

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Related Civil Law Study misbruik Van Omstandigheden on the Issue of Hospital Refusal Towards Female Patients with Economic Disadvantages from A Human Rights Perspective

Joko Sulistio

Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia,
E-mail: Ditpamobvitpmj97@gmail.com

Abstract. *Hospitals are health institutions mandated by the state to provide health services that are reflected through the role of hospitals in providing excellent medical services for all Indonesian people without exception. This includes the economically weak community, in reality there are many cases of rejection of economically weak patients by hospitals, this is an act against the mandate of health law policies, including in terms of committing acts of abuse in medical service agreements for patients who want health services for economically weak communities based on the principle of balance of agreements. This article, which uses a doctrinal research method, looks at the issue of rejection of economically weak patients by hospitals as a form of Misbruik van Omstandigheden in the agreement therapeutic agreements that arise from the principles of civil law and medical service agreements. Ignorance of economically disadvantaged patients often leaves them helpless when they are rejected by hospitals for illogical reasons. Based on the study of this article, it was found that in terms of medical services for economically disadvantaged communities, the position of therapeutic agreements and agreements concerning informed consent as a commitment to health services for economically disadvantaged communities is unclear, resulting in a one-sided situation or misbruik van omstandigheden carried out by hospitals towards economically disadvantaged patients.*

Keywords: *Hospital; Misbruik van Omstandigheden; Patient; Refusal.*

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

1. Introduction

National and state life can essentially be realized through efforts to recognize and guarantee the implementation of social welfare. One of the fundamental foundations of social welfare is the guarantee of access to healthcare for all segments of Indonesian society. This is explicitly implied and stated in the Fourth Paragraph of the Preamble to the 1945 Constitution of the Unitary State of the Republic of Indonesia, which translates the mandate of Pancasila.¹The mandate to fulfill health insurance as a human right mandated by Pancasila and the 1945 Constitution of the Republic of Indonesia also includes the right to access health care for economically disadvantaged communities. This mandate can be clearly found in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that "every resident has the right to health services."²

This mandate places an obligation on the government as a state instrument to provide health services for economically disadvantaged communities in a real (available), comprehensive, continuous, integrated, appropriate, acceptable, quality, accessible, and affordable manner.³The political objectives of health law are then translated into social security legal policies. This is clearly found in Article 34 paragraph (2) of the 1945 Law of the Unitary State of the Republic of Indonesia which states that "The state develops a social security system for all people and empowers the weak and underprivileged in accordance with human dignity." The existence of Article 34 paragraph (2) of the 1945 Law of the Unitary State of the Republic of Indonesia clearly shows that constitutionally, the Indonesian state is a state that guarantees welfare in the health sector (Health Oriented-Value). The mandate to provide equal health insurance for the community, which is mandated to the government as the implementer of state power in the health sector, in reality, has not yet met expectations. This can be seen in the case of neglect of a 60-year-old patient in a hospital. Dadi Tjokrodipoin Lampung by several health workers because they were considered unable to pay for medical costs, Suparman, a 60 year old patient was dumped using an ambulance secretly by a certain individualHospitalDadi Tjokrodipo was sent to a hut because he was declared unable to pay for medical expenses.⁴

¹Suhardy Hetharia, "Aspects of Hospital Legal Responsibility for Medical Services", *Lex et Societatis*, Vol. I, No. 5, 2013, p. 111.

²Puji Restiyani, Fitriyah, and Lusia Astrika, "Accessibility of Poor Communities in Obtaining Health Services (Case Study in the Tambak Mulyo Village Area, Tanjung Mas Subdistrict, Semarang)", *Journal of Science, Government*, 2013, p. 1.

³Abdul Bari Saifudin, et al., *National Reference Book for Maternal and Neonatal Health Services*, PT Bina Pustaka Sarwono Prawirohardjo, Jakarta, 2009, 1st Ed., 5th Printing, p. 18.



LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

⁴Republic, The Case of Patient Disposal is a Crime Against Humanity, accessed through <https://news.republika.co.id/berita/n0xakw/kasus-pembuangan-pasien-merupakan-kejahatan-kemanusiaan>, on May 12, 2023.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Patient neglect weak economy in Hospital Dadi Tjokrodipo is very sad for the world of health, especially regarding access to health services. The perpetrators have not only violated the law, far from that, the perpetrators have violated Article 28H paragraph (1) of the 1945 Republic of Indonesia Law. This constitutional violation automatically also violates the considerations and principles of the Republic of Indonesia Law Number 36 of 2009 concerning Health. Points a and b of the considerations of the Republic of Indonesia Law Number 36 of 2009 concerning Health state that:

- a. Health is a human right and one of the elements of welfare that must be realized in accordance with the ideals of the Indonesian nation as referred to in Pancasila and the 1945 Constitution of the Republic of Indonesia;
- b. that every activity in an effort to maintain and improve the highest possible level of public health is carried out based on non-discriminatory, participatory and sustainable principles in the context of developing Indonesian human resources, as well as increasing the nation's resilience and competitiveness for national development.

Article 2 Republic of Indonesia Law Number 36 of 2009 concerning Health then states that:

Health development is carried out on the basis of humanity, balance, benefits, protection, respect for rights and obligations, justice, gender and non-discrimination and religious norms.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

The case of neglect of economically disadvantaged patients is clearly far from the mandate of the 1945 Constitution of the Republic of Indonesia as well as the mandate of the Republic of Indonesia Law Number 17 of 2023 concerning Health, in other words, neglect of economically disadvantaged patients is a form of violation of the protection of the dignity and dignity of economically disadvantaged people. Neglect of economically disadvantaged patients is not only a violation of the legal principles of human rights protection and the state Constitution, basically both patients from the wealthy and economically disadvantaged communities are civil consumers of health services managed by an institution called a hospital. Patients in using health care services are not only based on the aspect of public service within the scope of administration regulated by the government constitutionally, in their operations, patients as users of health care services are also based on medical civil agreements whose implementation standards are determined by health care workers and hospitals. The existence of Article 1338 paragraph 1 of the Civil Code concerning freedom of contract and the existence of Article 1234 of the Civil Code are a strong basis for the existence of therapeutic agreements and agreements concerning informed consent. The therapeutic agreement relationship in its development is an agreement relationship that is the same as other civil agreements, this is because the therapeutic agreement gives rise to achievements for the parties, only through these relationship patterns it provides wider opportunities for legal subjects to enter into agreements.⁵

⁵Cecep Tribowo, *Legal Ethics and Health*, Nuha Medika, Yogyakarta, 2014, p. 64.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Therapeutic agreements and agreements concerning informed consent between medical personnel and patients are in fact represented by hospitals, based on their implementation, the agreement between medical personnel represented by the hospital and the patient according to Satjipto Rahardjo is an active-passive agreement. An active-passive agreement in this case is a medical agreement where the doctor or health worker actively provides medical treatment for the patient while the patient passively receives the medical action carried out by the doctor or health worker on him.⁶ The existence of this agreement has the potential to create *Misbruik van Omstandigheden* for patients, especially patients weak economy or less capable. Good agreement therapeutic agreements and agreements regarding informed consent are only oriented towards the interests of the hospital or medical personnel, this is because patients do not understand the information on medical rights and the right to medical treatment that they should receive, so that the hospital and medical personnel can freely take advantage of everything that should be in agreement therapeutic and agreement regarding informed consent. The patient's position is weak agreement therapeutic agreements and agreements regarding informed consent are seen in cases of neglect by the hospital. Dadi Tjokrodipoin Lampung experienced by Suparman as explained above. This is clearly a form of *Misbruik van Omstandigheden* carried out by the hospital.

