

## Editorial

### The Right to Liberty Versus the Right to Public Health: Administrative and Criminal Sanctions on Covid-19 Mandatory Vaccination Programs in Indonesia under International Human Rights Law

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#### Abstract

The mandatory vaccination programs triggered a heated public debate between Indonesian vaccine supporters and anti-vaxxers. The necessity and urgency of administrative and criminal sanction for vaccine refusal has been questioned, the criminal element of the sanction in COVID-19 mandatory vaccination has been seen as a threat to the right to liberty of a person protected under the Article 9 of International Covenant on Civil and Political Rights. Albeit, the argument of invoking personal liberty, there is an imminent threat on public health in the COVID-19 pandemic. In implementing policies and regulations, the Indonesian government shall adhere to international human rights law as a guidance especially when limiting certain rights prescribed in the Covenant. This editorial aims to assess the legitimacy of the limitation of the right to liberty on the grounds of public health under the Siracusa Principles.

**Keywords:** mandatory vaccination, ICCPR, Siracusa Principles, COVID-19, the right to liberty

#### Intisari

*Program vaksinasi wajib memicu perdebatan publik yang panas antara pendukung vaksin Indonesia dan komunitas anti-vaksin. Keperluan dan urgensi sanksi administratif dan pidana penolakan vaksin dipertanyakan, unsur pidana sanksi dalam kewajiban vaksin COVID-19 dipandang sebagai ancaman terhadap hak kebebasan seseorang yang dilindungi Pasal 9 Kovenan Internasional tentang Hak Sipil dan Politik. Terlepas dari argumen yang menyerukan kebebasan pribadi, ada ancaman nyata terhadap kesehatan masyarakat dalam situasi COVID-19. Dalam melaksanakan kebijakan dan peraturan, pemerintah Indonesia harus berpegang pada hukum hak asasi manusia internasional sebagai pedoman terutama ketika membatasi hak-hak tertentu yang ditentukan dalam Kovenan. Editorial ini bertujuan untuk menilai legitimasi pembatasan hak atas kebebasan atas dasar kesehatan masyarakat di bawah Prinsip Siracusa.*

**Kata Kunci:** kewajiban vaksin, ICCPR, Prinsip Siracusa, COVID-19, hak atas kebebasan

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## A. Introduction

Widespread vaccination is one of the most important steps that must be taken to control and stop the spread of a pandemic, limiting the number of cases of new infections as well as protecting those most vulnerable against the disease such as the elderly, those with comorbidities and other health afflictions. However, in many countries, there is a push against government mandated vaccination programs stemming from a distrust against vaccines.<sup>1</sup> Such distrust and rejection towards vaccines are also seen in Indonesia during the COVID-19 pandemic.

The COVID-19 situation in Indonesia remains dire. As of writing this, there are 300,000 active cases and a total of 127,000 deaths in the country.<sup>2</sup> Globally, Indonesia sits at the fourteenth rank in terms of total number of cases—amounting to nearly four million total cases of COVID-19 in the region.<sup>3</sup> Experts and various studies have even expressed concerns of underreporting and the lack of sufficient testing and contact tracing, which means that these statistics may not fully show the amount of people which are actually infected, have been infected, or even died after contracting the virus.<sup>4</sup> Widespread vaccination is badly needed to control further spread and prevent the increase in casualties from the COVID-19 pandemic in Indonesia.

The Indonesian vaccination program commenced in January 2021. At the time of writing, more than 60 million people have obtained their first dose of vaccination and more than 34 million have obtained their second dose.<sup>5</sup> However, the percentage of the population who are fully vaccinated remains low, notably in regions outside of the capital of Jakarta.<sup>6</sup> Even medical personnel which have been given priority to get vaccinated first have not taken the opportunity.<sup>7</sup> This group's hesitance to get vaccinated can be described as vaccine hesitancy, where there is a delay in utilizing the vaccine despite its availability.<sup>8</sup> In this case, the delay is caused by legitimate concerns

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<sup>1</sup> Siladitya Ray, "European Nations—Among the Most Vaccine-Skeptical In The World—Are Hitting Key Inoculation Targets," *Forbes*, last modified June 2, 2021, <https://www.forbes.com/sites/siladityaray/2021/06/02/european-nationsamong-the-most-vaccine-skeptical-in-the-worldare-hitting-key-inoculation-targets>.

