# Legal Protection For Workers/Medical Workers against Case of Diseases Due to Covid-19

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Abstract. The purpose of this research is to provide legal protection To find out and analyze all Medical Workers/Laborers affected by occupational diseases due to Corona Virus Disease 2019 (Covid-19) in Semarang City, they have obtained their rights in accordance with existing laws and regulations. The research method used is the sociological juridical approach method, descriptive analysis research specifications, the research data source uses primary data and secondary data, which includes primary legal materials, secondary legal materials and tertiary legal materials. Data analysis using qualitative analysis methods. The result is the government, through the Labor Inspectorate, needs to provide guidance and outreach to companies so that employers will understand and understand the benefits of Work Accident Security (JKK), which is very much needed during a pandemic like this, because medical workers/laborers are at the forefront of carrying out their duties to treat patients who have being exposed to COVID-19 must be protected by registering all medical workers/laborers in the BPJS Of Workers Work Accident Insurance (JKK).

Keywords: Legal Protection; Medical Personnel; Occupational Diseases.

#### 1. Introduction

Social security for workers is a protection and will provide benefits for workers themselves and their families from unexpected things due to all the risks posed by carrying out their work activities. Workers in carrying out their work will certainly face risks that may occur to workers, both the risk of illness arising from their work, the risk of work accidents, which result in disabilities, loss of work and even death. Fundamental risks are collective and are felt by all people, such as political, socioeconomic, defense and international risks, special risks are more individual in nature because they are felt by individuals, such as risks to property, risks to individuals, and risks to business failure. Every Indonesian citizen or citizen has the right to get good health and welfare for himself and his family. This is stated in Article 28H of the 1945 Constitution of the Republic of Indonesia which states 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 obtain health services.
- Everyone has the right to Social Security which enables his complete development

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<sup>&</sup>lt;sup>1</sup> Reski Seno Adireja and Siti Ummu Adillah. *Tinjauan Yuridis Pelaksanaan Jaminan Sosial Ketenagakerjaan pada Pengemudi Online (Grab) di Semarang*. Jurnal Daulat Hukum. Universitas Islam Sultan Agung . Semarang. 18 October 2019. p. 777

<sup>&</sup>lt;sup>2</sup> Zainal Asikin dk. (2006). *Dasar-dasar Hukum Perburuhan*. Jakarta: Radja Grafindo Persada. p.77

<sup>&</sup>lt;sup>3</sup> The 1945 Constitution of the Republic of Indonesia. Article 28H

as a dignified human being.

Previously, the government had enacted Act No. 39 of 1999 concerning Human Rights, Article 38 paragraph (2) states: "Everyone has the right to freely choose a fair job". Whereas in Article 71 regulates the responsibility of the Government to respect, protect, enforce and advance human rights, whether regulated in Law or International Law. According to Mudzakir Syah, an employer (entrepreneur) is not only entitled to employ workers/workers but has the following obligations: 5

- Pay labor wages
- Organize work
- Maintain and protect the health of workers
- Provide social security
- Maintain job security
- Give compensation money and so on.

The rights of labor are the same as the obligations of the employer, meaning that what is the right of the worker is the obligation of the employer. The large number of workers in Indonesia welcomes the government to make regulations so that workers in Indonesia can be protected. According to Act No. 24 of 2011 concerning Social Security Administering Bodies, social security is: a form of social protection to ensure that all people meet the basic needs of a decent life.<sup>6</sup>

The principles of justice are in a state of ignorance, this ensures that no one gains or loses in the selection principle by chance or social contingency situations. Realizing justice is a form of protection of human rights, both individuals and groups to lead to a safe, peaceful and prosperous society. On this basis, the government intervenes through laws and regulations to guarantee the certainty of the rights and obligations of the parties. The participation of workers in national development is increasing as well as the use of technology in various sectors of business activities which can result in higher risks that can threaten the safety, health and welfare of workers, so that efforts are needed to increase worker protection that can provide peace of work so that they can make a positive contribution. towards efforts to increase employee discipline and productivity. Work Accident Security, hereinafter referred to as JKK, is a benefit in the form of cash and/or health services provided when a Participant experiences a work accident or disease caused by the work environment. Death Security, hereinafter abbreviated as JKM, is a cash benefit given to the heirs when the Participant dies not due to a work accident. Every worker must be protected by the Occupational Safety

