

Legal Protection for Police Doctors in Assignments Under Police Operational Control (BKO) Based on Law Number 17 of 2023 Concerning Health (Case Study of Papua Cartenz Peace Operation)

Stefanus Satria Yuniar Santoso¹⁾ & Arpangi²⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: Stefanussatriayuniarsantoso.std@unissula.ac.id

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: Arpangi@unissula.ac.id

Abstract. *Police Medicine as a suporting function deploys police doctor personnel in BKO activities to carry out their duties always attached to other police personnel in the field to provide technical assistance in organizing health for police members, as the main and foremost spearhead starting from establishing health post facilities, and preparing medicines and basic medical equipment in maintaining health, preventing disease, improving health, treating disease and restoring the health of police members during assignments both in disaster operation areas and conflict areas. In carrying out their duties, police doctors also provide health services to local communities, both those who are not affected by disasters and conflicts, so that they have a good level of health. The reasons for the elimination of punishment so as to free doctors from lawsuits, namely: Treatment risk, Medical accident, Contribution negligence, Respectable minority rules & error of (in) judgment, Volenti non fit iniura or assumption of risk, and Res Ipsa Loquitur. The Indonesian Medical Disciplinary Honorary Council (MKDKI) has the authority to examine and make decisions on complaints related to the discipline of doctors and dentists. MKDKI can determine whether or not there are errors made by doctors and dentists in the aplication of medical and dental disciplines. This institution is an autonomous institution of the Indonesian Medical Council which is independent in carrying out its duties. Research sourced from the SOEPRA journal entitled "Legal Protection of Medical Personnel Against Efforts to Resolve Medical Disputes Reviewed from Criminal Law" by Ade Armada Sutedja, A. Joko Purwoko and Edi Sumarwanto concluded that medical crimes have been regulated in the Criminal Code, Law No. 29 of 2004 concerning Medical Practice, Law No. 36 of 2009 on Health and Law No. 44 of 2009 on Hospitals. Legal protection of medical personnel has been regulated in the Criminal Code, Law No. 29 of 2004 concerning Medical Practice, Law No. 36 of 2009 on Health and Law 36 of 2014 concerning Health Personnel and Law No. 44 of 2009 concerning Hospitals.*

Keywords: *Control; Doctors; Health; Police; Protection.*

1. Introduction

Police Medicine as a supporting function deploys police doctor personnel in BKO activities to carry out their duties always attached to other police personnel in the field to provide technical assistance in organizing health for police members, as the main and foremost spearhead starting from establishing health post facilities, and preparing medicines and basic medical equipment in maintaining health, preventing disease, improving health, treating disease and restoring the health of police members during assignments both in disaster operation areas and conflict areas. In carrying out their duties, police doctors also provide health services to local communities, both those who are not affected by disasters and conflicts, so that they have a good level of health.¹ The main task of the Police in BKO is to maintain regional security and disaster management. When maintaining security and disaster management, police officers often encounter obstacles in terms of health and even violence or accidents occur. Therefore, the role of police doctors is needed in each BKO. The important role of police doctors is greatly needed, both to provide health services for police officers on duty and the local community. These police doctors will then be assigned to BKO based on a Decree from the Chief of Police.

A doctor must meet formal education standards academically and legally. This means that a doctor must be based on the formal academic standards required by graduating from formal medical education, therefore a medical worker has had the initial standard of ability to be able to carry out medical service tasks.² Until now, researchers have not found other studies that focus on legal protection for police doctors, but there are several studies that discuss legal protection for doctors such as the study conducted by Michel Daniel Mangkey entitled "Legal Protection for Doctors in Providing Medical Services". This study concluded that doctors who have carried out their duties in accordance with professional standards, service standards and operational procedure standards are entitled to legal protection. In carrying out medical practice, doctors must fulfill Informed Consent and Medical Records as evidence that can free doctors from all lawsuits if there is an alleged malpractice.

The reasons for the elimination of punishment so as to free doctors from lawsuits, namely: Treatment risk, Medical accident, Contribution negligence, Respectable minority rules & error of (in) judgment, Volenti non fit iniura or assumption of risk, and Res Ipsa Loquitur. The Indonesian Medical Disciplinary Honorary Council (MKDKI) has the authority to examine and make decisions on complaints related to the discipline of doctors and dentists. MKDKI can determine whether or not there are errors made by doctors and dentists in the application of medical and dental disciplines. This institution is an autonomous institution of the Indonesian Medical Council which is independent in carrying out its duties.

¹Indonesian National Police Education and Training Institute, 2022, Police Medicine, Jakarta-Indonesian National Police Education and Training Institute, p. 20.

²Michel Daniel Mangkey, Legal Protection for Doctors in Providing Medical Services, Lex et Societatis Vol II no. 8 of 2014, p. 14-21.

Next is a study conducted by Setyo Trisnadi entitled "Legal Protection of the Doctor's Profession in Settling Medical Disputes" which concluded that in resolving medical disputes between doctors and patients as stated in Article 50 of Law Number. 29 of 2004 concerning Medical Practice and Article 57 of Law Number. 36 of 2004 concerning Health Workers has not fully provided protection for doctors, because in practice the handling of alleged malpractice cases by police investigators will certainly use the procedures or procedures in the Criminal Procedure Code as a reference, this is because the UUPK does not regulate how to proceed if there is an allegation that a doctor has violated the articles in the UUPK. This condition allows when the doctor has carried out all procedures and worked according to standards but the result is that the patient suffers from disabilities or even dies because the principle of *res ipsa loquitur* will still be processed legally if there is a report from the patient or the patient's family to the investigator, there is a generalization that every adverse event (unexpected event) is malpractice.³

