

## **Criminal Liability for Malpractice in Medical Actions by Doctors Based on Justice Values**

**Claudia Marlein Lakoy<sup>1)</sup> & Ira Alia Maerani<sup>2)</sup>**

<sup>1)</sup> Prosecutor at the Balikpapan, E-mail: [claudeelove@gmail.com](mailto:claudeelove@gmail.com)

<sup>2)</sup> Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, E-mail: [ira.alia@unissula.ac.id](mailto:ira.alia@unissula.ac.id)

**Abstract.** *This study aims to determine and examine criminal liability for malpractice in medical actions by doctors based on the value of justice. This study uses a normative legal approach method that is descriptive analysis. The data used are secondary data obtained through literature studies, which are then analyzed qualitatively. Based on the study, it was concluded that criminal liability for malpractice in medical actions by doctors based on the value of justice, namely due to negligence that causes losses in the form of injuries to patients. As a result of the law, the doctor was sentenced to 5 months in prison. Imprisonment for doctors is considered inappropriate because it would be fairer if the sanctions were in the form of a fine and additional criminal penalties in the form of compensation to the victim or providing rehabilitation to the victim. The doctor's criminal liability is a form of protection for patients, so patients can file complaints with the panel and resolve them through deliberation or amicably. Not all medical negligence must be resolved through criminal channels, only gross negligence is recommended to be resolved criminally.*

**Keywords:** *Crime; Doctor; Justice; Malpractice; Medical.*

### **1. Introduction**

Health is a very important thing for humans, with good health humans will easily carry out daily activities.<sup>1</sup> Without health, humans cannot do activities properly, so health is very valuable for humans, because health is a human right that must be respected and upheld. Health is the basis for recognizing the degree of humanity.

At the national level, this right to health is guaranteed in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia and Article 9 of Law No. 39 of 1999 concerning Human Rights, so that the state is obliged to respect and protect human rights, including the right to health. This is in accordance with the

---

<sup>1</sup>Suhaid, Dewi Novitasari, et al., (2022). Professional Ethics and Health Law. First Edition. Sukoharjo: Pradina Pustaka, p. 47.

ideals of the Indonesian nation as stated in the Fourth Paragraph of the Opening of the 1945 Constitution of the Republic of Indonesia.

The guarantee of health rights is carried out through efforts to provide health services by the state to all Indonesian people. Health services are the main activity of hospitals, which place doctors and nurses as health workers who are most closely related to patients in efforts to cure diseases.

Doctors and other health workers only try and strive to help patients recover quickly from all their illnesses, and perform medical procedures that patients need. Medical procedures, especially medical procedures, involve various types of procedures that can be classified as low-risk and high-risk procedures. High-risk medical procedures are medical procedures that can result in death or disability based on a certain level of probability, even a slight error or negligence in a medical procedure performed by a doctor can have a major impact on the patient's health.

In providing medical treatment by doctors, it is inseparable from the fact that as human beings, doctors and other health workers are not free from making mistakes. Mistakes occur in every job, of course with various consequences. These mistakes can be in the form of failure (error) or negligence in carrying out the tasks carried out, so that in carrying out their profession, every professional must work in accordance with standard procedures, including doctors. These mistakes require criminal liability, which contains elements of the ability to be responsible, intent (*dolus*) or negligence (*culpa*), and there is no excuse.<sup>2</sup>

Basically, the medical profession carries risks because the consequences of medical actions taken by doctors as an effort to cure patients sometimes do not go as desired or result in death. This consequence is certainly undesirable, both for doctors and patients and/or the patient's family. However, there are patient families who cannot accept it. This risk is interpreted by parties outside the medical profession as malpractice. Malpractice carried out by professionals in the medical/health world is often also known as medical malpractice.<sup>3</sup>

In medical malpractice, there is also a service action that is carried out intentionally, and therefore has implications for the occurrence of a rule of law that is violated, while the meaning of negligence emphasizes more on unintentional (*culpa*), lack of care, lack of thoroughness, indifference,

---

<sup>2</sup>Maerani, Ira Alia. (2018). *Criminal Law & Death Penalty*. First Edition. Semarang: Unissula Press, p. 44.

