memberlakukan sanksi bagi warga yang menolak vaksin. Dalam rangka menjamin keamanan ketika pembukaan pariwisata kembali, pemerintah daerah dapat mengajukan syarat bukti tervaksinasi bagi setiap orang yang akan kembali bekerja pada sektor pariwisata.

Kata Kunci: hak asasi manusia, pariwisata, vaksin.

A. Introduction

Tourism is a dynamic activity involving many people and reviving 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 even ideological interests. Spilani explains that tourism is a human phenomenon that is universal, regular, and steady, often appearing without space and time. For decades, all communities from the big to small town and village have been looking for the effective ways to build their brands and attract visitors, like by hosting planned events from sport events (e.g. Olympic Game or World Cup) to regional music festivals. Today, developing

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healthy communities can be done by bidding, staging and managing events in many places around the world.¹

Tourism is a major sector in economic development in Bali. Tourism in Bali has grown and developed in such a way as to provide a large contribution to the development of the Balinese region and society, both directly and indirectly. The development of this sector is one of the steps in building public welfare. Many efforts have been made by the regency or city government in Bali in developing local potentials to keep domestic ⁶⁸ foreign tourists interested to visit this island.² Fulfilling human needs for traveling will be directly or indirectly related to the existence of the tourism industry or what is often called hospitality.³ Tourism is an activity that provides accommodation, transportation, food, recreation and other services. Trade in tourism services involves several aspects, namely economic, social, cultural, religious, environmental, security and other aspects. Of these various aspects, it is the economic aspect that gets the most attention in tourism development; therefore, the tourism is said an industry.⁴

The spread of ⁶⁴ Corona Virus Disease 2019 (Covid-19) that hit the world in 2020 was initially responded differently by the government in Indonesia, in which the government provided the incentives for the tourism sector ⁵¹ to increase tourist visits to Indonesia because of the belief that COVID-19 will not spread to Indonesia, even though other ASEAN countries have begun to restrict the tourist visits to their countries.⁵ This policy changes along with the increasing condition of the Covid-19 patient curve. Almost all activities were stopped, including tourism activities. Various tourism facilities began to be closed. The corona virus pandemic affects all industries in Indonesia and even the world, including the tourism industry. The impact of the corona virus on tourism is enormous because the tourism industry in Indonesia has links with other industries, namely hospitality, transportation, micro, small and medium enterprises, especially those that produce souvenirs of culinary businesses, travel agents and tour guides.⁶ Indonesia is currently trying to start a new normal life in the middle of the Covid-19 pandemic. New normal is the adaptation of new habits, namely starting to loosen regulations regarding restrictions on community activities while still adhering to the applicable health protocol. Bali as one of the popular tourism destinations in Indonesia is preparing itself to welcome the new normal of tourism.⁷ Tourism is a very vulnerable business to potential crises that come from various things, including external shocks that are unpredictable internally; therefore, the tourism business actors cannot make preparations to face the crisis.⁸

The Minister of Tourism and Creative Economy, Sandiaga Uno finalized the plan to open a tourist corridor for foreign tourists in Bali under the free Covid-19 corridor scheme or Covid-19 free area. Nusa Perida and Ubud would be pilot locations for opening tours in cooperation with several countries. In parallel, the ⁴² Ministry of Tourism and Creative Economy and the Coordinating Ministry for Maritime Affairs and Investment would approach ambassadors from

¹ Maria Nidalisa Ikhayan, Ayub Tony S.K., *Hukum Apartheid dan Negara Kekuasaan (Antara Kebijakan dan Pluralisme)* (51), Bogor: Halaman Media Publishing, 2013, p. 36-37.

² 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.

³ Putri Dianesty Hani, and Putu Sri ⁴³ Lantia, "Kontribusi Serikat Pekerja Indonesia pada Organisasi Pariwisata di Kabupaten Jember dalam Perspektif Konflik", *Jurnal Ilmiah Dimensi Sosial*, Vol. 3, No. 1, 2019, p. 117.

⁴ I Putu Gelgel, *Industri Pariwisata Indonesia Dalam Globalisasi Perdagangan Jasa (GATS-WTO)* (Impresi/Hukum dan Pembangunan), Bandung: Refika Aditama, 2019, p. 22.

⁵ Dian Heri ¹⁴ "Rekomendasi Kebijakan Pemulihan Pariwisata Pasca Wabah Corona Virus Disease 2019 (Covid-19) di Kota Bantul", *Jurnal Master Pariwisata (JUMPA)*, Vol. 1, No. 1, 2020, p. 1.

