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Legal Analysis of Mandatory Basic Immunization for Children: Parental Rights Vs Child Interests

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Abstract:

Basic immunization constitutes both a child's right and state obligation in fulfilling public health standards. Mandatory immunization policy creates tension between state authority and parental rights to determine children's healthcare. Resistance from certain communities due to religious beliefs, vaccine side-effect concerns, and anti-vaccination movement influence threatens herd immunity and child health. Research problems examine how juridical construction of mandatory basic immunization addresses conflicts between parental autonomy rights and best interests of the child, and how law enforcement mechanisms and sanctions can be implemented proportionally and justly. This normative juridical research analyzes legislation, international legal instruments, and legal literature using primary legal materials including the 1945 Constitution, Law Number 17 of 2023 on Health, Law Number 35 of 2014 on Child Protection, Ministry of Health Regulation Number 12 of 2017, and Convention on the Rights of the Child. Research findings indicate mandatory immunization possesses strong constitutional legitimacy, where parental rights are relative and may be proportionally limited when endangering child health based on best interests of the child principle. However, law enforcement mechanisms remain weak due to absence of explicit sanctions and firm conflict resolution mechanisms. Research novelty lies in comparative analysis with Australia and Italy, and recommendation of hybrid model for Indonesia. Required are regulatory strengthening with tiered sanctions, integration with social assistance programs, development of responsive dispute resolution mechanisms, enhancement of evidence-based health literacy, and cross-sectoral collaboration to optimize child rights protection through immunization.

Keywords: social integration; religious identity; balinese hinduism; pluralism.

INTRODUCTION

Child health is a fundamental investment for the sustainability of a nation, where basic immunization is one of the most effective public health interventions in preventing life-threatening infectious diseases. Indonesia as a country that ratified the Convention on the Rights of the Child has recognized the right of every child to the highest attainable standard of health, including access to immunization services (Fadhillah et al., 2025). The Indonesian government through Law Number 17 of 2023 concerning Health and Regulation of the Minister of Health Number 12 of 2017 concerning the Implementation of Immunization has stipulated basic immunization as an obligation that must be fulfilled by every parent or guardian of a child. This policy presents a new paradigm in the relationship between parental rights in caring for children and the best interests of the child (best interest of the child) guaranteed by the constitution. However, the

implementation of this mandatory immunization policy has not been entirely smooth, considering that there is still resistance from some community groups who refuse immunization for various reasons, ranging from religious beliefs, concerns about vaccine side effects, to the influence of the increasingly massive anti-vaccine movement in the digital era (Rusharyati et al., 2017). This phenomenon of refusing immunization has raised deep academic concerns, especially regarding how the law should position itself in accommodating the rights of parental autonomy on the one hand, and the state's obligation to protect the right to life and health of children on the other.

The complexity of the problem increases when considering that Indonesia is a country with diverse cultures, religions, and heterogeneous levels of health literacy. Ministry of Health data shows that although national coverage of complete basic immunization shows an increasing trend, there are still significant disparities between regions and certain community groups who refuse immunization. This refusal of immunization not only impacts the child in question but also threatens herd immunity, the foundation of collective public health protection. From a legal perspective, this tension between parental rights and children's interests presents a constitutional dilemma that requires in-depth analysis, particularly in the context of how the state can intervene in parental authority without violating constitutionally guaranteed human rights, while ensuring optimal protection of children's rights (Nasiliu et al., 2023). This issue becomes even more complicated when considering that children, due to their limited capacity and maturity, are not yet able to make their own decisions regarding their health, and therefore are entirely dependent on the decisions of their parents or guardians, which may not always be in the child's best interests.

Previous studies have examined various aspects related to immunization and children's rights, but the majority have focused on the public health perspective, the effectiveness of immunization programs, or factors influencing immunization coverage. Studies from a health law perspective have been conducted by several researchers, such as the study by Trismayanti et al. who analyzed the legal aspects of the implementation of mandatory immunization in Indonesia, but have not comprehensively explored the dynamics of conflicts of interest between parental rights and children's rights within the framework of international and national human rights law (Trismayanti et al., 2022). Meanwhile, Natasya & Lailiyah's study emphasizes the implementation of immunization policies from a health administration perspective, without delving into the legal implications of refusing immunization on parental accountability (Natasya & Lailiyah, 2024). Similarly, Haryanto et al.'s study on legal protection for children in health services tends to be normative-descriptive without critically analyzing conflict resolution mechanisms when there is a conflict between parental wishes and the child's medical interests (Haryanto et al., 2024). Maya et al. have identified a legal conflict between parental rights and the best interests of the child in medical decisions, but the discussion is still limited to theoretical aspects without exploring concrete dispute resolution mechanisms in the context of the Indonesian legal system (Maya et al., 2024). The main gap identified is the lack of research that specifically analyzes the legal construction of basic immunization obligations using a rights-based approach that positions children as rights holders while considering the proportionality dimension of state intervention on family autonomy.