<sup>3</sup>Destiny. (2018). *Introduction to Health Law*. First Edition. Palopo: IAIN Palopo Campus Publishing Institute, p. 76.

recklessness, not caring about the interests of others, but the consequences that arise are not the goal.<sup>4</sup>

In general, doctors who are suspected of malpractice, because they have made mistakes that cause harm to patients, such as disability after surgery or even cause patient death. In the end, patients and their families who cannot accept the doctor's actions, report the doctor concerned to the authorities. If the doctor is proven to have committed malpractice, and the consequences of his actions cause harm to the patient, then the doctor must be held accountable for his actions, one of which is criminal liability, as in the case of medical malpractice that has been decided by the Panel of Judges of the Denpasar District Court in Decision Number: 257/ Pid.B/2015/ PN.Dps.

The purpose of this study is to determine and examine criminal liability for malpractice in medical actions by doctors based on the value of justice.

## **2. Research Methods**

The type of research used in writing this legal journal is normative juridical, which is descriptive analysis. The data used in this study is secondary data. According to the data that has been obtained, it is then analyzed using qualitative data analysis.

## **3. Result and Discussion**

The medical malpractice case in Decision Number: 257/Pid.B/2015/PN. Dps, occurred between drg. IYS and DAI as the patient, which occurred due to the negligence of drg. IYS when performing an impacted tooth extraction in the bone which was difficult (embedded), causing the patient DAI to experience injuries (disorders in the mouth), resulting in illness or obstacles in carrying out work or search for a certain period of time. The Denpasar District Court in the Decision, stated that drg. IYS was proven legally and convincingly guilty of committing a crime because his negligence caused injury to another person, and sentenced the defendant drg. IYS to 5 (five) months in prison.

Based on this case, the medical actions carried out by Drg. INS have violated the provisions of Law No. 29 of 2004 concerning Medical Practice and Law No. 36 of 2009 concerning Health (which has been amended by Law No. 17 of 2023 concerning Health), namely:

1. The INS dentist did not refer the patient to a more capable and competent specialist dentist, so the patient was left with a disability;
2. There was an extraction of an impacted tooth in the bone by a dentist who was not authorized to do so, thus causing harm to the patient;

---

<sup>4</sup>Herniwati, et al., (2020). Professional Ethics and Health Law. First Edition. Bandung: Widina Bhakti Persada Bandung, pp. 133-134.

3. Malpractice occurred by a dentist who did not have the authority to remove impacted teeth in the bone, and the dentist was negligent in not seeing the patient's previous X-ray results, thus causing harm to the patient.

The articles containing criminal sanctions in Law No. 29 of 2004 are found in Articles 75 to 80, however, the articles that are specifically related directly to the medical profession, such as the provisions of Article 79 letter c, provide a criminal threat of imprisonment for a maximum of 1 (one) year or a maximum fine of IDR 50,000,000 (fifty million rupiah) for any doctor who intentionally does not fulfill the obligations as referred to in Article 51 letters a, b, c, and d or e.

The provisions of Article 51 of Law No. 29 of 2004 are provisions regarding the obligations that must be carried out by a doctor in carrying out medical practice, if these obligations are not complied with, then it will result in criminal sanctions as regulated in Article 79 of Law No. 29 of 2004. Such as the obligation stated in Article 51 letter b of Law No. 29 of 2004 is to refer patients to other doctors who have better expertise or abilities, if they are unable to carry out an examination or treatment. If the obligations as stated in Article 51 of Law No. 29 of 2004 are not carried out, then the doctor is threatened with criminal penalties as regulated in Article 79 letter c of Law No. 29 of 2004, while in Law No. 17 of 2023, regarding criminal sanctions that can be imposed on doctors if they make mistakes in medical practice, it is regulated in Article 440.

In Law No. 17 of 2023, the case of Drg. INS, including violating the provisions of Article 285, that: "Medical personnel and health workers in carrying out their practices must be carried out in accordance with the authority based on their competence". If the doctor concerned is less capable or incompetent in carrying out medical procedures on his/her patient, then the authority can be delegated to another doctor who is more competent, as stipulated in Article 290 of Law No. 17 of 2023.

Meanwhile, regarding the criminal provisions, they are regulated in Article 440 paragraph (1) of Law No. 17 of 2023, which states that: "Any medical or health worker who is negligent and results in a patient being seriously injured shall be punished with a maximum imprisonment of 3 (three) years or a maximum fine of Rp. 250,000,000.00 (two hundred and fifty million rupiah)."