The problem of hospital neglect of patients weak economy Not only discussed in this article, there are several articles related to civil studies regarding the refusal of patients to move hospitals weak economy. The following are several research articles that discuss this issue:

1. An article by Hanifah Romadhoni and Arief Suryono entitled "Civil Liability of Hospitals in Cases of Refusal of Poor Patients in Emergency Situations." This article was published in the Private Law Journal Volume 9 Number 1 published in 2021. The results of this journal study explain that the actions of hospital health workers who refuse poor patients in emergency situations are unlawful acts due to negligence. Therefore, hospitals are charged with civil liability for the negligent actions of health workers in hospitals who refuse poor patients in emergency situations that cause harm to a person/patient based on Article 46 of Law Number 44 Concerning Hospitals, the doctrine of respondeat superior, and the principle of vicarious liability. The form of civil liability of hospitals is to compensate for the losses suffered by patients.⁷

⁶Satjipto Rahardjo, *Legal Education as Human Education*, Genta Publishing, Yogyakarta, 2009, p. 89.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

2. An article written by Ahmad Arif Widiyanto entitled "Bridging Accessibility of Poor Communities to Health Services Through Local Institutions". This article was published in the journal *Sociologi Reflective*, Volume 8, Number 1, 2013. The results of the study from this journal explain that the problem of low access of poor communities to health services is caused by systemic and structural factors, namely the dominance of technocratic (top-down) government policy models in health development, thus denying local community potentials. The community is not given the opportunity to voice their aspirations regarding the form of good health services for them. On the other hand, the community is also not involved in the formulation, implementation, monitoring and evaluation of government health policies. As a result, the implementation of health development at the grassroots level experiences many obstacles and unpredictable problems, including the problem of low accessibility of poor communities to health services. Thus, the poor become powerless to access health services.

The article written by this author has different aspects of discussion from the two articles above, this article aims to analyze and describe the problem of opportunities for abuse of circumstances or *Misbruik van Omstandigheden* performed on patients with weak economy who are the users of health services in a health service agreement, it can be understood together that the agreement, therapeutic agreements and agreements regarding informed consent often provide ample space for hospitals as managers of medical services, this is due to the absence of clear regulations in the Health Law regarding sanctions against hospitals that carry out *Misbruik van Omstandigheden* in the form of refusing medical services to patients with weak economy so far.

2. Research Methods

The method used in this article is the doctrinal method. The doctrinal method is a legal study method based on evolving legal views or doctrines that are relevant to the legal issue being studied. Doctrinal studies are largely oriented towards the studies of legal experts who start from studies related to legal issues as *ius constitutum* issues or as positive legal issues that are applicable and formally recognized by the state. Therefore, in this study, the primary data used are legal materials in the form of legislation in the form of the 1945 Constitution of the Republic of Indonesia, Law of the Republic of Indonesia Number 36 of 2009 concerning Health, and the Civil Code. This normative data is then supported by

⁷Hanifah Romadhoni and Arief Suryono, "Civil Liability of Hospitals in Cases of Refusal of Poor Patients in Emergency Situations." *Private Law*, Vol. 9, No. 1, pp. 107-108.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

empirical data in the form of case studies related to the issue. *Misbruik van Omstandigheden* in the form of refusing medical services to patients weak economy by the hospital.⁸

3. Results and Discussion

3.1. Understanding the Meaning *Misbruik van Omstandigheden*

The definition of abuse of circumstances in Indonesian law is the equivalent of the terms *misbruik van omstandigheden* and undue influence.⁹ Abuse of circumstances in the common law system is known as undue influence, also known as unconscionability, these two terms are basically different. The similarity of these two terms is that both are based on the imbalance of the bargaining position of the parties. If a contract is formed on the basis of unfairness or injustice that occurs in an unbalanced relationship between the parties, then it is called undue influence (a one-sided relationship), but if unfairness occurs in a situation, then this is called unconscionability (a one-sided situation).¹⁰ The doctrine of abuse of circumstances arose because there were no provisions in the Dutch Burgerlijk Wetboek (at that time) that regulated this matter. Abuse of circumstances can be interpreted as a defect in will as regulated in Article 1321 of the Civil Code, namely:¹¹

- a. Misguidance (*dwaling*);
- b. Coercion (*dwang*); and
- c. Fraud (*bedrog*).

