

Legal Protection Of Health Personnel While Performing Tasks Due To Covid 19 Pandemic At Sultan Fatah Hospital Demak

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ABSTRACT: *Legal protection for health workers is often neglected as if the public is apathetic and has the opinion that it is the duty and responsibility of medical personnel. Violations of the rights of medical personnel related to the service of Covid-19 patients that often occur are patients who do not provide honest information about their condition as ODP or PDP so that they are more prone to the transmission of the Covid-19 virus which of course has a domino effect on doctors, paramedics, other patients, and even his family. The purpose of this study was to determine the legal protection for health workers when carrying out their duties due to the Covid 19 pandemic at Sultan Fatah Hospital Demak. The approach used in this study is an empirical legal approach analyzed using the qualitative description. The concept of legal protection is based on the concepts of recognition and protection of rights. The application of the conception as a framework of thought with Pancasila as the ideology and philosophical basis, so that the principle of legal protection for the Indonesian people is the principle of recognition and protection of human dignity based on Pancasila and the principle of the rule of law based on Pancasila. Legal protection for health workers when carrying out their duties due to the Covid 19 pandemic (Case Study at Sultan Fatah Hospital Demak) in the form of legal protection for health workers during the COVID-19 pandemic consists of preventive protection efforts and repressive protection efforts. Preventive protection provided by the Government is implemented through a vaccination program. repressive protection,*

KEYWORDS= *Legal protection; Health workers; Covid-19 pandemic*

I. PRELIMINARY

The preamble to the 1945 Constitution clearly states the ideals of the Indonesian people which are also the national goals of the Indonesian nation. The national goals are to protect the entire Indonesian nation and the entire homeland of Indonesia, promote public welfare, educate the nation and participate in carrying out world order based on freedom, eternal peace and social justice. This is a form of National Development. Health development is part of national development aimed at increasing awareness, willingness and ability to live healthy for everyone to realize the highest degree of public health, as an investment for the development of productive human resources.

The humanity of every human being is a mandate and a noble idea from God who wants every human being to grow and develop in his life to reach and achieve his perfection as a human being. Therefore, every human must have his dignity protected before the law to obtain equality. The humanity of every human being is a mandate and a noble idea from God who wants every human being to grow and develop in his life to reach and achieve his perfection as a human being. Therefore, every human must have his dignity protected before the law to obtain equality.

Article 28D paragraph (1) of the 1945 Constitution states that everyone has the right to fair recognition, guarantees, protection, legal certainty and equal treatment before the law. Article 57 letter of Law no. 36 of 2014 concerning Health Workers also states that health workers in carrying out their practice are entitled to legal protection as long as they carry out their duties by Professional Standards, Professional Service Standards, and Standard Operating Procedures, but in practice, legal protection has not been seen to be carried out by office holders.

Until now, the Corona Virus Diseases (Covid-19) Pandemic has not ended and has had an impact on almost all sectors, including health, economy, tourism and social order. Health workers are at the forefront of caring for Covid-19 patients with a very high risk of transmitting the virus. The COVID-19 outbreak has now caused more than two million cases and hundreds of thousands of people to die, including the fallen health workers. One of the reasons why many health workers die while on duty is the lack of available personal protective equipment (PPE).

Not a few medical workers have died while treating COVID-19 patients. Starting from doctors, and nurses, to cleaning workers. Currently, medical personnel are at war with incomplete weapons. There have been dozens of doctors who died during the COVID-19 pandemic and hundreds more were positively infected with COVID-19. This situation does not only occur in areas that have a large number of patients, especially DKI Jakarta. Other areas such as West Java and Central Java also experienced similar conditions, including the Sultan Fatah Hospital Demak.

Finally, the lack of protective equipment forced them to 'protect' themselves with makeshift equipment. According to reports from several media, not a few doctors, nurses, and other health workers are trying to protect themselves from the virus with disposable raincoats. Raincoats sold in the market are certainly not comparable to PPE that meets standards.