<sup>&</sup>lt;sup>4</sup> Lalu Husni. (2014). *Pengantar Hukum Ketenagakerjaan*. Jakarta: Raja grafindo Persada. p. 13

<sup>&</sup>lt;sup>5</sup> Mudzakir Iskandar. (2008). *Pengantar Ilmu Hukum.* CV. Sugeng Seto. p.25

<sup>&</sup>lt;sup>6</sup> Iman Soepomo. (2015). *Pengantar Hukum Perburuhan*. Jakarta: Djambatan. p. 1

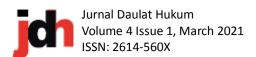
<sup>&</sup>lt;sup>7</sup> Rizky Adiyanzah wicaksono and Sri Kusriyah. *Mplementation Of Restorative Justice Approach In Legal Protection Against Lightweight Crime By The Children.* Jurnal Daulat Hukum. *Vol.1.* Fakultas Hukum Universitas Islam Sultan Agung. Semarang. 4 December 2018. p. 948

<sup>&</sup>lt;sup>8</sup> Latifah Hanim. *Keadilan dalam Perjanjian Kredit dengan Standar Clausula*. Vol.7. Jurnal Daulat Hukum Fakultas Hukum Universitas Islam Sultan Agung. Semarang. 3 September 2020. p.278

<sup>&</sup>lt;sup>9</sup> Lalu Husni. *op.cit.* p. 23.

<sup>&</sup>lt;sup>10</sup> Lalu Husni. 2012. *Pengantar Hukum Ketenagakerjaan Indonesia*. Rajawali Pers. Jakarta. p.165

<sup>&</sup>lt;sup>11</sup> Government Regulation Number 82 of 2019 concerning Amendment to Government Regulation Number 44 of 2015 concerning the Implementation of Work Accident and Death Insurance Programs



and Health (K3) program and become a participant in the Work Accident Security (JKK) program and if experiencing KK/PAK is entitled to Work Accident Insurance (JKK) benefits.

On February 12, 2020, WHO officially designated the novel coronavirus disease in humans as Corona Virus Disease 2019 (COVID-19). The confirmed case of COVID-19 in Indonesia was first reported by the Government of Indonesia on March 2, 2020. History teaches that from time to time the health crisis has given birth to new normality that has overhauled the established order at various levels and sectors. <sup>12</sup>

With the COVID-19 pandemic, medical workers/laborers who are at the forefront are required to be protected from Work-related Diseases due to COVID-19, JKK Protection for PAK Cases due to Covid-19 are as follows:

- The number of cases of workers, especially health workers, contracted Covid-19 and some of them died.
- It is necessary to increase OHS protection for workers from PAK due to Covid-19 and the protection of the Work Accident Security (JKK) program in accordance with statutory regulations.
- Presidential Decree No. 7 of 2019 concerning Occupational Diseases (PAK) Covid-19
  can be categorized as Occupational Diseases (PAK) in the classification of diseases
  caused by exposure to factors arising from work activities, namely the biological
  exposure group.
- Workers or workers who experience Occupational Diseases (PAK) due to Covid-19
  are entitled to the benefits of the JKK Program in accordance with the provisions of
  laws and regulations.

The purpose of this research is to provide legal protection To find out and analyze all Medical Workers/Laborers affected by occupational diseases due to Corona Virus Disease 2019 (Covid-19) in Semarang City, they have obtained their rights in accordance with existing laws and regulations.

### 2. Research methods

The research method used in this research is to use a sociological juridical approach that views law as a social phenomenon with a structural and generally quantified approach, with data collection techniques in the form of primary data, namely by conducting interviews and documentation, and using secondary data carried out by library research. Act No. 13 of 2003 concerning Manpower, Act No. 24 of 2011 concerning Social Security Administering Bodies. The research mode used in this study is the descriptive qualitative method, where the data obtained is data that describes the implementation of the Social Security System for Workers.