The novelty of this research lies in its integrative approach, which not only analyzes Indonesia's positive legal norms regarding mandatory immunization but also critically examines the hierarchical relationship between parents' rights to educate and care for children and children's fundamental rights to health and life from the perspective of the constitution and international legal instruments ratified by Indonesia. This research uses a proportionality test analytical framework to evaluate whether restrictions on parental rights through mandatory immunization meet the criteria of legitimacy of purpose, appropriateness of means, and balance between burdens borne and benefits obtained (Smith et al., 2021). Furthermore, this research also explores the legal remedies available in the Indonesian legal system when immunization refusals occur that endanger children, including the possibility of imposing administrative, civil, and even criminal sanctions against parents who neglect to fulfill immunization obligations. The uniqueness of this research also lies in its comparative analysis with legal practices in several countries that have implemented mandatory immunization policies, such as Australia with its No Jab No Play Policy and Italy with its administrative fine system for parents who do not immunize their children, to then evaluate its relevance to the Indonesian socio-legal context. This research is not merely descriptive-normative, but also prescriptive by offering policy recommendations that can accommodate multi-party interests within a proportional and just legal framework.

Based on the identification of problems and the novelty of the research above, this study is built with the hypothesis that the regulation of mandatory basic immunization in Indonesian positive law, despite having strong constitutional legitimacy within the framework of protecting children's rights, still has weaknesses in the aspects of enforceability and conflict resolution mechanisms when parents refuse (Nurlaelasari, 2024). This hypothesis is based on the premise that the absence of firm sanctions and clear dispute resolution mechanisms in laws and regulations results in mandatory immunization policies being more symbolic than substantive. In addition, this study also hypothesizes that the legal construction that places the interests of children as the main consideration (paramount consideration) requires a reinterpretation of the limits of parental authority in making medical decisions that have a significant impact on the life and health of children, so that the state has the authority to intervene legitimately in certain circumstances without being considered to violate parental human rights (Mulderry et al., 2024).

Based on this background, this study formulates two main problems. First, how is the legal construction of the obligation of basic immunization for children from the perspective of the conflict between parental autonomy rights and the best interests of the child in the Indonesian legal system? Second, how can the law enforcement mechanism and sanctions for immunization refusal be implemented proportionally and fairly? This study aims to develop a comprehensive legal analytical framework regarding the dynamics of parental rights and children's interests in the context of mandatory immunization, which can serve as an academic reference for the development of child health law policies in Indonesia. The expected outcome of this study is the development of a comprehensive legal analytical framework regarding the dynamics of parental rights and children's interests in the context of mandatory immunization, which can serve as an academic reference for the development of child health law policies in Indonesia and contribute to the discourse on human rights law, particularly regarding the protection of children's rights in the national health system (Zen & Ramdani, 2020).

METHOD

This research was conducted using a normative juridical approach, an approach that positions law as a written norm analyzed through legislation, court decisions, and the views of legal experts relevant to the issue of mandatory basic immunization for children. The main focus of this approach lies in efforts to read, understand, and analyze the structure of legal norms that regulate mandatory immunization and their implications for the relationship between parental rights and the best interests of children. The normative juridical approach is deemed appropriate because this research does not examine empirical community behavior, but rather focuses on the construction of applicable positive law. The analysis is conducted conceptually and systematically to see how legal norms shape the framework for child protection in the context of public health, particularly through mandatory immunization policies (Marzuki, 2017).

The choice of the normative juridical method is also based on the nature of the research problem, which is oriented towards legal rules, principles, and principles. This research views law as a system composed of interrelated norms that form certain regulatory patterns. In the context of childhood immunization, the law functions not only as an instrument of social control but also as a means of protecting human rights, particularly children's rights to health insurance. Through this approach, the research seeks to explore how the law positions parental authority in making medical decisions regarding children, while ensuring that the child's best interests remain the primary orientation. An examination of the legal principles underlying immunization policy is conducted to identify the normative rationale underlying these regulations.

The type of research used falls into the category of library research. Library research is understood as a scientific activity that relies on the collection and processing of data sourced from written materials, both in the form of legal regulations and academic literature. In this study, data was obtained through a search of various legal documents and scientific works relevant to the issues of mandatory immunization and the protection of children's rights. Library research allows researchers to conduct in-depth studies of legal texts and academic thought without involving field data collection. Thus, this study prioritizes analytical rigor of existing legal sources and avoids drawing speculative conclusions outside the established normative framework.

The legal materials used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials are the main sources that have binding force, including laws and ratified international legal instruments. In this context, the 1945 Constitution of the Republic of Indonesia serves as a fundamental basis, particularly Article 28B paragraph (2), which affirms the child's right to survival, growth,

and development, and Article 28H paragraph (1), which guarantees everyone's right to health. These constitutional provisions provide a strong normative framework for regulating immunization as part of children's right to health.

In addition to the constitution, this study also refers to Law Number 17 of 2023 concerning Health, which regulates comprehensive health care, including disease prevention efforts through immunization. Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection also serves as an important reference because it emphasizes the obligations of the state, parents, and society in guaranteeing children's rights. Minister of Health Regulation Number 12 of 2017 concerning Immunization Implementation is used to examine the technical and operational aspects of the mandatory immunization policy. International legal instruments, such as the Convention on the Rights of the Child, ratified through Presidential Decree Number 36 of 1990, are also analyzed as part of Indonesia's commitment to protecting children's rights.

