

Legal Protection for Health Workers during Pandemic

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Abstract

This study aims to obtain information and analyze the law regarding legal protection for health workers during a pandemic. One of the problems related to the legal protection of health workers is when taking medical action in an emergency. Health workers (Nakes) are the main component of providing health services to the community in order to achieve health development goals in accordance with national goals as mandated by the constitution. As the main component of health service providers, of course the existence, role, and responsibility of health workers are very important in health development activities. The control of the COVID-19 outbreak is highly dependent on vigilance, alertness and readiness of health infrastructure since the management of the central and regional governments in implementing public health efforts so that health facilities and personnel can treat patients. The implementation and utilization of the existence, roles, and responsibilities of these health workers are running well, balanced, orderly, quality-maintained, and protected both for the health workers themselves and for the people who receive these health services invitation. Legal protection must be obtained by all elements of society in Indonesia because it is the ideal of the Indonesian nation, especially the health workers who are members of the task force for the acceleration of handling COVID-19, which was stipulated by Presidential Decree No. 7 of 2020 which was revised by Presidential Decree No. 9 of 2020 placing medical personnel and health workers as the main element in dealing with the Covid-19 virus.

Keywords

health worker; covid 19
outbreak; legal protection



I. Introduction

The Covid-19 pandemic that has hit Indonesia since March 2020 has caused changes in various aspects of life, especially having a significant impact on public health. Thus, the implementation of health programs is now focused on handling Covid-19. Covid 19 demands to make changes, both in terms of way of thinking, way of behaving, and way of working. The next challenge is a way of thinking and behaving that can improve people's health status and be resilient to the threat of disease, including tomorrow's disease. The role of public health workers is very important in handling Covid-19 at every level of intervention. Especially at the community level to carry out risk communication and public education related to health protocols to fight Covid-19. Then to carry out contact tracing & tracking (case investigations and outbreak investigations), as well as facilitation and community empowerment. Public health workers have the ability to understand the promotive and

preventive patterns of Covid-19 in the community. This is needed in designing programs and policies to accelerate the handling of Covid-19.

Being the person in charge of handling the virus and having to meet patients with various conditions is not something to be underestimated. Doctors and medical personnel sacrificed a lot for this noble task. With full sense of responsibility, professionalism, and human spirit, they are trying their best to treat COVID-19 positive patients. The health workers sacrificed are as follows:

1. Leaving Home and Family for a Long Time Dealing directly with patients suffering from the Corona virus makes doctors and health workers have to be willing to not go home for weeks. The reason, the possibility of them carrying the virus outside the workplace is too great. Heroes during this pandemic must be willing to stay at work and serve the community wholeheartedly even though they really miss their families waiting at home.

2. Thousands of Health Workers died due to Covid 19

Health workers in Indonesia died during the COVID-19 pandemic. More precisely 640 doctors, 637 nurses, 377 midwives, 98 dentists, 34 nutritionists, 33 laboratory technology experts, and 13 public health experts. This number also makes Indonesia ranks first on the list of deaths of health workers in Asia and third in the world.

The hard work of health workers helps reduce the Covid 19 positivity rate in Indonesia

Thanks to doctors and health workers who are heroes during this pandemic, the COVID-19 positivity rate in Indonesia continues to decline. In the period from 11 to 17 October 2021, the positivity rate in Indonesia fell drastically to 0.5%. This is good news, especially when compared to the positivity rate in the second spike in June and July 2021 which reached 26.7%.

Health workers (Nakes) are the main component of providing health services to the community in order to achieve health development goals in accordance with national goals as mandated by the constitution. As the main component of health service providers, of course the existence, role, and responsibility of health workers are very important in health development activities. The implementation and utilization of the existence, roles, and responsibilities of these health workers are running well, balanced, orderly, quality-maintained, and protected both for the health workers themselves and for the people who receive these health services. In essence, humans always have problems that cannot be avoided from the time humans recognize and settle in a place. humans are always faced with 3 things, namely war, famine and plague, these three things have always haunted humans from time to time, entering this 21st century war and hunger can be overcome by humans. Now humans even die because of obesity and war can be handled well because developed countries are now good at restraining themselves, therefore war is considered ancient which is difficult to conquer is a plague, plague always makes new surprises in humans where a new disease found and there is no antidote, even though science has strongly supported humans, they are always overtaken by the development of new diseases, namely viruses for which there is no cure.

The control of the COVID-19 outbreak is highly dependent on vigilance, alertness and readiness of health infrastructure since the management of the central and regional governments in implementing public health efforts so that health facilities and personnel can treat patients. Doctors and nurses are the closest health workers as normative implementers. The authority of doctors in carrying out their duties and professions is regulated in the Law of the Republic of Indonesia Number 29 of 2004 concerning Medical Practice.

To ensure the law on health workers, an Indonesian Health Workers Council (KTKI) was formed consisting of a council of each health worker based on Presidential Regulation

Number 90 of 2017 concerning the Health Workers Council that every health worker who practices practice is required to have a registration certificate ('STR'). on condition that .have a certificate of Education in the field of Health, have a certificate of competence or professional certificate, have a certificate of physical and mental health, have a statement letter that has made professional promises and made a statement and complied with and implemented the provisions of professional ethics.