Research sourced from the SOEPRA journal entitled "Legal Protection of Medical Personnel Against Efforts to Resolve Medical Disputes Reviewed from Criminal Law" by Ade Armada Sutedja, A. Joko Purwoko and Edi Sumarwanto concluded that medical crimes have been regulated in the Criminal Code, Law No. 29 of 2004 concerning Medical Practice, Law No. 36 of 2009 on Health and Law No. 44 of 2009 on Hospitals. Legal protection of medical personnel has been regulated in the Criminal Code, Law No. 29 of 2004 concerning Medical Practice, Law No. 36 of 2009 on Health and Law 36 of 2014 concerning Health Personnel and Law No. 44 of 2009 concerning Hospitals.⁴ Settlement of medical criminal disputes can be through litigation and non-litigation channels, but there is a gap in the legal protection of medical criminal disputes because there are no laws and regulations that regulate it even though it has been carried out. In terms of *das sein*, the practice of penal mediation has been implemented. However, there are no laws and regulations (formal and material laws) that explicitly regulate it for criminal matters, while those that have been regulated in civil matters are Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Law Number 48 of 2009 concerning Judicial Power Articles 58, 60, Perma Number 1 of 2016 concerning Mediation Procedures in Court, so there is a gap in the legal protection of medical criminal disputes.⁵ Medical practice is a series of activities carried out by doctors and dentists on patients in implementing health efforts. In the implementation of medical practice, doctors who open medical practices or health services must have the requirements that have been set by the government in the form of a Registration Certificate (STR) for doctors who have officially held the profession of doctor, dentist, specialist doctor, and specialist dentist.⁶

³Setyo Trisnadi, Legal Protection of the Doctor's Profession in the Settlement of Medical Disputes, Journal of Legal Issues, Vol. 42 No. 2 2016, Faculty of Law, Diponegoro University, accessed from <https://ejournal.undip.ac.id/index.php/mmh/article/view/13684/10435>

⁴Ade Armada Sutedja; A. Joko Purwoko; Edi Sumarwanto, Legal Protection of Medical Personnel Against Efforts to Resolve Medical Disputes Reviewed from Criminal Law, Soepra Journal of Health Law, Vol 9 No 1 2023, Soegijapranata University accessed from <https://journal.unika.ac.id/index.php/shk/issue/view/319>

⁵Ade Armada Sutedja; A. Joko Purwoko; Edi Sumarwanto, 2023, Legal Protection of Medical Personnel Against Efforts to Resolve Medical Disputes Reviewed from Criminal Law, Sopra Health Law Journal, Volume 9 Number 1, p. 54-71

⁶Regulation of the Minister of Health of the Republic of Indonesia Number 2052/Menkes/Per/X/2011 Concerning Practice Permits and Implementation of Medical Practice

Law Number 17 of 2023 concerning Health provides significant changes in terms of the validity of STR which is now for life, this is regulated in Article 260 of Law Number 17 of 2023 concerning Health, professional certificates and having a competency certificate. Paragraph (4) states that STR as referred to in paragraph (1) is valid for life. Article 261 of the Health Law explains that STR is not valid under certain conditions, such as death, being deactivated or revoked by the Council on behalf of the Minister of Health or revoked based on a court decision that has permanent legal force.

2. Research Methods

To conduct a study in this research, the author uses a sociological legal method (social legal research) to study and discuss the problems raised. The legal approach is an approach that uses legal principles and principles derived from written regulations. The sociological approach is an approach that aims to clarify the actual conditions that exist and arise in society regarding the problems studied which give importance to the observation steps.⁷

3. Results and Discussion

3.1. Legal Protection Arrangements for Police Doctors in Assignments Under Police Operational Control (BKO)

3.1.1. Legal Protection Arrangements for Doctors

Legal protection for doctors in Law of the Republic of Indonesia Number 17 of 2023 concerning Health is oriented towards the work responsibilities and duties of doctors. So that the existing form of legal protection is more based on the aspect of the role of doctors as parties providing information on the condition and medical actions taken by patients and is oriented towards the accountability of medical actions that have limitations on the existence of a consequence of punishment for actions taken by a doctor.

a. Legal protection for doctors as providers of medical information

Protection for doctors or medical personnel as explained previously begins with the initial paradigm which has implications for Law of the Republic of Indonesia Number 17 of 2023 concerning Health states that patient health must be the patient's responsibility.

This is also in accordance with the 1945 Constitution that everyone has the right to receive health services, namely in accordance with Article 28H and Article 34 paragraph 3 of the 1945 Constitution. Regarding whether patients then relinquish their responsibility to maintain their health, this cannot be justified.

In the 1945 Constitution, the state's duty ends when it provides health facilities to patients. However, whether the patient then wants to use the facilities or not, the state cannot force itself.

⁷Rony Hanitijo Soemitro, 1990, Legal Research Methodology and Jurimetry, Ghalia Indonesia, Jakarta, p. 34. The primary data in this research was obtained through in-depth interviews, not through observation, because it is not possible to find primary data through observation.

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The state from the beginning did not intervene that the health responsibility was taken by the state. The state in this case is a passive party and follows the mandate of the law to provide health service facilities while citizens are asked to maintain their health with all the facilities provided by the state. The opportunity for medical personnel to be blamed, especially doctors, is when they fail to communicate. However, this has been explained in the mechanism in Law of the Republic of Indonesia Number 17 of 2023 concerning Health, namely regarding communication problems.

Law of the Republic of Indonesia Number 17 of 2023 concerning Health in Article 189 has apparently regulated points that reduce the burden on doctors regarding communication problems with patients. Article 189 of Law of the Republic of Indonesia Number 17 of 2023 concerning Health clearly states that:

- (1) Every Hospital has the obligation to:
 - a. provide correct information about Hospital services to the public;
 - b. provide safe, quality, anti-discriminatory and effective health services by prioritizing patient interests in accordance with hospital service standards;
 - c. provide emergency services to patients according to service capabilities;
 - d. play an active role in providing health services during disasters according to their service capabilities;
 - e. provide facilities and services for the underprivileged or poor;
 - f. carrying out social functions, including by providing service facilities for underprivileged or poor patients, emergency services without down payment, free ambulances, services for disaster and emergency response victims, or social services for humanitarian missions;
 - g. create, implement and maintain quality standards for Health Services in Hospitals as a reference in serving Patients;
 - h. maintain medical records;
 - i. provide adequate public facilities and infrastructure, including places of worship, parking areas, waiting rooms, facilities for people with disabilities, breastfeeding women, children and the elderly;
 - j. implementing a referral system;
 - k. rejecting the patient's wishes which are contrary to professional and ethical standards and statutory provisions;
 - l. provide correct, clear and honest information regarding patient rights and obligations;
 - m. respect and protect Patient rights;
 - n. implementing Hospital ethics;
 - o. have an accident prevention and disaster management system;
 - p. implementing government programs in the health sector, both regionally and nationally;
 - q. create a list of Medical Personnel who practice medicine or dentistry and other Health Personnel;
 - r. prepare and implement internal hospital regulations;
 - s. protect and provide legal assistance to all Hospital staff in carrying out their duties; and
 - t. enforce the entire Hospital environment as a smoke-free area.

