

Legal Protection of Health Workers from a Criminal Law Perspective during the Health Crisis in Indonesia

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Abstract

This study aims to analyze the legal protection of health workers in Indonesia, particularly in light of the enactment of Law No. 17 of 2023 concerning Health. Using a normative juridical approach with statutory and conceptual analyses, the research examines the extent to which existing legal frameworks uphold the principles of legal certainty, due process, and the protection of human rights in the health sector. Legal materials include primary (laws and regulations), secondary (legal literature and expert opinions), and tertiary sources (legal dictionaries and encyclopedias). The findings indicate that Law No. 17 of 2023 offers significant normative progress by explicitly mandating state responsibility for the welfare, safety, and professional development of health workers. It encompasses both preventive and repressive legal protections, aligning with Philipus M. Hadjon's theory of legal protection. However, practical implementation remains uneven, particularly during health crises such as the COVID-19 pandemic, where health workers experienced verbal abuse, legal threats, and inadequate support. The research concludes that while the legal substance has been improved, the effectiveness of protection depends on concrete implementation mechanisms, such as detailed regulations, supervisory systems, reporting mechanisms, and institutional support at local levels. It recommends the issuance of derivative regulations granting limited legal immunity in emergencies, establishment of legal aid units in health facilities, legal literacy training for health professionals, and a stronger culture of state and societal protection. These steps are essential to ensure that health workers can fulfill their roles safely and ethically, especially during increasingly complex public health emergencies.

Keywords: Legal Protection; Health Workers; Health Crisis; Criminal Law

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1. Introduction

Health crises, whether caused by pandemics, outbreaks, or other health disasters, have posed a major challenge to health systems throughout Indonesia¹. Health workers, as the frontline in facing this crisis, play an important role in saving lives and controlling the spread of diseases². However, health workers often face risks both physically, psychologically, and legally, in carrying out their duties³. Therefore, legal protection for health workers is an increasingly important issue to be discussed and researched,

¹ Ilham Akhsanu Ridlo, "Pandemi Covid-19 Dan Tantangan Kebijakan Kesehatan Mental Di Indonesia," *INSAN Jurnal Psikologi Dan Kesehatan Mental* 5, no. 2 (2020): 162–71.

² Erwin Purwaningsih, "Kebijakan Terkait Krisis Kesehatan: Analisa Kebutuhan Tenaga Kesehatan Selama Pandemi Covid-19 Di Indonesia," *Jurnal Kebijakan Kesehatan Indonesia: JKKI* 12, no. 02 (2023): 67.

³ Aziz Yogo Hanggoro et al., "Dampak Psikologis Pandemi Covid-19 Pada Tenaga Kesehatan: A Studi Cross-Sectional Di Kota Pontianak," *Jurnal Kesehatan Masyarakat Indonesia* 15, no. 2 (2020): 13–18.

so that the rights of health workers are protected while carrying out their duties during the health crisis⁴.

In Indonesia, although health workers have a very important role, health workers are often exposed to high risks, such as infectious disease infections, psychological stress, and potential lawsuits related to the medical actions they perform⁵. Moreover, in situations of deep health crisis, such as during the COVID-19 pandemic, health workers have to work with very heavy loads, without sufficient protection both in terms of regulations and adequate facilities^{6,7}. This situation requires more comprehensive legal protection, both in the form of preventive and repressive protection, to ensure the safety and welfare of health workers in the field. There are several cases of cruelty to health workers during a health crisis that can have an impact on the physical and psychological health workers. This situation is clearly illustrated by several cases of violence experienced by health workers during health crises, which impact not only their physical condition but also their psychological well-being. Some examples of these violent incidents are summarized in Table 1 below as concrete illustrations of the challenges they face in the field.

Table 1.