How not, the purpose of protective equipment is to protect health workers from the spread of COVID-19 infection. The use of PPE does not guarantee they are protected from exposure to the virus. The thought of the high risk of getting infected with the COVID-19 virus due to the lack of PPE continues to haunt them. However, this does not stop health workers from continuing to work and treat COVID-19 patients, despite inadequate personal protection.

Legal protection for health workers is often neglected as if the public is apathetic and has the opinion that it is the duty and responsibility of medical personnel. Talking about legal protection, of course, it cannot be separated from rights and obligations. Unprotected health workers, when medical personnel do not get their rights or there are violations committed by patients who do not carry out their obligations. Violations of the rights of medical personnel related to the service of Covid-19 patients that often occur are patients who do not provide honest information about their condition as ODP or PDP so that they are more prone to the transmission of the Covid-19 virus which of course has a domino effect on doctors, paramedics, other patients. and even his family. PPE is also a doctor's right that must be fulfilled for his safety and to work according to his professional standards. Departing from this explanation, the author is interested in writing a paper with the title "Legal Protection for Health Workers When Performing Tasks Due to the Covid-19 Pandemic (Case Study at Sultan Fatah Hospital Demak)".

Based on the background described above, in this paper some problems are formulated as follows:

1. What is the concept of legal protection in the opinion of experts?
2. How is legal protection for health workers when carrying out their duties due to the Covid 19 pandemic at Sultan Fatah Hospital Demak?

II. RESEARCH METHODS

The approach method used in this research is a sociological juridical approach, which is legal research that examines and analyzes legal behaviour and the data sources used are primary data. The type of research design used is descriptive design, namely research conducted to answer questions about who, what, when, where and how it relates to certain research. Descriptive research is used to obtain information about the status of variable phenomena or situation conditions. The data analysis technique in this study uses qualitative analysis

techniques, which are methods that emphasize more aspects of in-depth understanding of a problem than looking at the problem for generalization research.

III. DISCUSSION

1. Legal Protection Concept According to Expert

Satjipto Raharjo stated that legal protection is to protect human rights that are harmed by others and that protection is given to the community so that they can enjoy all the rights granted by law. (Satjipto Rahardjo, 2006) According to Soedikno Mertokusumo, legal protection is a guarantee of human rights and obligations to fulfil their interests and in human relations. (Gege & Santoso, 2021)

According to Mukti, A. Fadjar, legal protection is a narrowing of the meaning of protection, in this case only protection by law. The protection provided by law is also related to the existence of rights and obligations, in this case, that is owned by humans as legal subjects in their interactions with fellow humans and their environment. ^{Mukti A}

Fadjar, Legal Protection (Malang: Bagus Media Puslitbang, 2005), p. 28. As legal subjects, humans have the right and obligation to take legal action. Legal protection to the public is always closely related to the powers of State Institutions which include:

- a. Legislature in charge of making laws. Legislative institutions include the House of Representatives (DPR), DPD, and MPR.
- b. The executive in charge of implementing or implementing laws. The executive branch includes the president and vice president and the ministers who assist them.
- c. The judiciary is in charge of maintaining the implementation of the law. The judiciary consists of the Supreme Court (MA), the Constitutional Court (MK), and the Judicial Commission.

Legal protection for citizens from government actions in principle has the following objectives: (Abintoro Prakoso, Introduction to Legal Studies (Surabaya: LaksBang, 2017), p. 47

- a. Legal protection to ensure the fulfillment of the rights of citizens.
- b. Legal protection to prevent actions that harm the rights of citizens.
- c. Legal protection provides citizens with access to stop violations, and obtain compensation or redress for violations of their rights.
- d. Legal protection in ensuring the availability of compensation or remedial action against the rights of citizens who have been harmed.

Regarding legal protection for the people, Philipus M. Hadjon distinguishes two types of legal protection facilities, namely:¹

- a. Preventive Legal Protection Means. In this preventive legal protection, legal subjects are allowed to file objections or opinions before a government decision gets a definitive form. The goal is to prevent disputes from occurring.
- b. Means of Repressive Legal Protection. Repressive legal protection aims to resolve disputes. The handling of legal protection by the General Courts and Administrative Courts in Indonesia belongs to this category of legal protection.