(2) Violations of the obligations as referred to in paragraph (1) shall be subject to administrative sanctions in accordance with the provisions of statutory regulations.

The reduction of the burden is carried out in ways, namely through the division of communication responsibilities to patients, also carried out by the Hospital. In this case, the Hospital has the right to actively communicate about the risks and problems that will be faced by the patient. This means that when miscommunication occurs, medical personnel or doctors cannot be the only party to blame.

In fact, there is a clear division of tasks, namely health communication is carried out by the Hospital and patient communication is carried out by the patient. Without a good communication mechanism, it is likely that health services will not achieve maximum results. The position of doctors when doctors are faced with emergency situations or outside the scope of authority Protection for the medical profession, it should be emphasized that doctors have actually been given adequate protection. One of the debates that emerged was related to the position of doctors as health workers, where doctors often feel worried about legal threats if they provide assistance to accident victims or involve themselves outside the legal boundaries of doctors.

Article 286 Law of the Republic of Indonesia Number 17 of 2023 concerning Health actually gives doctors the freedom to act outside their authority, Article 286 of Law of the Republic of Indonesia Number 17 of 2023 concerning Health states that:

- (1) Under certain circumstances, Medical Personnel and Health Personnel may provide services beyond their authority.
- (2) Certain circumstances as referred to in paragraph (1) at least include:
 - a. absence of Medical Personnel and/or Health Personnel in an area where Medical Personnel or Health Personnel are on duty;
 - b. government program needs; c. handling of medical emergencies; and/or
 - c. Outbreak, Epidemic, and/or disaster emergency.
- (3) Medical Personnel and Health Personnel as referred to in paragraph (1) include:
 - a. doctors/dentists who provide medical and/or pharmaceutical services within certain limits;
 - b. nurses or midwives who provide medical and/or pharmaceutical services within certain limits; or
 - c. vocational pharmacy personnel who provide pharmaceutical services which are within the authority of pharmacists to a certain extent.

Based on the provisions above, it is clear that Article 286 Law of the Republic of Indonesia Number 17 of 2023 concerning Health creates a legal basis that recognizes special situations and problems that may arise. This article reflects a deep consideration of the position of doctors and shows that in certain circumstances, they have the freedom to take actions that are deemed necessary, without having to worry about excessive legal consequences. Therefore, this legal protection has actually given doctors confidence not to feel the need to overshadow their role with fear, but rather empowers them to provide assistance according

to need, even beyond the limits of their formal authority. This, in the end, can strengthen the role of doctors in providing optimal and responsive health services to emergencies.

Based on the various explanations above, it can be seen that there is a new paradigm in protecting doctors when carrying out their duties and authorities in Law of the Republic of Indonesia Number 17 of 2023 is oriented towards ethical justice which not only focuses on the rights of patient protection, proportionally also ethically sees the position of doctors as saviors of the lives of patients who are often faced with high-risk situations for doctors. The ethical proportional consequences in protecting doctors are also in the area of professional procedures for doctors as health service providers. This can be seen in Article 291 Law of the Republic of Indonesia Number 17 of 2023 become a significant foundation, emphasizing the ethical aspects of the medical profession's standards which have limitations related to the demands of society for his professional actions as a doctor. Article 291 Law of the Republic of Indonesia Number 17 of 2023 clearly states that:

- (1) Every Medical Personnel and Health Personnel in providing Health Services is obliged to comply with professional standards, service standards, and operational procedure standards.
- (2) The professional standards as referred to in paragraph (1) for each type of Medical Personnel and Health Personnel are drawn up by the Council and Collegium and determined by the Minister.
- (3) The service standards as referred to in paragraph (1) are regulated by Ministerial Regulation.
- (4) The standard operational procedures as referred to in paragraph (1) are determined by the head of the Health Service Facility.

This article reflects the importance of resolving issues based on ethical values that govern medical practice. Therefore, if the doctor's actions are in accordance with the ethical principles recognized in Article 291, the application of the law should not cause significant issues. Thus, physicians can feel safe to act in accordance with their ethical judgment, without being burdened by the fear of unreasonable legal consequences. This, in turn, creates an environment in which medical practice can continue to operate in accordance with high ethical values, while still complying with applicable legal provisions.

d. Legal protection for doctors as implementers of medical procedures from the threat of punishment beyond their responsibility.

Often, disputes between patients who feel aggrieved and medical personnel can lead to the involvement of criminal law enforcement. To avoid escalation like this, it is necessary to strengthen understanding related to Article 310 Law of the Republic of Indonesia Number 17 of 2023 which states that:

In the event that Medical Personnel or Health Personnel are suspected of making an error in carrying out their profession which causes harm to the Patient, the dispute arising from the error must first be resolved through alternative dispute resolution outside the courts.

This article provides clarification that actions taken by medical personnel are not always negligence, but rather part of a medical procedure that, unfortunately, does not always produce the expected results. It is important to remember that before proving negligence, a lengthy procedure is required for proof. Sometimes, violations of medical procedures do not

always result in negligence that can cause death. Evaluation of an action as a cause of death must be carried out very carefully, considering the major impact that may arise on the practice of other medical personnel. Article 310 should be a legal umbrella that provides security for medical personnel so that they can carry out their duties without having to feel intimidated or uncomfortable. The involvement of medical personnel in legal conflicts can have a destructive and counterproductive impact on health services as a whole. Therefore, it is necessary to avoid using Article 359 of the Criminal Code as an absolute benchmark, where Article 359 of the Criminal Code states that:

Anyone who, due to his mistake (negligence) causes another person to die, is threatened with a maximum prison sentence of 5 years or a maximum imprisonment of 1 year..

This is considering that the impact of the use of Article 359 of the Criminal Code in the case of failed doctor's actions tends to be detrimental and inconsistent with the values that support the quality of health services that are based on proportional justice paradigms for the health world. Guaranteeing safety for medical personnel is key to preventing them from feeling threatened and avoiding potential strikes, which can have a negative impact on the distribution of health services in general.

