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"Comparative Law System of Procurement of Goods and Services around Countries in Asia, Australia and Europe"



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RECONSTRUCTION OF LEGAL DISPUTES MEDIATION IN HEALTH CARE FOR PATIENTS HOSPITAL BASED ON THE VALUE OF JUSTICE

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ABSTRACT

Mediation dispute resolution health was originally an alternative dispute resolution, when the mechanism of litigation is deemed unsatisfactory. Dissertation with the title of the reconstruction of legal mediation in disputes over health care for hospital patients based on values of justice. This study aims to discover the reality of the use of mediation in disputes over health care for hospital patients today, analyzing the ratio of mediation in disputes over health services and dispute mediation reconstruct health services for hospital patients based on values of justice.

Research carried out by empirical juridical approach, related to the implementation of health care dispute mediation. Samples were taken by purposive non-random sampling. Informant is all parties involved in the dispute resolution mediation health services, which consist of the patient's family, lawyers, hospitals / doctors, police officers and notaries. Results were analyzed and described by descriptive qualitative.

Research shows that the reality of the implementation of the health mediation has not been carried out in accordance with Article 29 of Act 36 of 2009 on Health ordered mediation in the event of a dispute of medical services and the Supreme Court Regulation No. 1 Year 2016 on Procedures for Mediation in the Court. The findings of the study found that the existing mediation done by involving the police, lawyer or notary. After comparing the model of mediation conducted in Japan, Malaysia and Singapore it is obtained a construction dispute mediation, health services based on values of justice, namely:

a. Reconstruction of value by way of consensus. Seek mediation rather than litigation.

Mediation aims to achieve a win-win solution for the provision of compensation to patients.

b. Reconstruction of the legal form of Amendment Act No. 29 of 2004 on the Practice of Medicine, especially with the addition of sub-section on Article 64 and Article 72.

Triangular Theory of mediation Mediation is required to produce that meets the expectations of all parties. Mediation is not just an alternative dispute resolution, but mediation is imperative for the parties to the dispute in the health service. Recommendation that the settlement through mediation is imperative as well as the need for a mediation agency especially health

Keywords: Mediation, Dispute Health Services, Justice Values

A. BACKGROUND

Health is a human right and one of the elements of well-being that should be realized in accordance with the ideals of the nation of Indonesia as stipulated in the Pancasila and the Preamble of the Constitution of the Republic of Indonesia Year 1945.

Health services are provided through the forms of treatment and care. Health care workers, medical and nonmedical, responsible to provide optimal service.

Patients can sue medical legal liability (medical liability), in the case of doctors make mistakes / omissions. Doctors can not take shelter under the pretext of acts unintentionally, for errors / omissions doctor that cause harm to the patient, creating rights for patients to sue for damages.

In accordance with Article 29 of Law No. 36 of 2009, in terms of health workers suspected of negligence in carrying out his profession, such omission must be resolved first through mediation. Mediation is a dispute resolution process that is faster and cheaper, and can provide greater access to the parties find a solution satisfactory and sense of fairness.

Most cases of compensation claims settled amicably or family that encourages authors to write a dissertation with the title "Reconstruction Law Dispute Mediation In Health Care For Patients Hospital Value-Based Justice".

