

THE ROLE OF THE GOVERNMENT IN THE PROTECTION OF HEALTH WORKERS DURING THE COVID-19 PANDEMIC

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Abstract

This research aims to identify and analyze accountability in protecting the rights of health workers and complement each other in creating a balance of rights and obligations through preventive and repressive efforts. In this paper using normative juridical research methods and analyzed using qualitative data. The resulting research results state that legal protection for the safety of health workers due to the Covid-19 pandemic has not been implemented properly as mandated in laws and regulations, in carrying out the rights of health workers during the Covid-19 pandemic they are still neglected and have not been fulfilled. 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.

Keywords: Covid-19; Health; Protection; Workers.

A. INTRODUCTION

In the 1945 Constitution of the Republic of Indonesia, Article 1 paragraph (3) states that the State of Indonesia is a legal state based on Pancasila and the 1945 Constitution which contains the meaning of all actions, patterns of behavior of citizens which must also be synchronized with the norms set by the state.¹ Pancasila as contained in the Preamble to the 1945 Constitution is the basis of the state.² The national development that has been carried out is a sustainable development effort to realize a just and prosperous society in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia.³ Article 28B Paragraph (2) of the 1945 Constitution can be interpreted that a child is included in the subject and color of the state who has the right to protection of constitutional rights

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- 1 Batara Pareto Deddi, Jawade Hafidz, and Andri Winjaya Laksana, The Domination of National Criminal Law in Law Enforcement of Illegal Fishing by Foreign Ship in Indonesian Waters, *Ratio Legis Journal*, Vol. 1, No. 3, September 2022, page. 314-321
 - 2 Andri Winjaya Laksana, Manifestation of Pancasila Values in The Omnibus Law For Justice, *The 6th Proceeding International Conference And Call Paper Sultan Agung Islamic University*, 2021, page. 164-173
 - 3 Andri Winjaya Laksana, Ida Musofiana, Pandangan Kritis Terkait Pertanggungjawaban Korporasi perbankan terhadap Tindak Pidana Pembobolan Rekening Nasabah, *JPM: Jurnal Purnama Media*, Vol. 1, No. 1, Agustus 2022, page. 50-64

from other people's attacks. However, in reality there are still many violations of human rights in the field of child protection. There are many kinds of violations of human rights in the field of child protection. These include early marriage, lack of education, child trafficking, abuse and the employment of underage children.⁴

Health personnel are included in human rights and one of the elements of welfare that should be realized as the ideals of the Indonesian nation as referred to in Pancasila and the Preamble to the 1945 Constitution of the Republic of Indonesia. Therefore, all activities and efforts to improve public health are carried out based on several principles, namely, non-discriminatory, participatory, and protection.⁵

Currently, people all over the world have been affected by coronavirus disease 2019 (COVID-19), which is the fifth pandemic after the 1918 flu pandemic. As of now, we can trace the first report and subsequent outbreak from a cluster of novel human pneumonia cases in Wuhan City, China, since late December 2019.⁶ The World Health Organization officially declared the Corona Virus (COVID-19) a pandemic on January 30 2020, meaning that the Corona Virus has spread widely in the world. Although the Corona Virus itself has been detected since 1937.⁷

Since the Covid-19 pandemic began spreading worldwide in early 2020, many countries have implemented social and physical distancing through "lockdowns. To implement social distancing, the Court Institution cannot hold trials according to pre-arranged standards because it can cause crowds of people, which involve the spread of the Covid-19 virus, to be higher.⁸

Based on the Indonesian Covid-19 data analysis report carried out by the Covid-19 handling task force, it wrote an update as of June 2021 the cumulative number of cases in Indonesia was 2,115,305 where the 5 provinces with the highest cases were DKI Jakarta, West Java, Central Java, East Java and East Kalimantan. With the highest increase in cases by province, namely DKI Jakarta, West Java, Central Java, East Java and Banten while the lowest number of cases by province were North Maluku, West Sulawesi, Gorontalo, Maluku and Bengkulu. The distribution of cases that occur in Indonesia has an uneven frequency considering that Indonesia is an archipelagic country, the distribution varies with the frequency from