Cases of violent behavior against health workers during health crisis

No	Case	Chronology
1.	Beating of nurses	The case occurred at the Pameungpeuk Health Center, Garut, West Java, where a nurse was beaten by the patient's family because she was considered slow in providing services due to the procedure for wearing personal protective equipment (PPE) ⁸ .
2.	Nurse of Corona patient expelled from boarding house	At the beginning of the COVID-19 pandemic, a nurse at the Friendship Hospital, Jakarta, experienced discrimination after being found to work at a referral hospital for COVID-19 patients. He was asked to leave his boarding

⁴ Dewa Gede Sudika Mangku et al., "Legal Protection of Medical Personnel during the COVID-19 Pandemic in Indonesia," *International Journal of Health Sciences* 6, no. 2 (2022): 709–18.

⁵ Hanggoro et al., "Dampak Psikologis Pandemi Covid-19 Pada Tenaga Kesehatan: A Studi Cross-Sectional Di Kota Pontianak."

⁶ Jauhari, "Strategies for Preventing Disease Transmission at Early Childhood Education Institutions," *International Journal of Emerging Issues in Early Childhood Education* 2, no. 1 (2020): 18–29, <https://doi.org/10.31098/ijeiece.v2i1.203>.

⁷ Mangku et al., "Legal Protection of Medical Personnel during the COVID-19 Pandemic in Indonesia."

⁸ Irwan Syambudi, "Kekerasan Pada Nakes Yang Terus Berulang Saat Pandemi COVID-19," 2021, <https://doi.org/diakses tanggal 12 April 2025>.

		house because he was considered a carrier of the virus by the surrounding environment. As a result, the nurse was forced to stay temporarily in the hospital ⁹
3.	Doctor beaten by patient's family	A doctor participating in an internship program at Lebong Hospital, Bengkulu, was beaten by the Chairman of the Lebong Regional People's Representative (DPRD) after a misunderstanding occurred in communication during the handling of pediatric patients in the emergency department ¹⁰
4.	Nurse slapped by patient's family	A functional nurse named with the initials DK, who served as a nurse during the pandemic at the Cikajang Health Center, Garut, experienced physical violence by family members of the deceased patient after refusing to be referred to the hospital for further examination. This incident occurred after the patient was declared dead, and the deceased's child suddenly slapped the nurse ¹¹

(Source: tirta.id, 2021, Detiknews, 2020, Sehat Negeriku, 2017, Harian Garutnews, 2021)

This incident reflects the weak legal protections for healthcare workers and highlights the urgent need for stronger regulations to protect healthcare workers during the health crisis.

In this case, the law in Indonesia provides several bases for protection through laws, such as Law No. 29 of 2004 concerning Medical Practice, Law No. of the Law of the Republic of Indonesia. Number 38 of 2014. Regarding Nursing and Law No. 36 of 2009 which later became Health Law No. 17 of 2023 concerning health, but implementation in the field still often encounters obstacles¹². In addition, arrangements on the protection of the rights of health workers in the face of emergency situations also require more attention, including how the state provides support in terms of health

⁹ Audrey Santoso, "Perawat Pasien Corona Diusir Dari Kos Dan Terpaksa Tinggal Di RS Persahabatan," Detiknews, 2020, <https://doi.org/diakses> tanggal 12 april 2025.

¹⁰ Oscar Primadi, "Ini Sikap Kemenkes Atas Pemukulan Terhadap Dokter," 2017.

¹¹ Harian garut news, "Terulang Lagi, Kali Ini Nakes Di Puskesmas Cikajang Garut Dianiaya Keluarga Pasien," harian garut news, 2021, <https://doi.org/dikaes> tanggal 11 April 2025.

¹² Mangku et al., "Legal Protection of Medical Personnel during the COVID-19 Pandemic in Indonesia."

insurance, incentives, and legal protection against potential violence and discrimination that may occur during times of crisis¹³.

This study offers a novel contribution by comprehensively examining the legal protection of health workers in Indonesia within a broader health crisis context, not limited solely to the COVID-19 pandemic. Unlike previous studies that primarily focus on legal protections for health workers during the COVID-19 pandemic, such as those by Firdaus, Hanifah, Harahap, and Helmi, this research expands the scope by analyzing policies, implementation challenges, and recommendations to strengthen the legal protection system for health workers in various crisis situations, including disasters and emergencies^{14,15,16,17}. Moreover, this study employs a normative juridical approach that integrates an analysis of the most recent regulations, such as Law No. 17 of 2023 on Health and its implementing regulations, thus providing a more up-to-date and relevant review for policy formulation in Indonesia.