Law No. 17 of 2023 only regulates criminal sanctions for doctors who, due to their mistakes (negligence), resulting in the patient being seriously injured and the patient dying. Law No. 17 of 2023 does not specify in detail the form of negligence of the medical action, so that the regulation can justify the patient's arbitrariness to sue medical personnel, especially doctors.

Both the provisions of Law No. 29 of 2004, Law No. 36 of 2009 and Law No. 17 of 2023, if a doctor in carrying out medical actions is not in accordance with the authority he has, is not in accordance with professional standards and standard

operating procedures, and his actions result in disability, injury and even death to the patient, then the doctor can be said to have committed medical malpractice.

Not a few doctors who, in carrying out their professional duties, are faced with legal problems, where sometimes the law demands responsibility based on the doctor's actions in carrying out their profession as medical personnel to provide health services to patients or other people (the community).<sup>5</sup>

If the elements of a criminal act in medical malpractice are met, then the doctor can be said to have committed a crime and can be held criminally responsible. A crime is an act that violates the law. For the law that is violated, the law must be enforced and implemented, everyone expects the law to apply if a criminal event or crime occurs.<sup>6</sup>

Criminal liability of doctors who commit medical malpractice by imposing criminal sanctions is a form of criminal law enforcement effort through penal means. Law enforcement against criminal acts in Indonesia, especially in criminalization, refers to the normative approach that is punitive to criminals, so that it can create a deterrent effect.<sup>7</sup>

No doctor intentionally wants to harm or injure their patients. Doctors will do their utmost to cure their patients in accordance with their authority, professional standards, and applicable operating procedures. If an error occurs in a medical action performed by a doctor, it is the result of negligence or carelessness, not because of malicious intent.

As is known, the medical profession or doctor's profession is a noble profession, which in its devotion prioritizes the interests of others and society (altruistic).

---

<sup>5</sup>Nurhasannah. "Legal Review of Criminal Liability for Doctors and Hospitals Not Providing Informed Consent to Patients in the Event of Death or Injury to Patients". Jom Faculty of Law. Vol. V Edition 2. July-December 2018, p. 9, url: <https://jom.unri.ac.id/index.php/JOMFHUKUM/article/view/22368/21644>, accessed on January 17, 2024.

<sup>6</sup>Anton Susanto, Ira Alia Maerani and Maryanto. "Legal Enforcement by the Police against Child of Criminal Doer of a Traffic Accident Who Caused Death (Case Study in Traffic Accident of Police Traffic Unit of Cirebon City Police Jurisdiction)". Jurnal Daulat Hukum. Volume 3, Issue 1. March 2020, page 23, url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/8402>, accessed on January 17, 2024.

<sup>7</sup>Andri Winjaya Laksana. "Review of Criminal Law Against Narcotics Abusers With Rehabilitation System". Journal of Legal Reform. Vol. 2, No. 1. 2015, p. 75, url: <https://jurnal.unissula.ac.id/index.php/PH/article/view/1417>, accessed on January 17, 2024.

Therefore, this noble profession is entrusted only to polite and honorable people.<sup>8</sup>

In the event of a loss to a patient due to medical actions taken by a doctor, the doctor must be responsible for his actions, especially if the patient files a criminal complaint. Regarding complaints from patients and/or the patient's family regarding the actions of a doctor who is considered to have committed medical malpractice, it is regulated in Article 305 of Law No. 17 of 2023. Based on Article 305 of Law No. 17 of 2023, patients and/or their families who file a lawsuit for alleged medical malpractice must go through a panel in order to enforce professional discipline, as stipulated in Article 304 of Law No. 17 of 2023.

Based on Article 304 of Law No. 17 of 2023, if a doctor is declared by the panel to have committed a disciplinary violation and is subject to disciplinary sanctions due to alleged criminal acts, then before being resolved through legal channels, the medical dispute must be resolved through dispute resolution with a restorative justice mechanism, so that criminal charges are not immediately filed by the patient and/or the patient's family. Article 305 of Law No. 17 of 2023 provides an opportunity for patients and/or their families whose interests are harmed by the doctor's actions in providing health services to file a complaint with the panel.

The provisions regarding patient complaints were previously regulated in Article 66 paragraph (3) of Law No. 29 of 2004, which stipulates that complaints must be made in writing to the Chair of the Indonesian Medical Disciplinary Honorary Council (MKDKI), but this does not eliminate the right of every person to report suspected criminal acts to the relevant authorities and/or sue for civil damages in court.