In the Sociological Juridical approach, law as law in action is described as an empirical social phenomenon. Thus law is not only given a meaning as a chain of values, official decisions, a fabric of rules and norms, written positive law, but it can also be given a meaning as a teaching system about reality, regular and steady behavior, or law in

<sup>&</sup>lt;sup>12</sup> Cornelius Lay. and erwan agus Purwanto. *New Normal Perubahan Sosial Ekonomi dan Politik Akibat COVID-19*. Cetakan Pertama September 2020. Yogyakarta: Universitas Gajah Mada Press. p. 5

terms of officers. The research that the writer compiled is a descriptive analysis. Descriptive analysis research according to Soerjono Soekanto is a study intended to provide as accurate data as possible about humans, conditions or other symptoms.

#### 3. Results and Discussion

Legal protection is a protection provided to legal subjects in the form of legal instruments both preventive and repressive in nature, both written and unwritten. In other words, legal protection as a description of the function of the law, namely the concept in which the law can provide justice, order, certainty, benefit and peace.<sup>13</sup> The formulation of the principles of legal protection in Indonesia all originates from Pancasila as the foundation which is the ideology and philosophy of the state.<sup>14</sup>

The world was shocked by the outbreak of a disease caused by a virus called corona or known as Covid-19 (corona virus disease 2019). Where hundreds of thousands of humans are exposed to this virus around the world, this virus has even claimed tens of thousands of lives. An infectious disease caused by a newly discovered type of corona virus, a new virus that was not previously known, was known since the outbreak in Wuhan - China in December 2019 (WHO). The government has implemented a very strict policy to break the chain of the spread of Covid-19, to anticipate the transmission of the virus, the government issued various policies, such as isolation, social and physical distancing, which are the right choices in implementing policies to prevent the spread of Covid-19 so that it does not spread again. . In general, the common symptoms experienced by an infected person are fever, shortness of breath and cough. Other symptoms that can be experienced by infected patients are sore throat, muscle aches, phlegm, digestive disorders such as diarrhea, abdominal pain and loss of taste and smell function. While most cases of patients have mild symptoms, more serious symptoms develop multiple organ failure and pneumonia. 15 Where the Covid-19 pandemic has an impact on various sectors of life such as the economy, social, including education, both in Indonesia and globally. The government provides a policy to close all educational institutions. This was done as an effort to prevent the spread of Covid-19 from spreading, now all educational institutions are prohibited from doing their usual activities to minimize the spread of the pandemic. 16

Even though employers have carried out their obligations to regulate workplaces and work tools and provide instructions on safe ways of doing work and similarly workers/laborers have complied with all work safety regulations, the risk of work accidents is likely to occur. This is due to the increasing use of technology in various

<sup>&</sup>lt;sup>13</sup> Rahayu. 2009. *Pengangkutan Orang*. etd.eprint.ums.ac.id. *Peraturan Pemerintah RI. Nomor 2 Tahun* 2002 tentang Tata Cara Perlindungan Korban dan Saksi dalam Pelanggaran Hak Asasi Manusia yang herat

<sup>&</sup>lt;sup>14</sup> Muhammad Wildan. Perlindungan Hukum Tenaga Kerja Kontrak Dalam Perjanjian Kerja Waktu Tertentu Berdasarkan Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan. Jurnal Daulat Hukum. Vol.12. Fakultas Hukum Universitas Islam Sultan Agung. Semarang. 4 December 2017. p. 836

<sup>&</sup>lt;sup>15</sup> I Ketut Sudarsana dkk. 2020. *Pembelajaran Dalam Jaringan dan Upaya Memutus Pandemi Covid-19.* Yayasan Kita Menulis Press. Denpasar. p.2

<sup>&</sup>lt;sup>16</sup> Mahasiswa KPM IAIN Parepare. 2020. *Polemik Covid-19 dan Perubahan Sosial.* IAIN Parepare Nusantara Press. Sulawesi Selatan. p.3

sectors of business activity, which may result in higher risks that threaten the safety, health and welfare of workers/labor. Therefore, employers are obliged to protect workers from the possibility of being exposed to the risk of work accidents. In order to protect workers/laborers who have a work accident, the element of error is released and compensation for accidents is based on the responsibility of the employer that occurs in his company. employment relations no longer need to prove whether there is an element of fault on the part of the entrepreneur, but once a work accident occurs it is the responsibility of the entrepreneur.<sup>17</sup> The interests of the workforce demand government intervention to carry out legal protection, this is stated in Article 1 paragraph (1) of Act No. 13 of 2003 concerning Manpower, which states that employment is all things related to labor before, during and after the work period.<sup>18</sup> Workers/Laborers who can be categorized as having a special/specific risk of causing Occupational Disease (PAK) due to Covid-19 are as follows:<sup>19</sup>

