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**LEGAL ASPECTS OF DAMAGES OF PERSONAL DATA OF COVID-19 VACCINATION PARTICIPANTS PERFORMED BY MEDICAL PERSONNEL**

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The research by writing this article aims to examine and examine regarding legal protection of personal data of Covid-19 vaccination participants that are misused by medical personnel. During the Covid-19 pandemic, the government carried out an evenly distributed vaccination program throughout Indonesia to prevent and eradicate the spread of Covid-19. However, in the process there were several mistakes made by health workers and the leaking of personal data of vaccine participants on the Peduli Protect.id application. This issue violates the rights of vaccine participants by contacting vaccine participants personally that is not related to the vaccination process. The research method that the author uses in writing this article is the normative legal research method. The results of this study indicate that the dissemination of personal data of Covid-19 vaccination participants is a prohibited act so that a form of legal protection regarding personal data specifically has been regulated in Articles 30-35 of the Electronic Information and Transactions Law so that administrative sanctions and civil lawsuits can be charged to perpetrators. due to misuse of personal data

**Keywords: Covid-19 Pandemic, Personal Data Protection, Vaccination Participants.****INTRODUCTION**

The 1945 Constitution of the Republic of Indonesia in Article 28 G paragraph (1) which explains that "Everyone has the right to protection of personal data, family, honor, dignity, and property under his control, and has the right to a sense of security and protection from threats of fear to to do or not to do something which is a human right". These provisions show that the protection of personal data is a legal right (Budiartha, 2016).

The legal theory of positivism illustrates that a law creates habits at the formation stage (Atmadja et al., 2018). Regarding the protection of consumers, the regulation is in Law no. 8 of 1999 where the regulation has explained that health services are the object of consumer protection laws and position patients for these medical services as consumers and medical personnel as business actors. The community hopes that when receiving health services, they get health services from health workers as much as possible.

Article 1 point 2 Regulation of the Minister of Health no. 12 of 2017 concerning the Implementation of Immunization, states that: "Vaccine is a biological product containing antigens in the form of dead or alive microorganisms that are attenuated, still intact or parts thereof, or in the form of microorganism toxins that have been processed into toxoids or recombinant proteins, which added with other substances, the effect of which is to increase specific immunity actively against a certain disease when consumed by a person.

At the beginning of 2020, which is March, the State of Indonesia was hit by a disease known as Covid-19. This virus initially occurred in China, precisely in the Wuhan area in November 2019. However, this virus spread very quickly throughout the world, causing many countries to experience setbacks in all aspects of the field. In early March Indonesia experienced its first case of the disease. In Indonesia itself, this virus spread very quickly, causing the State of Indonesia at that time to occupy the highest

level of record cases of citizens infected with COVID-19.

The Indonesian government made every effort to handle cases of this pandemic. In fact, this case caused the paralysis of the country's economy. The vaccine program is also run by the government and requires all citizens to inject vaccines with different variants recommended by the government. The vaccine is also currently an administrative requirement in the activities of citizens, whether traveling out of town or just to eat at restaurants or other places to eat. A person can be said to be a health worker if he or she serves, has skills or knowledge through education in the health sector that requires certain types of authority in providing health services. Medical personnel have an important role for the community, especially when dealing with the Covid-19 disaster. Efforts at the community level to communicate risks and education as well as health protocols to combat the covid disaster. Then to do contact tracking & tracking as well as facilities and community empowerment.

During the Covid-19 pandemic, the Government of Indonesia carried out vaccinations as an evenly distributed program throughout Indonesia. The elderly community at the beginning of the vaccine program is always prioritized by the government, because the elderly have a weaker immune system so that this is a concern for the government and health workers. The whole community is vaccinated with two different types of vaccines, namely Astrazeneca and Sinovac. The vaccination process will be given in two doses and with a relatively long period of time.

This legal issue becomes very important because if someone's personal data is misused by the data provider or third party, then this is contrary to basic human rights, namely the protection of a person's privacy and personal data which has been protected by international, regional and national instruments. Until now, Indonesia does not have regulations that specifically protect citizens from arbitrary use of personal data, whether carried out by the

government, private companies or individuals (Dewi, 2016).

In this vaccination process, there were several mistakes made by health workers and the leaking of personal data by the Pedulilindungi.id application to the vaccine participant community. This problem occurred because the health workers did things that violated the rights of the vaccine participants by illegally selling vaccines, leaking the data of the vaccine participants and even contacting the vaccine participants personally which had nothing to do with the vaccination process by the health workers. Health workers have done the same thing with Covid-19 vaccination participants. The officers contacted the vaccine participants with the telephone number listed but it had nothing to do with the vaccination process, only personal things. This was once viral on social media so that the vaccination officers were criticized by the Indonesian people at that time. This clearly violates the applicable rules, where the data has been misused by vaccination officers

Everyone's personal data must be strictly protected. The leaking of personal data through electronic media is regulated in Article 26 UUNo. 1 of 2008 concerning ITE which states "If the use of information through electronic media containing personal data must be carried out with the consent of the person concerned, as well as individual rights related to his personal data". First, the research conducted by (Natsir et al., 2022) with the title "Legal Protection Against Victims of Misuse of Personal Data by Vaccine Card Printing Services" states that the reason for the importance of personal data must be protected by law because if there is a leak or the spread of a person's personal data can cause This is a loss for the owner of the data, so if there is a law that binds him, it is very likely that 'naughty' people will not dare to disseminate other people's personal data.