This study aims to examine more deeply the legal protection for health workers in Indonesia, especially in the context of the health crisis, focusing on existing policies, challenges faced, and recommendations to strengthen this legal protection system in the future. The results of this study are expected to provide insights and concrete solutions to ensure that health workers receive adequate protection in every health crisis they face, be it disasters, emergencies or in other health crisis situations.

2. Research Method

This research was conducted with a normative juridical approach with a Statute Approach and a Conceptual Approach. The Statute Approach is carried out by examining Law Number 17 of 2023 concerning Health, while the Conceptual Approach uses a conceptual approach to understand the principles and legal theories that underlie the importance of legal protection for health workers. Concepts such as *rechtstaat* (state of law), due process of law, and human rights in the health sector are the basis for arguments in analyzing the applicable legal provisions. The sources of legal materials used are primary, secondary and tertiary legal sources. Primary Legal

¹³ Rommy Hardyansah et al., "Labor Rights: Legal Protection and Social Justice Aspects in Indonesia," *Widya Yuridika*, 2024, <https://doi.org/10.31328/wy.v7i3.5218>.

¹⁴ S U Firdaus, "The Urgency of Legal Protection for Medical Workers in Combating COVID-19 in Indonesia," *International Journal of Human Rights in Healthcare* 17, no. 1 (2024): 66–74, <https://doi.org/10.1108/IJHRH-09-2021-0171>.

¹⁵ Rachmah Ubat Harahap, Siti Nurhayati, and Bambang Fitrianto, "Legal Protection Analysis for Doctors and Patients Regarding Alleged Diagnosis Errors in Telemedicine Healthcare Services in Indonesia," *International Journal of Research and Review* 11, no. 2 (2024): 411–19, <https://doi.org/10.52403/ijrr.20240244>.

¹⁶ M Helmi, "Care and Protection for Healthcare Workers during a COVID-19: A Descriptive Qualitative Study in Indonesia," *International Journal of Public Health Science* 11, no. 4 (2022): 1474–81, <https://doi.org/10.11591/ijphs.v11i4.21771>.

¹⁷ I Hanifah, "Legal Protection Against Pays of Workers Returned During the Covid-19 Pandemic Period in Indonesia," *Revista de Gestao Social e Ambiental* 17, no. 6 (2023), <https://doi.org/10.24857/rgsa.v17n6-021>.

Materials are relevant national laws and regulations. Secondary Legal Materials: legal literature, scientific journal articles, research results, and opinions of legal experts who support the analysis of primary legal materials. Tertiary Legal Materials: legal encyclopedias, legal dictionaries, and other supporting documents that help navigate primary and secondary legal materials. The analysis is carried out in a descriptive-analytical manner, namely describing the applicable legal provisions and assessing their suitability with the principles of legal protection and practical needs in the field. This study also examines the normative gap (legal gap) that occurs between legal norms and the practice of protecting health workers during the health crisis.

3. Research Results and Discussion

3.1. Legal protection for health workers in Law No. 17 of 2023 concerning Health

Legal protection for health workers has received an important strengthening in Law No. 17 of 2023 concerning Health, which replaces Law No. 36 of 2009 and Law No. 36 of 2014 with an omnibus law approach to create a more integrated and systematic health law framework¹⁸. In its articles, Law No. 17 of 2023 emphasizes that medical personnel and health workers are included in health human resources that must be protected by the state, both in terms of welfare, job security, and competency development (Article 12 letters a–d). In addition, the central and local governments are explicitly responsible for protecting, coaching, and improving the quality of health workers in the context of national health implementation (Articles 6–7). Unfortunately, despite formal recognition, various studies have found that legal protection is still not effective practically, among other things due to technical unclarity of implementation, weak supervision, and uneven protection between professions and work areas^{19,20}. Especially during health crises such as the COVID-19 pandemic, many health workers are victims of verbal and physical violence^{21,22}, experiencing psychological distress²³ and even lost access to housing or basic economic

¹⁸ Selvi Relita Fitri and Zainal Arifin Hoesein, “Urgensi Pembaharuan Hukum Dalam Perlindungan Tenaga Kesehatan Sebagai Tinjauan Terhadap Undang-Undang Nomor 17 Tahun 2023,” *Jurnal Retentum*, 2025, 169–87.