3.2. Understand Agreement Therapeutic and Informed Consent Agreements

A therapeutic agreement is a legal relationship between a doctor or healthcare professional and a patient, creating rights and obligations for both parties. A therapeutic agreement must be entered into by competent individuals. The

⁸Laurensius Arlman S, The Role of Legal Research Methodology in the Development of Legal Science in Indonesia, *Soumatra Law Review*, Vol. 1, No. 1, 2018. p. 112.

⁹NE Algra et.al, Fockema Andreae Dutch-Indonesian Legal Terms Dictionary, Binacipta, Bandung, 1983, p. 301.

¹⁰Hardjan Rusli, Indonesian Contract Law and Common Law, Sinar Harapan, Jakarta, 1993, pp. 113-115.

¹¹Loc, cit.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

patient is the recipient of medical services, while the doctor or healthcare professional provides the services.¹²

Therapeutic agreements have an object, namely medical services or healing efforts. The permissible reason contained in a therapeutic agreement is that the goal of healing efforts is to maintain and improve health based on family principles, encompassing activities to improve health quality (promotive), prevent disease (preventive), cure disease (curative), and restore health (rehabilitative).¹³ An informed consent agreement is an agreement to a medical procedure, meaning that the patient gives consent to the planned medical procedure that will be carried out on him/her after the patient receives information about the medical procedure that he/she will receive.¹⁴

a. Protection of Patient Rights According to Islam

The aim of law according to Islam is based on the principle of maqsid al-Syariah, according to this principle the law must be able to protect five things, these five things are:¹⁵

- 1) Religion;
- 2) Reason;
- 3) Soul;
- 4) Property;
- 5) Descendants.

From an Islamic legal perspective, health is viewed as a trust that must be properly safeguarded and maintained. Islamic law provides comprehensive guidance on how to maintain health and how the relationship between patients and medical personnel should be regulated. The findings of this study confirm that Islamic law provides a comprehensive and fair framework for regulating the relationship between patients and medical personnel, and provides clear guidance on how to maintain health. With proper application, these principles can help create a more

¹²Cecep Tribowo, op, cit.

¹³*Loc, cit.*

¹⁴*Loc, cit.*

¹⁵Sri Endah Wahyuningsih, 2013, Principles of Criminal Individualization in Islamic Law and Indonesian Legal Reform, UNDIP, Semarang, p. 48.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

effective and harmonious healthcare system that respects and protects the rights of all parties involved. The principle of benefit emphasizes that every medical action must be based on consideration of the greatest benefit to the patient. This means that medical decisions must consider the greatest positive impact on the patient, both in the short and long term. The implementation of these principles in healthcare practice is evident in situations such as emergency treatment, where medical actions are performed to save the patient's life without seeking consent, while maintaining the confidentiality of the patient's medical information. Islamic law also provides mechanisms for resolving disputes between patients and medical personnel through mediation and arbitration. This approach aims to achieve justice and mutual agreement, avoid protracted conflicts, and ensure that the rights of all parties are respected. By applying Islamic legal principles, the healthcare system can become more effective, equitable, and harmonious. This research demonstrates that a thorough understanding of Islamic legal principles can assist medical practitioners, lawyers, and policymakers in developing policies and practices consistent with Islamic values, ultimately improving the quality of healthcare and public welfare.¹⁶

3.3. Juridical Study Regarding Misbruik van Omstandigheden in the Case of Rejection of Female Patients with EWeak economy By Hospitals in a Human Rights Perspective

One way to guarantee social welfare is to provide adequate medical services to the community. weak economy, this idea is actually translated through Article 34 paragraph (2) of the 1945 Law of the Unitary State of the Republic of Indonesia concerning the social security implementation system, this was then operationalized through Law Number 40 of 2004 concerning the National Social Security System, which was later amended by Law Number 11 of 2022 in conjunction with Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation to Become Law. The narrative regarding the correlation between staat fundamental norm and formal geset in a series of political analogies of health insurance for the poor shows how the position of the poor is. weak economy also protected by the state and the constitution as well as health law policies in terms of the right to obtain good medical services.