Second, a study conducted by (Utomo et al., 2020) with the title "The Urgency of Legal Protection of Patient Personal Data in Technology-Based Health Services in Indonesia"

states that the issue of protection of personal data arises because of concerns about privacy violations that can be experienced by people and or legal entity. This privacy violation can cause losses that are not only material but also moral, namely in the form of destroying the good name of a person or institution.

Third, research conducted by (Sosilawati et al., 2020) with the title "Legal Protection of Privacy Rights and Medical Data of Patients in Hospital X Surabaya" states that the Regulation of the Minister of Health of the Republic of Indonesia Number 36 of 2012 concerning Medical Secrets Article 3 states that patient identity information, information on the results of anamnesis, physical examination or other medical actions are medical information that must be protected. Actually, it is not only doctors who have to keep medical secrets, but also all health workers, both medical and non-medical, including all health workers, all medical students, all students who are on duty in the field of examination, treatment or care, and people appointed by the government. Minister of Health.

Based on the description of the background, the purpose of the study is to analyze and describe the legal protection for Covid-19 vaccine participants for personal data misused by medical workers.

## RESEARCH METHOD

This article was written using a normative legal research method. The approach used in writing this article is a conceptual approach and a statutory approach. The legal materials used are primary legal materials and secondary legal materials. The technique of collecting legal materials used in writing this article is library research and cyber research. The analytical method used in writing this article is deductive analysis using syllogistic reasoning.

### A. FINDING AND DISCUSSION

Today, the media as a distribution of information has quite an impact on the development of the economy, whether it is a

developing country or a developed country (Dewi, 2016). Satjipto Rahardjo said that protection of the law means that there is protection regarding human rights that are violated by other people and guarantees the community a form of protection so that they can protect their rights. (Rahardjo, 2000) Misuse of personal data is experienced by the wider community, including those who are participants in the covid-19 vaccine. The use of personal data by irresponsible people will result in losses for those who are victims. Misuse of a person's personal data has not only been carried out by irresponsible people, health workers have also abused their patient's personal data in the form of a confidential telephone number or even the use of a Family Identification Number for their personal needs. Cases of misuse of personal data do not look at what the perpetrator's work profession is, but the abuse occurs due to an opportunity or even to an uncontrollable pressure.

Discussing the patient's personal data, there are several rights that patients have when receiving health services (Nasution, 2008) These obligations and rights are the patient's right to treatment, the obligation to carry out the advice of medical personnel (doctors), the obligation to comply with the rules regarding health, the obligation to be honest if there are problems in the relationship between the medical personnel (doctors), the obligation to provide compensation for services, and keep all doctor's personal confidentiality (including patient's personal data) which is based on a therapeutic agreement so that it creates rights and obligations for the parties.

In addition to the patient's rights above, the doctor's obligations must be fulfilled. This obligation must always be carried out with a sincere heart considering his profession as a doctor (Ohoiwutun, 2007). medical science and experience, obliged to respect the rights of patients including the personal data of patients participating in the Covid-19 vaccine, obliged to convey information to patients and/or families regarding the actions to be taken and the possible

risks that could occur as a result of medical actions, obliged to advise with referrals for patients to seek treatment from other doctors with better skills/capabilities and are obligated in emergency situations to provide assistance as a humanitarian task.

Minister of Communication and Information Regulation No. 20 of 2016 concerning the Protection of Personal Data in Article 1 number 1 and 2 where the Electronic System explains that personal data is intended as a person's identity in order to make clarity and prove self-determination for him and must be maintained, maintained so that it is correct and placed in secrecy so that it is safe. Whereas Article 2 point 1 explains about the acquisition, processing, collection, appearance, analysis, storage, announcement, delivery, dissemination and destruction of personal data, namely the protection of personal data in an electronic system that respects personal data as privacy.

Government Regulation (PP) No. 82 of 2012 concerning the Implementation of Electronic Systems and Transactions, Article 1 number 27 describes the personal data part of a certain person's data which is kept true and kept and its confidentiality is protected. The importance of protecting personal data can be seen because it is part of the human rights contained in Article 12 of the Universal Declaration of Human Rights. If there is a report on the occurrence of a criminal act, the officer authorized to receive the report immediately conducts an examination to ensure the truth of this incident. This report can be submitted verbally and it is better if it can also be in writing and must be signed by the reporter.

The Personal Data Protection Bill is expected to be a definite legal protection for a public personal data so that later if a crime occurs in the form of misuse of someone's personal data, there is a legal certainty that is able to guarantee the problem so as to provide a sense of justice for the victims and perpetrators of the misuse of personal data. If a general conclusion is drawn regarding data protection, however, this

data protection has indirectly been regulated in these articles, namely in Article 30 - Article 33 and Article 35 which are included in CHAPTER VII regarding prohibited acts. By using a general interpretation, violations of data protection can be based on these provisions. The Law on Information and Electronic Transactions comprehensively actually contains provisions governing the procedures for data protection given to individuals, legal entities, and the government. The ITE Law expressly prohibits illegal access to other people's data through electronic systems in order to obtain information by breaking through the security system.