<sup>2</sup> "Indonesia: WHO Coronavirus Disease (COVID-19) Dashboard With Vaccination Data," *World Health Organization*, accessed August 27, 2021, <https://covid19.who.int/region/searo/country/id>.

<sup>3</sup> *Ibid.*

<sup>4</sup> Tom Allard, "EXCLUSIVE COVID-19 far more widespread in Indonesia than official data show: studies," *Reuters*, last modified June 3, 2021, <https://www.reuters.com/world/asia-pacific/exclusive-covid-19-far-more-widespread-indonesia-than-official-data-show-studies-2021-06-03/>.

<sup>5</sup> Ministry of Health of Indonesia, "Vaksinasi COVID-19 Nasional," accessed August 27, 2021 <https://vaksin.kemkes.go.id/#/vaccines>.

<sup>6</sup> *Ibid.*

<sup>7</sup> Anwar Siswadi, "Survei, 20 Persen Tenaga Medis di 4 Kota Ini Tolak Vaksinasi COVID-19," *Tempo*, last modified January 9, 2021, <https://tekno.tempo.co/read/1421711/survei-20-persen-tenaga-medis-di-4-kota-ini-tolak-vaksinasi-covid-19>.

<sup>8</sup> Michael Calnan and Tom Douglass, "Hopes, hesitancy, and the risky business of vaccine development," *Health, Risk & Society* 22(2020): 293, <https://doi.org/10.1080/13698575.2020.1846687>.

over the safety of the vaccine and its clinical trials. A portion of the significant Muslim population in Indonesia are also concerned about the compliance of the vaccine with the *halal* requirement, pushing the Indonesian Ulema Council to issue a fatwa validating its *halal* status.<sup>9</sup>

However, refusal to take part in vaccination programs may also take more malignant forms. The same religious sentiments behind concerns of the *halal* status of vaccines may take a more conservative form by refusing to get vaccinated despite assurances otherwise, even persuading other people to not vaccinate alongside them.<sup>10</sup> Some of this distrust goes beyond the religious sentiment but is fairly popular among the same segments of society—it is also fuelled by conspiracy theories about the involvement of immoral private actors and malicious business interests in the vaccines, even advocated by an Indonesian member of parliament.<sup>11</sup> Such fear mongering hurts efforts to increase the vaccination rate in Indonesia.

This refusal and movement against vaccination programs in Indonesia have spurred debate among academics and the public with regards to the law surrounding government mandated vaccination programs as well as society's reaction towards it. In a number of instances, the Vice Ministry on the Law and Human Rights have stated that, based on Law No. 6/2018 on Health Quarantine, getting vaccinated is part of a citizen's obligation. The statement is further affirmed by Article 69 of the Indonesian Law on Human rights which, under sub-article (1), provides that every person has the obligation to respect the human rights of other persons; and under sub-article (2), that a person's human rights gives rise to the basic obligation and responsibility to respect the human rights of other persons. This Article is relevant in that the respect a person must afford to the human rights of other persons includes their right to health.<sup>12</sup> What this means in the present context of COVID-19 vaccination programs is that one of the ways to respect the right to health of another person is to get vaccinated for the COVID-19 virus, thereby reducing the risk of spreading it to others.

Participation in the COVID-19 vaccination as an obligation raises another question: what happens to citizens who violate this obligation by refusing to

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<sup>9</sup> BBC, "Gerakan tolak vaksin Covid-19, akankah berakhir lewat anjuran MUI dan tokoh agama? - BBC News Indonesia," last modified January 14, 2021, <https://www.bbc.com/indonesia/indonesia-55644537>; Muhammad Iqbal, "Fatwa MUI: Vaksin COVID-19 Sinopharm Haram Tapi Bisa Dipakai," *CNBC Indonesia*, last modified May 3 2021, <https://www.cnbcindonesia.com/tech/20210503124519-37-242668/fatwa-mui-vaksin-covid-19-sinopharm-haram-tapi-bisa-dipakai>.

<sup>10</sup> Adi Renaldi, "Indonesia's anti-vaxxers: Between religion and lack of information," *the Jakarta Post*, last modified February 4, 2021, <https://www.thejakartapost.com/life/2021/02/04/indonesias-anti-vaxxers-between-religion-and-lack-of-information.html>.