In general, a doctor is not considered criminally responsible if the negative result occurs due to a good faith error of judgment or an inadvertent mistake. Only in certain cases, criminal charges are filed because of his actions being very reckless and completely ignoring the safety of his patients.<sup>9</sup>

Law No. 1 of 2023 concerning the Criminal Code (KUHP 2023) regulates criminal liability in Article 36, which states that:

(1) Every person can only be held responsible for criminal acts committed intentionally or through negligence;

---

<sup>8</sup>Setyo Trisnadi. "Legal Protection of the Doctor's Profession in Medical Dispute Resolution". *Journal of Legal Reform*. Volume IV, No. 1. January-April 2017, p. 29, url: <https://jurnal.unissula.ac.id/index.php/PH/article/view/1656/pdf>, accessed on January 17, 2024.

<sup>9</sup>Ilyas, Amir. (2014). *Criminal Liability of Doctors in Medical Malpractice in Hospitals*. First Edition. Yogyakarta: Rangkang Education, p. 134.

(2) Criminal acts are criminal acts committed intentionally, while criminal acts committed due to negligence can be punished if expressly stipulated in statutory regulations.

Furthermore, it is stated in Article 37 of the 2023 Criminal Code, which states that:

In cases determined by law, any person may:

- a. Convicted solely because the elements of a criminal act have been fulfilled without regard to any errors; or
- b. Being held accountable for criminal acts committed by others.

The legal responsibility of doctors in the field of criminal law, which has been known as malpractice, if it meets certain requirements in 3 (three) aspects, including:<sup>10</sup>

1. Conditions in medical treatment, namely deviant medical treatment;
2. Conditions in the doctor's mental attitude, namely the condition of intention or culpa/culpoos in medical treatment; and
3. Conditions regarding consequences or conditions of consequences, namely conditions for the occurrence of harm to the health or life of the patient.

In relation to the case used in this study, the criminal legal responsibility of the dentist who performed the tooth extraction procedure embedded in the bone because the dentist concerned did not have the authority to perform the tooth extraction procedure embedded in the bone and did not refer to another more competent dentist, then the dentist has violated the provisions of Article 440 paragraph (1) of Law No. 17 of 2023, which states that: "Every medical worker or health worker who commits negligence that results in a patient suffering serious injury shall be punished with imprisonment for a maximum of 3 (three) years or a maximum fine of IDR 250,000,000.00 (two hundred and fifty million rupiah)".

Previously, Law No. 29 of 2004 regulated this in Article 79 letter c, which states that:

Any doctor or dentist who:

- c. Deliberately not fulfilling the obligations as intended in Article 51 letter a, letter b, letter c, letter d, or letter e.

---

<sup>10</sup>Chazawi, Adami. (2015). Medical Malpractice. First Edition. Jakarta: Sinar Grafika, p. 68.

Criminal liability for doctors who commit medical malpractice must be based on the values of Pancasila justice. The values contained in the Pancasila Principles, such as the values of divinity (religious), humanity, unity, democracy, and justice are the values of the nation in building Indonesian law in the future,<sup>11</sup> then in the criminal responsibility of doctors for medical malpractice, it must be underlined that the medical actions taken by the doctor are an effort to cure the patient. The settlement of medical malpractice cases can be submitted to the Indonesian Medical Disciplinary Honorary Council to be examined and resolved through deliberation or amicable settlement. The imposition of sanctions in the form of imprisonment is not in accordance with the good faith of the doctor who has tried to cure the patient.

There is a tendency for society to be litigious, namely that every problem must be resolved through legal channels (court). Doctors are not seen as partners in solving patient health problems. This is triggered by changes in lifestyle and consumerism principles from patients who state: "I pay, so I can get what I want".<sup>12</sup>

Asking for criminal responsibility for medical actions that are suspected of containing errors or negligence from a doctor is not easy, especially in the process of proof, but it does not dismiss the criminal lawsuit. It should be remembered that handling this medical malpractice case requires wisdom. If the doctor has performed medical actions in accordance with professional standards, standard operating procedures, and patient needs, and is based on a valid contract/informed consent, the doctor is only trying to help the patient recover from his illness, even though there are risks to medical actions that cannot be predicted and avoided.

Criminal sanctions as a legal consequence of the actions of a dentist who removes teeth embedded in the bone as in the case raised in this study based on Decision Number: 257/Pid.B/2015/PN.Dps., then the perpetrator or dentist concerned can be subject to criminal sanctions in the form of imprisonment for 5 (five) months.