⁶ Ida Ayu Dewi Anni, Ida Bagus Gede Paramita, and Kurniung Ais Triani, "Ekspektasi, Realisasi Dan Negosiasi Tourism Reborn di Masa Pandemi dalam Pariwisata Bali", *CULTURE: Culture Tourism and Religion*, Vol. 1, No. 2, 2020, p. 108.

⁷ Agriy Kri ⁵ Yantha, "New Normal Pariwisata Bali di masa Pandemi pada Daerah Tujuan Wisata Tanah Lot, Kabupaten Badung", *Pariwisata Budaya: Jurnal Ilmiah Agama Dan Budaya*, Vol. 5, No. 2, 2020, p. 49.

⁸ 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. 1, 2020, p. 584.

some even say the vaccine is made from a male fetus. The hoaxes are about side effects include death, infertility, enlarging male genitalia, and modifying human DNA. Hoax on vaccine refusal is the unwillingness of the Indonesian Doctors Association as an organization of 17 actors to be vaccinated for the first time.¹⁴ This study will examine two problems, namely the right to health in the context of tourism and the construction of government policies against vaccine rejection by tourism business actors.

Research related to this research includes "Juridical Analysis of Sanctions for Refusal of Covid-19 Vaccination" written by Yulia Emma Sigalingging, and Aris Prio Agus Santoso. This research examines the setting of sanctions for the refusal of the Covid-19 vaccination and the right to refuse the Covid-19 vaccination from the human rights' point of view.¹⁵ The research that discusses the use of legal instruments in vaccination policy is "The Policy of the Indonesian Government in Overcoming Covid-19 Based 46 International Legal Instruments" written by I Ketut Sukawati Lanang Putra Perbawa. The objective of this study is to analyze the policies used by the Indonesian government in tackling COVID-19 according to the international legal instruments.¹⁶ The question of rights or obligations in vaccination policy was written by Farina Gandryani and Fikri Hadi in their research entitled "The Vaccination of Covid-19 in Indonesia: Citizen Right or Citizen Duty". This study explains the classification of vaccines as rights or obligations as 17 as the legality of criminal sanctions for vaccine refusal.¹⁷ In this research, we will study the right to health in the context of tourism and the construction of government policies against vaccine refusal by tourism business actors.

17 B. Right to Health in the Context of Tourism

The components of tourism development in Indonesia consist of several pillars. First, tourism destinations include the development of tourist attractions, tourism accessibility, public and tourism infrastructure and facilities, community empowerment through tourism, and development of investment in tourism; 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 52 elopment.¹⁸

The basis for considering the Law of the Republic of Indonesia Number 10 of 2009 concerning tourism states that the freedom to go from one place to another for travelling and use leisure 7 ne in the form of traveling is part of human rights. Tourism is an integral part of national development carried out in a planned, systematic, integrated, sustainable and responsible manner while still protecting the religious and cultural values 7 ing in the society, environmental sustainability and quality, and national interests. In order to encourage equal distribution of business opportunities and gain benefits and be able to face the challenges of changing local, national and global life, the tourism development is needed.

¹⁴ Rochani Nani Rahasi, "Vaksin Covid 19 di Indonesia: Analisis Berita Hoax", *Jurnal Ekonomi, Sosial & Humaniora*, Vol. 2, No. 3, 2021, p. 40.

¹⁵ Yulia Emma Sigalingging, and Aris Prio Agus Santoso, "Analisis Yuridis Pengaturan Sanksi Bagi Penolak Vaksinasi Covid-19", *JSP (Jurnal Ilmu Sosial dan Pendidikan)* Vol. 5, No. 3, 2021, p. 52.

¹⁶ 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.

¹⁷ Farina Gandryani and Fikri Hadi, "Pelaksanaan Vaksinasi Covid-19 di Indonesia: Hak atau Kewajiban Warga Negara", *Jurnal 55 its Widyay: Media Pembinaan Mukim Nasional*, Vol. 10, No. 1, 2021, p. 25.

¹⁸ Muchamad Zaenuri, *Perencanaan Strategis: Kepenerkeliaan Daerah Konsep dan Aplikasi*, Yogyakarta: e-Gov Publishing, 2018, p. 5.

