

De Jure: Jurnal Hukum dan Syar'iah

Vol. 14, No. 1, 2022, h. 111-124

ISSN (Print): 2085-1618, ISSN (Online): 2528-1658

DOI: <http://dx.doi.org/10.18860/j-fsh.v14i1.15280>

Available online at <http://ejournal.uin-malang.ac.id/index.php/syariah>

Providing Incentive Guarantees and Privileges for Health Services in the Implementation of Legal Protection for Health Workers During the Covid-19 Pandemic

Muhammad Aziz

Institut Agama Islam Al-Hikmah Tuban

azizindil@gmail.com

Maftuh

Institut Keislaman Abdullah Faqih Manyar Gresik

maftuh@gmail.com

Bayu Mujrimin

STAI Ibnu Sina Batam, Indonesia

bayumujrimin@gmail.com

Moh. Agus Sifa'

Institut Agama Islam Al-Hikmah Tuban

agusagus58@gmail.com

Sandro Wahyu Permadi

University of Brawijaya Malang

sandrowahyu3@gmail.com

Abstract:

The research aims to explain the implementation of legal protection for health workers in Indonesia during the COVID-19 pandemic. Health workers are people who are engaged in the health sector to provide assistance to people who need healing of physical conditions. Indonesia is being hit by the Covid-19 outbreak which has killed many health workers in their work. At the same time, health workers are intimidated by people who are worried about the spread of the virus to their homes, so that health workers become victims of bullying by the community. The research method used is normative juridical with analytical prescriptive research specifications and is carried out with an analytical approach, a law approach, a literature approach, a concept approach, equipped with primary, secondary, and tertiary legal materials as data fulfillment in this study. This research concludes that the implementation of the protection of health workers in Indonesia is carried out through a policy of providing high incentive guarantees, privileges in health services, and special family insurance for health workers. Such a model for implementing the protection of health workers needs to be given, in order to guarantee legal

protection and human rights in their duties to provide assistance to humanity and the safety of the nation in the context of treating and preventing the Covid-19 virus outbreak.

Keywords: covid-19; worker; health.

Abstrak:

Riset bertujuan untuk menjelaskan pelaksanaan perlindungan hukum bagi tenaga Kesehatan di Indonesia selama pandemic covid-19. Tenaga kesehatan adalah orang yang bergerak di bidang kesehatan untuk memberikan bantuan kepada masyarakat yang membutuhkan penyembuhan kondisi fisik. Indonesia sedang dilanda wabah Covid-19 yang telah menewaskan banyak tenaga kesehatan dalam pekerjaannya. Pada saat yang sama, petugas kesehatan diintimidasi oleh orang yang khawatir terhadap penyebaran virus ke tempat tinggalnya, sehingga petugas kesehatan menjadi korban *bullying* oleh masyarakat. Metode penelitian yang digunakan adalah yuridis normatif dengan spesifikasi penelitian preskriptif analitis dan dilakukan dengan pendekatan analitik, pendekatan undang-undang, pendekatan literatur, pendekatan konsep, dilengkapi dengan bahan hukum primer, sekunder, dan tersier sebagai pemenuhan data dalam penelitian ini. Riset ini menyimpulkan, bahwa pelaksanaan perlindungan tenaga kesehatan di Indonesia dijalankan melalui sebuah kebijakan pemberian jaminan insentif yang tinggi, pengistimewaan dalam layanan kesehatan (dosis vaksis khusus), dan jaminan keluarga tenaga kesehatan yang istimewa (santuan kematian). Pelaksanaan perlindungan tenaga kesehatan semacam itu perlu diberikan, dalam rangka mendapatkan jaminan perlindungan hukum dan hak asasi manusia dalam tugasnya memberikan bantuan bagi kemanusiaan dan keselamatan bangsa dalam rangka pengobatan dan pencegahan wabah virus Covid-19.

Kata kunci: covid-19; pekerja; Kesehatan.

Introduction

The role of health workers in Indonesia is very beneficial for a number of people, because health is the most important need in life, both physically and spiritually. Health is an important means for humans to be able to move freely and have the right to a decent life¹. In addition to health is a need for every human being as well as an equally fundamental right in health services for all humans in order to fulfill the rights of a decent life for him². Health services themselves have been regulated in Article 4 of Law Number 36 of 2009 concerning health (Law No. 36 of 2009 concerning Health) which states that everyone has the right to health³, the discussion on article The above can be interpreted that all humans have the right to live healthy by getting attention to their bodies and spirits to create healthy humans.

The urgency of health for all humans is as important as basic needs in the form of food in order to maintain a healthier life. At the same time, physical condition

¹ Nurani Ajeng Tri Utami and Nayla Alawiya, *Perlindungan Hukum Terhadap Pelayanan Kesehatan Tradisional di Indonesia. Volksgeist: Jurnal Ilmu Hukum dan Konstitusi*, 1(1),2018. p.1

² Ari Yunanto, *Hukum Pidana Malpraktik Medis*. (Yogyakarta: ANDI, 2010). p.19

³ Stefany B. Sandiata, *Perlindungan Hukum Hak Mendapatkan Pelayanan Kesehatan di Rumah Sakit Pemerintah. Jurnal Lex Administratum*, 1(2), 2013, p.187.

declines, it will affect everything such as basic needs and nothing but health conditions will get worse. To improve this situation requires intensive attention and treatment in order to realize optimal healing. The role of health workers is very necessary for the fulfillment of these rights so that the needs of health workers also need to be considered to support them in their work and fields and professions. Indonesia is currently experiencing a difficult time due to the impact of the Corona virus outbreak which has overwhelmed many health workers to the point of death. Lately, many people have bullied health workers in their work in dealing with Covid-19 patients so slowly that many have died⁴. Some of what happened in the community protested this by committing violence against health workers so that it attracted the attention of a number of academics and professions who were sad to see this news⁵.

