

LAW ENFORCEMENT AGAINST UNSCRUPULOUS HEALTH WORKERS WHO INJECT EMPTY VACCINES TO VACCINE RECIPIENTS

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ABSTRACT

The COVID-19 pandemic has resulted in millions of people dying from the virus and has affected various sectors such as education and the economy, therefore efforts are needed to overcome this pandemic, including vaccines with the aim of increasing herd immunity. However, efforts to overcome this outbreak have unscrupulous nurses who recommend empty vaccines. This research aims to determine law enforcement efforts against unscrupulous health workers who inject empty vaccines into vaccine recipients. This research uses the research method of literature study. Data collection techniques in this research are obtained from books, journals, and other relevant information from Google Scholar for the period 2013-2023 with several search keywords. The results showed that nurses injecting empty vaccines in an effort to overcome the COVID-19 pandemic that deliberately hampered the implementation of pandemic mitigation were threatened with imprisonment for a maximum of 1 year and/or a maximum fine of Rp1 million. However, if the vaccine injection occurs due to negligence, the perpetrator is threatened with imprisonment for a maximum of 6 months and/or a fine of up to Rp. 500 thousand.

Keywords: *Individuals, Health Workers, Vacant Vaccines, Vaccine Recipients*

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INTRODUCTION

Law enforcement aims to help improve order and legal provisions in the public. Law enforcement is carried out through disciplining functions, obligations, and various rules in authorized institutions to enforce the law in line with their duties, then carried out with cooperation and support to achieve the desired goals. Meanwhile, getting the same health services is the right of every human being who has responsibility for its implementation which is in the government. The government has actually realized that the most important asset of a country is the health of its people and the main goal that needs to be achieved is a prosperous, just, and prosperous society (Wiriadinata, 2014).

During the 2019 period, the *2019 Corona Virus Disease (Covid-19)* outbreak was present affecting various areas of human life in the world and Indonesia was also affected. The Covid-19 virus began to be known for the first time in Wuhan, Hubei Province, China at the end of 2019. It didn't take long, the virus directly spread to various regions in China. Not only in the same country but penetrated in Thailand, Japan, and South Korea. Finally, on March 11, 2020, WHO declared the outbreak of the disease caused by the coronavirus as a global pandemic (Mahmud & Pongoliu, 2023).

The pandemic caused by the coronavirus cannot be taken lightly and is the most serious health threat (Ranti, 2022). Health is a condition both physical, psychological, spiritual, and social that provides the possibility for each individual to carry out life well socially and

economically. So that health is the principle of recognition of the level of humanity. Thus, in the absence of health, individuals are not equal based on their conditionals. Without health, individuals cannot get their rights, until health as one of the benchmarks other than the level of education and the economy that uses the quality of human resources. The right to health is included in human rights that have been recognized and explained in various international instruments. Indonesia is a nation that explains the constitutional protection of human rights. The protection of human rights is widely disseminated to promote respect for the protection of human rights which is a crucial characteristic of a democratic rule of law. Related the constitutional protection of the right to mental health is reflected in article 28h paragraph of the 1945 Indonesian Constitution which explains that "every individual has the right to live in peace of mind and birth, to have a place to live and get a decent and healthy living environment and to have the right to get health services" (NABILA, 2021).

With the provision of vaccines, it is expected to break the chain of the spread of this coronavirus. Vaccination is the stage of injecting vaccines into the body to cause and provide an increase in immunity by being active in a disease so that the individual given the vaccine is not sick or only feels mild pain and is not a source of transmission. Until if one day exposed to the disease the antibodies contained in the body fight the disease and we do not get sick or just experience mild illness about it because the individual has been given a special vaccine. Then the purpose of giving this vaccine also gives specific immunity to a disease-specific, so that if the individual is exposed to the disease he does not fall ill but has only mild symptoms. Now vaccination is part of the effort to overcome Covid-19. The vaccination for the public aims to protect against exposure to Covid-19 which can cause illness or death (Larasati & Sulistianingsih, 2021).