¹⁹ Dyah Tri Handini, “Konsep Perlindungan Hukum Bagi Tenaga Medis Dalam Penanganan Covid 19,” *Jurnal Hukum Dan Pembangunan Ekonomi* 9, no. 1 (2021): 52–64.

²⁰ Mangku et al., “Legal Protection of Medical Personnel during the COVID-19 Pandemic in Indonesia.”

²¹ Joyce Hestia Nugrahanti et al., “Kekerasan Verbal Dari Pasien Terhadap Tenaga Kesehatan: Bagaimana Menyikapinya?,” *Jurnal Kertha Semaya*, 12, no. 11 (2024): 3047–81.

²² J Wiwoho, “Legal Protection of Health Care Workers Regarding Workplace Violence During Pandemic COVID-19,” *Journal of Law and Legal Reform* 4, no. 1 (2023): 63–78, <https://doi.org/10.15294/jllr.v4i1.61842>.

²³ Hanggoro et al., “Dampak Psikologis Pandemi Covid-19 Pada Tenaga Kesehatan: A Studi Cross-Sectional Di Kota Pontianak.”

rights^{24,25}. This indicates that the legal substance in Law No. 17 of 2023 needs to be followed up with more detailed implementing regulations and strong supervisory mechanisms to ensure a sense of security and justice for health workers as mandated by article 3 letter h concerning legal certainty for health human resources.

Legal protection for health workers in Law No. 17 of 2023 concerning Health is very important to ensure that they can carry out their duties safely and without fear of threats or abuse of authority. In this context, the theory of legal protection put forward by Philipus M. Hadjon, which divides legal protection into two aspects, namely preventive legal protection and repressive legal protection, is very relevant. Preventive legal protection can be seen in the efforts of Law No. 17 of 2023 which provides guarantees protection for the rights of health workers through clear regulations regarding their duties and obligations, as well as the right to a safe work environment. Meanwhile, repressive legal protection is presented through strict sanctions for parties who commit violations against health workers. In this context, the law is in line with Hadjon's view which emphasizes the importance of two layers of protection to ensure that health workers are not only avoided from legal risks, but also provided with the means to obtain justice in resolving disputes or losses arising from their profession ²⁶. This shows that the protection of health workers in this law covers both aspects mentioned by Hadjon, thus providing a solid foundation for preventive and repressive efforts in protecting health workers in Indonesia

Preventive legal protection for health workers in Law No. 17 of 2023 concerning Health is not only normative, but also requires cross-sector synchronization and active involvement of professional organizations for its effective implementation. Some of the positive legal provisions underlying this protection are listed in Law No. 17 of 2023 concerning Health itself, which regulates the rights of health workers to a safe working environment and protection from health risks, as well as the provision of professional guidance for competent health workers. In addition, Law No. 11 of 2020 concerning Job Creation, which regulates the protection of workers in various sectors, including the health sector, guarantees the rights of health workers to obtain fair wages, reasonable working hours, and Occupational Health and Safety protection. Government Regulation No. 50 of 2012 concerning Occupational Health and Safety Management System regulates the obligations of employers in providing a safe working environment and the necessary protective facilities. Similarly, the

²⁴ R Alkadri, "Health Workers Protection on Incentive and Compensation Decision during the Outbreak of CoviD-19 in Indonesia," *AIP Conference Proceedings*, 2022, <https://doi.org/10.1063/5.0104122>.

²⁵ Hanifah, "Legal Protection Against Pays of Workers Returned During the Covid-19 Pandemic Period in Indonesia."