Tourism is an industry that offers services to tourists. Tourism must meet these four criteria, namely: 1) travel is made from one place to another and carried out outside the residence where the person usually lives; 2) the objective of the trip is carried out just for fun, without earning a living in the country, city or tourist destination area; 3) the money spent by the tourist is brought from the country of origin, where he can live or reside, and it is not obtained as the results of the business during the tour carried out; and 4) the trip is carried out at least 24 hours or more.³³ 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 the Creative Economy has compiled the Cleanliness, Health and Safety (CHS) program as a new normal program in tourist destinations by involving tourism industry and creative economy actors who are expected to be productive and safe from Covid-19. The health protocol system will go through several stages, starting from conducting simulations, socialization and publication to the public and conducting trials. Its implementation will be closely monitored. Regional readiness is a special consideration in implementing this health protocol. Every health protocol is implemented, 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, especially in improving performance. The government must have special programs in the promotion of domestic tourism in the new normal. For example, a change in 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 are the main things that must be considered. For tourism industry managers and creative economic actors, they must really anticipate bad things that can happen to the tourism image.³⁴

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 pay attention to the latest information as well as appeals and instructions from the Central and Regional Governments related to Covid-19 in their regions, to 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 who are active in tourist attractions through offline and/or online media. SOPs are prepared by taking into account the characteristics and specificities of managed tourist attractions in natural, cultural and man-made 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 reopens, including tests and simulations, in stages. This includes providing and posting written warnings related to preventing the spread of Covid-19.³⁵

The response to this outbreak is one of the most massive global coordinated actions in modern history. Governments around the world, through the health and medical fields of their respective countries, are working without rest to prevent the spread of this deadly disease. The uniqueness of the transmission pattern and the high mortality rate have led health experts in the world to suggest limiting human-to-human contact until the outbreak can be controlled. The hashtag Flatten the Curve (2020) or Flattening the Curve that calls for joint control of the

³³ Ade Kadiyati, "Government Public Relations dalam Pengembangan Pariwisata Masa Pandemi COVID-19 di Geopark Goleah", *Profesi Humas*, Vol. 5, No. 2, 2021, p. 271.

³⁴ Surya Hendra Putra, "Pengembangan UTMW, Pariwisata dan New Normal," *Mendek Kraf di Era Pandemi Covid-19: Suatu Jastor*, Vol. 1, No. 1, 2020, p. 50.

³⁵ Kementerian Pariwisata dan Ekonomi Kreatif, *Panduan Pelaksanaan Kebersihan, Kesehatan, Kelembutan, dan Kelestarian Lingkungan di Daya Tarik Wisata*, Jakarta: Kementerian Pariwisata dan Ekonomi Kreatif, 2020, p. 6.

spread of Covid-19 is a health campaign that has recently surfaced via the internet and social media around the world. Regional quarantine aims at limiting human mobility.²² Another policy that is also carried out by countries in the world is the policy of giving vaccines to the community which is carried out in stages by taking into account the priority scale. Providing vaccination⁴⁵ for the public to suppress the spread of Covid-19 is an attempt of the government to fulfill human rights, namely 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. However, sometimes the criminal gradation imposed has two sides, one is²² the protection of society and on the other hand is the threat of crime. The sentence imposed is considered as a violation of human rights.²³ One of the principles in international law that applies to all countries as stipulated in various international conventions and contained in the WHO Constitution states "The enjoyment⁷¹ of the highest attainable standard of health as a fundamental right of every human being". This principle provides the basis for every country in making a policy that must be able to realize the right to health for every individual, in which⁵³ 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 respect aspect referred to is a policy that requires the state not to take the efforts resulting in individuals or groups failing to achieve or fulfill their rights. Meanwhile, fulfillment means that the state has to various measures like legislative, administrative, budgetary, judicial or other⁵⁹ ensure the realization of the rights' fulfillment.³⁴

Article 1 number 1 of Law Number 36 of 2009 concerning Health states that health is a healthy condition in physical, mental, spiritual and social ways allowing everyone to live productively both in social and economic ways. Health is a condition in which the human body feels healthy 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. Health can be obtained in simple ways, starting from exercising, consuming vitamin-rich foods, drinking water, getting used to communicating with positive things, helping others and so on. Health is⁴⁵ main factor needed by humans to be able to live productively by producing brilliant works. Everyone has the right to live a healthy life, from the lower middle class to those with a very good⁶³ financial level.²⁵