Article 310 Law of the Republic of Indonesia Number 17 of 2023 shows that as a form of respect for the profession and the risk of medical duties of a doctor, a doctor who in carrying out his duties cannot be arbitrarily sued for committing murder on the grounds of carrying out the wrong medical action mechanism, because in carrying out his duties, a doctor cannot be said to have an evil mental attitude to carry out the wrong medical action just to seek profit alone. These views cannot be proven by general legal mechanisms and by the logic of patients who do not understand the mechanism of medical action and the compelling circumstances that doctors must face simply without the scientific standards of the medical profession so that they can easily apply the provisions of Article 359 of the Criminal Code.

Proof in the imposition of a lawsuit including criminal law is the most important thing, as a medical act, the actions of a doctor in carrying out his duties cannot be said to be a crime or legal negligence alone if it is proven only from the perspective of non-medical actions, but a mechanism is needed to analyze evidence of a medical act of a doctor which is considered unlawful with the standard approach of medical science, so that a classification of the elements of the medical act is found as or not as a crime.

This empirical aspect in conclusion wants to state that there needs to be legal protection for the medical actions of doctors so that there is no punishment for a doctor that exceeds his/her accountable error. This aspect is an aspect of legal justice in order to realize legal protection for doctors which is then the same as the substance of Article 310 Law of the Republic of Indonesia Number 17 of 2023.

The substance of the Article can be concluded to provide an order to be fair to doctors as medical personnel through the mechanism of evidence and legal process and the imposition of sanctions based on the mechanism of medical actions, this is because medical actions

carried out by a doctor with the risk of losing the patient's life cannot be measured by only relying on the relationship between the act and the loss of the patient as a victim who is harmed, but the aspect of medical expertise, the existence of maximum efforts made by a doctor in medical services to patients which can only be measured by the approach of the science of medical service mechanisms, are not always acts that can be said to be legal acts that result in the death of a patient, either intentionally or due to the negligence of a doctor. The view of resolving legal violations in the context of a doctor's actions in carrying out his duties as a health worker, in reality is regulated in Articles 304 to 309 of Law of the Republic of Indonesia Number 17 of 2023.

Article 304 of the Republic of Indonesia Law Number 17 of 2023 states that:

- (1) In order to support the professionalism of Medical Personnel and Health Personnel, it is necessary to enforce professional discipline.
- (2) In order to enforce professional discipline as referred to in paragraph (1), the Minister shall form a council which carries out duties in the field of professional discipline.
- (3) The assembly as referred to in paragraph (2) determines whether or not there have been any violations of professional discipline committed by Medical Personnel and Health Personnel.
- (4) The assembly as referred to in paragraph (2) may be permanent or ad hoc.
- (5) Further provisions regarding the duties and functions of the assembly as referred to in paragraph (2) are regulated by Government Regulation.

Article 305 of the Republic of Indonesia Law Number 17 of 2023 states that:

- (1) Patients or their families whose interests are harmed by the actions of Medical Personnel or Health Personnel in providing Health Services may complain to the panel as referred to in Article 304.
- (2) The complaint as referred to in paragraph (1) must at least contain:
 - a. identity of the complainant;
 - b. name and address of the medical or health worker's practice and the time the action was performed; and
 - c. reason for complaint.

Article 306 of the Republic of Indonesia Law Number 17 of 2023 states that:

- (1) Violations of discipline by Medical Personnel or Health Personnel as referred to in Article 304 paragraph (3) will be subject to disciplinary sanctions in the form of:
 - a. written warning;
 - b. obligation to take part in education or training at an education provider in the health sector or the nearest educational hospital that has the competence to carry out such training;
 - c. temporary deactivation of STR; and/or
 - d. SIP revocation recommendation.
- (2) The results of the examination as referred to in paragraph (1) are binding on Medical Personnel and Health Personnel.
- (3) Medical personnel or health workers who have carried out disciplinary sanctions as referred to in paragraph (1) which are imposed due to alleged criminal acts, law enforcement

officers will prioritize resolving disputes using restorative justice mechanisms in accordance with the provisions of statutory regulations.

Article 307 of the Republic of Indonesia Law Number 17 of 2023 states that:

The decision of the panel as referred to in Article 304 may be submitted for review to the Minister in the following cases:

- a. new evidence found;
- b. misapplication of disciplinary violations; or
- c. there is an alleged conflict of interest between the examiner and the examinee.

Article 308 of the Republic of Indonesia Law Number 17 of 2023 states that:

(1) Medical Personnel or Health Personnel who are suspected of committing unlawful acts in the implementation of Health Services which may be subject to criminal sanctions must first request a recommendation from the panel as referred to in Article 304.

(2) Medical Personnel and Health Personnel who are held accountable for actions/deeds related to the implementation of Health Services that are detrimental to Patients in civil law must request recommendations from the panel as referred to in Article 304.

(3) The recommendation from the panel as referred to in paragraph (1) is given after the Civil Servant Investigator Sipit or the investigator from the Republic of Indonesia National Police submits a written request.

(4) The recommendation from the panel as referred to in paragraph (2) is given after the Medical Personnel, Health Personnel, or person given power of attorney by the Medical Personnel or Health Personnel submits a written application regarding the lawsuit filed by the Patient, the Patient's family, or a person given power of attorney by the Patient or the Patient's family.

(5) The recommendation as referred to in paragraph (3) is a recommendation regarding whether or not an investigation can be carried out because the implementation of professional practice carried out by Medical Personnel or Health Personnel is in accordance with or not in accordance with professional standards, service standards and operational procedure standards.

(6) The recommendations referred to in paragraph (4) are in the form of recommendations regarding the implementation of professional practices carried out by Medical Personnel or Health Personnel in accordance with or not in accordance with professional standards, service standards and operational procedure standards.

(7) The recommendations referred to in paragraph (5) and paragraph (6) shall be given no later than 14 (fourteen) working days from the date the application is received.

(8) In the event that the panel does not provide a recommendation within the time period referred to in paragraph (7), the panel is deemed to have provided a recommendation for an investigation into the criminal act to be carried out.

(9) The provisions referred to in paragraph (1), paragraph (3), paragraph (5), and paragraph (7) do not apply to the examination of Medical Personnel or Health Personnel who can be held accountable for alleged criminal acts that are not related to the implementation of Health Services.

Article 309 of the Republic of Indonesia Law Number 17 of 2023 states that "further provisions regarding the enforcement of professional discipline of Medical Personnel and Health Personnel are regulated by Government Regulation."