²⁶ Hadjon M Philipus, Sri Soemantri Martosoewignjo, and Sjachra Basah, "Pengantar Hukum Administrasi Indonesia," *Yogyakarta: Gadjah Mada University Press, Yogyakarta*, 1994.

Regulation of the Minister of Health No. 75 of 2014 concerning Puskesmas and the Regulation of the Minister of Health No. 56 of 2014 concerning Health Service Standards, respectively regulate the provision of a safe working environment and the recognition of the competence of health workers in medical services. The active involvement of professional organizations such as the Indonesian Doctors Association (IDI) and the Indonesian National Nurses Association (PPNI) is also key to ensuring that this protection runs well. Therefore, although Law No. 17 of 2023 has regulated the rights of health workers, the implementation of its protection requires cross-sector cooperation and active participation from professional organizations to create a safe and conducive work environment for health workers in Indonesia. The articles in Law No. 17 of 2023 have indeed contained the right to a safe work environment, protection from health risks, and recognition of competence and profession (Article 4 paragraph 1 letter k; Article 12 letter d). However, various findings show that there are still implementation inequalities in the field. Lack of legal support when medical personnel face lawsuits for alleged malpractice or when they are victims of violence in service^{27,28}. In fact, in the case of pandemics, health workers are often ignored because the urgency of handling the crisis is considered a priority over individual protection^{29,30}. Therefore, strengthening the reporting system for violent incidents, continuous psychosocial support, and the establishment of health worker protection units in each region are concrete steps that must be realized immediately so that the principle of "protection and safety" as stated in Article 2 letter g of this law is really applied substantively, not just normatively.

Table 2
Legal protection aspects of health workers

No	Legal Protection Aspects	Types of Efforts	Laws and Regulations	Related Articles	Example of Conditions/Implementation
1	Practice License for Health Workers	Preventive	Law No. 17 of 2023 concerning Health	Article 260 Paragraph (1) and Article 263 Paragraph (1 & 2)	Health workers are required to have STR and SIP as legal requirements for practice

²⁷ Harahap, Nurhayati, and Fitrianto, "Legal Protection Analysis for Doctors and Patients Regarding Alleged Diagnosis Errors in Telemedicine Healthcare Services in Indonesia."

²⁸ Helmi, "Care and Protection for Healthcare Workers during a COVID-19: A Descriptive Qualitative Study in Indonesia."

²⁹ Firdaus, "The Urgency of Legal Protection for Medical Workers in Combating COVID-19 in Indonesia."

³⁰ Handini, "Konsep Perlindungan Hukum Bagi Tenaga Medis Dalam Penanganan Covid 19."

			Government Regulation No. 28 of 2024 concerning the implementation regulations of Law No. 17 of 2023 concerning health	Article 677 Paragraph (1) and Article 681 Paragraph (1)	
2	Professional Obligations and Code of Ethics	Preventif	Law No. 17 of 2023 concerning Health	Article 274	Health workers are required to comply with professional standards and codes of ethics
			Government Regulation No. 28 of 2024 concerning the implementation regulations of Law No. 17 of 2023 concerning health	Article 735 Paragraph (1a)	
3	Patient Safety System	Preventive	Minister of Health Regulation No. 11 of 2017 concerning Patient Safety	Articles 3 to 7	Patient safety incident reporting and internal reporting system
4	Liability Insurance	Preventive	Law No. 17 of 2023 concerning Health	Article 273	Health workers can get legal protection when carrying out their duties

Secondary data source (2025)

Furthermore, the urgency of legal protection for health workers cannot be separated from the context of employment and human rights^{31,32}. Health workers have equal rights to workers in other sectors as stipulated in the Labor Law and reaffirmed in Law No. 17 of 2023, including the right to fair treatment, decent wages, and job safety guarantees. Unfortunately, in health emergency situations, violations of these rights often occur, both in the form of neglect of

³¹ Karmino Irwanto and Richard Kennedy, "Pembaharuan Hukum Praktik Kedokteran Dalam Upaya Pelayanan Kesehatan Berkeadilan," . . *Jurnal Ilmiah Dunia Hukum* 5, no. 1 (2020): 1–17.