The right to health is a human right. The principle of democracy is that the protection of human right¹ as the government's obligation. In fact, 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 act. This power is simply for advancing and achieving the human rights' fulfillment. The government is no longer just keeping someone from violating⁵³ or violated his rights, but must struggle to fulfill them. Likewise, with the right to health, it is the government's obligation to fulfill it.²⁸

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, namely that the states parties to the covenant recognize the right of everyone to enjoy the highest standard that can be attained in physical and mental

¹⁹ M. Caheli, Sunagarna, Yumna Rani Nasrah, and Argana Elyca P. Prabono, "Pariwisata Pascapandemi: Pelajaran Penting dan Pelik Pongombangan", *IOSAR: Jurnal Arsitektur Kota dan Perumahan*, Vol. 1, No. 1, 2020, p. 57.

²² Adi dan Berda Nawawi Ariat, *Teori-teori dan Kebijakan Publik*, Bandung: Alumei, 2019, p. 2.

³⁷ Rika Mardiansyah, "Dinamika Politik Hukum Dalam Pemenuhan Hak Atas Kesehatan di Indonesia", *Veritas et Justice*, Vol. 4, No. 3, 2018, p. 236.

⁴⁰ Chontina Sahaan and Denal Adrian, "Komunikasi Dalam Persepsi Masyarakat Tentang Kebijakan Pemerintah di Masa Pandemi", *Kineuk*, Vol. 8, No. 2, 2021, p.158-167.

⁴⁰ Miko Ardiansa, "Tanggung Jawab Negara Terhadap jaminan Kesehatan dalam Perspektif Hak Asasi Manusia (HAM)", *Jurnal HAM*, Vol. 11, No. 2, 2020, p. 321.

health. The protection of the rights of mothers and children² has also got an attention, especially in the Convention on the Rights of the Child. At the national scope, Article 28 H paragraph³⁰ (1) of the 1945 Constitution states that living in prosperity physically and spiritually, having a place to live, having a good and healthy living environment and having the right to obtain health services is the right of every citizen. Article 9 of the Law Number 39 of 1999 about the Human Rights states that everyone has the right to live, maintain his life and improve his 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 Law Number 36 of 2009 concerning Health states that health is a human right and one of the elements of welfare that must be realized in accordance with the ideals of the Indonesian nation as referred to in Pancasila and the Preamble of the 1945 Constitution of the Republic of Indonesia. Therefore, every activity and attempt in improving the highest public health level is carried out based on non-discriminatory, participatory, protective and sustainable principles which are very important for the formation of Indonesian human resources, increasing the resilience and competitiveness of the nation, as well as national development.

It is the government's responsibility in fulfilling the right to health of its citizens as a part of human rights. The implementation of these responsibilities is not only significant³² will also serve as a benchmark to improve people's lives based on the human rights. The recognition and affirmation of the right to health as part of human rights certainly emphasize the³² responsibility of the state in its fulfillment. The state is responsible to prepare the healthy public service facilities for all citizens. On the other hand, every citizen must be guaranteed an access to health services provided by the state without any discriminatory differentiation on any basis. The state in this case must not neglect health services for every citizen on the basis of ethnicity, religion, race, inter-group (SARA), social status, economic status, and so on.²⁷

Indonesia is not the only one country, but the global community through the 1946 World Health Organization (WHO) Constitution has also outlined that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being". Based on this statement¹, the right to health is recognized as a "basic or fundamental right". The existence of this right is then pointed in the general comments of the Committee on Economic, Social and Cultural Rights on the right to health stating "Health is a fundamental human right that is indispensable for¹⁰ the exercise of other human rights."²⁸

Article 1 number 11 of Law Number 36 of 2009 concerning Health states that health efforts are 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 in the form of disease prevention, health improvement, disease treatment, and health restoration by the government and/or the community. 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 synovac vaccine which would arrive in December 2020 Batch 1, Batch 2 in January 2021, the government has also pressed agreements with other vaccine companies, namely Astrazeneca, Novavax, which are planned to come in until 2022. This is what is becoming a debate in the public. A hot topic, there are several stages of clinical trials that must be carried out to determine the effectiveness of each vaccine, Indonesia is testing the effectiveness of the Sinovac Vaccine. Brazil and Turkey have announced the effectiveness

²⁷ Heriadi Alfandi, "Implementasi Hak Atas Kesehatan Menurut Undang-Undang Dasar 1945: Antara Pengaturan dan Realisasi yang Jawab Negara", *Jurnal Mukam Positum*, Vol. 4, No. 1, 2019, p. 58.

