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Legal protection for doctors during the covid-19 pandemic review from civil law, criminal law, and law no 2009 concerning health

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ABSTRACT

Covid-19 is a disease that can easily spread and infect anyone, including medical personnel. Handling COVID by health workers such as doctors, is faced with a dilemma because the disease itself is easy to transmit to other people. Doctors are a profession that is at the forefront of dealing directly with Covid-19. In conditions like this, doctors sometimes become victims/died in order to protect the public from the spread of the Covid-19 pandemic. This type of research is normative juridical with the main sources of legal material being the Civil Code and the Criminal Code and Law no. 36 of 2009 concerning Health. Law Number 36 of 2009 concerning Health Article 83 paragraph 2 states that the government guarantees legal protection for everyone according to their abilities. The importance of fulfilling the rights of doctors to be able to work according to medical standards. In the critical condition of the Covid-19 pandemic as it is today, the availability of PPE for doctors is one of the essential elements that must be met for doctors to fulfill the element of safety for doctors. In civil law, the doctor-patient relationship states that doctors in carrying out medical practice have the right to obtain complete, honest and clear information from patients or their families. health, then this can lead to criminal acts that are included in acts of persecution or crimes that endanger public safety for people.



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Introduction

The COVID-19 pandemic that first emerged in Wuhan, China in late 2019 has become one of the biggest global health crises in modern history. Its rapid spread and far-reaching impact have tested healthcare systems around the world, including in Indonesia. Due to its highly contagious nature, doctors and medical personnel are at the forefront of treating patients, identifying cases, and controlling the spread of this virus (Liu et al., 2020). The Covid-19 disease (Coronavirus Disease 2019) until the mid-April 2020 period had spread to various countries including Indonesia, where as many as 212 countries experienced the disease and it has spread to more than 2 million people, as many as 134,610 people have died (Arifin dkk, 2020).

The Covid-19 outbreak can be declared as an international disaster because of its impact on the joints of people's lives including social, economic, political and others (Haleem et al., 2020). Covid-19 as a deadly infectious disease and can be easily experienced by people who have low immunity, currently experts in the field of general and special medicine are finding vaccine drugs that can cure Covid-19. (Nurjanah, 2020). The

COVID-19 pandemic is putting tremendous pressure on the healthcare system and medical professionals in Indonesia (Djalante et al., 2020). Not only do doctors and nurses face an increased number of patients requiring intensive care, but they also face a higher risk of infection (Safarina, 2023). Medical resources such as hospital beds, medical equipment, and even medicines may be limited, making their task even more difficult (Rosyanti & Hadi, 2020).

Information about the spread of the virus continues to be monitored, this is so that people can increase their vigilance and comply with government advice (Hanum et al., 2023). The real implications of Covid19 have been felt by the community in their daily activities. The increase in the number of corona cases occurred in a short time and required immediate treatment (Report MW, 2019). The corona virus can easily spread and infect anyone, including medical personnel. The handling of covid by health workers such as doctors, nurses and others, is faced with a dilemma because the disease itself is easy to transmit to other people, including doctors (Rahma, 2021). Doctors in carrying out their profession must always comply with medical standards consisting of medical knowledge and experience in the medical field.

Doctors are a profession that is at the forefront of dealing directly with Covid-19. In conditions like this, doctors sometimes become victims/died in order to protect the public from the spread of the Covid-19 pandemic (Fauziah & Mukhlis, 2022). Based on data published by the Indonesian Doctors Association on April 6, 2020, there were 24 doctors (6 of whom were dentists) who died in the midst of the Covid-19 pandemic. But at this time, on the other hand, the role of the government itself is only to provide perfunctory assistance to families of doctors who are left behind. It does not guarantee children and their families, especially in matters of education up to college. Doctors are the backbone of efforts to overcome the COVID-19 pandemic. They are not only responsible for the care of COVID-19 patients, but must also maintain routine medical services and support communities in understanding how to protect themselves from virus transmission. In this context, it is important to understand the challenges faced by doctors in carrying out their duties and maintaining public health.

When doctors are faced with unprecedented situations such as the COVID-19 pandemic, legal protection becomes a central issue that needs to be considered (Collado-Boira et al., 2020). They have to work under difficult conditions, make critical decisions at short notice, and face the risk of lawsuits if their actions are deemed inadequate. Therefore, the question of how civil law, criminal law, and health law regulate medical practice during the pandemic is particularly relevant. In this context, the law has an important role in regulating the practice of medicine during the pandemic. Civil law regulates the obligations of doctors towards patients and the rights of patients (Hartini, 2022). Criminal law regulates actions that could be considered negligence or crimes in medical practice. Law No. 36/2009 on Health provides the legal framework governing the health sector in Indonesia, including the actions to be taken in a pandemic situation.