The secondary legal materials used in this study include various scientific journals, textbooks on health law, and other academic works relevant to the research topic. Secondary legal materials serve to provide explanations, interpretations, and critiques of primary legal materials. Through a review of academic literature, this study gains a theoretical perspective that enriches the normative analysis. The views of legal experts are used to understand the dynamics of legal thinking related to immunization, parental rights, and the best interests of children. This literature also helps identify emerging conceptual debates within the discourse on health law and child protection.

The data collection technique in this study was conducted through document study. The document study was conducted by inventorying various laws and regulations, court decisions, and legal literature related to mandatory immunization and children's rights. These documents were then classified based on their hierarchy and relevance to the research focus. The classification process aims to facilitate analysis and ensure that each legal source is placed in its proper context. Following this, a critical reading of the legal documents was conducted to identify the norms, principles, and principles governing the relationship between the state, parents, and children in the implementation of immunization (Soekanto, 2022).

Data analysis was conducted using a prescriptive-analytical method. This method positions law not only as a descriptive object but also as a norm that can be assessed and directed toward a more ideal form. Prescriptive-analytical analysis allows researchers to formulate normative views on how the law should regulate mandatory immunization without departing from the applicable positive legal framework. In this study, the analysis is directed at understanding the harmony between protecting children's rights and respecting parental rights. This approach opens up space for critical legal reading while remaining grounded in recognized legal principles.

A systematic interpretation approach is used to interpret legislation as a unified, interrelated whole. Each norm is analyzed in light of other norms within the same legal system, achieving a holistic, unfragmented understanding. Furthermore, a teleological interpretation is applied to explore the objectives of establishing legal norms, particularly child protection and improving public health. Using this approach, the study seeks to understand the meaning and direction of immunization policy within the framework of the child's best interests, without neglecting the role and responsibilities of parents.

Through this analysis, this study seeks to identify gaps in norms, overlapping regulations, and potential inconsistencies in regulations governing mandatory immunization. This identification was conducted carefully, with reference to existing legal structures and principles of human rights protection. The analytical findings were then used to formulate conceptual normative recommendations, with the aim of encouraging regulatory refinement that is more coherent and adaptive to socio-legal dynamics. These recommendations are formulated within an academic framework that prioritizes the best interests of the child while maintaining a balance with the rights and roles of parents in childcare and health decision-making.

RESULTS AND DISCUSSION

Legal Basis for Obligatory Basic Immunization in the Indonesian Legal System

The legal construction of the obligation of basic immunization for children in the Indonesian legal system is built through a hierarchy of laws and regulations starting from the constitution to technical implementing regulations. The 1945 Constitution of the Republic of Indonesia as the highest law has provided constitutional guarantees for children's rights to survival, growth, and development as regulated in

Article 28B paragraph (2) which states that every child has the right to survival, growth, and development and the right to protection from violence and discrimination. This provision is reinforced by Article 28H paragraph (1) which regulates that everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and the right to receive health services. These two constitutional articles are the fundamental basis that the state has an obligation to guarantee the fulfillment of children's health rights, including through basic immunization programs which are an integral part of efforts to prevent infectious diseases.

Further elaboration of this constitutional mandate is realized through Law Number 17 of 2023 concerning Health, which explicitly regulates the obligation of immunization. Article 44 paragraph (1) of this law emphasizes that the government is obliged to provide complete immunization to every baby and child, and paragraph (2) states that every baby and child has the right to receive immunization to provide protection from disease, while paragraph (3) states that families, the government and the community must support immunization for babies and children in accordance with applicable provisions. This legal norm shows that immunization is not just a voluntary health program, but a legal obligation that must be fulfilled. This regulation is in line with research findings indicating that vaccination during a health emergency is not a right but an obligation that must be upheld by the entire community (Akbar et al., 2022). Furthermore, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection also provides a strong legal framework by affirming that every child has the right to live, grow, develop, and participate fairly in accordance with human dignity, and to receive protection from violence and discrimination (Undang-Undang Republik Indonesia, 2014).

The technical implementation of the provisions of the law is regulated in more detail in the Regulation of the Minister of Health Number 12 of 2017 concerning the Implementation of Immunization (Wahab et al., 2023). This regulation comprehensively regulates the types of immunization, schedules for administration, targets, implementation mechanisms, and the responsibilities of various parties in the implementation of immunization. One important aspect regulated is the obligation of parents, guardians, or caregivers to provide complete basic immunizations to children under their care. This regulation shows that the responsibility for fulfilling children's rights to immunization lies not only with the state as a service provider, but also with parents as parties who have direct authority in child care. Indonesia has also ratified the Convention on the Rights of the Child through Presidential Decree Number 36 of 1990, which in Article 24 of the convention recognizes the right of children to enjoy the highest possible standard of health and facilities for the treatment of illness and recovery of health. This ratification binds Indonesia to implement all provisions in the convention, including the obligation to take effective steps to eliminate practices that are detrimental to children's health (Undang-Undang Republik Indonesia, 1945).