Vaccination began to be carried out on January 13, 2021, with the Sinovac vaccine type. The main target is medical personnel, along with staff and students with medical professional educators who work in Health Service Facilities. After the first stage is carried out, it is continued with the administration of the second stage of vaccines by being given to public servants and also elderly people. The last is by administering vaccines to the general public (Tinungki et al., 2022).

Now there are many problems regarding the decline of awareness of the law. This decrease in legal awareness is caused by various violations and non-compliance with applicable laws. More than that, not a few people have been used as role models and understand the law but they are the ones who break the law. Many criminal cases are also not only based on the number of things committed but based on the quality and type of violations (Adam et al., 2021).

In the health sector, the news is emerging about unscrupulous health workers who inject empty vaccines into vaccine recipients. This is not in accordance with the code of ethics of the Indonesian public health profession in Chapter 1 Article 6 which reads: "In carrying out its obligations and functions, it must be oriented to the audience as a unity that is inseparable from the social, economic, political, psychological and cultural realms". Thus, there is a need for law enforcement regarding the case. So that researchers have an interest in conducting a study entitled "*Law enforcement against unscrupulous health workers who inject empty vaccines to vaccine recipients*".

METHOD

Types of Research

This research uses the Literature research method. According to Sari on Ramdhani et al (2022), literature research is research whose object is searched through various literature information such as books, scientific journals, newspapers, and documentation.

Data Sources

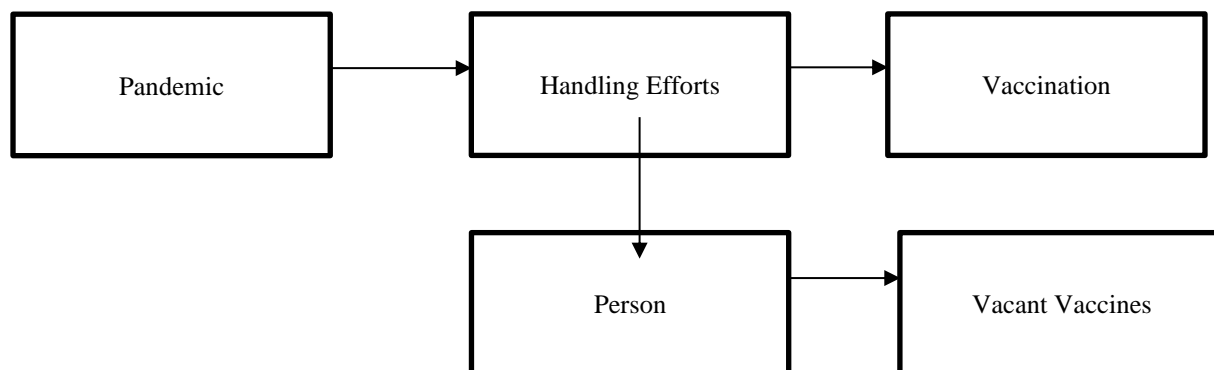
The data sources used in this assessment are provided through secondary data sources. Secondary sources are data obtained through information, books, journals, and the internet that are not directly related but have a supporting relationship for study analysis. Analysis of secondary sources is carried out through *descriptive* (Pasaribu, 2018). Then the sources in his study include journals, magazines, articles, and newspapers, which support this study.

Data Collection Techniques

Data collection techniques in this research use literature study methods obtained through books, journals and other relevant information from Google and Google Scholar for the 2013-2023 period with several search keywords such as "empty vaccine individuals", "empty vaccine cases", "law enforcement of health workers", "legal actions of vacant vaccine personnel" and so on. There are four stages of literature review (Zed, 2008), namely:

1. Preparing equipment. These tools in the literature review are pencils or pens and paper for taking notes
2. Preparing a bibliography of work, the bibliography is a record related to references to core sources which are then used for study purposes.
3. Time management, in terms of timing, based on individuals who use the time available, can design how many hours a day, a month, it is up to the individual who is concerned with using his time.
4. Studying and recording, meaning what is needed in the study can be recorded, so as not to be confused in the sea of books with many categories and forms.