B. PROBLEM FORMULATION

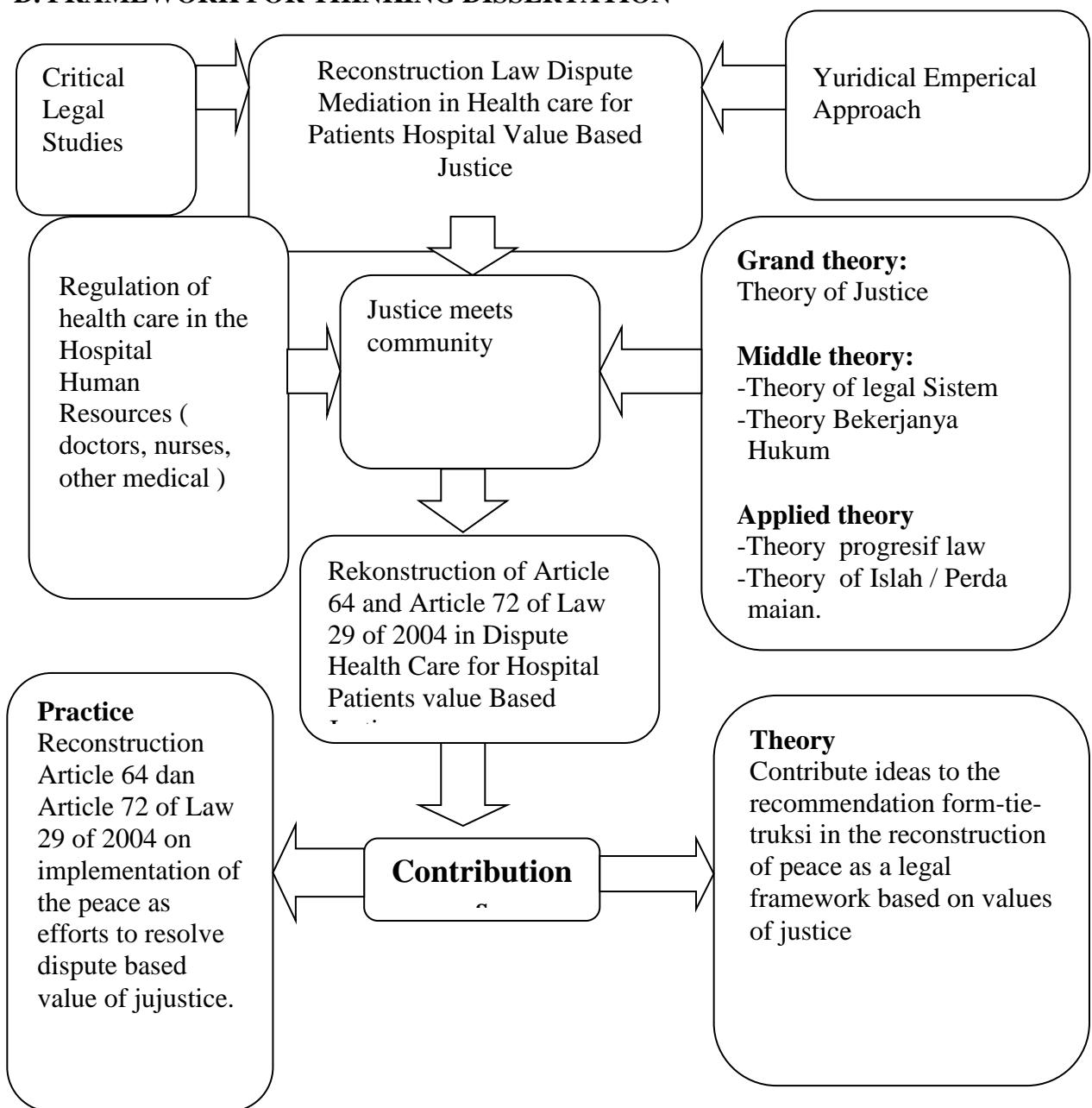
1. What is the reality of mediation in disputes over health care for hospital patients today?
2. What is the ratio of mediation in the dispute for the Health Service hospital patients in various countries?
3. How is the reconstruction of mediation in legal disputes hospital services for patients based on values of justice?

C. RESEARCH PURPOSES

Based on the formula above problems, the purpose of this research is

1. To find the reality of the use of mediation in disputes over health care for hospital patients today
2. To analyze the comparison of mediation in disputes over health care for hospital patients in various countries
3. For the reconstruction of mediation in disputes over health care for hospital patients based on values of justice.

D. FRAMEWORK FOR THINKING DISSERTATION



E. Dissertation Research Methods.

1. Method Approach

The method used in this research is empirical juridical approach. Based on the views Soetandyo Wignjosoebroto, empirical legal research is research in the form of empirical studies to find theories about the workings of law in society.

2. Specifications Research

The results of this study are expected to provide an overview of analytical descriptive. This research is a descriptive meaning is expected to explain the idea of the reconstruction of the mediation law as legal protection in medical dispute by progressive legal justice.

3. Data Sources

a. Primary data, namely Hospital in the District. Banyumas, IDI Kab. Banyumas and communities involved (patient or victim) in a dispute over medical and legal practitioners.

b. Secondary data,

a) Primary Legal Materials, which are binding legal materials consisting of: Constitution of the Republic of Indonesia Year 1945, Law No. 36 Year 2009 on Health,

b) Secondary Legal Materials, consisting of: literature / books related research materials, the results of seminars, workshops, symposia, and scientific and research work of other articles related to the research material

c) Legal Materials Tertiary, which consists of: Law Dictionary, Dictionary English-Indonesian, Indonesian General Dictionary, Encyclopedia, Scientific Journal, the Internet.