The dynamics of mandatory immunization regulations in the Indonesian legal context cannot be separated from the development of the global health law paradigm, which increasingly emphasizes a rights-based approach in the provision of health services. This transformation has significant implications for how the state formulates health policies that are not only medically technically effective but also legally and ethically legitimate. The normative framework for mandatory immunization in Indonesia reflects efforts to harmonize international standards established through the Convention on the Rights of the Child with the socio-cultural realities of pluralistic Indonesian society. This presents a challenge, given that the success of the immunization program is greatly influenced by the level of public understanding and acceptance of the policy (Frastika et al., 2020). Enforcing mandatory immunization requires legitimacy that stems not only from state authority but also from the public's collective awareness of the importance of protecting children's health as an investment in the nation's future. From this perspective, the law cannot function optimally without the support of adequate health infrastructure and an effective public education system to build public health literacy regarding the benefits and safety of vaccines based on valid scientific evidence.

Normative Conflict between Parents' Autonomy Rights and the Best Interests of the Child

Complex legal issues arise when there is a conflict between the parental right to autonomy in raising and making decisions for children and the child's best interests as guaranteed by law. Parents' rights to raise children are a universally recognized fundamental right, but this right is not absolute and can be limited when it conflicts with the child's best interests. Research shows that parental refusal to immunize children creates a conflict between the parents' rights to care and the child's right to health as guaranteed by law (Witri & Putra, 2025). This conflict becomes even more complex when considering the various reasons for refusing

immunization, ranging from religious beliefs, concerns about vaccine side effects, to the increasingly massive influence of the anti-vaccine movement in the digital era.

From a human rights law perspective, the principle of the best interests of the child, as stipulated in the Convention on the Rights of the Child, must be a primary consideration in all decisions concerning children. This principle requires that in all actions concerning children, whether undertaken by governmental or private social welfare institutions, judicial institutions, regulatory authorities, or legislative bodies, the child's best interests must be a primary consideration. In the context of immunization, the child's best interests clearly refer to protecting the child's health and life through the prevention of vaccine-preventable diseases. Studies show that parental rights are relative and can be limited if they endanger the child's health, and the state has a constitutional obligation to ensure immunization as part of the child's right to health.

Constitutional limitations on parental rights in the context of immunization can be analyzed through a proportionality test, which encompasses three main elements. First, the legitimacy of the objective, where the limitation of parental rights through mandatory immunization has a legitimate objective: protecting the health and lives of children and the wider community by creating herd immunity. Second, the appropriateness of the means, where immunization is a rational and effective means of achieving the goal of protecting the health of children and the community, as has been scientifically and empirically proven. Third, the balance between burdens and benefits, where the burden borne by parents in the form of having to bring their children for immunization is far less than the health protection benefits obtained by children and the community. This proportionality analysis shows that the limitation of parental rights through mandatory immunization is constitutionally justifiable because it meets the criteria for a proportional limitation of rights.

The application of the proportionality test in the context of restricting parental rights through mandatory immunization requires careful consideration of various intersecting dimensions of human rights. The first dimension relates to the child's right to life and health, which is a non-derogable right, meaning a right that cannot be reduced under any circumstances. The second dimension concerns the right of parents to determine the direction of their child's education and upbringing, which is a fundamental but relative right and can be limited for the sake of higher interests. The tension between these two dimensions necessitates a balancing mechanism based not only on formal legal principles but also on ethical considerations regarding parents' moral responsibility for children's welfare. Evaluation of legal policies shows that the effectiveness of enforcing mandatory vaccination is highly dependent on public understanding and fair implementation mechanisms (Maya et al., 2024). Within this framework, the state must not act arbitrarily in interfering with parental authority, but must be able to demonstrate that such intervention is truly necessary to protect the child's vital interests and that there is no other alternative that is less burdensome but still effective. The principle of subsidiarity in human rights law requires that state intervention should be a last resort after persuasive and educational efforts have failed, so that the use of legal sanctions must be implemented in a tiered and proportional manner according to the level of danger faced by the child.

Research also shows that evaluating legal policies on mandatory vaccination from a human rights and public health perspective reveals that although mandatory vaccination policies have a strong legal basis for protecting public health, their implementation often faces challenges in ensuring respect for human rights principles. This indicates the need for a careful balance between enforcing mandatory immunization and respecting the fundamental rights of parents. From an Indonesian legal perspective, parental refusal of immunization can be categorized as neglect of children's rights, which can legally give rise to legal liability in the administrative, civil, and criminal realms. The principle of the child's best interests forms the legal basis for limiting parental rights, and refusal of immunization can be classified as neglect of children's rights (Witri & Putra, 2025).