Thinking Framework



RESULTS AND DISCUSSION

Efforts to deal with the pandemic are carried out globally by limiting the spread. The World Health Organization explained that another place to deal with the pandemic is vaccination of several vaccines for emergency use, besides that more than 60 vaccine candidates are still at the stage of the clinical trial process (Astuti et al., 2021). Therefore, the

Indonesian government implements similar efforts, namely breaking the chain of virus spread by vaccination. This vaccination effort is considered capable of creating herd immunity so that people are able to coexist with the covid-19 virus (Widayanti & Kusumawati, 2021).

In its implementation, the COVID-19 vaccine before being given to the public is first processed through authorized parties, namely medical personnel who make, distribute, and hand over vaccines to customers who have met the requirements for efficacy, quality, and safety. Vaccination has a crucial role to maintain individual body thickness from disease (Nadapdap & Alhakim, 2022).

The Government of Indonesia in the context of overcoming the pandemic carries out persuasive and repressive efforts as outlined in Minister of Health Regulation Number 10 of 2021 and strengthened by PP RI Number 14 of 2021 related to Amendments to PP Number 99 of 2020 (Hakim et al., 2023). This countermeasure effort is an effort by the state to fulfill the health obligations of its people. The responsibility of the nation for the health of its people is based on Constitution 45 Article 34 Paragraph (3): "The nation has a responsibility towards the provision of good health services and public services". Proving that the right to health which includes physical, psychological, and spiritual is protected under the constitution. The basic rights of society are related to health, the nation has an obligation to fulfill it. In outbreak control, the government decides on policies to protect and suffice its people's right to health. Through the legal basis of the Constitution, 45 Article 22 Paragraph (1) explains "compelling precarious circumstances, the President has the right to enact government regulations in lieu of the Law" (Stephanie et al., 2021).

The vaccination drive in Indonesia has been carried out since January 13, 2021, which has been carried out in stages, including (Ayunda R, 2021):

1. In the first phase of vaccination in Indonesia, priority is given to health workers and their companions, as well as students undergoing medical professional educators who work in health facilities, as stated in the original sentence.
2. In the second phase of the vaccination program in Indonesia, public service officers such as the TNI, Polri, law enforcement officials, and personnel working at airports, ports, stations, and terminals are prioritized for vaccination, as stated in the original sentence.
3. During the third phase of the vaccination program in Indonesia, priority was given to vulnerable communities based on their geospatial, social, and economic circumstances, as stated in the original sentence.
4. In the fourth phase of the vaccination program in Indonesia, the target of vaccination is the general public and other economic actors, as stated in the original sentence.

According to data from the Ministry of Health, detailed coverage of dose 1 reached 199 million or 95.63%. The coverage of dose 2 reached 164.5 million (79%), and the coverage of the dose 3 vaccine reached 36.8 million (17.68%). The elderly are the government's priority to be given vacation. Because the elderly are a group that is so old affected and who has the highest risk of death and illness due to Covid019. The coverage of the dose 1 elderly vaccine reached 17.5 million (81.66%), dose 2 reached 13.9 million (64.74%), and dose 3 reached 3.7 million (17.22%). In the implementation of Covid-19 vaccine services, a comprehensive design stage is needed to meet the target of achieving massive and comprehensive vaccine coverage by compiling a vacation implementation design and increasing access to quality and standard-compliant vaccination services (Sutari et al., 2022).