²⁸ Siti Nurhalimah, "Covid-19 dan Hak Masyarakat Atas Kesehatan", *SALAM: Jurnal Sosial dan Budaya Syon-I*, Vol. 7, No. 6, 2020, p. 543.

level of this Sinovac Vaccine. Above 50% - 90% is the effectiveness range of Sinovac released by Turkey. In January 2021, the government through Bio-Farma distributed this vaccine to 34 provinces in Indonesia, the President wanted this pandemic to end soon; therefore, vaccine distribution was carried out quickly. This step is right because the public is tired of all the extraordinary events that have befallen the entire population of the world, namely the Covid-19 outbreak.²¹

Bali Province is an area that has been heavily affected economically because of the Covid-19 pandemic. The economy of Balinese people is significantly affected by the Covid 19 pandemic in which in the second quarter of 2020, the growth of the Balinese economy experienced a deep contraction of up to -10.98%.²² In an effort to reopen tourism, the government issued a policy to provide vaccines for tourism business actors. This policy was implemented after giving vaccines to health workers and the elderly. This policy was issued to guarantee the right to health for tourism business actors themselves and others who will become tourists later. Even so, resistance to the provision of this vaccine still occurs, including by tourism business actors.

C. Government Policy Construction Against Vaccines Refusal by Tourism Business Actors

The development of a tourist attraction must meet several tourism development criteria; therefore, the tourism objects can attract visitors. These criteria include 1) Something to see in which the tourism object must have a special thing that can be seen or made into a performance by tourist visitors. It can be said that the object must have a special attraction that can attract the interest of tourists to come. 2) Something to do in which the tourists coming there can do useful activity that can give a feeling of pleasure, happiness, relax in the form of recreational facilities, playground or a place to eat, especially the typical food of the place that makes the tourists are more comfortable to visit it. 3) Something to buy in which there are facilities for shopping which in general is a characteristic or icon of the area; therefore, it can be used as souvenirs.²³

The perspective of state-based political economy basically places the state as the center of various interests of groups (private) and society into national interests. The state in this case is as an institution that is responsible for determining the values used in determining the usefulness for society. Society is as the main subject in the value induction process. In other words, in simple terms, the government once again must see the condition of society more openly and allow the objective capacity of society at this time. Various ways can be done as the attempts to fulfill the right to health, they are in the form of prevention and cure. The prevention efforts can be done through the creation of adequate conditions for health, such as ensuring the availability of the good and healthy foods, occupations, housing, and environment. Meanwhile, providing optimal health services is one of the healing efforts that can be carried out.²⁴

In relation to vaccination activities for tourism actors, it can be related to the principles of tourism implementation. Article 5 of Law Number 10 of 2009 concerning Tourism states that tourism is arranged with the following principles:

²¹ Dimas Ahmad Rifandi and Inwarsyah Inwarsyah, "Retorika Juru Bicara Satgas Covid-19 di Platform Youtube", *Jurnal Teknologi dan Sistem Informasi & Sesi*, Vol. 3, No. 1, 2021, p. 66.

²² ¹⁵ *Wral Bali*, "Berbagai Upaya Dilakukan Pemprov Bali untuk Pemulihan Ekonomi", 2021, <https://www.baliprov.go.id/wral/berbagai-upaya-dilakukan-pemprov-bali-untuk-pemulihan-ekonomi/>, accessed on 70ember 2021.

²³ ⁴⁹ A.Yetti, Pengantar Ilmu Pariwisata, Bandung: Angkasa, 2016, p. 11.

²⁴ Lutfah Nasution, "Hak Kesehatan Masyarakat dan Hak Permintaan Pertanggungjawaban Terhadap Lmbangnya Penanganan Pandemi Global Coronavirus Covid-19", *ADALAH*, Vol. 4, No. 1, 2020, p. 21.

- a. maintain religious norms and cultural values as the embodiment of the concept of life in a balanced relationship between humans and God Almighty, humans and other human beings, and humans and the environment;
- b. maintain human rights, cultural diversity, and local wisdom;
- c. provide benefits for people's welfare, justice, equality, and proportionality;
- d. maintain the preservation of nature and the environment;
- e. empower local communities;
- f. ensure the integration between sectors, between regions, between the center and the regions which are a systemic unit within the framework of regional autonomy, as well as integration between stakeholders;
- g. comply with the world tourism code of ethics and international agreements in the tourism sector; and
- h. strengthen the integrity of the Unitary State of the Republic of Indonesia.