³² Muhmmad Zainuddin and Siti Nur Umariyah Febriyanti, "Perlindungan Hukum Terhadap Relawan Uji Klinis Vaksin Covid-19," *Jurnal Ilmiah Dunia Hukum* 5, no. April (2021): 134, <https://doi.org/10.35973/jidh.v0i0.2004>.

work safety, delay in incentives, and verbal and physical violence that is not taken seriously^{33,34}. In fact, some health workers who carry out their duties in remote areas or limited facilities do not receive maximum protection, both from a legal and administrative perspective^{35,36}. In fact, Article 10 of Law No. 17 of 2023 requires the government to ensure a fair and equitable distribution of health resources. This situation shows the importance of strengthening the implementation of legal norms through multisectoral collaboration, institutional reform of health workers' supervision, and policy alignment that explicitly protects their basic rights under any circumstances, including crises.

3.2. Protection of health workers in the event of medical measures carried out during a health crisis

In a health crisis situation such as a pandemic, health workers are in a very vulnerable position both physically, psychologically, and legally. They are required to make quick decisions and perform medical measures in limited conditions, including limited medical information, facilities, and extreme workloads. In this condition, the potential for medical errors or procedural inconsistencies is very high. However, legal protection for health workers in carrying out medical measures during a health crisis is still not optimal. The study states that many medical personnel face legal uncertainty when it comes to treating patients in emergencies, even though they have acted in accordance with the ethical standards and procedures available at the time³⁷. Law No. 17 of 2023 does state the importance of protection and safety (Article 2 letter g) and provides guarantees for the safety of medical personnel (Article 12 letter d), but it has not expressly regulated special protection for medical procedures in crisis or emergency situations. In fact, according to errors in diagnosis or therapy in the context of emergency services, including through telemedicine, can lead to lawsuits against health workers, even though the situation is not ideal clinically or systemically³⁸. Therefore, there needs to be an explicit legal norm that distinguishes the assessment of medical actions under normal and crisis conditions, as well as providing a fair administrative protection and litigation

³³ Hardyansah et al., "Labor Rights: Legal Protection and Social Justice Aspects in Indonesia."

³⁴ Rizka, "Legal Protection for Doctors' Work Safety in Handling Covid-19 Cases Reviewed Based on Saddu Al-Dzari'ah," *Legality: Jurnal Ilmiah Hukum* 30, no. 2 (2022): 228–42, <https://doi.org/10.22219/ljih.v30i2.22259>.

³⁵ Helmi, "Care and Protection for Healthcare Workers during a COVID-19: A Descriptive Qualitative Study in Indonesia."

³⁶ A Nugroho, "The Impact of Labor Law Reform on Indonesian Workers: A Comparative Study After the Job Creation Law," *Lex Scientia Law Review* 8, no. 1 (2024): 65–106, <https://doi.org/10.15294/LSLR.V8I1.14064>.

³⁷ Mangku et al., "Legal Protection of Medical Personnel during the COVID-19 Pandemic in Indonesia."

³⁸ Harahap, Nurhayati, and Fitrianto, "Legal Protection Analysis for Doctors and Patients Regarding Alleged Diagnosis Errors in Telemedicine Healthcare Services in Indonesia."

mechanism for health workers working in extraordinary situations^{39,40}. This mechanism is important to avoid criminalizing the health profession that has contributed to saving lives in high-risk and stressful conditions.