Based on various provisions in the Republic of Indonesia Law Number 17 of 2023, it is clear that there are no regulations regarding protection for doctors as medical personnel who are on duty in conflict areas. Legal protection in the Republic of Indonesia Law Number 17 of 2023 has not looked at the dimensions of occupational safety for doctors in conflict areas that have the potential to endanger the safety of doctors who carry out their duties.

3.1.2. Special Arrangements Regarding the Protection of Doctors' Safety in Conflict Areas

Protection for doctors serving in conflict areas is clearly regulated in Geneva Convention 1949. Specifically in Chapter IV regarding Members of the Health Service. Basically, citing the explanation on page 7 of the book "Summary of the Geneva Conventions of 12 August 1949 and their Additional Protocols" published by the International Committee of the Red Cross, for the sake of the wounded, sick and shipwrecked, every medical unit, whether military or civilian, under the authority of the competent authority must be protected. Furthermore, regulations regarding the protection of health workers in the war zone can be found in the articles of the Geneva Conventions and their Additional Protocols. For example, as regulated in Article 11, Articles 24-27, Article 36, and Article 37 of the Geneva Conventions, health workers must be respected and protected in all circumstances, including:

- 1) A person assigned, either permanently or temporarily, solely to medical work (searching for, collecting, transporting, diagnosing and treating injured, sick, shipwreck victims and to prevent disease). They are doctors, nurses, nurses, stretcher carriers.
- 2) A person assigned, either permanently or temporarily, solely to manage or organize a medical unit or medical transport. They are administrators, drivers, cooks and others.
- 3) The Geneva Convention is actually not the only source of international law that regulates the protection of medical teams in war zones. Protection of medical teams can also be found in additional protocols to the Geneva Convention. Unfortunately, as reported in the article Indonesia Intends to Ratify the 1949 Geneva Convention Protocol, currently Indonesia has not ratified the additional protocols to the Geneva Convention, namely Additional Protocols I and II. Additional Protocol I on the Protection of Victims of International Armed Conflicts, and Additional Protocol II on the Protection of Victims of Non-International Armed Conflicts.

The Geneva Convention was later ratified by country Indonesia with the issuance of Law Number 59 of 1958 concerning the Participation of the Republic of Indonesia in All Geneva Conventions of August 12, 1949 (Law No. 59/1958). This means that the Geneva Convention also applies in Indonesia. Although it contains matters regarding the mechanism and guarantee of protection for the safety of doctors working in conflict areas, in reality the provisions of Law Number 59 of 1958 concerning the Participation of the Republic of Indonesia in All Geneva Conventions of August 12, 1949 have not been adopted in Law of the Republic of Indonesia Number 17 of 2023 concerning Health.

3.1.3. Legal Protection Arrangements for Police Doctors in Assignments Under Police Operational Control (BKO)

Regarding the role of doctors as medical personnel in assignments under the control of operations, this is regulated in Regulation of the Chief of the Republic of Indonesia National Police Number 1 of 2019 Concerning the System, Management and Operational Success Standards of the Republic of Indonesia National Police. In point 1 sub point 4 of Regulation of the Chief of the Republic of Indonesia National Police Number 1 of 2019 concerning the Police Operational System, it is stated that:

The involvement of the operational strength of the Indonesian National Police based on the chosen Method of Action (CB), then the strength that can be used is the entire operational strength of the Indonesian National Police as a whole which is deployed in:

- a) territorial unity starting from the Headquarters level to the smallest Police Sector unit level;
- b) Police functions in order to carry out operations, the Indonesian National Police has police functions that are spread across all units:
 - (1) main functions, including:
 - (a) technical functions, including:
 - i Intelligence;
 - ii Criminal Investigation;
 - iii Densus 88 AT;
 - iv Sabhara;
 - v Marine Police;
 - vi Pamobvit;
 - vii Community Policing; and
 - viii Traffic;
 - (b) Public Relations functions include Public Information (Penmas), Multimedia and Information and Documentation Control Center (PID);
 - (2) assistance functions, including:
 - (a) technical assistance functions, including:
 - i Police Information Technology (ICT);
 - ii Indonesia Automatic Finger Print Identification System (Inafis);
 - iii National Crime Information (Ikna);
 - iv Forensic Laboratory (Labfor);
 - v Police Medicine (Dokpol);
 - vi Disaster Victim Identification (DVI);
 - vii Animal Police; and
 - viii legal aid;
 - (b) special assistance functions, including:
 - i Mobile Brigade (Brimob);
 - ii Air Police; and
 - iii International Relations (Hubinter);
 - (3) supporting functions, including:
 - (a) Planning and Budget (Rena);
 - (b) Human Resources (HR);
 - (c) Education and Training (Diklat);
 - (d) Health Medicine (Dokkes);
 - (e) Police Psychology;

- (f) Finance (Finance); and
- (g) Logistics (Log);
- (4) operational control function, carried out by the Operations Staff (Sops) element;
- (5) internal monitoring and security functions, including:
 - (a) Supervision of the Supervision Inspectorate (Irwas); and
 - (b) Internal Professional Security and Security (Propam).

The special assistance function of the Brimob Corps or Mobile Brigade has the main task of assisting regional police duties and securing various high-level crimes. The main task of the Brimob corps is different from the tasks of other police units, where Brimob members have the task of handling high-integrity crimes and security disturbances such as riots or anarchic demonstrations, terrorism, separatist group disturbances, organized crime armed with firearms or explosives, handling chemical weapons, biology, maintaining regional and radioactive security (KBR) and implementing search and rescue (SAR) activities including being involved in disaster management.⁸ It takes a prime mental and physical condition to carry out the task. When carrying out BKO, Brimob personnel often encounter obstacles such as having to accept environmental conditions that new, facing the risk of threats to personal integrity, accidents on duty and health problems.

Police Medicine as a supporting function deploys police doctor personnel in BKO activities to carry out their duties always attached to other police personnel in the field to provide technical assistance in organizing health for police members, as the main and foremost spearhead starting from establishing health post facilities, and preparing medicines and basic medical equipment in maintaining health, preventing disease, improving health, treating disease and restoring the health of police members during assignments both in disaster operation areas and conflict areas. In carrying out their duties, police doctors also provide health services to local communities, both those who are not affected by disasters and conflicts, so that they have a good level of health.⁹

The main task of the Police in BKO is to maintain regional security and disaster management. When maintaining security and disaster management, police officers often encounter obstacles in terms of health and even violence or accidents occur. Therefore, the role of police doctors is needed in each BKO. The important role of police doctors is greatly needed, both to provide health services for police officers on duty and the local community. These police doctors will then be assigned to BKO based on a Decree from the Chief of Police.