The criminal penalty imposed is based on the provisions of Article 79 letter c of Law No. 29 of 2004. Article 79 letter c of Law No. 29 of 2004 states that: "Any doctor or dentist who: intentionally does not fulfill the obligations as referred to in Article 51 letter a, letter b, letter c, letter d, or letter e shall be punished with

---

<sup>11</sup>Ira Alia Maerani and Siti Rodhiyah Dwi Istinah. "The Formulation of the Idea of Forgiveness in Indonesian Criminal Law Policy (A Study Based on Restorative Justice & Pancasila Values)". *Jurnal Daulat Hukum*. Volume 5, Issue 4. December 2022, p. 303, url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/24290>, accessed on January 17, 2024.

<sup>12</sup>Koswara, Indra Yudha. (2020). *Medical Malpractice from the Perspective of Doctors and Patients; Study of Indonesian Medical Law and Code of Ethics (KODEKI)*. First Edition. Yogyakarta: Dee-publish, p. 163.

imprisonment for a maximum of 1 (one) year or a maximum fine of Rp. 50,000,000.00 (fifty million rupiah).

Meanwhile, criminal sanctions according to Law No. 17 of 2023 are regulated in Article 440 paragraph (1), which states that: "Every medical or health worker who commits negligence that results in a patient being seriously injured shall be punished with a maximum imprisonment of 3 (three) years or a maximum fine of IDR 250,000,000.00 (two hundred and fifty million rupiah)". Law No. 1 of 2023 (2023 Criminal Code) also regulates criminal acts due to negligence, namely regulated in Chapter XXIII concerning Criminal Acts Resulting in Death or Injury Due to Negligence in Article 474 and Article 475.

Imposing criminal sanctions on doctors in the form of imprisonment is not the right decision. As a form of justice for doctors and patients, because in cases of medical malpractice, there is no intention from the doctor to intentionally harm his patient. Doctors are also humans who can also make mistakes (negligence in carrying out medical actions), but it is not intentional, so the right sanction if there is a case of malpractice, then the doctor can be sentenced to a fine and additional punishment in the form of compensation to the victim or providing rehabilitation to the victim. Imprisonment can be imposed on doctors by looking at the consequences of the doctor's actions from the severity of the injuries suffered by the patient or the patient's death.

According to the current judicial system in Indonesia, if there is a legal dispute regarding medical actions in a hospital, due to alleged medical negligence, then the matter is resolved through legal channels (courts). Settlement of medical negligence disputes in hospitals through the courts, in fact, raises its own problems. The settlement method through the courts often receives reactions and challenges not a small number, especially from the medical profession (doctors).

It is necessary to compare the settlement of medical malpractice cases in Indonesia and other countries for future criminal law updates. Here is a comparison of the handling or settlement of medical malpractice cases in several foreign countries:

In Indonesia, before the enactment of Law No. 17 of 2023, the settlement of medical malpractice cases prioritized litigation (legal) channels, and there had been no settlement of medical malpractice cases using non-litigation channels. However, after the enactment of Law No. 17 of 2023, the settlement of medical malpractice cases was prioritized through a restorative justice approach. This is as stipulated in Article 306 of Law No. 17 of 2023, which states that: "Medical personnel or health workers who have carried out disciplinary sanctions as referred to in paragraph (1) which are imposed there is an alleged criminal act,

law enforcement officers prioritize the resolution of disputes with a restorative justice mechanism in accordance with the provisions of laws and regulations."

The implementation of the trial that uses medical science as one of the references in trying doctors and/or dentists suspected of malpractice is considered to have limited the risks that doctors or dentists must bear from criminal reports or civil lawsuits. This means that in the trial process, it is possible that criminal and/or civil sanctions will be imposed on doctors or dentists whose medical actions are declared by the Indonesian Medical Disciplinary Honorary Council (MKDKI) to be in accordance with or not in violation of the discipline of the medical profession.<sup>13</sup>