Based on the Ministry of Health of the Republic of Indonesia, the implementation of Covid-19 immunization is carried out through determining the characteristics and priorities of vaccine recipients, areas that require high vaccination, time and process of vaccination, and similar immunization service standards. Because each individual's immune system is unique, the effects of vaccination vary widely. Each individual's level of immunity determines how they react to the vaccine, so no two reactions are alike. Vaccination can provide increased energy and does not have a bad impact on some individuals. If you have a deficient immune system, vaccination can make you feel sleepy or dizzy, or hungry, and can even make you sick. After getting the Covid-19 vaccine, most individuals feel some mild side effects that disappear over time (Puteri et al., 2022). The government must be vigilant in handling this matter because vaccination has become a controversial issue among the public. Government regulations explain the obligation of the nation to make compensation if such severe side effects occur on the public after giving the Covid-19 vaccine, based on. In order to determine the safety and humanity of the Sinovac vaccine, the government immediately ordered the Indonesian Ministry of Health to check additional checks before the vaccine was given to the public and given to the Indonesian public.

Vaccines distributed to the community consist of several types, including; Sinovac Vaccine, AstraZeneca Vaccine, Sinopharm Vaccine, Johnson & Johnson Vaccine, Moderna Vaccine, and Pfizer Vaccine, Unfortunately, the free vaccine program issued by the government has caused anxiety and panic in the community caused by the vaccine given free of charge by the government causing a case of empty vaccine injection that went viral on social media recently where it was done by a health worker, nurse, and doctors (Wowor et al., 2022).

Recent cases of injecting empty vaccines into vaccine recipients include the case of 48-year-old doctor G allegedly injecting empty vaccines into elementary school students in Medan, North Sumatra. Doctor G was charged with hindering the containment of the COVID-19 disease outbreak. This case began with a covid-19 vaccination activity aimed at children aged 6-11 years at SD Wahidin Sudirohusodo on Monday, January 17, 2022. This vaccination activity was held by the Medan Labuhan Police Station with implementing officers from the Delima General Hospital (RSU). When one of the students was vaccinated, one of the student's parents recorded a video of the needle being injected into the student's hand. But the syringe looks empty or does not contain vaccine fluid. The actions of the accused doctor G then continued to another student who was also recorded by his mother. Doctor G apologized but later denied that he injected the empty vaccine, Doctor G's admitted that he vaccinated in accordance with the SOP (Standard Operating Procedure). Doctor G believes that he took a syringe filled with vaccine fluid from his colleague, nurse W.

Doctor G's actions that intentionally hinder the implementation of pandemic handling can be subject to imprisonment for a maximum of 1 year and/or a maximum fine of Rp1 million based on Article 14 paragraph (1) of Law 4/1984. However, if the act occurs due to negligence and results in obstruction of implementation, then the criminal sanctions imposed are imprisonment for a maximum of 6 months and/or a fine of up to IDR 500 thousand based on Article 14 paragraph (2) of Law 4/1984 (Oktavira, 2021).

Based on expert opinions, such omissions are likened to negligence and indiscretion. Wirjono Prodjodikoro culpa's opinion is interpreted as a general mistake, but in law, science has a technical definition, it is a mistake of criminal activity that is not as severe as the gap

because it is not so vigilant until an accidental impact occurs. Culpa is divided into two, namely culpa levissima and lata. Culpa levissima, is a mild negligence. The culpa lata is gross negligence (Wowor et al, 2022). The opinion of the legal expert culpa levissima is found in the category of crime, because of its mild character. But it can also be found in violations from book III of the Criminal Code (Chazwi, 2022). On the contrary, there is a perspective that culpa levissima through the Act is not reviewed until it is not given a criminal threat. As for culpa lata, it is considered to be a crime due to negligence (Hanafi, 2012). Article 359 of the Criminal Code states that

"Whoever, through his negligence, causes the death of another shall be punished with imprisonment for not more than five years or imprisonment for not more than one year". Meanwhile, Article 360 of the Criminal Code states that:

- (1) "Whoever, through his negligence, causes another person serious injury, shall be punished with imprisonment for not more than five years or imprisonment for not more than one year".
- (2) "Whoever, through his negligence, causes injury to another person in such a way as to arise illness, illness or obstruction of carrying out the work of office or search for a certain time, shall be punished with imprisonment for not more than nine months or imprisonment for not more than six months or a fine of not more than three hundred rupiahs".