Rejection of vaccines is a problem faced by the government in fulfilling the right to health for its citizens. People wonder about the law of applying vaccines in certain religion considering their materials. Not only from a religious perspective, the feasibility test for the vaccine to be used is also a topic of conversation that is often discussed by the public on Twitter. The public is very worried about the status of use and the side effects that will result from the vaccines that will be given considering that the vaccination activity plan looks like it is rushed. Talks about vaccines that are said to be just a business have also become one of the hot topics of conversation on Twitter. In fact, it is not uncommon for public talks to voice their distrust of the COVID-19 vaccine even against COVID-19 itself.³³

According to Sahil Loomba, et.al., "In order for a novel COVID-19 vaccine to be successful, it needs to not only be proven as safe and efficacious, but also widely accepted."³⁴ Belief in the benefits of the drugs or vaccines used is the key to healing disease. Psychological factors are important in increasing body immunity. Rejection of vaccines is actually caused by inaccurate information about the safety of vaccines. Related to this, Sadie Bell, et.al. state as follows:

"Information on how COVID-19 vaccines are developed and tested, including their safety and efficacy, must be communicated clearly to the public. To prevent inequalities in uptake, it is crucial to understand and address factors that may affect COVID-19 vaccine acceptability in ethnic minority and lower-income groups who are disproportionately affected by COVID-19".³⁵

Vaccination must be carried out thoroughly to every member of the community, except for those who are not medically recommended to receive vaccines, with the aim of forming herd immunity. Vaccines for tourism business actors are needed to make sure the safety of tourists from the Covid-19 pandemic virus later. Indonesian laws and regulation allow the imposition of criminal sanctions for anyone who refuses vaccines. This provision is in Article 93 of the Law of the Republic of Indonesia Number 6 of 2018 about Health Quarantine stating as follows:

"Every person who does not comply with the implementation of Health Quarantine as referred to in Article 9 paragraph (1) and / or obstructs the implementation of Health Quarantine so as to cause a Public Health Emergency will be sentenced to imprisonment of up to 1 (one) year and / or a maximum fine of Rp 100,000,000.00 (one hundred million rupiah)."

³³ Fauzi Fathul Nahman and Setia Pramana, "Analisis Sentimen Pro dan Kontra Masyarakat Indonesia tentang Vaksin COVID-19 di Media Sosial Twitter", *Indonesian of Health Information Management Journal (IHOIMJ)*, Vol. 8, No. 2, 2020, p. 106.

³⁴ Loomba, Sahil, et al., "Measuring the Impact of Exposure to COVID-19 Vaccine Misinformation on Vaccine Intent in the UK", 2020, p. 7.

³⁵ Bell, Sadie, et al., "Parents' and Guardians' View s on the Acceptability of A Future COVID-19 Vaccine: A Multi-Methods Study in England", *Vaccine*, Vol. 38, Issue 49, 2020, p. 7789.

Jakarta and West Java are provinces in Indonesia that impose fines for residents who refuse vaccines. Meanwhile, Bali does not impose fines for vaccine rejecters. A persuasive approach is still being used to increase the number of recipients of the vaccine. In comparison, Western Australians will not be fined for refusing the COVID-19 vaccine. Vulnerable workers and patients will be 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.³⁰ 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 wish to return to work as tourism business actors.

D. Conclusion

The right to health in the context of tourism is carried out by providing vaccines for tourism business actors. The right to health is a human right that is regulated in international legal instruments and national law in each country, including Indonesia. Vaccination is a government effort to stop the transmission of the Covid-19 virus. However, public belief in the safety of the Synovac vaccine is still questionable. This is due to the circulation of hoaxes about the safety of this vaccine. In the context of tourism policy, the provincial government of Bali has prioritized the provision of vaccines for tourism business actors in preparation for reopening tourism. The construction of government policies against vaccine rejection by tourism business actors does not entirely impose fines for vaccine rejectionists. The Provincial Government of Bali does not impose sanctions for vaccine rejecters. However, in order to accelerate the reopening of tourism, the provincial government of Bali can make proof of vaccine requirements for everyone who wants to return to work in the tourism sector. The conclusion contains a description that should answer the objectives of the research, and not a duplication of the Abstract. This section requires a clear and concise explanation of the result of the research.

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