In resolving medical disputes or allegations of medical malpractice, Indonesia needs to emulate the efforts to resolve such cases in the countries mentioned above. As in South Korea, Efforts to resolve disputes are made through peaceful resolution, namely medical dispute mediation.<sup>14</sup> In the United States, the settlement of medical malpractice cases by applying reversed burden of proof, due to the limited ability of patients and their families to understand the diagnosis and therapy that the doctor has performed on the patient, so that it will be very difficult for the patient or their family to file a lawsuit, so in order to protect the interests of the patient, it is necessary to carry out reversed burden of proof so that the doctor must prove that the diagnosis and therapy that he has performed are not wrong.<sup>15</sup>

Similar to the United States, in Italy the burden of proof is placed on the accused (doctor or hospital). In addition, a doctor can also be held liable for malpractice after the medical procedure has been performed with a time limit of 10 years, and the doctor must prove his innocence.<sup>16</sup> To prevent cases of medical malpractice, Japan has increased external oversight of the medical profession, and established a special court division to handle all medical malpractice

---

<sup>13</sup>Lesmonoati, Sigit. (2020). Criminal Liability for Negligent Acts in Medical Procedures in Hospitals. Surabaya: Scopindo Media Pustaka, p. 165.

<sup>14</sup>Kartina Pakpahan, Heni Widiyani, Veronica and Sewin Kartika. "Comparison of Legal Protection for Patients Victims of Plastic Surgery Malpractice in Indonesia and South Korea; Comparison of Laws of Patients of Malpractice Plastic Surgery In Indonesia and South Korea". IUS Journal: Law and Justice Studies, Volume 9, Issue 1. April 2021, pp. 228-231, url: <https://jurnalius.ac.id/ojs/index.php/jurnalIUS/article/view/826>, accessed on January 17, 2024.

<sup>15</sup>Fitriah Faisal, Rahman Hasima and Ali Rizky. "Comparative Study of Medical Malpractice Management Efforts in Criminal Justice Processes in Indonesia and America". Halu Oleo Law Review. Volume 4, Issue 1. March 2020, pp. 30-31, url: <https://ojs.uho.ac.id/index.php/holrev/article/view/9785>, accessed on January 17, 2024.

<sup>16</sup>Francesco Traina MD. "Medical Malpractice The Experience in Italy". Orthopedics and Related Research, Symposium: Clinical Risk And Judicial Reasoning. Volume 467, Number 2. February 2009, p. 434-440, url: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2628502/>, accessed January 17, 2024.

cases.<sup>17</sup> Thus, in resolving medical malpractice cases, priority should be given to and attention paid to the rehabilitation process for the victim patient, rather than the process of criminalizing the perpetrator.

#### 4. Conclusion

Criminal liability for malpractice in medical actions by doctors is based on the value of justice, namely due to errors in medical actions in the form of negligence by the doctor, resulting in losses in the form of injuries to patients. In the case of this study, the doctor did not have the authority and did not have the competence to perform medical actions, and did not refer to other more competent doctors, so the doctor was said to have not carried out his legal obligations. As a result of the law, the doctor was sentenced to 5 months in prison. Imprisonment for doctors is considered inappropriate because it would be fairer if the sanctions given were fines and additional penalties in the form of compensation to the victim or rehabilitation to the victim. Imprisonment can be imposed on doctors by looking at the consequences of the doctor's actions from the severity of the patient's injuries or the patient's death. The doctor's criminal liability is a form of protection for patients, so patients can file complaints with the panel and resolve them through deliberation or amicably. Not all medical negligence must be resolved through criminal channels, only serious negligence is recommended to be resolved criminally. Settlement of malpractice cases in medical actions by doctors based on the values of justice in the future, prioritizing settlement with a restorative justice approach. In addition, Indonesia can adopt efforts to resolve medical malpractice in several countries, such as: (1) South Korea with peaceful settlement or mediation of medical disputes, (2) the United States with reversed proof as evidence in court, (3) Italy with the limitation of doctors' liability for malpractice cases after a medical procedure with a time limit of 10 years, and (4) Japan by increasing external supervision of the medical profession and establishing a special court division to handle all medical malpractice cases.

#### 5. References

##### Journals and Internet Sources:

Andri Winjaya Laksana. "Review of Criminal Law Against Narcotics Abusers With Rehabilitation System". *Journal of Legal Reform*. Vol. 2, No. 1. 2015, p. 75, url: <https://jurnal.unissula.ac.id/index.php/PH/article/view/1417>, accessed on 17 January 2024.

---

<sup>17</sup>Robert B Leflar JD. "The Regulation of Medical Malpractice in Japan". *Clinical Orthopedics and Related Research, Symposium: Clinical Risk And Judicial Reasoning*. Volume 467, Number 2. February 2009, p. 443-448, url: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2628506/>, accessed January 17, 2024.