4. Data Collection Techniques done, literature study, observation and Field Research (Interview)

5. Data Analysis Techniques

Analysis of the data used in this research is descriptive qualitative data analysis, the data obtained is then compiled systematically analyzed qualitatively to achieve clarity of the issues discussed.

II. DISCUSSION

A. Patient profile dispute

Medical services that involve various stakeholders in providing health services can not be separated from the dispute. Dissatisfaction experienced or perceived by the consumer of medical services often lead to complaints to the lawsuit.

VICTIM'S NAME	HEALTH CARE PROVIDERS	KIND OF MALPRACTICE	RESULTS	EVENT
Sawin 68 years	Prima Graha Hospital	Wrong Foot Surgery	Disability	April 2010
FM 15 years	Nurse M Syamsul Arifin	Wrong circumcision	Disability	February 2013
Suparmi 27 years	Mitra Ibu Hospital	Labor	Die	March 2013
Baby 20 month	Elisabet Hospital	Injection	Die	April 2014
Sofiyah 31 years	Margono S Hospital	Labor	Disability	Nov 2014
Masinem 56 years	Dr TH Kemranjen		Die	

B. Implementation of Mediation in Dispute Health Care for Patients Hospital today

Dispute resolution can be reached in two ways, through litigation and non-litigation. One way in non-litigation process is through mediation. , Litigation is a process in which the courts handed down decisions binding on the parties to the dispute in a legal process that are present in a level. Litigation process is carried out at each level of the judiciary, both first instance courts, appeal, until the appeal. Both processes, including litigation and mediation is completely different, but both ways are a form of medical dispute resolution. Litigation is widely used for medical dispute resolution, mediation began to be known but effective in resolving medical disputes.

Based on the above matters, the idea to resolve a dispute that health care is a win-win solution, one of which is mediation. Etymologically, the term comes from the Latin mediation, *mediare* which means in the middle. This meaning shows the role that display third party as a mediator in their duty to mediate and resolve disputes between the parties. 'Being in the middle' is also meaningful mediator must be in neutral and impartial in resolving disputes. The mediator should be able to keep the interest of the parties to the dispute fairly and equally, that foster confidence (trust) of the disputing parties.

In regard to the advantages of mediation, the parties can be questioned about them each if they can live with the results achieved through the mediation (although disappointing or worse than what is expected). When ponder more deeply that the agreement obtained through mediation is much better, when compared with the parties to constantly be in a dispute that was never completed, although it is not entirely conspired to accommodate the wishes of the parties. Statement win-win solution on mediation, generally comes not from the term settlement itself, but from the fact that the results of the settlement allows both parties put the dispute behind them.

III. Reconstruction Dispute Mediation Mediation In Health Care For Patients Hospital Value-Based Justice

A.Rekontruksi Value

Dispute mediation, health care for hospital patients based on values of justice done by consensus / consensus between the parties, ie a doctor / hospital with the patient. Deliberation / consensus is the philosophy of the Indonesian community in any decision-making, including in the settlement of disputes. Deliberation and consensus has been recorded in Indonesia in particular philosophy sila 4th Pancasila and the Constitution of the Republic of the Indonesia Year 1945 and Other Legislation law. In Pancasila contains the values of universal sustainable and should take precedence in the settlement of disputes.

Peace or consultation is the most suitable answer at once completion equally benefit all parties, this is in accordance with the legal theory for reconciliation is done by consensus to achieve a win-win solution for the provision of compensation on the part of patients. Islam recognize the concept of peace, known as *Ishlah istilan / Shulhu*, sebagaimana in the Qur'an Surah Al-Hujurat verse 10:

1) *Ishlah* among warring Muslims and between rebels (Muslims) and the government (Muslims) who are fair;

تَرْحَمُونَ لِعِلْمِكُمْ ٱللَّهُ وَٱتَّقُواْ ٱلْءَٔخْيَارَ كَمَا بَيْنَ فِى ٱصْءَلْحُواْ ٱلْءِءْمَءَنُونَ ٱذْمَء

Meaning: "Those who believe that real brothers. Therefore make peace (correct any relationship) between the two brothers and fear towards God, that ye may obtain mercy". (QS. Al-Hujurat: 10)

Legal B.Rekonstruksi

Reconstruction defined herein are "rebuilding" or "reshaping" or "recast". As for who wants to be rebuilt or reorganized is Law No. 29 Year 2004 regarding Medical Practice in particular Article 64 and Article 72 as follows:

No	Before Rekonstruksi	Weaknesses	After Rekonstruksi
1.	<p>Article 64 of Law No. 29 of 2004 reads Honorary Council of Indonesian Medical Disciplinary duty</p> <p>a. receive on complaints, examine and decide cases of violation of discipline doctors and dentists who filed; and</p> <p>b. compile guidelines and procedures for handling cases of discipline violation doctor or dentist.</p>	<p>Blm no duty MKDKI (Honorary Council of Indonesian Medical Disciplinary) to mediate in the dispute of Health Services</p>	<p>Article 64 of Law No. 29 of 2004 added</p> <p>c. mediating between hospitals / doctors with patients who are eksekutorial his mediation decision, the decision written mediation head reads Demi Justice Decision Based on Belief in One God</p>
2	<p>Article 72 of Law No. 29 of 2004 reads Development and Supervision as referred to in Article 71 is directed to</p> <p>a. increase quality of health care provided by a doctor and dentist</p>	<p>No assignment Medical Organisation for mediation in the trial MKDI (Honorary Council of Indonesian Medical Disciplinary) / MKDGI (Honorary Council of Discipline of Dentistry Indonesia) among patients with a doctor /</p>	<p>Article 72 of Law No. 29 of 2004, written</p> <p>d. Organisasi Profesi Dokter / Dentist undertake mediation in the dispute that is eksekutorial Health Services</p>

	<p>b.protect community for the actions of doctors and dentists; and</p> <p>c.to provide legal certainty for the public, doctors and dentists.</p>	<p>hospital</p>	
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IV. Cover

A. Conclusions

Based on the description in the above chapters, the author can draw the following conclusion:

1. Mediation between the parties of health, in which patients or their families with health service providers both doctors, nurses or hospital. Healthcare mediation conducted by involving the police, lawyers or notaries.
2. Comparison law enforcement dispute mediation in health services for hospital patients in Japan, Malaysia and Singapore.

Implementation of the health mediation is influenced by the legal system in a country. Family Law (The Family of Law) affect the applicability of the law in a country.

3. Rekonstruktion Dispute Mediation In Health Care for Patients Hospital-based Justice Values are:

a. Rekonstruksi Value

Dispute mediation, health care for hospital patients based on values of justice done by consensus / consensus between the parties, ie a doctor / hospital with the patient. Deliberation / consensus is the philosophy of the Indonesian community in any decision-making, including in the settlement of disputes in

order to achieve a win-win solution for the provision of compensation to the Patient

- b. Rekonstruksi law is done by reconstructing the existing provisions in the Act 29 of 2004 on Medical Practice in particular Article 64 and Article 72 as follows :

Article 64

Honorary Council of Indonesian Medical Disciplinary charge:

- a. Receive complaints, examine and decide cases pelanggaran discipline doctors and dentists who filed; and
- b. Developing guidelines and procedures for handling cases of discipline violation doctor or dentist
- c. Develop guidelines for the implementation of mediation in the case of health personnel for negligence in carrying out his profession that decision is executorial mediation.

Article 72

Guidance and supervision as referred to in Article 71 is directed to:

- a. Improving the quality of health services provided by a doctor and dentist;
- b. Protecting the public for the actions of doctors and dentists
- c. Provide legal certainty for the public, physicians and dentists
- d. Organisasi Profesi Dokter / Dentist mediation in terms of health personnel for negligence in carrying out his profession that decision is executorial mediation.

BIBLIOGRAPHY

- Eddi Junaidi, *Mediasi Dalam Penyelesaian Sengketa Medik*, Raja Grafindo Persada, 2011.
- Syahrizal Abbas, *Mediasi Dalam Perspektif Hukum Syariah, Hukum Adat dan Hukum Nasional*, Kencana, Jakarta, 2009.
- Soetandyo Wignjosoebroto, *Hukum Konsep dan Metode*, Setara Press, Malang, 2013.
- _____, *Hukum, Paradigma, Metode dan Dinamika _Masalahnya*, Huma, Jakarta, 2002.
- Wila Chandrawila Supriadi, *Tanggung jawab Hukum Kedokteran* (makalah yang dipresentasikan dalam pertemuan Silaturahmi Para Dokter Spesialis Perkumpulan Obstetri dan Ginekologi Indonesia (POGI), cabang Jawa Barat, di Ciamis, 2003.
- Undang-Undang Republik Indonesia Nomor 44 Tahun 2009 tentang Rumah Sakit;
- Undang-Undang Republik Indonesia Nomor 36 Tahun 2009 tentang Kesehatan;
- Peraturan Mahkamah Agung Nomor 1 Tahun 2008 tentang Prosedure Mediasi di Pengadilan;