<sup>11</sup> Sukmawani Bela Pertiwi, "Why do people still reject COVID-19 vaccines in Indonesia? We need to solve structural problems behind the anti-vaccine movement", *the Conversation*, last modified 19 February, 2021, <https://theconversation.com/why-do-people-still-reject-covid-19-vaccines-in-indonesia-we-need-to-solve-structural-problems-behind-the-anti-vaccine-movement-154568>.

<sup>12</sup> Kompas.com, "Wamenkumham: Menolak Vaksinasi Covid-19 Bisa Dipidana," last modified 11 January, 2021, <https://nasional.kompas.com/read/2021/01/11/08572481/wamenkumham-menolak-vaksinasi-covid-19-bisa-dipidana>.

participate in the vaccination program? Again, on this issue, the Indonesian Vice Minister on Law and Human Rights said, in the same instance, that said people may be criminalized according to law. It is important to note here that such criminalization is a last resort. In the same law, there are other punishments which may be given to citizens who infringed their obligations under the law; which, when sanctioned, eliminates the possibility of punishment. Additionally, socialization and other approaches are done to encourage people to get vaccinated.

However, the issue of human rights with regards to the COVID-19 vaccination does not stop here. As established before, these people who refuse to get vaccinated—and therefore become subject to the possibility of administrative penalties or even criminalization due to their religious beliefs and hence having their right to liberty taken away when they are faced with criminal sanctions. The right to liberty is a human right protected under the International Covenant on Civil and Political Rights (“**ICCPR**”), specifically under Article 9, which Indonesia is bound to due to its ratification through Law No. 12/2005 on the Promulgation of the ICCPR. In other words, some groups’ refusal to get vaccinated are rooted in the exercise of their own human rights as prescribed within the ICCPR.

The right to liberty is not the only human rights impacted by government mandated vaccination programs, requiring citizens to get vaccinated before they can partake in domestic travel, which have been implemented in a number of Indonesian provinces under Ministry of Internal Affairs Instruction No. 30/2021, also considerably limits the freedom of movement of citizens. Freedom of movement is also a human rights guaranteed under Article 12 of the ICCPR. The question, then, becomes: when different human rights clash—in this case, the right to health and the right to liberty and other rights such as freedom of liberty—which right prevails? Or more to the point: is the government justified in limiting the exercise of certain human rights to enforce its vaccination program?

In part, this question is answered by the text of the ICCPR itself. Under the respective Articles, it is provided that the freedom of liberty may only be limited by restrictions provided by the law and are necessary to protect national security, public order, health, morals, or the fundamental rights and freedoms of others. But these concepts are open-ended hence further clarification is needed to assess exactly whether such parameters are met. This is where the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (“**the Siracusa Principles**”) become salient.

The Siracusa Principles were written to address uncertainty and prevent abuse concerning such derogative provisions that governments may do to unjustifiably limit

the fundamental rights and freedoms of its citizens.<sup>13</sup> Hence, in this article, it is important to assess whether the Indonesian government justifiably limits certain human rights of its citizens in light of its vaccination program.

## **B. The Rejection of COVID-19 Mandatory Vaccination in Indonesia**

The severity of COVID-19 cases in Indonesia have reached its pinnacle in the last three months, starting from June to August 2021. On the 13<sup>th</sup> of July, Indonesia hit its third wave induced by the Delta variant which was known to be the most contagious one thus far.<sup>14</sup> The daily COVID-19 cases in Indonesia had never been under 10,000 cases per day consecutively and on its peak, Indonesia reported 350,273 weekly cases to the WHO, where the cases reached its breaking point in more than 40.000 cases per day.<sup>15</sup> In battling the COVID-19 pandemic, the government has initiated the vaccine rollouts since January 2021. The timeline schemes had been set by Indonesian government starting from January 2021. The vaccination programs will be run in 15 months in two phases, the first one is from January to April and the second phase is from April 2021 to March 2022 which will last for 11 months.<sup>16</sup>

Despite the government's effort in implementing this vaccination schedule, as has been established, various differing opinions on vaccines have emerged since the government released a statement upon the mandatory vaccine, particularly in imposing administrative and criminal provisions in the regulations. Many individuals and non-governmental organisations argue that criminalization for those refusing to get vaccinated is not necessary. Article 30 of the DKI Jakarta Provincial Regulation No. 2 of 2020 prescribes people who intentionally refuses or reject to be vaccinated or treated for COVID-19 can be fined up to Rp. 5,000,000.<sup>17</sup> People perceived this regulation as a form of a threat to their liberty for those who refuse the vaccination programs. Some actors such as NGOs argue that such threat is deemed as unnecessary and lacks urgency for immediate response.<sup>18</sup> These actors believe that putting forward

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<sup>13</sup> American Association for the International Commission of Jurists, *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights* (New York: 1985).