During the Covid-19 pandemic, many problems have been faced by health workers in carrying out health service tasks, in addition to acts of violence due to being late in handling Covid-19 patients, incentives for Covid-19 health workers have not been paid, some of the worst is the existence of discrimination from people who refuse health workers exposed to Covid-19 to self-isolate around their homes. Some of these phenomena indicate that there are problems in providing legal protection for health workers in Indonesia which have the potential not to guarantee legal certainty, so that it will be difficult to regulate health workers effectively. The absence of legal certainty in the regulation of health workers has resulted in the legal protection of health workers being also not guaranteed, in the end the implementation of health carried out by health workers in Indonesia becomes ineffective.

Based on the background of the problems above, the problem in this study is how is the legal protection of health workers during a pandemic when taking medical action in an emergency? and How is the legal vacuum for health workers during the Pandemic?

II. Research Method

The approach method used by the author in this study is a normative juridical approach. This study aims to explain the implementation of legal protection for health workers during the Pandemic. Through the research process, analysis and construction of the data that has been collected and processed is carried out. The juridical approach is an approach that uses the rules and legislation relating to the problem being studied, while the normative approach is research that uses library or secondary materials consisting of from primary legal materials, secondary legal materials and tertiary legal materials as the main data, namely that the author does not need to look for data directly in the field. The specifications in this study are analytical descriptive, and to draw conclusions and research results, the data that has been collected by the author in this study were then analyzed qualitatively, with reference to the secondary data that the author obtained from library research, both against laws and regulations. as well as the theories or opinions of experts related to restitution for victims of criminal acts in an effort to protect the law and prevent the crime of trafficking in persons, namely by systematically compiling which aims to be analyzed without using numbers.

III. Discussion

3.1 Legal Protection of Health Workers during a Pandemic when Taking Medical Actions in an Emergency

Legal protection is a universal effort of the rule of law. Basically, legal protection consists of two forms, namely preventive legal protection and repressive legal protection, namely: Preventive legal protection which basically means prevention. Preventive legal protection is very meaningful for government actions based on freedom of action because with the existence of preventive legal protection the government is encouraged to be careful in making decisions. The form of preventive legal protection is contained in the legislation in order 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. This protection is the final protection in the form of sanctions for violations that have been committed.

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 Incentives and Death Compensation for Health Workers who Handle Covid-19, and Kepmenkes No. HK. 01.07/MENKES/215/2020 concerning Utilization of the Special Allocation Fund for Health for Prevention and Treatment Covid-19 Fiscal Year 2020.

Legal protection must be obtained by all elements of society in Indonesia because it is the ideal of the Indonesian nation, especially the health workers who are members of the task force for the acceleration of handling COVID-19, which was stipulated by Presidential Decree No. 7 of 2020 which was revised by Presidential Decree No. 9 of 2020. placing medical personnel and health workers as the main element in dealing with this Covid-19 virus.

Article 28D paragraph (1) of the 1945 Constitution states that everyone has the right to recognition, guarantees, protection and fair legal certainty and equal treatment before the law. This is similar to Article 5 paragraph (1) of Law no. 39 of 1999 concerning Human Rights which also states that everyone is recognized as an individual human who has the right to demand and receive the same treatment and protection in accordance with his human dignity before the law.

Article 27 paragraph (1) of Law no. 36 of 2009 concerning Health states that health workers are entitled to compensation and legal protection in carrying out their duties in accordance with their profession. Strengthened by Law no. 36 of 2014 concerning Health Workers which also states that health workers in exercise the right to:

1. Obtain legal protection as long as carrying out tasks in accordance with Professional Standards, Service Standards Profession, and Standard Operating Procedures;
2. Obtain complete and correct information from health service recipients or their families;
3. Receive service fees
4. Obtain protection for occupational safety and health, treatment in accordance with dignity and worth human, moral, decency, and religious values;
5. Get the opportunity to develop his profession;
6. reject the wishes of the recipient of health services or other parties that are contrary to professional standards, codes of ethics, service standards, standard operating procedures, or provisions of laws and regulations;

Obtain other rights in accordance with the provisions of laws and regulations

In facing every challenge faced by health workers in dealing with COVID-19 patients accompanied by strategic efforts to minimize the obstacles encountered. Sihombing (2020) state that Covid-19 pandemic caused everyone to behave beyond normal limits as usual. The outbreak of this virus has an impact especially on the economy of a nation and Globally (Ningrum, 2020). The problems posed by the Covid-19 pandemic which have become a global problem have the potential to trigger a new social order or reconstruction (Bara, 2021). Some of the challenges faced by health workers at the beginning of the COVID-19 pandemic include physical and psychological fatigue, difficulty working using personal protective equipment (PPE), offline training on

handling COVID-19 and the use of PPE has not been implemented evenly for all health workers so that modified through online training and the hospital is trying to provide guidance in the form of e-books and videos and distributed to health workers on duty, difficulties in conducting education and taking anamnesis to patients and families, especially coupled with the stigma from the community regarding the forced diagnosis of COVID-19 causing families to find it difficult to receive the information provided, and limited resources to deal with the COVID-19 pandemic, so that health workers during a pandemic when taking medical actions in an emergency have received legal protection regulated by laws and government regulations.