The Information and Electronic Transactions Law expressly stipulates that interception is an act that is a prohibited act, which is prohibited unless it is carried out by a party who has the authority to do so in the context of certain legal remedies. The elaboration of the ITE Law explains that it is prohibited for anyone in any way to open information belonging to other people for any purpose, even if the confidential data can be disclosed to the public. Furthermore, data protection does not only regulate access to data disclosure, but also if the data can be opened and modified in any way (manipulation, alteration, deletion, destruction) so that it looks as if the data is authentic data.

An electronic system Protection of personal data includes protection regarding the acquisition, processing, collection, storage, analysis, announcement, appearance, dissemination, transmission, and destruction of personal data. Everyone who obtains, analyzes, collects, processes, displays, stores, announces, transmits, and/or disseminating privacy personal data without rights or not in accordance with existing laws or this ministerial regulation will be subject to administrative sanctions in accordance with applicable regulations, namely: verbal warning, written warning, temporary suspension of activities, announcement on online website.

At this time the development of information and technology in the world is moving quite rapidly, the existing problems

cannot be denied related to the protection of personal personal data. The amount of abuse that occurs is related to personal data due to negligence from the community itself because in carrying out their daily activities. without us knowing it, we have submitted our personal data to several parties, for example when buying a starter pack for registration we submit our personal data to the counter clerk, where when downloading certain applications, filling out forms and attaching personal data, etc., which without us knowing this can be misused by the counter officer so that the potential for loss to the data owner can occur. Even the personal data of vaccine participants can also be misused by health workers and others. In addition, nowadays the use of big data is quite popular because it results in the rapid development of science and technology.

According to the researcher, judging from the legal consequences related to the problem of protecting personal data that is misused by health workers, in addition to administrative sanctions, it can also result in and be subject to civil prosecution for perpetrators who misuse this data. Misuse of personal data can be sued in a civil manner intended as a form of compensation for abuse of law. The existence of an element of error based on a civil lawsuit has been regulated in Article 1365. A civil lawsuit is based on several things, namely related to violations of the law and the form of the error. The party causing harm to a person can be sued as long as the loss incurred is a crime of violating norms or violating the law.

Article 1365 of the Civil Code states that an act can be held legally responsible for 4 (four) elements, namely an element of error, an act, a loss and a causal relationship between the error and the loss has been fulfilled. Accordingly, the KIP Law uses the same supervisory mechanism as the PDIP Bill, namely the Central Information Commission. KIP's own function is to ensure that personal data providers comply with and comply with the provisions of the law and encourage all parties to respect the privacy of personal data.

Considering the weaknesses and limitations of criminal law in handling criminal acts, however, the existence of criminal law is still needed. In fact, the policy of tackling criminal acts cannot only use penal facilities but must also use non-penal means. Therefore, it is reasonable to compensate for the shortcomings and limitations of these penal facilities with non-penal. If viewed from the perspective of criminal politics at a macro level, then the policy of overcoming crime with non-penalty is the most strategic tackling policy.

In the ITE Law and its amendments, if someone whose rights have been violated can sue for the losses caused by suing. Obligations Every electronic system operator deletes electronic information and/or electronic documents that are no longer relevant because they are under their control at the request of the person concerned based on a court order. Each electronic system operator also has an obligation to provide a mechanism for deleting electronic information and/or electronic documents that are no longer relevant in accordance with applicable regulations.

## **CONCLUSION**

The form of legal protection for Covid-19 vaccine participants for the misuse of data that causes losses for Covid-19 vaccine participants is widely contained in this ITE Law. Any person who feels that he has been harmed by his rights to his own personal data can file a lawsuit under Indonesian law. Thus, a conclusion is drawn that in general there are specific forms of legal protection for personal data in Article 30 to Article 35 of the UUIITE which is included in Chapter VII related to a prohibited act. In this case, various regulations provide security guarantees for the owner of personal data. However, of course, the government's personal data can be accessed by the government in terms of legal interests. According to the researcher, regarding the parties who can be responsible for the leakage of personal data, it depends on which party leaks the confidentiality of the data, both

the government and the private sector. Settlement of personal data disputes that are misused by health workers can be viewed from the legal consequences committed related to violations or crimes related to personal data problems by health workers. Talking about sanctions, in addition to administrative sanctions, perpetrators can also be ensnared by civil law. misuse of personal data can be sued in a civil manner intended as a form of compensation for the abuse of law. The existence of an element of error based on a civil lawsuit has been regulated in Article 1365. A civil lawsuit is based on several things, namely related to violations of the law and the form of the error. The party causing harm to a person can be sued as long as the loss incurred is a crime of violating norms or violating the law. Thus, a form of law enforcement can be more effective in regulating crimes related to the leakage of personal data so that the improvement and improvement of an aspect is very important at this time.

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