The complexity of the conflict between parental rights and children's interests in the context of immunization has been exacerbated by the emergence of anti-vaccine movements that utilize social media to disseminate information that is often scientifically unfounded. The spread of misleading information about the dangers of vaccines has created deep doubts among some communities, which in turn has resulted in a decline in immunization coverage in several regions. This situation demonstrates that the issue of immunization is not solely a legal issue, but also a matter of health communication and public digital literacy. Research shows that parents' perceptions and attitudes toward immunization significantly influence their decisions to immunize their children, with lingering concerns and doubts that need to be addressed through comprehensive education. The state has a responsibility to provide accurate, transparent, and easily

understood information about immunization, while also developing mechanisms to combat hoaxes and misinformation that could endanger public health.

From a legal doctrine perspective, restrictions on parental rights in the context of immunization can be justified through the theory of human rights restrictions, which requires a compelling public interest and proportionate means of restriction. The public interest in this case is not only related to protecting the health of individual children, but also relates to the creation of herd immunity that protects all members of society, especially vulnerable groups such as infants who cannot be vaccinated and individuals with immunosuppression. This concept of herd immunity provides a strong justification for mandatory immunization because an individual decision not to immunize a child not only impacts the child but also has the potential to endanger the health of the wider community.

Law Enforcement Mechanisms and Sanctions for Refusal of Immunization

The effectiveness of mandatory immunization policies depends heavily on the legal enforcement mechanisms and sanctions available within the Indonesian legal system. An analysis of existing laws and regulations reveals a significant gap in norms regarding specific sanctions for parents who refuse to immunize their children. Law Number 17 of 2023 concerning Health does regulate mandatory immunization, but it does not explicitly address the administrative, civil, or criminal sanctions that can be imposed on parents who refuse to comply with this obligation. This gap in norms renders mandatory immunization policies more symbolic than substantive, as there are no clear legal consequences for violators (Undang-Undang Republik Indonesia, 2009).

In law enforcement practice, several regions have attempted to regulate sanctions through regional regulations. For example, research on DKI Jakarta Regional Regulation Number 2 of 2020 concerning the Management of Covid-19 shows that there are efforts to impose administrative sanctions on those who refuse vaccination. (Firdaus, 2022a) However, this regulation raises new issues related to legal certainty and uniform law enforcement throughout Indonesia. Other research also shows that in health emergencies, vaccination for workers is not a right but an obligation, and employers need to understand the legal status of laws regarding vaccination for workers so they can provide education and impose sanctions on workers who refuse to be vaccinated. (Akbar et al., 2022) This suggests that in certain contexts, enforcement of mandatory vaccination can be carried out through labor law mechanisms.

From a criminal law perspective, refusing immunization that results in a child's serious illness or death can be understood as an act with criminal legal consequences. This refusal has the potential to be classified as a form of child neglect, as regulated by the child protection law. Criminal law considers parents or those responsible for care to bear legal responsibility for meeting a child's basic needs, including health needs. When this obligation is ignored through refusing immunization, which is medically recognized as a preventive measure, the act can be considered a violation of legal obligations. In this context, criminal law serves as a final instrument to protect children from the risk of suffering arising from the negligence or decisions of adults in dominant positions.

Article 77 of Law Number 35 of 2014 concerning Child Protection explicitly stipulates criminal sanctions for anyone who intentionally neglects a child, resulting in illness or suffering. This norm provides the legal basis for the state to take action against behavior that disregards a child's safety and health. Refusal of immunization can be placed within this norm if it is proven that the act was carried out with full awareness and had a direct impact on the child's health. Therefore, criminal law does not automatically punish every form of immunization refusal, but rather carefully assesses whether the refusal meets the elements of neglect as defined in the law. This assessment requires caution so that the application of the law does not ignore the principle of substantive justice.

The application of criminal provisions in cases of immunization refusal faces serious challenges at the evidentiary stage. The element of intent is a crucial aspect that must be convincingly proven in the criminal justice process. Law enforcement officials must demonstrate that the parent or guardian consciously and intentionally refused immunization, knowing the potential health risks to the child. Furthermore, a causal relationship between immunization refusal and the child's suffering must be scientifically and legally proven. Proving this causal relationship requires expert medical testimony and in-depth medical analysis. In practice, this type of evidence often encounters obstacles, particularly when the child's illness has complex and multiple risk factors.

These evidentiary difficulties make enforcing criminal law in cases of immunization refusal challenging. Law enforcement officials are faced with the need to directly and convincingly link parental decisions to the health consequences experienced by the child. This uncertainty can create doubts in determining whether an immunization refusal qualifies as a criminal offense. This situation demonstrates that even when legal norms exist, their implementation requires adequate supporting instruments, both in terms of medical science and legal understanding. Without clear evidence, criminal law enforcement risks fueling debate about the boundaries between parental rights and legal obligations towards children.

Research shows that law enforcement efforts against those who refuse vaccination programs require normative clarity regarding the legal status of such refusal. This clarity becomes increasingly important in health emergencies that demand a swift and coordinated response from the state. When vaccination is positioned as part of public health protection efforts, individual refusal impacts not only the child concerned but also the wider community. In this context, criminal law faces a dilemma between protecting individual rights and collective interests. The ambiguity regarding whether immunization refusal is punishable has the potential to undermine the effectiveness of public health policies (Firdaus, 2022b).