Based on the existing explanation, it is clearly seen that the police doctor involved in the BKO operation has two dimensions of position attached to him, on the one hand the doctor is a member of the police who is ordered to carry out the BKO operation, but if you look at the duties he carries out, then he is attached to the profession of a doctor who carries out the

⁸Yudra F. Fikri & Hidayat, A, 2018, The Relationship Between Religiosity and Work Stress in Brimob Members of the Riau Police. Nafs: Journal of the Faculty of Psychology, 12-21

⁹Indonesian National Police Education and Training Institute, 2022, Police Medicine, Jakarta-Indonesian National Police Education and Training Institute, p. 20.

function as a medical personnel. As medical personnel, doctors involved in the BKO operation are not equipped with weapons, on the other hand, the Regulation of the Head of the Indonesian National Police Number 1 of 2019 concerning the System, Management and Standards for Operational Success of the Indonesian National Police does not regulate legal protection for doctors involved in carrying out the BKO operation. The absence of a legal protection mechanism for doctors involved in the BKO operation which is classified as carrying out an assistance function, can result in the absence of an obligation for the police to truly protect the police doctor concerned as a medical officer who carries out a medical assistance function, not as an armed soldier who carries out the main function of BKO especially in conflict areas. According to IPDA Hendro Saulata as one of the Police Doctors who was once assigned to assist in the BKO operation, the problem faced by doctors in the BKO operation area is the absence of a special mechanism for protecting the lives and bodies of doctors, so that when facing armed conflict, the doctors assigned to the BKO operation must also hold weapons and fight against the armed forces that threaten them, while on the one hand the existing doctors must also take care of treatment and look for the availability of medicine in very limited conditions.¹⁰

Amsal Ardiyanto Tambunan also had the same experience as a police doctor assigned to the BKO operation in Mimika Regency. During the DC Mimika operation assignment, Amsal was tasked with providing services to patients who came for treatment at the post or visiting sick members carrying emergency kit bags. The health post we occupied was in the same building as MinOps. Amsal was assigned to the Indonesian National Police Mobile Brigade Corps, where the majority of personnel did a lot of physical activities and required him as a doctor to ensure the health of personnel by providing health services to personnel. And because Amsal was placed in the Mobile Brigade Corps, Amsal also had to be ready if at any time he was ordered to leave for the operation area. Amsal also explained that the challenges he faced were not receiving a budget for medicines and health supplies from the task force and the lack of medical/paramedics in the sectors. Amsal also added that when armed contact occurred in a conflict area, Amsal also had to be able to protect his life from attacks by enemy armed forces.¹¹

The situation where health workers who carry out assistance functions in BKO operations have to bear the burden of fighting enemies in conflict areas is also experienced by Kustian Pramudita, Kustian explained that there is a discrepancy with his health duties, such as joining troops in a company, while the number of doctors and other health workers in Korbrimob is still very small compared to the size of the Korbrimob Polri unit.¹²

Various existing problems indicate that there has been neglect of the legal protection rights of doctors on duty in BKO operations. According to Philipus M. Hadjon, there are two types of

¹⁰Interview with IPDA Hendro Saulata as the Police Doctor of the Indonesian Police Mobile Brigade Corps assigned to Operation DC 2023, on September 4, 2024.

¹¹Interview with IPDA Amsal Ardiyanto Tambunan as the Subsi Dukkes Sikesjas Pas Pelopor Korbrimob Polri Pamin, on May 12, 2025.

¹²Interview with IPDA Kustian Pramudita as Commander of Company 5, Battalion A PRC Regiment II Papua Pioneer Troops (Amole Task Force 2024), on May 12, 2025.

legal protection facilities, namely in this preventive legal protection, legal subjects are given the opportunity to file objections or opinions before a government decision gets a definitive form. The goal is to prevent disputes from occurring. Preventive legal protection is very important for government actions that are based on freedom of action because with preventive legal protection the government is encouraged to be careful in making decisions based on discretion. In Indonesia there are no special regulations regarding preventive legal protection. In the matter of protection for doctors on duty in BKO operations, there is no objection mechanism and efforts to reject assignments outside of their duties, then doctors on duty in BKO operations also cannot file objections to the absence of protection for the safety of their lives and bodies when on duty in conflict areas. Repressive legal protection aims to resolve disputes. Handling of legal protection by the General Court and Administrative Court in Indonesia is included in this category of legal protection. The principle of legal protection against government actions is based on and derived from the concept of recognition and protection of human rights because according to western history, the birth of concepts about recognition and protection of human rights was directed at restrictions and the placement of obligations of society and government. The second principle underlying legal protection against government actions is the principle of the rule of law. Associated with the recognition and protection of human rights, the recognition and protection of human rights have a primary place and can be associated with the objectives of the rule of law. There is no mechanism for violations of the right to protection for doctors on duty in BKO operations when the doctor is harmed due to overwork outside of his duties, and in an unsafe state for his body and soul while on duty in a conflict area.¹³

3.2. Implementation of Legal Protection for Police Doctors in Police BKO Assignments

Based on various existing explanations, it was discovered that:

1. Health workers in the implementation of BKO operations in conflict areas often exceed their duties, health workers are often also involved as parties carrying out security duties against armed parties in conflict areas;
2. In Regulation of the Chief of the Republic of Indonesia National Police Number 1 of 2019 concerning the System, Management and Operational Success Standards of the Republic of Indonesia National Police does not regulate legal protection for doctors involved in carrying out BKO operations. This is not in line with the mandate of Article 11, Articles 24-27, Article 36, and Article 37 of the Geneva Conventions as ratified by Law Number 59 of 1958 concerning the Participation of the Republic of Indonesia in All Geneva Conventions of 12 August 1949 which views that health workers must be respected and protected in all circumstances, including:
 - a. A person assigned, either permanently or temporarily, solely to medical work (searching for, collecting, transporting, diagnosing and treating injured, sick, shipwreck victims and to prevent disease). They are doctors, nurses, nurses, stretcher carriers.
 - b. A person assigned, either permanently or temporarily, solely to manage or organize a medical unit or medical transport. They are administrators, drivers, cooks and others.