<sup>14</sup> Febriana Firdaus, "Indonesia Can't Keep Up With Its COVID-19 Cases," *Foreign Policy*, last modified August 25, 2021, <https://foreignpolicy.com/2021/08/25/indonesia-covid-pandemic-delta-variant-testing-data/>.

<sup>15</sup> Abigail Ng, "Indonesia Reported the Highest New Covid Cases in the World Last Week, Says WHO," *CNBC*, last modified July 22, 2021, <https://www.cnbc.com/2021/07/22/who-indonesia-reported-most-new-covid-cases-in-the-world-last-week.html>.

<sup>16</sup> "COVID-19 Vaccination Schedule in Indonesia," *Fullerton Health*, last modified January 11, 2021, <https://www.fullertonhealth.co.id/covid-19-vaccination-schedule-in-indonesia/>.

<sup>17</sup> Provincial Regulation of DKI Jakarta No. 2 of 2020 Concerning Corona Virus 2019 Disease Management (2020).

<sup>18</sup> "ICJR Requests Central and Regional Governments to Review Criminal Provisions Refusing Vaccines," *Institute For Criminal Justice Reform*, last modified January 8, 2021, <https://icjr.or.id/icjr-minta-agar-pemerintah-pusat-dan-daerah-tinjau-ulang-ketentuan-pidana-untuk-perbuatan-menolak-vaksin/>.

such a criminal approach to ensure the implementation of vaccine programs is not essential for Indonesia.<sup>19</sup>

### **C. International Human Rights Law Perspective on Administrative and Criminal Sanction of the COVID-19 Mandatory Vaccination in Indonesia**

#### a. The Right to Liberty under ICCPR in times of COVID-19

Article 9 of ICCPR states that:

“Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

Essentially, Article 9 of the ICCPR protects individuals from having their liberty and security infringed, thereby individuals shall not be a subject to arbitrary arrest or detention. The argument on being against criminal sanction of vaccine refusal is contingent on the particular article in ICCPR on individual freedom being recognised and protected under the regime of international human rights law.<sup>20</sup> Therefore, a State that has accessioned the instrument must adhere in enforcing articles contained in the ICCPR. Indonesia has accessioned to the ICCPR on the 23th of February 2006 which later entered into force on the 23th of May 2006, thereby as a State party, Indonesia should fulfil its obligations. Nevertheless, there needs to be further evaluation on whether the COVID-19 administrative and criminal sanctions violate Article 9 of ICCPR.<sup>21</sup>

In assessing such question, the Siracusa Principles must be taken into consideration when interpreting whether the action of Indonesian government in imposing administrative and criminal sanction in vaccine refusal is a violation of Article 9 of the ICCPR. The Siracusa Principles vow exemptions or restrictions to be made on certain civil rights to protect public health.<sup>22</sup> Under said Principles, public health emergencies can be made to justify limitations to articles provided in the ICCPR with several conditions in order to legitimize the limitation.

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<sup>19</sup> *Ibid.*

<sup>20</sup> Daniel Wei Liang Wang, Gabriela Moribe, and Ana Luiza Gajardoni De M Arruda, “Is Mandatory Vaccination for COVID-19 Constitutional under Brazilian Law ?,” *Health and Human Rights Journal* 23(1) (2021): 163–74.

<sup>21</sup> International Covenant on Civil and Political Rights, UN General Assembly Resolution 2200A (XXI) (16 December 1966).

<sup>22</sup> *Ibid.*

b. Compliance of the Administrative and Criminal Sanction for Vaccine Refusals with the Siracusa Principles

The Indonesian government may not allow administrative and criminal sanctions to be enacted when the Siracusa Principles are not fulfilled. There are four key elements or conditions in determining whether a situation may legitimize the limitation on the grounds of public emergencies. On its limitation clause, Siracusa Principles asserted that limitation under the principle shall be “necessary”.<sup>23</sup> Article 10 of Siracusa Principles further defines on what “necessary” can be interpreted, these elements are cumulative and shall be applied strictly in an objective manner:<sup>24</sup>

- “(a) is based on one of the grounds justifying limitations recognized by the relevant article of the Covenant; or in other words prescribed by law
- (b) responds to a pressing public or social need;
- (c) pursues a legitimate aim;
- (d) is proportionate to that aim.”