Unlike criminal law, civil law provides an approach more oriented toward protecting and redressing children's interests. In the civil law context, parental refusal of immunization can be grounds for state intervention to ensure the child's best interests are protected. This intervention is carried out through a legal mechanism involving the courts, the institutions authorized to assess and resolve conflicts of interest between parents and children. The courts have the authority to assess whether a parent's decision to refuse immunization exceeds the limits of their parental authority and potentially endangers the child's health. This approach positions children as legal subjects with independent rights to health protection.

Through a court order, the state can order parents to immunize their children. This order is based on the child's best interests, a key principle in child protection law. In more extreme situations, the court even has the authority to revoke or restrict parental custody if it is proven that refusing immunization poses a serious threat to the child's life or health. This measure is seen as a form of maximum protection for the child, not as punishment for the parents. Civil law, in this context, serves as a corrective measure to ensure that children's rights are not violated due to erroneous adult decisions.

Although these civil law mechanisms are normatively available, their practical application in Indonesia remains very limited. One contributing factor to this situation is the limited understanding of law enforcement officials regarding the legal instruments available to handle cases of immunization refusal. Furthermore, the lack of clear jurisprudence regarding state intervention in cases of immunization refusal contributes to doubts about the mechanism's application. The lack of legal precedent makes law enforcement officials and judges tend to be cautious in making decisions. This situation demonstrates a gap between written legal norms and law enforcement practices in the field.

Studies show that strengthening mandatory vaccination policies cannot rely solely on a coercive legal approach. Such policies require strong scientific data on the benefits and risks of immunization, as well as a public communication strategy that bridges the gap in public understanding. An effective communication approach is key to reducing public resistance to vaccination. Furthermore, law enforcement must be carried out with the principle of proportionality in mind, ensuring that human rights restrictions are not excessive. This principle requires a balance between protecting individual rights and the broader public health interests (Maya et al., 2024).

Within this framework, law is positioned as part of the broader health policy ecosystem. Refusal to vaccinate is understood not only as a legal issue but also as a social phenomenon influenced by cultural factors, beliefs, and access to information. An overly repressive legal approach has the potential to generate new resistance and weaken public trust in state institutions. Therefore, strengthening mandatory immunization policies requires a synergy between clear regulations, measured law enforcement, and a sustainable public education strategy. With this approach, the protection of children's rights to health can be realized without neglecting the principles of justice and respect for human rights.

A Comparison of Child Protection Laws through Mandatory Immunization: Australia, Italy, and Their Relevance for Indonesia

A comparative analysis of mandatory immunization legal systems in other countries provides an important perspective in evaluating the effectiveness of regulations in Indonesia. Australia implemented the No Jab No Pay policy stipulated in the Social Services Legislation Amendment (No Jab, No Pay) Act 2015,

where the government revoked social welfare benefits such as Family Tax Benefit and Child Care Benefit for families who refused immunization without valid medical reasons. (Attwell et al., 2018) This policy was reinforced by No Jab No Play which limited access of unimmunized children to early childhood education services in several states such as Victoria and New South Wales (Helps et al., 2019). Australia's approach is a negative incentive that links the fulfillment of mandatory immunization with the right to receive social assistance, thus creating economic pressure on parents to comply with the national immunization program.

Italy adopted a different approach to immunization policy through the issuance of Decreto-Legge No. 73 of 2017, which stipulates ten types of immunization as mandatory for children between the ages of zero and sixteen. This regulation positions immunization as an integral part of child health protection and a public health instrument. In its regulation, the state not only establishes normative obligations but also includes administrative consequences for parents who fail to fulfill these obligations. The sanctions imposed take the form of administrative fines with progressive values ranging from 100 to 500 euros. The amount of these fines is not set uniformly but is adjusted according to the family's economic situation, thus reflecting sensitivity to the social realities of society.

Italy's mandatory immunization policy demonstrates an effort to balance legal obligations with principles of social justice. By implementing progressive fines, the state avoids a rigid and uniform approach to punishment. Adjusting sanctions based on a family's economic capacity reflects the recognition that public health policy cannot be separated from the socioeconomic context of its citizens. This approach positions the state as an actor that not only governs but also considers the community's capacity to support its legal obligations. In this context, Italy's immunization policy demonstrates how legal norms are designed to remain effective without creating a disproportionate burden on certain groups.

The Italian legal system also links mandatory immunization with access to educational services, particularly at the early childhood level. Children who have not met the immunization requirement are not permitted to enroll or participate in preschool education. This regulation positions immunization as an administrative prerequisite that must be met before children can receive non-compulsory educational services. This link between health and education demonstrates a holistic policy perspective, where protecting children's health is understood as fundamental to their growth and development and learning. The state uses the education sector as a medium to strengthen compliance with the immunization program, without directly subjecting children to punishment (Giambi et al., 2018).