The second principle that underlies legal protection against acts of government is the rule of law. Associated with their cognition and protection of human rights, their cognition and protection of human rights have the main place and can be linked to the objectives of the rule of law. While Muchsin distinguishes legal protection into two parts, namely: (Muchsin, 2003)

- a. Preventive Legal Protection Protection is provided by the government to prevent violations before they occur. This is contained in laws and regulations to prevent a violation and provide signs or limits limitations in performing an obligation.
- b. Repressive Legal Protection. Repressive legal protection is the final protection in the form of sanctions such as fines, imprisonment, and additional penalties given if a dispute has occurred or a violation has been committed.

According to Sukendar and Santoso, legal protection facilities are divided into 2 (two) types, namely: (Sukendar & Dkk, 2019)

- a. Preventive legal protection is a step or method taken to prevent an event that has legal consequences.
- b. Repressive legal protection is a step or method taken if an event that results in the law has occurred.

Protection can be said to be legal protection if it contains the following elements:

- a. There is protection from the government for its citizens.
- b. Guarantee of legal certainty.
- c. Regarding the rights of citizens.
- d. There are penalties for those who violate it.

From the explanation above, it can be concluded that the concept of legal protection is an entity of various legal remedies in protecting human rights and rights and obligations arising from legal relations between human beings as legal subjects. In other words, the concept of legal protection is an illustration of the function of law, namely the concept where the law can provide justice, order, certainty, benefit and peace.

The concept of legal protection for the people is based on the concepts of recognition and protection of rights. The application of the conception as a framework of thought with Pancasila as the ideology and philosophical basis, so that the principle of legal protection for the Indonesian people is the principle of recognition and protection of human dignity based on Pancasila and the principle of the rule of law based on Pancasila. The concept of legal protection is a universal effort of the rule of law.

Legal protection consists of two forms, namely preventive legal protection and repressive legal protection, namely: Preventive legal protection means prevention. Preventive legal protection is very meaningful for government actions based on freedom of action because the government is encouraged to be careful in making decisions with preventive legal protection. The form of preventive legal protection is contained in the legislation to prevent a violation from occurring and to provide limitations in carrying out obligations. Repressive Legal Protection serves to resolve disputes that have arisen due to violations.

2. Legal Protection for Health Workers When Carrying Out Tasks Due to the Covid 19 Pandemic at Sultan Fatah Hospital Demak

Article 28D paragraph (1) of the 1945 Constitution states that everyone has the right to fair recognition, guarantees, protection, legal certainty and equal treatment before the law. This is similar to Article 5 paragraph (1) of Law Number 39 of 1999 concerning Human Rights which also states that everyone is recognized as an individual human being who has the right to demand and receive equal treatment and protection by his human dignity before the law. Article 27 paragraph (1) of Law Number 36 concerning 2009 concerning Health states that health workers have the right to receive compensation and legal protection in carrying out their duties by their profession.

The above regulation gives the Government the authority to carry out legal orders in providing guarantees for legal protection to health workers. For health workers handling the acceleration of Covid-19, the Government must provide protection and guarantee the rights of health workers in providing services, including rewards and guarantees for safety and health while on duty.

Preventively, to ensure the protection of the community, the Government has indeed issued policies related to handling Covid-19, including; Presidential Decree No. 2/2020 concerning the Task Force for the Acceleration of Handling Covid-19, and Minister of Health Regulation No. 9/2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating the Handling of Covid-19. Repressively to guarantee the rights of health workers, the Government issues policies, including; Kepmenkes No. HK. 01.07/MENKES/278/2020 concerning Provision of Death Incentives and Compensation for Health Workers Handling Covid-19, and Kepmenkes No. HK. 01.07/MENKES/215/2020 concerning the Utilization of the Special Allocation Fund for Health for the Prevention and Handling of Covid-19 for Fiscal Year 2020. Legal protection for citizens from government actions in principle has the following objectives:

- a. Legal protection to ensure the fulfilment of the rights of citizens.
- b. Legal protection to prevent actions that harm the rights of citizens.

- c. Legal protection provides citizens with access to stop violations, and obtain compensation or redress for violations of their rights.
- d. Legal protection in ensuring the availability of compensation or remedial action against the rights of citizens who have been harmed.