¹³<https://bpbatam.go.id/tentang-batam/sejarah-batam/>, *op. cit.*

c. The Geneva Convention is actually not the only source of international law that regulates the protection of medical teams in war zones. Protection of medical teams can also be found in additional protocols to the Geneva Convention. Unfortunately, as reported in the article Indonesia Intends to Ratify the 1949 Geneva Convention Protocol, currently Indonesia has not ratified the additional protocols to the Geneva Convention, namely Additional Protocols I and II. Additional Protocol I on the Protection of Victims of International Armed Conflicts, and Additional Protocol II on the Protection of Victims of Non-International Armed Conflicts.

These two facts show that the implementation of legal protection for Police Doctors in Police BKO Assignments has not been realized. This is due to obstacles in the form of:

1. Legal Substantive Constraints

The constraints of legal substance are seen in the fact that it has not been adopted Article 11, Articles 24 to 27, Article 36, and Article 37 of the Geneva Conventions as ratified by Law Number 59 of 1958 concerning the Participation of the Republic of Indonesia in all Geneva Conventions dated 12 August 1949 on Law of the Republic of Indonesia Number 17 of 2023, it can be understood that the position of police doctors involved in BKO operations is a party to whom the position of medical profession is attached which is subject to the rules stipulated in Law of the Republic of Indonesia Number 17 of 2023. The absence of regulations Article 11, Articles 24 to 27, Article 36, and Article 37 of the Geneva Conventions as ratified by Law Number 59 of 1958 concerning the Participation of the Republic of Indonesia in all Geneva Conventions dated 12 August 1949 on Law of the Republic of Indonesia Number 17 of 2023 results in the absence of rules and mechanisms for protecting the lives and bodies of doctors in carrying out their duties when they are in conditions that are vulnerable to threatening the safety of life and body, including for doctors assigned to BKO operations in conflict areas.

In another aspect of the Regulation of the Chief of the Indonesian National Police Number 1 of 2019 concerning the System, Management and Operational Success Standards of the Indonesian National Police, police doctors involved in BKO operations have a dualistic view by the police institution, on the one hand police doctors are considered members of the police who are attached to the task of maintaining security and order in conflict areas, on the other hand when looking at their duties and expertise, police doctors are seen as health workers who have health duties in conflict areas. The absence of an affirmation regarding the focus of the position of the duties and competence of police doctors as health workers in BKO operations has in reality resulted in assignments that exceed their duties, resulting in police doctors bearing work responsibilities outside of their duties in conflict areas and difficult conflict situations. This can result in the failure of the duties of health workers in the field which results in them being sanctioned because of the burden of other duties outside of their duties which have hampered their duties as health workers. The absence of protection regarding the duties and responsibilities of doctors in the Regulation of the Chief of the Republic of Indonesia National Police Number 1 of 2019 concerning the System, Management and Standards for Operational Success of the Republic of Indonesia National Police, such as legal protection regarding the duties and responsibilities of the medical profession as regulated in Article 310 of Law of the Republic of Indonesia Number 17 of 2023 concerning Health, makes police doctors involved in BKO operations also vulnerable to legal problems

related to their professional responsibilities and duties as a doctor, both criminally, civilly, or administrative sanctions in the form of dismissal due to failure of their professional responsibilities as a doctor in carrying out their main duties as a guarantor of the safety of the lives of those who receive their medical services.

2. Legal Structure Constraints

The obstacle is that it has not been adopted Article 11, Articles 24 to 27, Article 36, and Article 37 of the Geneva Conventions as ratified by Law Number 59 of 1958 concerning the Participation of the Republic of Indonesia in all Geneva Conventions dated 12 August 1949 on Law of the Republic of Indonesia Number 17 of 2023, resulted in no concept of implementing a protection system for doctors who carry out their duties in dangerous situations including in conflict areas, so there is no requirement for task forces in BKO operations to create a separate protection system for doctors who carry out health duties in BKO operations. In addition to operations to protect the security of civilians. This results in the absence of a guarantee of safety for police doctors in carrying out health duties in a BKO operation.

The weakness in the form of a dualistic view of the Regulation of the Chief of the Republic of Indonesia National Police Number 1 of 2019 concerning the System, Management and Operational Success Standards of the Republic of Indonesia National Police regarding the duties and responsibilities of police doctors involved in BKO operations by the police institution results in police doctors bearing work responsibilities outside of their duties in conflict areas and difficult conflict situations. This can result in the failure of the duties of health workers in the field which results in them being sanctioned because of the burden of other duties outside of their duties which have hampered their duties as health workers. So that the standard mechanism of the work system related to the duties of health workers in BKO operations does not have an affirmation of the limitations of the duties of health workers who should only serve medical needs in conflict areas.

According to John Rawls, the situation of inequality must be given rules in such a way that it is most beneficial to the weakest social class. This happens if two conditions are met. First, the situation of inequality guarantees the maximum minimorum for the weakest class of people. This means that the situation of society must be such that it produces the highest possible profit for the lower class of people. Second, inequality is tied to positions that are open to everyone. The aim is so that everyone is given the same opportunities in life. Based on this guideline, all differences between people based on race, skin, religion and other differences that are primordial, must be rejected. Furthermore, John Rawls emphasized that the program of enforcing justice with a people's dimension must pay attention to two principles of justice, namely, first, giving equal rights and opportunities for the broadest basic freedoms as broad as the same freedom for everyone. Second, being able to reorganize the socio-economic gap that occurs so that it can provide reciprocal benefits for everyone, both those who come from fortunate and unfortunate groups.¹⁴

¹⁴John Rawls, 1973, A Theory of Justice, London: Oxford University press, p 91

Such a situation clearly results in assignments that exceed the main duties and responsibilities of health workers in BKO operations. The SOP for implementing health functions has been violated in this matter.

3. Legal Culture Constraints

Based on the results of interviews with the sources above, it shows that the absence of legal protection regulations for the safety of doctors as health workers who carry out health duties in BKO operations, then there is over authority and duties from doctors involved in BKO operations in the form of involvement in security duties that must also be carried out by health workers in BKO operations has been considered a habit and not a legal deviation, this has been going on continuously and is clearly detrimental to doctors who are health workers who carry out health duties in BKO operations.