Medical and health workers, which include medical workers and health workers who
are tasked with caring for/treating patients in hospitals, health facilities, and other
places designated by the Government as places to treat/treat patients infected with
Covid-19.

These medical and health workers are as follows:

- Doctors: general practitioners, dentists, specialists, dentists specialists.
- Nursing staff
- Midwifery personnel
- Biomedical engineering personnel such as medical laboratory technology experts
- Pharmacy personnel such as pharmacists and pharmaceutical technical personnel
- Public health personnel such as health epidemiologists
- Health Supporting/Supporting staff at hospitals, health facilities, and other places designated to handle Covid-19 infected patients, namely:
  - Cleaning service
  - Laundry workers, and others in their work face the risk of contracting/being exposed to Covid-19 infection in their work environment.
- Volunteer Team; Health and non-health workers who are also in charge of overcoming Covid-19 who can be placed directly in hospitals, health facilities, and other places designated in the response to Covid-19.

The government also asks companies that employ workers/laborers in jobs with special/specific risks to register these workers/laborers in the social security program at BPJS Of Workers and ensure workers/laborers receive JKK benefits. Employers who have not included workers/laborers in the JKK program at BPJS Of Workers, if

<sup>&</sup>lt;sup>17</sup> Iman Soepomo. (2003). *Pengantar Hukum Perburuhan*. Jakarta: Djambatan. p.140

<sup>&</sup>lt;sup>18</sup> Rosyida Uyunun Nafi'ah and Gunarto. *Tinjauan Yuridis Terhadap Perlindungan Hukum Tenaga Kerja Outsourcing Menurut Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan*. Jurnal Daulat Hukum Fakultas Hukum Universitas Islam Sultan Agung. Semarang. 28 October 2020. p. 82

<sup>&</sup>lt;sup>19</sup> Circular of the Minister of Manpower of the Republic of Indonesia Number M/8/HK.04/V/2020 concerning Protection of Workers/Laborers in the Work Accident Security Program in Cases of Work-related Diseases Due to Corona Virus Disease 2019 (COVID-19)

workers/laborers experience PAK due to Covid-19, the employer grants the right to benefit from the JKK program in accordance with statutory provisions.

In this regard, the steps that must be taken by the Regional Government are as follows:

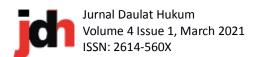
- Ensure that every employer at work at risk of Covid-19 makes optimal prevention efforts so that there are no PAK cases because Covid-19 is in accordance with OHS regulations and standards as well as health protocols related to the prevention and control of Covid-19 in accordance with statutory provisions, as well as maximizing the function of the Covid-19 K3 post in the Manpower Information System (Sisnaker) through the website: www.kemnaker.go.id as a measure to prevent occupational accidents and occupational diseases (PAK).
- Ensuring companies/organizations that employ workers/laborers who can be categorized as having a special/specific risk can the worker/laborer enter the Social Security Program at BPJS Of Workers.
- Ensure that every worker/laborer who experiences PAK due to Covid-19 gets the right to JKK benefits in accordance with the provisions of laws and regulations.
- resulted in PAK due to Covid-19 to register
- If an employer has not included workers/laborers in the JKK program at BPJS Of Workers, if workers/laborers experience PAK due to Covid-19, the employer grants the right to benefit from the JKK program in accordance with statutory provisions.
- Instruct the Head of the Office in charge of Manpower to assign Labor Inspectors to improve manpower guidance and inspection in the field of K3 and social security for workers in accordance with statutory regulations.
- The reporting mechanism, diagnosis, determination, provision of the JKK program benefits and settlement of differences of opinion in determining PAK because Covid-19 is implemented by referring to statutory provisions.

