

### BAB III

## KESIMPULAN DAN SARAN

### A. Kesimpulan

Berdasarkan pembahasan dan analisis data yang telah diuraikan dalam Bab II, maka dapat dikemukakan kesimpulan sebagai berikut:

1. Terkait peran WTO dalam penyelesaian permasalahan paten vaksin selama pandemi COVID-19 dapat disimpulkan bahwa apa yang dilakukan oleh WTO termasuk juga badan dan dewan internalnya telah sesuai dengan kaidah hukum yang berlaku. Pertimbangan yang hadir dalam pengambilan keputusan pada *Ministerial Conference* ke-12 juga sesuai dengan kaidah hukum yakni *TRIPs Agreement* itu sendiri. Namun, keputusan tersebut tidak sesuai dengan prinsip-prinsip yang dipegang oleh WTO terutama mengenai prinsip *Special and Differential Treatment of Developing Countries* (SDT).
2. Dasar hukum yang mengatur adalah Perjanjian WTO Pasal IV dan IX serta *TRIPs Agreement* Pasal 30 dan 31. Terkait pengaruh terhadap kedudukan paten di masa yang akan datang, jika melihat pernyataan *Ministerial Conference* ke-12 maka dapat disimpulkan bahwa WTO melakukan evaluasi terhadap berbagai hal. Berhubungan dengan permohonan *patent waiver* ditekankan mengenai efisiensi dewan-dewan yang bekerja didalamnya serta penggunaan deklarasi yang telah ada, dalam hal ini Deklarasi Doha. Ditekankan pula mengenai digunakannya model transfer teknologi terkait ketersediaan kebutuhan dalam pandemi. Hal ini dapat disimpulkan WTO masih belum memiliki kesaamaan persepsi terkait

Deklarasi Doha yang mengutamakan kesehatan public diatas hak kekayaan intelektual. Sehingga dalam dokumen putusan *Ministerial Conference* ke-12 ditekankan dalam poin persiapan pandemi global selanjutnya agar sesuai dengan pandangan Deklarasi Doha untuk mengutamakan kesehatan publik.

## B. Saran

Sesuai dengan analisis dan kesimpulan yang dipaparkan, peneliti memberikan saran berupa:

1. Peneliti akan meminjam pemikiran Prof. Satjipto Rahardjo mengenai hukum progresif bahkan hukum dibentuk untuk manusia bukan manusia untuk hukum. Sehingga akan menjadi lumrah adanya jika demi kemaslatan umat manusia hukum dikesampingan. Dalam hal ini berangkat dari pengambilan keputusan terkait *patent waiver* yang dari prosedur hingga landasan sesuai dengan hukum yang berlaku namun cenderung tidak manusiawi.
2. Terkait dengan eksistensi Deklarasi Doha mengenai *TRIPs Agreement* dan Kesehatan public, pada dasarnya sudah cukup menjadi alasan dikabulkannya permohonan *waiver* COVID-19. Namun, ketidaktegasan terhadap eksistensi dan kekuatan Deklarasi Doha tersebut menyebabkan tidak terlaksanannya inti penekanan yang mengutamakan kesehatan masyarakat. Maka perlu ditegakkan mengenai Deklarasi Doha untuk menghindari permohonan *waiver* serupa yang memakan korban jiwa di masa yang akan datang.

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