¹⁶Reni Agustina Harahap, Anna Kholijah, Muhammad Reza Fahlevi, and Restu Amalia Mazid, "Literature Review of the Legal Relationship Between Patients and Medical Personnel in Health Services from an Islamic Law Perspective", Collaborative Journal of Science, Volume 7, No. 9, 2024, pp. 3641-3642.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

This constitutional position is obscured by the fact that the implementation of medical service agreements no longer aligns with the mandate of the constitution and Pancasila. This is evidenced by the fact that the agreement therapeutic and agreements concerning informed consent are only based on Article 1338 paragraph 1 of the Civil Code regarding freedom of contract, in its development it is known that patients do not have sufficient understanding regarding the medical service facilities that they should obtain, Medical actions and facilities are actions that can only be understood by medical personnel and hospitals, economically weak patients who do not have knowledge regarding medical science in reality do not understand their rights in a medical service agreement. This can clearly be said to be undue influence or *misbruik van omstandigheden* or abuse of circumstances or one-sided conditions in an agreement. The problem of *misbruik van omstandigheden* can be seen in the cases below:¹⁷

Table: Cases of Patient Refusal weak economy by hospital

No	Case	Case Chronology
1	The Bambang Sutrisno case	Bambang Sutrisno, a 50-year-old low-income citizen, was rejected by Ibnu Sina Regional Hospital in Gresik. As a result, the dying Bambang died. This incident occurred on May 13, 2009.
2	The Suryani Case	Suryani, who is 44 years old, is a lymphoma patient, was turned away by Dharmas Hospital in West Jakarta. The hospital claimed she only had a Certificate of Inability to Pay (SKTM). The incident occurred on October 15, 2011.
3	Case Dera Nur Anggraini	Dera was a person who had a sore throat, due to her illness, Dera was taken by her parents to get medical treatment because her condition was getting worse, but 10 hospitals where Dera was taken to get medical services refused her, and in the end, due to this refusal, Dera died because

¹⁷Cases of Hospitals Rejecting Poor Patients, <https://news.okezone.com/read/2013/02/19/500/764146/ini-deretan-kasus-penoakan-warga-miskin-oleh-rumah-sakit>, accessed June 12, 2023. See also: <https://nasional.kompas.com/read/2009/06/11/16483247/ditolak.rumah.sakit.pasien.miskin.akhirnya.meninggal?page=all>, accessed on June 20, 2023.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

		she did not get medical treatment. This case occurred on February 13, 2013.
--	--	---

Taken from various sources.

The various cases above clearly show how hospitals are only oriented towards economic profit, medical services for economically disadvantaged patients are only oriented towards the commercialization of health, this results in the loss of access to medical services for economically disadvantaged communities. A research article written by Ratna Dwi Wulandari, Agung Dwi Laksono, Rofngatul Mubasyiroh, Rika Rachmalina, Mara Ipa, and Nikmatur Rohmah entitled "Hospital utilization among urban poor in Indonesia in 2018: is government-run insurance effective?" explains the correlation between economic capacity and the level of public health services. The article, published in the BMC Public Health journal, explains that economically disadvantaged communities face fundamental problems in obtaining their right to life, one of which is access to good medical services. Expensive medical services have left economically disadvantaged communities untouched by adequate health services, this makes economically disadvantaged communities in Indonesia live with poor health and malnutrition, this is further exacerbated by access to food, air, and clean water that is difficult to reach due to minimal financial capacity.¹⁸

This clearly shows how hospitals as health institutions in this country have committed misdirection and fraud, because they have eliminated the right to proper medical services for the economically weak community which is protected by Chapter Article 28H paragraph (1) of the 1945 Law of the Unitary State of the Republic of Indonesia which is then operationalized in therapeutic agreements and agreements concerning informed consent. This situation is clearly a misbruik van omstandigheden. This can be analyzed from the aspect of the principle of agreement, in civil law the refusal for economically weak patients has made the therapeutic agreement and agreement concerning informed consent made by the hospital contradict the principle of balance in the agreement.