According to the scholarly findings of (Gegen & Santoso, 2022), the notion of legal protection is fundamentally grounded in the principles of acknowledgment and safeguarding of individual rights. The legal safeguarding of healthcare professionals amidst the Covid-19 outbreak encompasses both proactive preventive measures and reactive repressive measures. The Government implements a vaccination program as a means of providing preventive protection. The Government offers repressive protection by the imposition of sanctions on individuals who engage in acts of violence and discrimination against health workers while on job. Additionally, the Government provides incentives and death benefits, however these measures face numerous challenges.

According to the findings of (Pesulima & Hetharie, 2020) study conducted in 2020, it is evident that the enforcement of legal measures aimed at ensuring the occupational safety of healthcare professionals during the Covid-19 pandemic has not been effectively executed in accordance with legislative requirements. The application of health worker rights during the Covid-19 outbreak continues to be disregarded and unmet. According to the findings of the study by (Rosita, 2020), the Standard Operating Procedure serves as a comprehensive framework that doctors are required to adhere to in order to fulfill their professional obligations. In order to promote prudence, it is essential to cultivate an environment of mutual respect and humanization through transparent communication during the anamnesis process between doctors and patients. Additionally, medical records play a crucial role as a means of documenting the health history of Covid-19 patients, serving as valuable research material and a reference point for advancements in medical science.

Based on the findings of (Syafitri, 2021) study, it is evident that health professionals are granted legal protection through the means of monitoring and direction. However, it is noteworthy that the existing legal protection remains inadequate, since certain rights pertaining to health workers have yet to be duly fulfilled. The implementation of occupational safety and health measures for healthcare employees has encountered various challenges, including the intricate bureaucratic processes within Regional Governments and the unequal allocation of Personal Protective Equipment (PPE). According to Article 83, paragraph 2 of Law Number 36 of 2009 on Health, the government is obligated to ensure legal protection for all individuals in accordance with

their respective capacities. The significance of ensuring that doctors are allowed to practice in conformity with established medical norms (Darwin, 2015). In the current dangerous circumstances of the Covid-19 pandemic, ensuring the provision of Personal Protective Equipment (PPE) for healthcare professionals is a crucial requirement to ensure their safety.

The purpose of this study is to determine the description of the concept of Legal Protection For Doctors During The Covid19 Pandemic Review From Civil Law, Criminal Law, And Law No 2009 Concerning Health. By understanding the complexities of legal protection for doctors during the pandemic, we can contribute to the improvement of the healthcare system and ensure that doctors who are fighting on the frontlines of this pandemic feel supported and can best perform their duties.

Method

This type of research is normative juridical. Juridical research is research on problems by looking at the standardization of health services for the prevention of COVID-19. While the normative approach is an approach that only uses secondary data with a conceptual framework (Soekanto, 2014). The main sources of legal material are the Civil Code and the Criminal Code and Law no. 36 of 2009 concerning Health, Secondary legal materials are legal materials that provide an explanation of primary legal materials in the form of literature. This writing is done by studying the literature, namely by reading books, related laws and regulations and studying the literature which is then processed and formulated systematically according to the problems presented (Nursalam, 2019). Analysis of legal materials in writing scientific articles uses qualitative analysis methods, in this case examine in depth the existing legal materials then combine them with other legal materials, combined with supporting theories then draw conclusions to answer the existing problems (Mambu, 2015).

Results and Discussions

Legal Protection for Doctors During the Covid19 Pandemic Review From Civil Law, Criminal Law, And Law No 2009 Concerning Health

The medical profession is a noble profession, but in conditions in the field, this noble profession is sometimes associated with risk factors in carrying out its duties. Covid-19 as a virus that is very aggressive in its spread, brings doctors closer to these risk factors. However, there are three things that can be used as guidelines by doctors in order to minimize risk. The three things are Medical Professional Standards, Informed Consent, and Medical Records. In Law Number 36 Year 2009 article 83 paragraph 2 it is stated that the government guarantees legal protection for everyone as referred to in paragraph (1) in accordance with their capabilities. This is also explicitly regulated in the Regulation of the Minister of Health of the Republic of Indonesia Number 11 of 2017 concerning Patient Safety. The importance of fulfilling the rights of doctors to be able to work according to medical standards. In the critical condition of the Covid-19 pandemic as it is today, the availability of PPE for doctors is one of the essential elements that must be met so that doctors can work in accordance with medical standards in order to fulfill the element of safety for doctors.