3.3. Solutions to Problems Related to the Implementation of Legal Protection for Police Doctors in Police BKO Assignments

The various weaknesses that exist and the existing legal facts clearly show that the issue of the absence of safety protection regulations for doctors who carry out their duties as health workers in a BKO operation is clearly an injustice.

According to John Rawls, the situation of inequality must be given rules in such a way that it is most beneficial to the weakest social group. This happens if two conditions are met. First, the situation of inequality guarantees the maximum minimum for the weakest group of people. This means that the situation of society must be such that the highest possible profit is generated for the lower class. Second, inequality is tied to positions that are open to everyone. The intention is that everyone is given the same opportunity in life. Based on this guideline, all differences between people based on race, skin, religion and other primordial differences must be rejected. Furthermore, John Rawls emphasized that the program of enforcing justice that has a people's dimension must pay attention to two principles of justice, namely, first, giving equal rights and opportunities for the broadest basic freedoms as broad as the same freedom for everyone. Second, being able to reorganize the socio-economic gap that occurs so that it can provide reciprocal benefits for everyone, both those who come from fortunate and unfortunate groups.¹⁵

Equality-based justice, based on the principle that the law binds everyone, so that the justice to be achieved by the law is understood in the context of equality. The equality referred to here consists of numerical equality and proportional equality. Numerical equality is based on the principle of equality of degree for everyone before the law, while proportional equality is giving everyone what is already their right. Distributive justice, this is identical to proportional justice, where distributive justice is based on granting rights according to the size of the service, so that in this case justice is based on equality, but according to their respective portions (proportional). Corrective justice, is basically justice that is based on correcting a mistake, for example if there is a mistake by someone that causes harm to another person, then the person who caused the loss must provide compensation to the party who received the loss to restore their condition as a result of the mistake made.

¹⁵John Rawls, 1973, A Theory of Justice, London: Oxford University press, p 91

This clearly contradicts John Rawls' two principles of justice which state that:¹⁶

1. Everyone should have the same basic rights and freedoms.
2. Social and economic inequalities must be arranged in such a way that they benefit everyone, and must be linked to available employment opportunities and positions.

In order to realize justice withinThe problem of the absence of safety protection regulations for doctors who carry out their duties as health workers in a BKO operation requires clear legal protection for medical personnel assigned as members of the Police in BKO duties. Legal protection is given in relation to the rights and obligations possessed by humans as legal subjects in their interactions with fellow legal subjects and their environment. According to Lili Rasjidi and IB Wysa Putra, law can be used to realize protection that is not only adaptive and flexible, but also predictive and anticipatory.¹⁷ Law is needed for those who are weak and not yet strong socially, economically and politically to obtain social justice. Talking about legal protection, it is one of the most important things of the elements of a state of law. It is considered important because in the formation of a state, laws will also be formed that regulate each of its citizens. It is common knowledge that a country will have a reciprocal relationship between its own citizens. In this case, it will give birth to rights and obligations for each other. Legal protection will be the right of every citizen, but on the other hand it can also be felt that legal protection is an obligation for the state itself, therefore the state is obliged to provide legal protection to its citizens. Legal protection is a protection given to legal subjects in the form of devices that are both preventive and repressive, both verbally and in writing. In other words, it can be said that legal protection is a separate description of the function of the law itself, which has the concept that the law provides justice, order, certainty, benefit and peace.¹⁸ Possible solutions are:

1. Entering the termsArticle 11, Articles 24 to 27, Article 36, and Article 37ConventionGeneva as ratified byLaw Number 59 of 1958 concerning the Participation of the Republic of Indonesia in All Geneva Conventions of 12 August 1949 concerning the protection of health workers who work in conflict and dangerous areas.Law of the Republic of Indonesia Number 17 of 2023 concerning Health and Regulation of the Chief of the National Police of the Republic of Indonesia Number 1 of 2019 concerning the System, Management and Operational Success Standards of the National Police of the Republic of Indonesia.
2. Create a monitoring system for violations of assignments for doctors as medical personnel in BKO operations that deviate from the duties and functions of health workers as guarantors of health services in BKO operational areas.
3. Regulating administrative sanctions in the form of demotion or dismissal for parties who assign medical personnel to BKO operations outside the medical personnel's duties.

¹⁶Testbook,John Rawls' Theory of Justice: Principles of Justice, Criticisms, and Importance!, accessed via<https://testbook.com/ias-preparation/john-rawls-theory-of-justice>on April 20, 2025.

¹⁷Lili Rasjidi and IB Wysa Putra, 1993, Law as a System, Remaja Rusdakarya, Bandung, p. 118.

¹⁸<http://tesishukum.com/pengertian-perlindungan-hukum-menurut-para-ahli/>, accessed on April 20, 2024

4. Conclusion

The legal protection arrangements for police doctors on assignment under the Police Operations Control (BKO) have not yet provided protection for doctors as medical officers, this is because both Law of the Republic of Indonesia Number 17 of 2023 concerning Health and Regulation of the Chief of the National Police of the Republic of Indonesia Number 1 of 2019 concerning the System, Management and Standards for Operational Success of the National Police of the Republic of Indonesia have not adopted the provisions Article 11, Articles 24 to 27, Article 36, and Article 37 Convention Geneva as ratified by Law Number 59 of 1958 concerning the Participation of the Republic of Indonesia in all Geneva Conventions dated 12 August 1949 concerning the protection of medical personnel in conflict and dangerous areas. The solution to the problem related to the implementation of legal protection for police doctors on BKO Police assignments is in the form of enter the terms Article 11, Articles 24 to 27, Article 36, and Article 37 Convention Geneva as ratified by Law Number 59 of 1958 concerning the Participation of the Republic of Indonesia in All Geneva Conventions of 12 August 1949 concerning the protection of health workers who work in conflict and dangerous areas. Law of the Republic of Indonesia Number 17 of 2023 concerning Health and Regulation of the Chief of the National Police of the Republic of Indonesia Number 1 of 2019 concerning the System, Management and Operational Success Standards of the National Police of the Republic of Indonesia. Creating a monitoring system for violations of assignments for doctors as medical personnel in BKO operations that deviate from the duties of health workers as guarantors of health services in BKO operational areas. Regulating administrative sanctions in the form of demotion or dismissal for parties who assign medical personnel in BKO operations outside the duties of medical personnel.

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