The principle of balance is a principle in Indonesian Contract Law which is a continuation of the principle of equality which requires a balance of rights and obligations between the parties in the agreement, in the medical service agreement between the hospital and the economically weak patient should not be determined unilaterally by the hospital so that the agreement tends to benefit

¹⁸Ratna Dwi Wulandari, Agung Dwi Laksono, Rofngatul Mubasyiroh, Rika Rachmalina, Mara Ipa, and Nikmatur Rohmah, "Hospital utilization among urban poor in Indonesia in 2018: is government-run insurance effective?" BMC Public Health, Vol, 23, No. 92, 2023, pp. 2-3.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

the hospital, the rejection for this economically weak patient shows how the medical service agreement for economically weak patients who should have fair access to medical services is flawed, this results in medical services being an unlawful act because in a state of discrimination for economically weak patients, such a situation is clearly far from the principle of balance in the medical service agreement. In the medical service agreement, the hospital and the economically weak patient should be equal considering that the economically weak patient is financed by the health insurance institution as mandated by Article 34 paragraph (2) of the 1945 Law of the Unitary State of the Republic of Indonesia. In reality, the principle of civil balance cannot be reflected when looking at the civil position for economically weak patients in terms of current health service agreements. Such a situation clearly contradicts the conditions for a valid agreement as regulated in Article 1320 of the Civil Code, especially the conditions relating to a lawful cause *oorgeoorloofde oorzaak*.

Article 1337 of the Civil Code states that a cause is prohibited, if the law prohibits it or if it is contrary to public order or good morals, therefore, what is meant by a legitimate cause is a cause that the law does not prohibit, public order or morals. The interconnected relationship between patients and doctors regarding medical services is used as a promised object, both parties, both the party receiving medical services or the doctor, want something that is lawful, because the doctor in healing and helping the party receiving the medical services uses the insight and knowledge that has been obtained, the patient must also act lawfully, namely by hoping for health, thus the conditions contained in Article 1320 of the Civil Code have been fulfilled. Therapeutic transactions are defined as an activity in which there is an effort to carry out the implementation of medical practice in the form of providing health services based on the skills and expertise of the doctor. The fact that the rejection of economically weak patients, which is an act of *misbruik van omstandigheden* by the hospital, clearly shows that the therapeutic agreement and the agreement concerning informed consent as a commitment to health services for economically weak communities have been detrimental *geoorloofde oorzaak* as one of the conditions for the validity of a civil agreement.

The hospital's refusal to accept female patients from economically disadvantaged groups constitutes a serious human rights violation. This action contradicts the constitutionally guaranteed right to health and the right to life, and violates the principles of justice and non-discrimination. The guarantee of these rights is a fundamental measure of the success of a state governed by law in realizing social welfare for its people. The guarantee of human rights, particularly in the health sector, has been expressly regulated in the Indonesian legal hierarchy. The 1945 Constitution of the Republic of Indonesia, as the highest law of the country,

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

provides a strong philosophical and legal foundation. This guarantee is explicitly stated in Article 28H paragraph (1), which clearly states that "Everyone has the right to live in physical and spiritual prosperity, to have a home, and to have a good and healthy living environment, and has the right to obtain health services." This article binds the state to provide and guarantee accessibility to health services. Article 34 paragraph (2) further mandates that "The state develops a social security system for all people and empowers the weak and disadvantaged in accordance with human dignity." This mandate is the primary legal basis for the establishment of social security programs in the health sector. This constitutional basis was then strengthened and detailed in sectoral laws, namely Law Number 39 of 1999 concerning Human Rights. In the Human Rights Law, the state's commitment to the right to life and social rights is reaffirmed through Article 9 paragraph (1): which states, "Everyone has the right to live, to maintain life and to improve their standard of living." This right is the most important right (non-derogable right) that may not be reduced under any circumstances, including in emergency situations. Article 42 specifically guarantees the right of every citizen to benefit from fair and adequate social security to guarantee and develop their material, spiritual, and social life. This affirmation of social security is the embodiment of the state's constitutional obligation to protect and fulfill every citizen's basic rights, one of which is the right to health.¹⁹

4. Conclusion

The right to receive medical services is a basic right of life for every person recognized and protected in Indonesia. This right is mandated by the state to hospitals as medical service institutions. In reality, this has not been realized fairly due to the rejection of economically disadvantaged patients by hospitals, which is largely due to the hospital's ability to pay. This fact shows that in terms of medical services for economically disadvantaged communities, the position of therapeutic agreements and agreements concerning informed consent as a commitment to health services for economically disadvantaged communities is unclear, resulting in a one-sided situation or *misbruik van omstandigheden* carried out by hospitals towards economically disadvantaged patients.