As stated in the Decree of the Minister of Health of the Republic of Indonesia Number 327 of 2020 concerning the Determination of Corona Virus Disease 2019 (Covid-19) Due to Work as a Disease Due to Work Specifically in Certain Occupations.<sup>20</sup> In this case, it states that health workers and non-health workers in carrying out their work to deal with Corona Virus Disease 2019 (COVID-19) are at high risk of contracting Corona Virus Disease 2019 (COVID-19) so that they can cause occupational diseases, to ensure fulfillment of the rights of every worker. against the risks in dealing with Corona Virus Disease 2019 (COVID-19), so it is necessary to determine the Corona Virus Disease 2019 (COVID-19) due to work as a specific occupational disease based on certain criteria. It is a work carried out by health and non-health workers in handling Corona Virus Disease 2019 (COVID-19).

According to the World Health Organization (WHO), a pandemic is said to occur when the following three conditions are met, namely the occurrence of the disease is something new in the population concerned, the disease-causing agent infects humans and causes serious illness, and the disease-causing agent spreads easily and sustainably

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<sup>&</sup>lt;sup>20</sup> Decree of the Minister of Health of the Republic of Indonesia Number 327 of 2020 concerning the Determination of Corona Virus Disease 2019 (Covid-19) Due to Work as a Specific Work-related Disease in Certain Occupations



in human. This is a very critical public health issue and proactive action to protect the public has been and will continue to be taken in the way of individual countries.<sup>21</sup>

This protection is provided to community members through certain programs such as reimbursement of health care costs, child support, family allowances, and so on.<sup>22</sup> In essence, the workforce social security program is intended to provide certainty about the flow of family income as a replacement for part or all of the lost income.<sup>23</sup> Social Security as part of the fulfillment of human rights must be realized in the form of providing various Social Security efforts to all levels of society through the provision of quality and affordable social security. The most important thing in national development is the changes that are taking place in people, the members of society and the values they hold.<sup>24</sup> Hadjon argues that, legal protection is an act to protect or provide assistance to legal subjects, by using legal instruments.<sup>25</sup>

The results showed that the Workers/Laborers affected by Work-related Diseases due to Corona Virus Disease 2019 (Covid-19) in the City of Semarang have not all received Work Accident Security rights in accordance with existing legislation, but to achieve results optimal cooperation is needed with several related parties such as the Office of Manpower/Government, Workers/Laborers and Entrepreneurs.

## 4. Closing

Legal protection is a human right as a legal subject, both when he is in his position as an individual, or when he is in a community, group or other situation. A Medical Worker/laborer, apart from having basic rights as a human being, he also has rights which are regulated based on his status/position and position as a worker, which generally includes the right (access) to decent work, the right to income, the right to occupational health and safety, the right to organize/associate and other rights. In its implementation, the aforementioned rights require protection, therefore the Government through various laws and implementing regulations in addition to affirming the form of rights possessed by workers, also includes guarantees of protection of workers' rights. . In general, the forms of protection related to the above are the issuance of various regulations governing wages, working hours, leave/holidays, occupational health and safety, workers/labor organizations and others. Besides that, it is also organized in the form of workforce social security programs, which include BPJS Of Workers with 4 (four) Programs, namely Work Accident Security, Death Security, Old Age Security and Pension Security. Therefore, the workforce needs to be provided with protection, maintenance and increase in welfare so that it will increase national productivity.

<sup>&</sup>lt;sup>21</sup> Mohamad Amin. Akhmad Muwafik Saleh. Habib Zainal Abidin Bilfaqih. (2020). *Covid-19 (Corona Virus Disease 2019) Tinjauan Perspektif Keilmuan Biologi. Sosial dan Agama*. Malang: PT. Cita Intrans Selaras.

p. 2 <sup>22</sup> Aloysius Uwiyono. (2014). *Asas-asas Hukum Perburuhan*. Jakarta: PT Rajagrafindo Persada.. p. 104 <sup>23</sup> Lalu Husni. (2008). *Pengantar Hukum Ketenagakerjaan Indonesia*. Jakarta: PT Rajagrafindo Persada. p. 159

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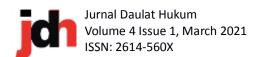
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