4 Singgih D Gunarsa, *Dasar dan Teori Perkembangan Anak*, Libri, Jakarta, 2012, page.13

5 Indra Yudha Koswara, *Perlindungan Tenaga Kesehatan Dalam Regulasi Perspektif Bidang Kesehatan Dihubungkan Dengan Undang-Undang Nomor 36 Tentang Kesehatan Dan Sistem Jaminan Sosial*, *Jurnal Hukum POSITUM*, Vol. 3, No. 1, Juni 2018, page.1-18

6 Yen-Chin Liu, Rei-Lin Kuo, Shin-Ru Shih, *COVID-19: The first Documented Corona Virus Pandemic in History*, *Biomedical Journal*, Vol. 43, No. 4, 2020, page.328-333

7 Aprilia Widya Mandey, Ronny A. Maramis, Friend H. Anis, *Worker Protection Laws Against Safety of Health Services During Covid-19 Pandemic*, *Jurnal Hukum Tora*, Vol. 7, No. 3, 2021, page. 447-462

8 Andri Winjaya Laksana, *Law Enforcement Reform on Covid 19 Pandemic: a Necessity or an Innovation?* *Varia Justicia*, Vol. 16, No. 2, 2020, page.170-182

high, medium to low, so the areas exposed to the Covid-19 case can be grouped (clusters) to make it easier to do analysis.⁹

In this condition, sometimes health workers are able to sacrifice their lives to protect the community from Covid-19. In addition, the availability of sufficient medical facilities¹⁰ and equipment is one of the important factors in determining success in handling Covid-19. According to the Indonesian Doctors Association (IDI) explained that as many as 32 doctors in Indonesia died due to Covid-19 and 20 cases of Julam nurses who died due to Covid-19.

Until now, the case of the spread of Covid-19 is still high, this characteristic shows the increasingly complex work risk mitigation for health workers. Therefore, every health care provider has K3 rights that have been guaranteed by the government in Law Number 13 of 2003 concerning Manpower. The regulation of the right to protection for health workers has been written in article 86 of the Manpower Law, which describes the right to protection for safety and health at work¹¹.

OHS efforts are designed to provide safety guarantees and improve the health of workers by preventing accidents and diseases caused in the workplace, besides that the role of K3 can create a safe working environment and healthy conditions for workers. Therefore, the health worker profession is one of the noble professions and this profession is increasingly manifesting itself during the Covid-19 pandemic crisis. Based on the description above, the authors describe the problem in this article, namely how the Government's Role in the Protection of Health Workers during the Covid-19 Pandemic

The purpose of writing this research is to find out and describe accountability in protecting the rights of health workers and complement each other in creating a balance of rights and obligations through preventive and repressive efforts.

B. RESEARCH METHODS

To answer the writing questions that have been formulated above, the authors will use the normative research method.¹² This approach is an approach in which law is conceptualized as what is written in laws and regulations (law in books) or law is conceptualized as rules or norms which

9 Diyah Astuti, Dyah Yunita hartanti, Susi Tri Nurhayanti, Herlin Fransiska, Clustering and Forecasting of Covid-19 Data in Indonesia, *Jurnal Matematika, Statistika & Komputasi*, Vol. 18, No. 3, May 2022, page.325 -335.

10 Thaan Neet Bunprakop, Ong Argo Victoria, Legal Protection For Doctor And Medical Staff In The Pandemic Period Of COVID-19 (An Overview Of Indonesia From International Perspective), *Jurnal Pembaharuan Hukum*, Doktor Hukum Unissula, 2020

11 Ong Argo Victoria & Myska. (2021). Doctor's Contributions in Transportation Monitoring During COVID-19 Pandemic. *KnE Social Sciences*, Dubai-Uni Emirates Arab (UEA), Vol. 5, No. 1, page. 598–618