¹⁹Eva Angelany, Lusy Liany, Adelia Salsabilla, Aquila Wajalla, Azzahra Putri5 Jovankan Azalia, Muhammad Haikal, Naquita Aurora, Riza Achmad, Syifa Azzahra, Mukhlas Adji Djalaludin, Yuda Pratama, "Legal Analysis of Rejection of Social Security Agency (BPJS) Patients in Papua Reviewed from a Human Rights Perspective", *Journal of Social, Political and Humanities Research Cluster*, Volume 5, Number 3, 2026, pp. 83-84.



LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

5. References

Journals:

- Hanifah Romadhoni dan Arief Suryono, "Pertanggungjawaban Perdata Rumah Sakit Dalam Hal Penolakan Pasien Miskin Pada Keadaan Gawat Darurat". *Privat Law*, Vol. 9, No. 1
- Laurensius Arliman S, *Peranan Metodologi Penelitian Hukum di dalam Perkembangan Ilmu Hukum di Indonesia*, *Soumatera Law Review*, Vol. 1, No. 1, 2018
- Puji Restiyani, Fitriyah, dan Lusia Astrika, "Aksesibilitas Masyarakat Miskin dalam Memperoleh Pelayanan Kesehatan (Studi Kasus di Kawasan Kampung Tambak Mulyo Kelurahan Tanjung Mas Semarang", *Jurnal Ilmu, Pemerintahan*, 2013
- Ratna Dwi Wulandari, Agung Dwi Laksono, Rofngatul Mubasyiroh, Rika Rachmalina, Mara Ipa, dan Nikmatur Rohmah, "Hospital utilization among urban poor in Indonesia in 2018: is government-run insurance effective?" *BMC Public Health*, Vol, 23, No. 92, 2023
- Suhardy Hetharia, "Aspek Tanggung Jawab Hukum Rumah Sakit Terhadap Pelayanan Medis", *Lex et Societatis*, Vol. I, No. 5, 2013

Books:

- Algra, N.E., 1983, *Kamus Istilah Hukum Fockema Andreae Belanda Indonesia*, Bandung : Binacipta
- ari Saifudin, Abdul, Dkk, 2009, *Buku Acuan Nasional Pelayanan Kesehatan Maternal dan Neonatal*, PT Bina Pustaka Sarwono Prawirohardjo, Jakarta, Ed. 1, Cet, 5
- Rahardjo, Satjipto, 2009, *Pendidikan Hukum Sebagai Pendidikan Manusia*, Yogyakarta : Genta Publishing
- Rusli, Hardjan, 1993, *Hukum Perjanjian Indonesia Dan Common Law*, Jakarta : Sinar Harapan
- Tribowo, Cecep, 2014, *Etika Hukum Dan Kesehatan*, Yogyakarta : Nuha Medika

Internet:

- <https://nasional.kompas.com/read/2009/06/11/16483247/ditolak.rumah.sakit.pasien.miskin.akhirnya.meninggal?page=all>, accessed on 20 June 2023
- Kasus-Kasus Penolakan Pasien Miskin oleh Rumah Sakit, <https://news.okezone.com/read/2013/02/19/500/764146/ini-deretan-kasus-penolakan-warga-miskin-oleh-rumah-sakit>, accessed on 12 June 2023



LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Republika, Kasus Pembuangan Pasien Merupakan Kejahatan Kemanusiaan, <https://news.republika.co.id/berita/n0xakw/kasus-pembuangan-pasien-merupakan-kejahatan-kemanusiaan>, accessed on 12 May 2023