For compulsory education, Italy implements a different, more moderate mechanism. Children are still allowed to attend primary and secondary education even if they have not fulfilled their immunization requirements. However, in such situations, parents will be summoned by local health authorities for health counseling. This counseling aims to provide a scientific explanation of the benefits of immunization and the potential health risks of neglecting this requirement. If, after the counseling process, parents still fail to fulfill their immunization requirements, administrative sanctions in the form of fines can be imposed. This scheme demonstrates the country's prioritization of persuasion before implementing sanctions.

Italy's phased approach reflects a policy orientation that prioritizes education as the first step in enforcing mandatory immunization. The government does not directly impose financial sanctions, but instead creates a dialogue through health counseling mechanisms. Education is seen as a crucial tool for building parental understanding and awareness of the importance of immunization for individual and community health. In this way, immunization policy serves not only as a regulatory instrument but also as a means of public health communication. This approach avoids stigmatizing parents who are hesitant or refuse immunization and allows them to make decisions based on more comprehensive information.

The uniqueness of Italy's immunization policy also lies in the flexibility in the application of administrative sanctions. Determining the amount of fines, taking into account the family's socioeconomic conditions, demonstrates a commitment to the principle of proportionality. The state avoids using sanctions solely as a repressive tool, instead positioning them as a reminder of legal obligations. This flexibility allows the policy to be implemented more adaptively to diverse societal conditions. Thus, the mandatory immunization policy is not perceived as an unfair burden, but rather as part of a shared responsibility between the state and citizens in safeguarding public health.

Overall, the Italian model demonstrates how mandatory immunization policies can be designed through a combination of legal obligations, educational approaches, and measured administrative sanctions. The integration of the health and education sectors demonstrates a cross-sectoral strategy for improving immunization compliance. The tiered approach allows for dialogue and learning before imposing financial

sanctions. Flexibility in determining fines strengthens the policy's legitimacy in the eyes of the public, as it takes into account the socioeconomic conditions of families. This model illustrates how the state can effectively implement its child health protection function without neglecting the principles of justice and social sensitivity.

A comparison of these two legal models with the Indonesian context reveals fundamental differences in the structure of the social security system and law enforcement capacity. Indonesia does not yet have a universal welfare system like Australia that can be leveraged to ensure immunization compliance (Rusharyati et al., 2017). An administrative sanctions system like Italy requires a bureaucratic infrastructure capable of verifying immunization status, cross-sectoral coordination across education and health sectors, and an effective fine collection mechanism. Indonesia, which has ratified the Convention on the Rights of the Child through Presidential Decree 36/1990, has an international legal obligation to implement Article 24 of the convention, which guarantees children's right to the highest attainable standard of health (Nasiliu et al., 2023). This ratification requires Indonesia to adopt legal mechanisms that ensure the fulfillment of children's health rights without discrimination.

Legal analysis suggests that Indonesia requires a hybrid model that adapts positive elements from both countries with local context adjustments. First, integrating mandatory immunization with social assistance programs such as the Family Hope Program (PKH) can provide an effective incentive without being discriminatory. Second, the implementation of tiered administrative sanctions needs to be formulated in the revised Health Law, with a mechanism ranging from education, written warnings, mandatory counseling, to proportional administrative fines. (Witri & Putra, 2025) Third, integration of health information systems with educational services is needed to verify immunization status as a requirement for school enrollment, while still providing a legitimate medical-based exemption mechanism. The implementation of this policy must consider the principle of non-discrimination and equitable accessibility of immunization services throughout Indonesia as prerequisites for the fair enforcement of legal obligations.

Factors Influencing the Implementation of Mandatory Immunization Policy

The implementation of the mandatory immunization policy is inseparable from various factors that influence the program's success in the field. Research shows that parents' perceptions and attitudes toward immunization play a crucial role in determining whether or not their children will receive full immunizations. The study found that the majority of respondents (53.5 percent) had a favorable perception of immunization and 56.5 percent had a favorable attitude toward it, contributing to 78 percent of children receiving full immunizations. These data indicate that although the majority of parents have positive perceptions and attitudes toward immunization, approximately 22 percent of children still do not receive full immunizations, indicating the need for further intervention.

Other determinants that influence the completeness of basic immunization in infants include maternal characteristics, maternal knowledge, self-awareness, maternal motivation, maternal perception, economic status, maternal income, employment status, family and husband support, vaccine availability, health facility availability, and immunization service coverage (Efendi et al., 2020). The complexity of these factors indicates that a repressive legal approach through sanctions alone will not be effective without being accompanied by comprehensive efforts to overcome existing structural and cultural barriers. Research also reveals that the implementation of management in the complete basic immunization program faces obstacles in terms of the quantity of human resources managing immunization, vaccine availability, and technical adjustments to new regulations that have a significant impact on the achievement of the routine immunization program (Wirasmi et al., 2022).

From a legal perspective, the factors influencing this implementation need to be taken into consideration when formulating responsive legal policies. An overly rigid legal approach that relies on sanctions without considering contextual factors can be counterproductive and even lead to greater public resistance. Therefore, mandatory immunization legal policies need to be balanced with efforts to increase the accessibility of immunization services, conduct extensive, evidence-based public education, and strengthen the health system to ensure adequate vaccine availability and healthcare personnel. Research shows that achieving complete basic immunization coverage for infants requires strong collaboration between families and parents, as well as the role of healthcare workers (Efendi et al., 2020).