12 Bimo Bayu Aji Kiswanto, and Anis Mashdurohatun, The Legal Protection Against Children Through a Restorative Justice Approach, *Law Development Journal*, Vol. 3, No. 2, June 2021, page. 223-231

are benchmarks for human behavior that are considered appropriate.¹³ The research specifications used in this study used descriptive analytical.¹⁴

C. RESULTS AND DISCUSSION

1. The first time the Corona Virus appeared

The Covid-19 virus was clarified for its appearance in December 2019, which can be seen that its first appearance occurred in Wuhan, China. As we all know the emergence of Covid-19 is not something new, this is proven by several virologists and biologists who found different things, their findings, against a group of miners in China in 2012 infected with the Covid-19 virus. The death rate due to Covid-19 has increased already to three million people.¹⁵

Virus is a borderline between living and non-living things, not capable of reproduction but only do this process utilizing the machineries of a living cell.¹⁶ Scientific explanation of a virus from several scientists explains that a virus is capable of changing the form of a new genetic makeup, in general the virus remains one but only changes uniformly. The reason for the emergence of the name SARS-Cov is because covid-19 has a close relationship with the viruses that cause SARS and MERS.¹⁷

What can we know that covid-19 came from bats, it has been proven that the DNA in Covid-19 has similarities with the DNA in bats.¹⁸ The Covid-19 has emerged as a result of a wet market located in Wuhan, where the market is specifically selling exotic animal meat of various types, so that to maintain the freshness of the animal meat, someone cuts it directly in the tax. From this, we should form awareness that the corona virus is a creature that we cannot see with our naked eyes and can change shape so that it can infect other living things. The spread of covid-19 is not only between living things such as animal to animal, but more than that it spreads directly from animals to humans. The symptoms of swelling, pain, and erythema began to improve

13 Amiruddin & Zainal asikin, *Pengantar Metode Penelitian Hukum*, Raja Grafindo Persada Jakarta, 2012, page.118

14 Julizar Bimo Perdana Suka, Bambang Tri Bawono , and Andri Winjaya Laksana, The Implementation of Code of Conduct for Members of Police as Accurators of Murder, *Law Development Journal*, Vol. 4, No. 2, June 2022, page.197-204

15 Agus, A.A., Yudoko, G., Mulyono, N., Imaniya, T., E-Commerce Performance, Digital Marketing Capability and Supply Chain Capability within E-Commerce Platform: Longitudinal Study Before and After COVID-19, *International Journal of Technology*, Vol. 12, No. 2, 2021, page. 360

16 Brando Cabigas Razon, COVID 19: Impetus for Community Spirits among Filipinos, *Indonesian Journal of Science and Technology*, Vol. 5, No. 2, 2020, page.201-208

17 Theresia Louize Pesulima, and Yosia Hetharie, Perlindungan Hukum Terhadap Keselamatan Kerja Bagi Tenaga Kesehatan Akibat Pandemi Covid-19, *SASI*, Vol. 26, No. 2, April Juni 2020, page.280-285

18 Melinda Leony, Suzanna Ratih Sari, Arsitektur hijau mendukung adaptasi perilaku di masa pandemi Coronavirus disease (COVID-19) di Alun-Alun Kota Batam, *Dinamika Lingkungan Indonesia*, Vol. 9, No. 1, 2022, page.175

spontaneously on the 4th day after the onset. She only took paracetamol for a few days post-vaccination because of the fever that arose.¹⁹

Since there are no standard treatments for Covid-19, it is important to avoid infection or further spreading. For general population, travel to epidemic area of Covid-19, contact, or eating wild animal is dissuaded. For those who had history of travel from epidemic area in recent 14 days, body temperature monitor and self-surveillance for 14 days should be performed. If compatible symptoms developed, designated transportation is recommended to prevent unprotected exposure. For healthcare workers, personal protective equipment should be put on and taken off properly while caring a probable or confirmed patients. Stringent protection procedures should be conducted for high-risk procedures. Once exposed to blood or body fluids of the patient unprotected, the healthcare workers should flush thoroughly the exposure site by water or soap. Afterward, body temperature should be monitored for 14 days. The confirmed case should be isolated. Under the circumstances of resolved symptoms for 24 hours and consecutive two negative results, isolation could be released.²⁰