Anton Susanto, Ira Alia Maerani and Maryanto. "Legal Enforcement by the Police against Child of Criminal Doer of a Traffic Accident Who Caused Death (Case Study in Traffic Accident of Police Traffic Unit of Cirebon City Police Jurisdiction)". *Journal of Legal Sovereignty*. Volume 3, Issue 1. March 2020, p. 23, url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/8402>, accessed on 17 January.

Fitriah Faisal, Rahman Hasima and Ali Rizky. "Comparative Study of Medical Malpractice Management Efforts in Criminal Justice Processes in Indonesia and America". *Halu Oleo Law Review*. Volume 4, Issue 1. March 2020, p. 30-31, url: <https://ojs.uho.ac.id/index.php/holrev/article/view/9785>, accessed on 17 January 2024.

Francesco Traina MD. "Medical Malpractice The Experience in Italy". *Orthopaedics and Related Research, Symposium: Clinical Risk And Judicial Reasoning*. Volume 467, Number 2. February 2009, p. 434-440, url: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2628502/>, accessed on 17 January 2024.

Ira Alia Maerani and Siti Rodhiyah Dwi Istinah. "The Formulation of the Idea of Forgiveness in Indonesian Criminal Law Policy (A Study Based on Restorative Justice & Pancasila Values)". *Journal of Legal Sovereignty*. Volume 5, Issue 4. December 2022, p. 303, url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/24290>, accessed on 17 January 2024.

Kartina Pakpahan, Heni Widiyani, Veronica and Sewin Kartika. "Comparison of Legal Protection for Patients Victims of Plastic Surgery Malpractice in Indonesia and South Korea; Comparison of Laws of Patients of Malpractice Plastic Surgery In Indonesia and South Korea". *IUS Journal: Law and Justice Studies*, Volume 9, Issue 1. April 2021, p. 228-231, url: <https://jurnalius.ac.id/ojs/index.php/jurnalIUS/article/view/826>, accessed on 17 January.

Nurhasannah. "Legal Review of Criminal Liability for Doctors and Hospitals Not Providing Informed Consent to Patients in the Event of Death or Injury to Patients". *Jom Faculty of Law*. Vol. V Edition 2. July-December 2018, p. 9, url: <https://jom.unri.ac.id/index.php/JOMFHUKUM/article/view/22368/21644>, accessed on 17 January 2024.

Robert B Leflar JD. "The Regulation of Medical Malpractice in Japan". *Clinical Orthopaedics and Related Research, Symposium: Clinical Risk And Judicial*

Reasoning. Volume 467, Number 2. February 2009, p. 443-448, url: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2628506/>, accessed on 17 January 2024.

Setyo Trisnadi. "Legal Protection of the Doctor's Profession in Medical Dispute Resolution". *Journal of Legal Reform*. Volume IV, No. 1. January-April 2017, p. 29, url: <https://jurnal.unissula.ac.id/index.php/PH/article/view/1656/pdf>, accessed on 17 January 2024.

**Books:**

Chazawi, Adami. (2015). *Medical Malpractice*. First Edition. Jakarta: Sinar Grafika.

Destiny. (2018). *Introduction to Health Law*. First Edition. Palopo: IAIN Palopo Campus Publishing Institution.

Herniwati, et al., (2020). *Professional Ethics and Health Law*. First Edition. Bandung: Widina Bhakti Persada Bandung.

Ilyas, Amir. (2014). *Criminal Liability of Doctors in Medical Malpractice in Hospitals*. First Edition. Yogyakarta: Rangkang Education.

Koswara, Indra Yudha. (2020). *Medical Malpractice from the Perspective of Doctors and Patients; Study of Indonesian Medical Law and Code of Ethics (KODEKI)*. First Edition. Yogyakarta: Deepublish.

Lesmonoajati, Sigit. (2020). *Criminal Liability for Negligent Acts in Medical Procedures in Hospitals*. Surabaya: Scopindo Media Pustaka.

Maerani, Ira Alia. (2018). *Criminal Law & Death Penalty*. First Edition. Semarang: Unissula Press.

Suhaid, Dewi Novitasari, et al., (2022). *Professional Ethics and Health Law*. First Edition. Sukoharjo: Pradina Pustaka.