The interpretation of implementation of Article 10 is discussed further by Lawrence Gostin, an American law professor who specialises in international law and public health law. He stated that the justification of the limitations should be made in accordance with the law for section a while section b can be interpreted that the limitations shall also have a legitimate objective and the limitations is strictly necessary in democratic society, meaning that it should be in accordance with the aim to protect people and suppress the virus. The limitations shall also have the least restrictive and intrusive means available in accordance with section c and the limitations shall not be arbitrary, unreasonable, or discriminatory as prescribed in section d in relation to proportionality.<sup>25</sup>

c. The Application of the Limitations of the Siracusa Principles for Vaccine Refusals in Indonesia

In assessing whether the limitation on Article 9 of the ICCPR on the criminal sanction for vaccine refusal falls under the Siracusa Principles, there needs to be fulfilment of all the four elements for necessity.<sup>26</sup> The first element is that the limitation is in accordance with the law or based one of the grounds of justifying the limitations under the article of Siracusa Principles. The central government of Indonesia enacted the administrative and criminal sanction based on several regulations, one of which is Presidential Regulation Number 14 of 2021 concerning the Amendment of Presidential Regulation Number 99 of 3030 concerning Vaccine

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<sup>23</sup> *Ibid.*

<sup>24</sup> American Association for the International Commission of Jurists, *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights* (New York: 1985).

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

Procurement and Vaccine Procurement and Vaccination Implementation in relation to COVID-19 Countermeasures (hereinafter ‘Presidential Regulation Number 14 of 2021’). Article 13A(2) of the Presidential Regulation Number 14 of 2021 prescribed administrative sanctions may be imposed for the those refusing to be vaccinated when they are listed as the target recipient of the vaccination.<sup>27</sup> The enactment of only legislation, however, is not enough, there needs to be an assessment whether the legislation have legitimate aims or grounds. In this case, the purpose of the enactment of the legislation by the Indonesian government is to maintain the public health of the people and to contain the virus, therefore, the aims for such legislation is legitimate and lawful.<sup>28</sup>

In addition to the administrative sanctions, the aforementioned regulation also provides for sanctions for those refusing the vaccination as provided in the relevant laws concerning infectious diseases outbreak, the relevant law contains criminal sanctions for those refusing to be vaccinated. Due to the existence of these regulations, the administrative and criminal sanctions have proven to be prescribed by law as required by the Siracusa Principles. To further strengthen the justifiable grounds on the limitation of Article 9 of ICCPR, the Indonesian President has announced that Indonesia has entered into public health emergency on the 31<sup>st</sup> of March 2020 after the surge of COVID-19 cases, directly applying a large-scale social restrictions to contain the spread of the virus after declaring the emergency. This aligns with the justifiable grounds prescribed by in Article 25 of Siracusa Principles where public health is stated as one of the legitimate grounds on limiting the articles in ICCPR.

The second element is the existence of pressing public and social needs. Referring to the Law Number 4 of 1984 concerning Infectious Diseases Outbreak (hereinafter ‘Law Number 4 of 1984’) and the Presidential Regulation Number 14 of 2021,<sup>29</sup> the administrative and criminal sanctions are closely related to the objective of the regulations that aims to protect public health.<sup>30</sup> In determining the pressing public and social needs, there needs to be an assessment of whether or not there are other alternatives to overcome COVID-19.<sup>31</sup> As asserted by Dr. Anthony Fauci, the director of the U.S. National Institute of Allergy and Infectious Diseases, the only long term possible solutions to end COVID-19 is to get people vaccinated in order to break down the transmission.<sup>32</sup> He stated this as he made a suggestion to India’s dire

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<sup>27</sup> Presidential Regulation Number 14 of 2021 Concerning The Amendment of Presidential Regulation Number 99 of 3030 Concerning Vaccine Procurement and Vaccine Procurement and Vaccination Implementation in Relation to COVID-19 Countermeasures (2021).

<sup>28</sup> *Ibid.*

<sup>29</sup> Law Number 4 of 1984 Concerning Infectious Diseases Outbreak (1984).