2. The Role of the Government in the Protection of Health Workers During the Covid-19 Pandemic

Healthcare workers are at the front line of the Covid-19 pandemic response and have the high risk of infection. Hospital associated transmission is one of the important routes of spreading this corona virus worldwide.²¹ Health workers as one of the providers of Covid-19 services have an important meaning in the implementation of handling Covid-19. With the determination of the Novel Coronavirus infection as a disease that can cause an epidemic, it is necessary to protect doctors as health workers, both legal and social protection. Health workers as the front line are at risk of various hazards including exposure to pathogens, long working hours, psychosocial distress, fatigue, occupational burnout, stigma, and physical and psychosocial violence.

The government's policy in making a law in the health sector is one of the juridical foundations that can be used as a guide for health workers. This is because, there is legal protection, legal certainty, and legal justice for health workers, with this juridical foundation it becomes very important for health workers, because with the regulations in the health sector, the rights and obligations of health workers are protected.²²

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- 19 Anshari Saifuddin, Sukanto Koesnoe, Nia Kurniati, Sondang Sirait, Riesye Arisanty, Evy Yuniastuti, COVID Arm After Moderna Booster in Healthcare Worker: A Case Report, *Acta Medica Indonesiana*, Vol. 53, Number July 2021, page.326-330
- 20 Yi-Chi Wu, Ching-Sung Chen, Yu-Jiun Chan, The outbreak of COVID-19: An overview, *Journal of the Chinese Medical Association*, Vol. 83, No. 3, 2020, page.217-220
- 21 Chan JF, Yuan S, Kok KH. A Familial Cluster of Pneumonia Associated With the 2019 Novel Coronavirus Indicating Person-To-Person Transmission: A Study of a Family Cluster, *Lancet*, 2020; 395, page.514-523.
- 22 Yesmil Anuar, Adang, *Pengantar Sosiologi Hukum*, Gramedia, Jakarta, 2008, page.34

Article 28D paragraph (1) of the 1945 Constitution states that everyone has the right to recognition, guarantee, protection and legal certainty that is just as well as equal treatment before the law.²³ This is similar to Article 5 paragraph (1) of Law no. 39/1999 on Human Rights, which also states that every person is recognized as an individual who has the right to demand and receive the same treatment and protection in accordance with their human dignity before the law.

Legal protection for health workers is regulated in Article 57 of Law no. 36/2014 concerning Health Workers, which regulates that health workers in carrying out their practices have the right to: a) obtain legal protection as long as they carry out their duties according to Professional Standards, Professional Service Standards, and Standard Operating Procedures; b) obtain complete and correct information from health service recipients or their families; c) receive fees for services; and d) obtaining protection for occupational safety and health, treatment in accordance with human dignity, morals, morals and religious values, and so on.

The regulation above, gives authority to the Government to carry out legal orders in providing guarantees for legal protection to health workers. In connection with the task force for handling the acceleration of Covid-19, the Government has the obligation to provide protection and guarantee the rights of health workers in providing services including rewards and guarantees for safety and health during their duties.

Legal protection is the protection of dignity, as well as recognition of human rights owned by legal subjects based on legal provisions from arbitrariness or as a collection of rules or rules that will protect one thing from other things.²⁴ According to Setiono, legal protection is an act or effort to protect people from arbitrary actions by the authorities who are not in accordance with the rule of law, to create order and order so as to enable humans to enjoy their dignity as humans.²⁵ With regard to the health worker profession in handling Covid-19, it means that the law provides protection for the rights of health workers due to the Covid-19 pandemic. This pandemic shows that victims are not only affecting the community (patients) but also endangering and taking the health of health workers who are fighting at the forefront in overcoming the spread of disease. Health workers must be aware that it is their responsibility to follow the law and professional practice because it is their responsibility.²⁶

Law No.36 / 2009 on Health states that the central government and local governments have the responsibility and can form specific