Table 3
Curative and preventive aspects of refugion

No.	Regulation Aspects	Types of Efforts	Article Provisions	Examples of Laws and Regulations	Brief Description
1	Medical procedure in an emergency (without consent)	Curative	Article 293 paragraph (9)	Law No. 17 of 2023 concerning health	Doctors can perform actions without consent in an emergency to save lives
2	Legal immunity in emergency measures	Curative	Article 275 Paragraph (2)	Law No. 17 of 2023 concerning health	Health workers cannot be legally prosecuted if they carry out their duties according to standards in an emergency
3	Right to protection in disasters	Preventif dan Kuratif	Article 393 Paragraph (1)	Law No. 17 of 2023 concerning health	Every officer (including health workers) has the right to protection, health, and safety guarantees in duty during a disaster
4	Disaster emergency health service protocols	Preventive and Curative	Regulation of the Minister of Health of the Republic of Indonesia No. 75 of 2019	Minister of Health Regulation No. 75 of 2019 concerning Health Crisis Management	Establish operational procedures and responsibilities of health workers during disasters to ensure the safety of all parties
5	Protection in	Curative	Government	Government	Providing a legal

³⁹ Firdaus, "The Urgency of Legal Protection for Medical Workers in Combating COVID-19 in Indonesia."

⁴⁰ Handini, "Konsep Perlindungan Hukum Bagi Tenaga Medis Dalam Penanganan Covid 19."

	the context of a global pandemic (e.g. COVID-19)		Regulation No. 21 of 2020 and Permenkes No. 9 of 2020	Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions, and Regulation of the Minister of Health No. 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the context of accelerating the handling of Covid-19	basis for the actions of health workers during the pandemic including Large-Scale Social Restrictions
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Secondary data source (2025)

In addition to the risk of lawsuits, health workers are also often faced with ethical dilemmas in making medical decisions during health crises⁴¹. In the context of the COVID-19 pandemic, for example, healthcare workers often have to choose medical measures that impact service priorities, including who gets ventilators or intensive care first when resources are limited.⁴² This situation raises a conflict between the principles of justice, patient safety, and legal protection of health workers as decision-makers⁴³. states that even within the framework of Islamic law, the decision of medical personnel in emergency situations must be seen in the principle of saddu al-dzari'ah or prevention of greater danger, so that legally and morally they should not necessarily be burdened with criminal responsibility if undesirable consequences occur. Thus, it is important for the national legal system to adopt an objective condition-based protection framework on the ground, where medical measures during a health crisis are not assessed ex post facto by the standards of normal situations.

Furthermore, the protection of health workers in emergency medical measures must also be extended to the administrative realm and institutional support. A number of studies emphasize that the absence of a secure internal reporting system and professional advocacy framework often causes health workers to be

⁴¹ Mangku et al., "Legal Protection of Medical Personnel during the COVID-19 Pandemic in Indonesia."

⁴² Adhi Putra Satria, "Peran Pemerintah Dalam Pengelolaan Limbah Medis Pada Apotek Dan Praktik Bidan Mandiri," *Law, Development and Justice Review* 3, no. 1 (2020), <https://doi.org/10.14710/ldjr.v3i1.7626>.

⁴³ Rizka, "Legal Protection for Doctors' Work Safety in Handling Covid-19 Cases Reviewed Based on Saddu Al-Dzari'ah."

reluctant to report the pressures or obstacles experienced in the process of taking medical action^{44,45}. In fact, this reporting system can be an initial mechanism to avoid criminalization or unilateral lawsuits from the patient or the patient's family.⁴⁶ Law No. 17 of 2023 itself does not specifically regulate protection for the clinical decision-making process in emergencies, so it is necessary to prepare derivative regulations that regulate limited legal immunity for health workers while carrying out their duties in a health crisis, as long as the actions taken meet the principles of prudence, professionalism, and procedures available at that time. This is in line with which emphasizes the importance of providing incentives and guarantees of legal protection as part of comprehensive protection for the health profession in the face of pandemics and similar crises in the future⁴⁷.

To complement the discussion on the protection of health workers in medical actions during a health crisis, Government Regulation Number 28 of 2024 as an implementing regulation of Law No. 17 of 2023 provides an important strengthening of the operational aspects of legal protection. The articles in this government regulation clarify the role and responsibility of medical personnel and the authority of health workers in carrying out medical measures, including in emergency conditions or Extraordinary Events (Outbreaks). In Chapter I Article 1 number 29, this government regulation explicitly defines "emergency" as a condition that requires immediate medical action to save life or prevent disability. This is a normative basis that can be used to defend health workers if they face lawsuits due to quick actions taken under limited conditions.