3.2 Legal absent Concerning Health Workers Legal Protection during Pandemic

Legal protection for the safety and health of health workers due to the Covid-19 pandemic has not been implemented properly as mandated in the legislation. Between the government and health workers, both must complement each other to create a balance of rights and obligations through preventive and repressive efforts.

Therefore, the role and responsibility of the government is urgently needed to fulfill the rights of health workers as the frontline in handling the spread of Covid-19 in Indonesia.

The government must pay attention to the safety of health workers in dealing with the Covid-19 outbreak by meeting the availability of PPE. Starting from providing personal protective equipment (PPE), vitamins, medicines, and periodic Covid-19 tests. But in fact in the field, a number of hospitals have complained about the shortage of masks and personal protective suits or hazardous materials suits (hazmat). So the doctors were forced to buy their own and accept donations from the public. Covid-19 tests are only carried out if Health Workers experience symptoms. Examples of PPE include: gloves, goggles, face shield, face mask, and respiratory protection, if necessary. The best way to reduce the risk of infection is good hygiene and avoiding close contact (closer than 2 meters) with potentially infected people.

Legal protection for the safety of health workers has almost gone unnoticed. Health workers who are exposed to even death are one of the problems in overcoming the Covid-19 pandemic because it greatly affects public health services. The number of health workers automatically decreases while the number of patients exposed to Covid-19 continues to increase. The more patients who have to get treatment at the hospital, the workload for health workers is getting heavier. And during this Covid-19 pandemic, many health workers had to sacrifice their lives to cope with the spread of Covid-19 until they were exposed and died.

Fulfillment of protection and needs for health workers in the form of the Healthcare Workers Security (HWS) program. This program consists of guarantee instruments, regulations, and sanctions. The aim is of course to reduce the high mortality index of health workers in Indonesia during the corona virus pandemic.

Thus, this innovation can be an alternative solution for the government in designing policies, especially those related to health workers who are currently risking their lives in fighting the corona virus outbreak in Indonesia.

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 have suffered property losses caused by efforts to control 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.¹⁴ Article 9 of Law No. 4 of 1984 concerning This

communicable disease outbreak is truly fair and commensurate with the risks faced by health workers.

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. The nonfulfillment of rights and obligations of course has legal consequences. Legal protection for health workers can 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 resulting in the death of health workers or other people who are exposed to them. The disorganized implementation of the standard Covid-19 control 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 Epidemic Act Infectious diseases.

IV. Conclusion

4.1 Conclusion

- a. Whereas 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 Incentives and Death Compensation for Health Workers who Handle Covid-19, and Kepmenkes No. HK. 01.07/MENKES/215/2020 concerning the Utilization of the Special Allocation Fund for the Health Sector for the Prevention and Handling of Covid-19 for the 2020 Fiscal Year as well as legal protection must be obtained by all elements of society in Indonesia because as the ideals of the Indonesian nation, especially health workers who are members of the the task force for accelerating the handling of covid-19 stipulated by Presidential Decree No. 7 of 2020 which was revised by Presidential Decree No. 9 of 2020 which placed medical personnel and health workers as the main elements in dealing with the covid-19 virus.
- b. That the Government must pay attention to the safety of health workers in dealing with the Covid-19 outbreak by meeting the availability of PPE. Starting from providing personal protective equipment (PPE), vitamins, medicines, and periodic Covid-19 tests. But in fact in the field, a number of hospitals have complained about the shortage of masks and personal protective suits or hazardous materials suits (hazmat). So the doctors were forced to buy their own and accept donations from the public. Covid-19 tests are only carried out if Health Workers experience symptoms. Examples of PPE include: gloves, goggles, face shield, face mask, and respiratory protection, if necessary. The best way to reduce the risk of infection is good hygiene and avoiding close contact (closer than 2 meters) with potentially infected people.

4.2 Suggestions

- a. So that legal protection for health workers can be provided through criminal prosecutions for people who are still not in an orderly manner to implement protocols for controlling outbreaks of infectious diseases that have an impact on contracting health workers or even resulting in the death of health workers and other people who are exposed to them. The disorganized implementation of the standard Covid-19

control health protocol can be said to have fulfilled the element of deliberately obstructing the implementation of the COVID-19 outbreak control.

- b. In order for the role and responsibility of the state to carry out the mandate of Article 9 of Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases, it is mandatory to carry out this because it is a legal obligation that affects the rights of health workers that must be fulfilled. The non-fulfillment of rights and obligations of course has legal consequences. Legal protection for health workers can 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 resulting in the death of health workers or other people who are exposed to them.

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