23 Leli Tibaka, Rosdian, The Protection of Human Rights in Indonesian Constitutional Law after the Amendment of the 1945 Constitution of the Republic of Indonesia, *Fiat Justisia*, Vol. 11, No. 3, July-September 2017, page.266-288

24 Philipus Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia*, PT. Citra Aditya Bakti, Jakarta, 2007, page.57

25 Setiono, *Supremasi Hukum*, UNS, Surakarta, 2004, page. 3

26 Fitriani Nur Damayanti, Protection of the Rights of Health Workers in Handling COVID-19, *Journal of Hunan University Natural Sciences*, Vol. 48, No. 10, October 2021, page.102-105

policies for the procurement and use of medical supplies. This provision has also been affirmed in Permenkes No. 1501 / Menkes / PER / X / 2010 concerning Certain Types of Infectious Diseases that Can cause Outbreaks and Countermeasures Article 25 that in an outbreak / outbreak, the government and local governments are required to provide medical supplies including materials, tools drugs and vaccines and other supporting materials / tools.

According to information developed in the media, it is reported that the scarcity of PPE is not only experienced by Indonesia, but also in almost all countries affected by Covid-19. However, until this report is disseminated, the fulfillment of PPE is still unclear. The situation that arises due to the scarcity of PPE has resulted in health workers using inadequate PPE, thus threatening the safety of both patients and health workers. The increasing number of health workers who contracted the Covid-19 disease and died is suspected to be one of the triggers due to inadequate use of PPE.

Not only that, the government is also responsible for providing health service facilities for health workers to carry out their work. Therefore, the Central Government and Regional Governments are responsible for the availability of health service facilities in the context of realizing the highest health standard. This is regulated and contained in Article 6 of Government Regulation Number 47 of 2016 concerning Health Service Facilities.

Protection of health workers has also been regulated in Articles 8 and 9 of Law No. 4 of 1984 on Contagious Disease Outbreaks. Article 8 paragraph (1) of the Law states that those who suffer property loss as a result of the epidemic control efforts as referred to in Article 5 can be compensated. Likewise, Article 9 paragraph (1) has also been explicitly regulated that certain officers who carry out epidemic control efforts as referred to in Article 5 can be rewarded for the risks they bear in carrying out their duties. Article 9 of the Infectious Disease Outbreak Law is indeed 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 obligatory to be carried out because this is already a legal obligation which impacts on the rights of health workers that must be fulfilled. Once again, that legal protection is always related to rights and obligations. Failure to fulfill rights and obligations certainly has legal consequences.

Legal protection for health workers can also be provided through criminal charges against people who are still not orderly to implement protocols for handling infectious disease outbreaks that have an impact on the infection of health workers or even result in the death of health workers or other people who are exposed. The disorderly implementation of the standard health protocol for the prevention of Covid-19 can be said to meet the elements of deliberately blocking the implementation of the prevention of the Covid-19 contagious disease outbreak. This is stated in Article 14 of the Communicable Disease Outbreak Act.

This protection can be seen through guidance on the rights of health workers while carrying out their duties as a task force to accelerate the handling of Covid-19. Between the government and health workers, the two must complement each other to create a balance of rights and obligations through preventive and repressive measures, however the legal protection measures provided still have weaknesses. This means that the Government has not been able to provide legal protection for health workers on duty in the task force to accelerate the handling of Covid-19.

D. CONCLUSION

The Legal protection for the safety of health workers due to the Covid-19 pandemic has not been implemented properly as mandated in the laws and regulations, in implementing the rights of health workers during the Covid-19 pandemic are still being neglected and have not been fulfilled. Therefore, the role and responsibility of the government are urgently needed to fulfill the rights of health workers as the frontline in handling the spread of Covid-19 in Indonesia. Between the government and health workers, both must complement each other to create a balance of rights and obligations through preventive and repressive measures, however, the legal protection measures provided still have weaknesses because some of the rights of health workers have not been fulfilled. This is a form of imbalance in the implementation of Government responsibilities, whereas the statutory regulations have granted the attribution authority. This means that the Government, in this case, has not been able to optimally provide legal protection for health workers on duty in the task force to accelerate the handling of Covid-19.

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