When health workers do not get their rights or there are violations committed by patients who do not carry out their obligations. Violation of the rights of doctors Talking about legal protection, of course, cannot be separated from the rights and obligations. Unprotected health workers, in this case, the medical profession. When doctors do not get their rights or there are violations committed by patients who do not carry out their obligations. (Asmaradika & Dkk, 2021) Violations of doctors' rights related to Covid-19 patient services that often occur are patients who do not provide honest information about their condition as ODP or PDP so that they are more prone to the transmission of the Covid-19 virus which of course has a domino effect on doctors, paramedics, other patients and even his family. This violation contradicts the provisions of Article 50 letter c of Law Number 29 of 2004 concerning Medical Practice that doctors have the right to obtain complete and honest information from patients or their families.

The rights and obligations of doctors are fully stated in Article 50 of the Medical Practice Act. Doctors have the right to carry out their medical practice. In addition to the violation of the right to honest information, the protection that must be given to health workers, whether doctors or nurses, is the availability of Personal Protective Equipment (PPE). (Santoso & Dkk, 2021) Personal Protective Equipment (PPE) is a doctor's right that must be fulfilled for his safety and to be able to work by his professional standards, as mandated in Article 50 letter (b) of the Medical Practice Law which states that doctors in carrying out medical practice have the right to provide medical services according to professional standards and standard operating procedures. Medical service standards for the care of patients in the category of infectious epidemic diseases must be equipped with PPE by medical standards.

Protection of health workers has also been regulated in Articles 8 and 9 of Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases. Article 8 paragraph (1) of the law states that those who experience loss of property caused by efforts to overcome the epidemic as referred to in Article 5 can be given compensation. Likewise, in Article 9 paragraph (1) it has also been explicitly regulated that certain officers who carry out efforts to control the epidemic as referred to in Article 5 can be rewarded for the risks borne in carrying out their duties. Article 9 of the Infectious Disease Outbreak Law is truly fair and commensurate with the risks faced by health workers. (Trihandini, 2020)

The role and responsibility of the state to carry out the mandate of the provisions of Article 9 is mandatory because it is a legal obligation that affects the rights of health workers that must be fulfilled. Once again, that legal protection is always related to rights and obligations. The non-fulfilment of rights and obligations of course has legal consequences.

Legal protection for health workers can also be provided through criminal prosecutions for people who are still disorganized to implement protocols for overcoming infectious disease outbreaks that have an impact on contracting health workers or even result in the death of health workers and other people who are exposed to them. (Santoso & Suhatmi, 2021) The disorganized implementation of the standard Covid-19 prevention health protocol can be said to have fulfilled the element of deliberately obstructing the implementation of the Covid-19 outbreak control. This is stated in Article 14 of the Infectious Disease Outbreak Act.

Likewise, when certain parties intentionally or negligently do not properly manage the materials used for the control of the Covid-19 infectious disease outbreak, such as the management of materials containing disease-causing agents which are declared to cause outbreaks, for example, the delivery/transportation of materials containing Disease germs must be carried out with due observance of the requirements and strict supervision so that these materials cannot cause outbreaks, so they can be charged with Article 15 of the Infectious Disease Outbreak Law.

Health workers still have to continue to struggle to provide medical services to patients exposed to Covid-19. This means that medical personnel and their families are still at risk of being infected. The high risk certainly needs to be a common concern of the community and the state to continue providing moral support and legal protection for their rights.

In addition, the study found that health workers handling Covid-19 are protected by the government through existing regulations, although the direct form of protection is not stated in the regulations. This protection can be seen through the protection of the rights of health workers while carrying out their duties as health workers to accelerate the handling of Covid-19. The government and health workers, both must complement each other to create a balance of rights and obligations through preventive and repressive efforts, but the legal protection efforts provided still have weaknesses. This means that the Government has not been able to provide legal protection to health workers who are on duty in the task force for the acceleration of handling Covid-19.