If the case of vacant vaccine injection can be submitted to the court if the act contains elements of negligence or negligence. Even if there is no element of intentionality on the part of the perpetrator, it can still be qualified under Article 359 or Article 360 of the Criminal Code if the act contains an element of negligence or negligence. However, if the perpetrator has good faith, apologizes, and promises not to repeat his actions, then sanctions and lighter penalties can be imposed.

The provision of child vaccines is a government work program in handling the Covid-19 pandemic and is regulated by the Decree of the Minister of Health (KMK). KMK Number HK.01/07/MENKES/6424/2021 regulates Technical Guidelines for the Implementation of Covid-19 Vaccination, including for child vaccination. Meanwhile, KMK Number HK.01.07/Menkes/6688/2021 specifically regulates the implementation of Covid-19 vaccination for children aged 6-11 years. In the regulation, there are provisions regarding vaccine doses given, implementation schedules, and other requirements. The administration of childhood vaccines has been set at 0.5 milliliters (Erik, 2022). This provision is considered not in accordance with the actions carried out by the vaccinator doctor G.

Laboratory results show that there is no vaccine content in the body of the child injected by doctor G, so this can indicate that the syringe used does not contain the vaccine or does not contain enough doses. This shows that Doctor G's actions are not only contrary to existing rules and regulations, but also unethical. Violations of medical rules and ethics can have serious consequences for the doctor, including disciplinary and criminal action if found guilty (Molana, 2022). Despite being a suspect, doctor G was not detained because of the threat of a sentence of under 5 years (Lubis, 2022). Doctor G's case is also considered odd and a form of criminalization by his lawyer, Redyanto Sidi. This is because Doctor G is an officially assigned vaccinator based on a letter from PDUI at the request of the Belawan Regional Police. Then, children who are injected with empty vaccines are healthy so the assessment of doctor G who

is suspected of hindering the management of the outbreak is considered inappropriate (Kompas, 2022).

Doctor G's case also drew rejection from dozens of health workers and sympathizers of the accused by holding a demonstration in front of the Medan district court office. In the Law on Medical Practice No. 29 of 2004, it is stated that the resolution of cases that have carried out professional work in accordance with SOPs has things to get a defense. During the demonstration, one of the demonstrators, doctor Benny Satria, explained that Doctor G's case should have first been tried for the code of ethics of the medical profession at IDI, but this stage was passed. However, the demonstrators will still respect the legal process that is being carried out in court (Paunk, 2022).

Law enforcement is carried out with the aim of maintaining security, justice, and order in society. Law enforcement is carried out through various efforts, such as investigation, prosecution, trial, and execution of legal decisions. In law enforcement, especially in criminal cases, the panel of judges has the obligation to ensure the fulfillment of the elements of the criminal act charged against the defendant. This is done to ensure that the defendant is only sentenced to a criminal offense if he is proven to have committed a criminal act in accordance with the article used. The panel of judges must examine the evidence obtained from investigators, witnesses, experts, and relevant documents. In addition, the judge must also ensure that the defendant has the right to defend himself and get a lawyer to assist him during the trial. After conducting an examination and listening to statements from all parties concerned, the panel of judges will issue a final decision based on applicable facts and law. This verdict can be in the form of a free verdict, guilty verdict, or other verdicts that are considered appropriate and fair in the case (Nadapdap & Alhakim, 2022).

CONCLUSION

Law enforcement is carried out by disciplining functions, duties, and various rules in authorized institutions to enforce the law in accordance with their duties, then carried out with cooperation and support to achieve the desired goals. Recent cases of injecting empty vaccines into vaccine recipients include the case of 48-year-old doctor G allegedly injecting empty vaccines into elementary school students in Medan, North Sumatra. Doctor G was later charged with hindering the handling of the COVID-19 pandemic. Law enforcement against unscrupulous health workers who inject vacant vaccines is regulated in Article 14 paragraphs 1 and 2 of Law Number 4 of 1984 concerning Infectious Disease Outbreaks ("Law 4/1984").

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