Furthermore, Government Regulation No. 28 of 2024 also stipulates that all forms of health services, including in crisis situations, must be carried out by medical personnel and health workers in accordance with their competence and authority (Article 12 paragraphs 1-2). In emergency contexts, such as pandemics or outbreaks, health workers who make clinical decisions based on crisis management expertise and protocols should not be criminalized as long as the actions are carried out in good faith and follow the standards in force at the time. This is in line with the opinion who stated the importance of limited legal immunity as a form of legal protection for professional medical actions in emergency situations. Thus, this government regulation not only provides an

⁴⁴ Helmi, "Care and Protection for Healthcare Workers during a COVID-19: A Descriptive Qualitative Study in Indonesia."

⁴⁵ Wiwoho, "Legal Protection of Health Care Workers Regarding Workplace Violence During Pandemic COVID-19."

⁴⁶ Arista Candra Irawati et al., "An Analysis of the Implementation of Diversion in Efforts to Settle Medical Disputes in Indonesia," *Indian Journal of Forensic Medicine & Toxicology* 15, no. 4 (2021), <https://doi.org/10.37506/ijfnt.v15i4.17180>.

⁴⁷ M Aziz, "Providing Incentive Guarantees and Privileges for Health Services in the Implementation of Legal Protection for Health Workers During the Covid-19 Pandemic," *De Jure: Jurnal Hukum Dan Syar'iah* 14, no. 1 (2022): 111–24, <https://doi.org/10.18860/j-fsh.v14i1.15280>.

administrative basis, but also emphasizes the limits of responsibility and protection for health workers, as well as encourages the establishment of a legal emergency response system for future health crises^{48,49}

4. Closing

4.1. Conclusions

This study highlights that health workers are frontline defenders playing a crucial role in managing various health crises in Indonesia, yet they frequently face high physical, psychological, and legal risks. Law No. 17 of 2023 on Health provides significant legal protection by regulating the rights, obligations, and guarantees of protection for health workers, both preventive and repressive in nature. However, the practical implementation of these protections still encounters challenges such as technical ambiguities, weak supervision, and unequal protection across professions and regions. Moreover, Law No. 17 of 2023 requires detailed implementing regulations to ensure effective legal protection for health workers performing medical actions during crises and emergencies. The establishment of incident reporting mechanisms, ongoing psychosocial support, and dedicated protection units at the regional level is crucial. Comprehensive legal protection must also address labor and human rights contexts to secure the safety and welfare of health workers substantively. Finally, strengthening cross-sectoral synergy and active involvement of professional organizations is essential to create a safe and supportive work environment, allowing health workers to perform their duties without fear of criminalization or discrimination, especially amid increasingly complex health crises in the future.

4.2. Suggestions

As a follow-up step to strengthen legal protections for health workers in health crisis situations, several important things need to be advised. First, the government needs to immediately draft derivative regulations from Law No. 17 of 2023 and Government Regulation No. 28 of 2024 which specifically regulate the legal protection mechanism for health workers who perform medical actions in an emergency, including the provision of limited legal immunity based on the principles of prudence and professionalism. Second, it is necessary to establish a special legal aid unit in each health facility or through professional organizations that can provide legal assistance quickly and comprehensively when there is an alleged violation of the law against health workers. Third, it is necessary to conduct periodic training for health workers on legal aspects in medical practice, especially in the context of a crisis, so that health workers have an adequate

⁴⁸ Firdaus, "The Urgency of Legal Protection for Medical Workers in Combating COVID-19 in Indonesia."

⁴⁹ Mangku et al., "Legal Protection of Medical Personnel during the COVID-19 Pandemic in Indonesia."

understanding of the legal rights and obligations inherent in their profession. Finally, it is important for the state and society to build a culture of appreciation and protection for health workers, including by strengthening the violence reporting system and ensuring the safety and welfare of health workers as the front line in protecting public health.

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