In addition, doctors have the right to receive clear and complete information from patients. Doctors often do not get information from patients about their disease, (Rakian, 2015) in that position, it has been regulated in Article 351-355 of the Criminal Code which is included in criminal acts of persecution or crimes that endanger public safety for people or goods. This provision applies if the patient or person intentionally transmits the disease to other people. That person can be punished with Article 351 of the Criminal Code on Persecution. In an effort to prevent the spread of the COVID-19 disease, doctors have the right to refuse service if the health facility does not provide personal protective equipment (PPE). The legal basis is Article 6 paragraph (2) of the Regulation of the Minister of Manpower and Transmigration No. Per.08/MEN/VII/2010 concerning Personal Protective Equipment states that "workers or workers have the right to object to doing work if the PPE provided does not meet the terms and conditions".

The legal protection is as regulated in Article 2 of the Regulation of the Minister of Manpower and Transmigration No. Per.08/MEN/VII/2010 concerning Personal Protection Equipment, namely "Employers are required to provide PPE for workers and must comply with the Indonesian National Standard (SNI) or applicable standards. Article 16 of the Indonesian Medical Code of Ethics requires doctors to always maintain their health, so that they can work well by regulating the workload and time. In fact, these regulations are difficult for doctors to apply because they often face legal obligations that they cannot avoid when carrying out their profession. For example, a doctor receives an emergency call outside of working hours (a legal obligation under Article 531 and Article 304 of the Criminal Code). In response to this, of course, a policy from health

facilities is needed to regulate the workload and work time for doctors so that they remain proportional during the critical period of the Covid 19 pandemic.

Doctors in carrying out their profession must always comply with medical standards consisting of medical science and experience in the medical field, which are guidelines that must always be adhered to in dealing with the Covid 19 pandemic to provide the best service and obtain legal protection. This is confirmed in Article 50 letter (a) of Law Number 29 of 2004 concerning Medical Practice which states that, "Doctors or Dentists in carrying out medical practice have the right to obtain legal protection as long as they carry out their duties in accordance with professional standards and standard operating procedures." (Siringoringo et al., 2017). The Covid-19 pandemic is part of the wisdom for the medical profession to be disciplined in complying with standards in carrying out their profession. Of course, efforts to enforce this professional discipline must also be supported by the government, the private sector, and the community. The form of this support, for example, is to provide adequate health facilities and infrastructure for doctors, including by creating a conducive working environment.

In carrying out his profession, doctors must consider means of effort that are comparable or proportionate to the concrete goals of the medical action or action. That is, in carrying out medical actions to patients, maximum efforts are required from doctors in accordance with scientific standards and experience in the medical field. Regarding the Covid-19 pandemic, a doctor cannot guarantee the success of his medical actions when dealing with patients. As long as the doctor has tried his best according to the size, then the medical action cannot be blamed (Nurhalimah, 2020) This is due to several factors that have the potential to cause failure in medical action, including medical risks, medical accidents, and contributory negligence from the patient. This is in line with research conducted by (Victoria & Bunprakop, 2020) which states that When treating patients, doctors cannot promise a specific level of success. If the doctor has done everything in his or her power (based on medical research and expertise) to avoid the adverse outcome, then the medical intervention cannot be held responsible. This is because of the many sources of potential medical treatment failures.

Regarding the Covid-19 pandemic, the functions of research, education and documentation of medical records are very prominent. In dealing with Covid-19 patients, doctors must write completely and immediately in the medical record, the procedures for handling Covid-19 patients that have been carried out (examinations, treatment, actions, and other services that have been provided to Covid-19 patients). Regarding the handling of Covid-19 patients, the contents of the medical record are important documentation as an object of research and development of medical science as well as a reference or learning material for the medical profession. (Lorkowski & Jugowicz, 2020) in their research stated that in light of the ongoing COVID-19 pandemic, introducing electronic health records could be very beneficial in terms of better coordination between hospitals.

Conclusions

Doctors are a profession that is at the forefront of dealing directly with Covid-19. In conditions like this, doctors sometimes become victims/died in order to protect the public from the spread of the Covid-19 pandemic. Law Number 36 of 2009 concerning Health Article 83 paragraph 2 states that the government guarantees legal protection for everyone according to their abilities. The importance of fulfilling the rights of doctors to be able to work according to medical standards. In the critical condition of the Covid-19 pandemic as it is today, the availability of PPE for doctors is one of the essential elements that must be met so that doctors can work in accordance with medical standards in order to fulfill the element of safety for doctors. In civil law, the relationship between doctors and patients states that doctors in carrying out medical practice have the right to obtain complete, honest and clear information from patients or their families. Of course this is intended to prevent transmission of Covid disease from patients to doctors themselves. The pattern of communication between doctors and patients must also be improved. The majority of medical disputes are caused by misaligned communication between doctors and patients. If the information provided is not clear, honest and complete, and it is intentional so that the disease can be transmitted to health workers, then this can lead to a crime. Articles 351-355 of the Criminal Code which are included in criminal acts of persecution or crimes that endanger public safety for people. This provision applies if the patient or person intentionally transmits the disease to other people.

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