Health workers when carrying out their duties due to the COVID-19 pandemic do receive guarantees and protection of occupational safety and health while on duty from the Regional Government as instructed in the Legislation, but the guarantee and protection are still experiencing obstacles, including those caused by the Regional Government bureaucracy itself. which is very complicated, and the distribution of PPE is unequal for health workers on duty. As workers who are given the authority to handle Covid-19 health workers, in their implementation, these health workers have not received health and safety guarantees at all. Only some of them get guarantees in the form of PPE, Vitamins, food and Home Stay,

IV. CLOSING

1. Conclusion

Based on the description of the discussion, the following conclusions can be drawn:

- a. The concept of legal protection is based on the concepts of recognition and protection of rights. The application of the conception as a framework of thought with Pancasila as the ideology and philosophical basis, so that the principle of legal protection for the Indonesian people is the principle of recognition and protection of human dignity based on Pancasila and the principle of the rule of law based on Pancasila.
- b. Legal protection for health workers when carrying out their duties due to the Covid 19 pandemic (Case Study at Sultan Fatah Hospital Demak) in the form of legal protection for health workers during the COVID-19 pandemic consists of preventive protection efforts and repressive protection efforts. Preventive protection provided by the Government is implemented through a vaccination program. Repressive protection is provided by the Government by imposing sanctions for perpetrators of violence and discrimination against health workers who are on duty, besides that the Government has also provided incentives and death benefits, although this has experienced many obstacles.

2. Suggestion

The suggestions from researchers regarding the main problems that arise in this study are as follows:

- e. The Minister of Health needs to issue a special regulation on legal protection for health workers in health services.
- f. The Manpower Office needs to participate in monitoring the safety and health guarantees of health workers who work in handling the effects of the Covid-19 pandemic.
- g. The government needs to strengthen the public policy system related to the handling of the Covid-19 Pandemic.
- h. Local governments need to review the distribution of the APBD (Regional Expenditure Budget) in providing assistance to health workers and the community so that the government needs to show transparency in the allocation of funds given to health workers.

BIBLIOGRAPHY

- [1.] Asmaradika, K. M., & Dkk. (2021). *Perlindungan Hukum Bagi Tenaga Medis Di Rumah Sakit Pada Masa Pandemi Covid-19. Jurnal Ilmu Hukum.*
- [2.] Fadjar, M. A. (2005). *Perlindungan Hukum.* Bagus Media Puslitbang.

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- [3.] Gege, G., & Santoso, A. P. A. (2021). Perlindungan Hukum Tenaga Kesehatan Di Masa Pandemi Covid-19. *Jurnal Ilmiah Ilmu Hukum QISTIE*, 4(2).
- [4.] Hadjon, P. M., & Dkk. (2005). *Hukum Administrasi Negara*. Gadjah Mada University Press.
- [5.] Muchsin. (2003). *Perlindungan dan Kepastian Hukum Bagi Investor di Indonesia*. Magister Ilmu Hukum Program Pascasarjana Universitas Sebelas Maret.
- [6.] Prakoso, A. (2017). *Pengantar Ilmu Hukum*. LaksBang.
- [7.] Santoso, A. P. A., & Dkk. (2021). Perlindungan Hukum Tenaga Kesehatan dalam Gugus Tugas Percepatan Penanganan Covid-19 Ditinjau dari Sudut Pandang Hukum Administrasi Negara. *Jurnal Ilmu Sosial Dan Pendidikan (JISIP)*, 5(2).
- [8.] Santoso, A. P. A., & Suhatmi, E. C. (2021). “ Employment Termination In The Middle Of Covid-19 Pandemic: Labor Law Point Of View” . *UNIFIKASI: Jurna Ilmu Hukum*, 8(1).
- [9.] Satjipto Rahardjo. (2006). *Hukum dalam Jagat Ketertiban*.
- [10.] Sukendar, & Dkk. (2019). *Tindak Pidana dalam Praktik Keperawatan Mandiri (Perlindungan Hukum Bagi Perawat dan Pasien)*. Nuha Medika.
- [11.] Trihandini, D. (2020). Konsep Perlindungan Hukum Bagi Tenaga Medis Dalam Penanganan Covid-19. *Jurnal Hukum Dan Pembangunan Ekonomi*, 8(2).