<sup>30</sup> Devita Kartika Putri, “Syracuse Principle in COVID-19 Vaccination in Indonesia” Law and Human Rights (class lecture, Universitas Gadjah Mada, Yogyakarta, 2021).

<sup>31</sup> *Ibid.*

<sup>32</sup> “Vaccination Is the Only Long-Term Solution to COVID-19 Crisis in India, Says Fauci,” *The Hindu*, last modified May 10, 2021, <https://www.thehindu.com/news/national/vaccination-is-the-only-long-term-solution-to-covid-19-crisis-in-india-says-fauci/article34522378.ece#>.

situation, and Indonesia in many ways have become similar to India for the past three months with the third wave of COVID-19. Hence, vaccine is the sole long-term possible solution for the Indonesian government to tackle the COVID-19 public health emergencies. The third element is a legitimate aim for the limitation, which the ICCPR includes some in the following:

- a. Public order
- b. Public health
- c. Public morals
- d. National security
- e. Public safety
- f. Rights and freedoms of others, rights and reputations of others.<sup>33</sup>

As stipulated in the Article 2 of Law Number 4 of 1984, the object and purpose of the Act is to protect the Indonesian population from a further catastrophe caused by the infectious disease as early as possible in order to protect and improve public health.<sup>34</sup> This article falls under the category of public health and rights and freedoms of others. Through vaccination, an individual may not only protect themselves but also their community and the population as a whole. Those who refused to be vaccinated can be an imminent threat in society and may infringe other people's rights to live their life since COVID-19 has been known to be one of the deadliest viruses.

The fourth element of imposing the rights limitation under the Siracusa Principles is proportionality. In assessing proportionality, there needs to be an evaluation whether the result of the limitation is more beneficial rather than the disadvantage of limiting human rights. In this context, the disadvantage or the limited rights is the right to liberty protected under the Article 9 of ICCPR. When the administration and criminal sanctions are imposed, more individuals and lives are saved, thereby the administration and criminal sanctions delivers bigger benefits and prosperity for the people, thereby the limitation is justified to use under the COVID-19 situation which has been classified as public health emergency.

One of the example of public health emergencies is the case of Ebola Virus Disease in several countries in Africa, the restrictions or limitations of individual rights are justified under such circumstances as a means to curb the virus.<sup>35</sup> Furthermore, in other cases of virus outbreak such as TB and Marburg virus, Siracusa Principles have also been invoked as a legitimate grounds to create limitation on individual rights.<sup>36</sup>

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<sup>33</sup> American Association for the International Commission of Jurists, *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights* (New York: 1985).

<sup>34</sup> Law Number 4 of 1984 concerning Infectious Diseases Outbreak (1984).

<sup>35</sup> Diego Steven Silva and Maxwell J Smith, "Limiting Rights and Freedoms in the Context of Ebola and Other Public Health Emergencies: How the Principle of Reciprocity Can Enrich the Application of the Siracusa Principles," *Health and Human Rights Journal* 17(1) (2015): 52-57, <https://doi.org/10.2307/healhumarigh.17.1.52>.

<sup>36</sup> World Health Organization, *Ebola and Marburg Virus Disease Epidemics: Preparedness, Alert, Control, and Evaluation* (Geneva, 2014).

Due to the wider scope of COVID-19, there is bigger gravity since it travels beyond national borders and therefore exceeds the conditions that have been set as precedent for the fulfilment of the Siracusa Principles.

#### **D. Conclusion**

The Indonesian government has made an extensive effort in containing the spread of the virus and reducing the gravity of the COVID-19 situation in Indonesia. One of the which is to impose mandatory vaccinations to targeted individuals and imposing administrative and criminal sanctions for those refusing to get vaccinated. Despite the argument that the administrative and criminal sanctions are a breach to the right to liberty protected under Article 9 of ICCPR, such punishment is justified under these circumstances as it has fulfilled the elements provided under the Siracusa Principle by providing that the limitation is prescribed by law, having pressing social implications, provide a legitimate aim for the limitation, and proportionate.

Therefore, the right to public health prevails over the right to liberty protected under Article 9 of ICCPR. Nevertheless, the government should impose proportionate administrative and criminal sanctions on mandatory vaccinations program. The detention and other forms of criminal sanctions shall be the last resort for the government to impose after having done a thorough socialisations towards the targeted groups for vaccinations and ensuring that the criminal sanctions serve as *ultimum remedium*.

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