An evaluation of the legal policy on mandatory vaccination shows that the effectiveness of the policy in increasing vaccination coverage and building herd immunity depends heavily on the level of public

understanding, implementation mechanisms, and fairness of vaccine distribution (Maya et al., 2024). This underscores the importance of a holistic approach that focuses not only on law enforcement but also on the social, economic, and cultural aspects that influence public attitudes toward immunization. In Indonesia's diverse cultural, religious, and health literacy context, mandatory immunization legal policies must accommodate this diversity without compromising the principles of the best interests of children and public health.

The findings of this study indicate that the legal framework for mandatory basic immunization in Indonesia has a strong constitutional and legal basis, but faces significant challenges in implementation and enforcement. The lack of norms regarding specific sanctions for refusing immunization, the complexity of factors influencing public immunization behavior, and the need to balance enforcement of obligations with respect for fundamental rights are crucial issues that need to be addressed. Policy recommendations include strengthening immunization regulations with clear and proportional sanction mechanisms, improving public education based on scientific evidence, strengthening cross-sector collaboration between health and law, and developing responsive dispute resolution mechanisms when conflicts arise between parental wishes and children's medical interests.

An analysis of the factors in the implementation of the mandatory immunization policy reveals that the gap between normative regulations and empirical reality on the ground is a major obstacle in achieving the national immunization coverage target. Structural constraints include limitations in the quantity and quality of human health resources, unequal vaccine distribution between urban and rural areas, and limited health infrastructure, especially in remote and underdeveloped areas (Wirasmi et al., 2022). These problems are exacerbated by the impact of the pandemic, which has caused significant disruptions to routine immunization programs, resulting in an alarming decline in immunization coverage. This situation demonstrates that enforcement of legal obligations regarding immunization must be accompanied by a state commitment to providing fair and equitable access to immunization services for all Indonesian children without discrimination.

The multifactorial nature of immunization completeness requires a comprehensive and integrated intervention approach (Efendi et al., 2020). Factors such as maternal education level, family economic status, geographic distance to health facilities, and social support from family and community have a significant influence on immunization compliance. Therefore, legal strategies to increase immunization coverage cannot rely solely on punitive approaches but must be combined with community empowerment efforts, increasing service accessibility, and strengthening the primary health care system. Responsive legal policies must be able to identify and address structural barriers that prevent communities from accessing immunization services, while providing positive incentives that encourage active community participation in immunization programs. This holistic approach is more promising in achieving optimal immunization coverage compared to approaches that solely rely on legal sanctions for refusing immunization.

CONCLUSION

Based on the legal analysis that has been conducted, this study concludes two main things, namely: First, the legal construction of the obligation of basic immunization for children in the Indonesian legal system has strong constitutional legitimacy which is sourced from Article 28B paragraph (2) and Article 28H paragraph (1) of the 1945 Constitution, which is operationalized through Law Number 17 of 2023 concerning Health, Law Number 35 of 2014 concerning Child Protection, Regulation of the Minister of Health Number 12 of 2017, and the Convention on the Rights of the Child which has been ratified through Presidential Decree 36/1990. The right of parental autonomy in child care is relative and can be limited proportionally when it endangers the child's health, where the principle of the child's best interest is the main consideration (paramount consideration). Restrictions on parental rights through mandatory immunization meet the proportionality test, which includes the legitimacy of the goal of protecting children's and public health, the suitability of the means through scientifically proven effective immunization methods, and the balance between the burden of parental obligations and the health benefits obtained by children and the creation of herd immunity. Second, the law enforcement and sanctions mechanisms for immunization refusals in Indonesia still experience significant weaknesses in enforceability due to the lack of explicit sanctions and clear conflict resolution mechanisms in legislation. Comparisons with the Australian legal system, which implements a No Jab No Pay Policy, and Italy's progressive administrative fine system, demonstrate the need for a hybrid model tailored to the Indonesian context. Implementing a proportionate and equitable

enforcement mechanism requires strengthening regulations through legal revisions with tiered administrative sanctions, integrating mandatory immunization with social assistance programs such as the Family Hope Program (PKH), developing responsive dispute resolution mechanisms through health ethics committees, improving evidence-based public health literacy to address vaccine misinformation, and strengthening cross-sector collaboration between health, law, education, and child protection, supported by an integrated information system for verifying immunization status. Policymakers need to revise the Health Law or develop specific regulations that stipulate proportional and graduated sanctions for refusing immunization without medical justification, while still respecting human rights. The government must develop responsive dispute resolution mechanisms through health ethics committees or specialized mediation institutions to resolve conflicts quickly and prioritize children's interests. Strengthening the capacity of law enforcement officers through systematic training on health law and child protection is necessary. Evidence-based public communication strategies involving religious and community leaders must be intensified to improve health literacy and address misinformation about vaccines. Cross-sector collaboration between relevant ministries and the Indonesian Child Protection Commission (KPAI) needs to be strengthened to synchronize child rights-based policies.

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