Seeing the above incident, the need for legal protection for a number of health workers in carrying out their work, namely handling Covid-19 patients in various regions for the common interest of the Indonesian people. Legal protection needs to be realized to ensure the safety of health workers in carrying out their work⁶. Literally legal protection is an act that provides protection for human rights that have been harmed by others and this protection is given to the community so that they can use these rights for their defense⁷. The existence of legal protection will realize legal certainty and its enforcement in justice for health workers who are harmed is very important, with the existence of laws and regulations on health, the protection of the rights and obligations of health workers will be realized and get legal protection.

Legal protection for health workers is not just a mere statutory regulation, but also requires its implementation. Legislation that regulates legal protection for health workers and their application is not enough but also needs to guarantee health workers in carrying out their work in handling Covid-19 patients in various regions. Seeing the variety of events that befell a number of health workers in carrying out their work makes health workers feel insecure in carrying out their noble duties, it is helping the healing of Covid-19 patients. Health is the most basic right in the needs of every human being, this is a human right called human rights (HAM), therefore the need for good health services is also to support health care to maintain healthy conditions. The right to health care for the body is one of the basic rights in social life in society. If a government guarantees health services to the community, health workers must also get legal protection in order to carry out their professional duties properly, because otherwise the government will find it very difficult to get public attention because the State of Indonesia derives its legitimacy of power from the

⁴ Gunadha, *Kematian Nakes Reza di Indonesia Karena Covid-19 Tertinggi di Asia, Ketiga Dunia* (Akses: 24 September 2021).

⁵ Irwan Syambudi, *Kekerasan pada Nakes yang Terus Berulang saat Pandemi Covid-19* [Online]. Available at: *Kekerasan Pada Nakes yang Terus Berulang Saat Pandemi COVID-19* (tirto.id) (akses: 24 September 2021)

⁶ Leko Karjoko, I Gusti Ayu Ketut Rachmi Handayani, and Abdul Kadir Jaelani, "The Problems of Controlling the Transparency of the Financial Budget Use of Corona Virus 19 Lego", *Journal of Morality and Legal Culture (JMCL)*, 1.2 (2020), 93–102 <<https://doi.org/10.20961/jmail.17i1.41087>>. See, Renuka Nardodkar et.al, Legal protection of the right to work and employment for persons with mental health problems: a review of legislation across the world, *International Review of Psychiatry*, Volume 28, 2016 - Issue 4.

⁷ Satjipto Rahardjo, *Teori Hukum Strategi Tertib Manusia Linmas Ruang dan General*. (Yogyakarta: Genta Publishing, 2000), p.54

people's trust to otherwise contribute in protection of people's human rights⁸. Therefore, in addition to health services, the government also needs to guarantee legal protection for health workers, namely maintaining their human rights, especially when health workers are on humanitarian missions.

Theoretically, there have been several studies on legal protection for health workers. Among them were carried out by Dyah Trihandini⁹, the points in this study focus more on aspects of regulations and regulations that have been made by the government in protecting health workers. In another study conducted by Michel Daniel Mangkey¹⁰, the focus is more on efforts to protect health workers, especially doctors when there are legal disputes and lawsuits by patients against doctors (health workers). Furthermore, a study conducted by Nurani Ajeng Tri Utami and Nayla Alawiya¹¹ said that the level of legal protection for empirical traditional health services is lower than complementary and integrated, especially for traditional medical personnel, because this research is more focused on legal protection in traditional health services. Anton Christian Ompu Sunggu's¹² research emphasizes more on legal protection for doctors in general, and its relation to emergency actions in hospitals. While the study of Theresia Louise Pesulima and Yosia Hetharie¹³ focused more on fulfilling the legal protection of the safety of health workers due to the Covid-19 pandemic, it has not been implemented properly in the mandate of the law, in practice the rights of health workers during the Covid-19 pandemic are still neglected and has not been fully fulfilled. Another study conducted by Gerardus Gegen and Aris Prio Agus Santoso¹⁴, stated that the protection provided by the Government was implemented through a vaccination program and imposing sanctions for perpetrators of violence and discrimination against health workers who were on duty.

Based on the introduction above, seeing the events in the community and the relationship between the implementation of the Health Law regulations have not been properly implemented, in this case the legal protection for health workers, the authors are interested in studying how the protection of health workers in Indonesia is currently and how the guarantee of legal protection for health workers as victims of bullying. public.

⁸ I Gede Yudiana, Novita Listyaningrum and Bq. Nuraini Dwi S, Perlindungan Hukum Bagi Pasien Pengguna Badan Penyelenggara Jaminan Sosial (BPJS) di Rumah Sakit Kota Mataram. *Open Journal System*, 14 (12), 2020. p.3591; see. Ahsany, Fachry and Alamsyah, Ahmad Faiz and Al-Fatih, Sholahuddin (2020) Legal Protection of Labor Rights During the Coronavirus Disease 2019 (Covid-19) Pandemic. *Jurnal Pembaharuan Hukum*, 7 (2). pp. 100-115.

⁹ Dyah Trihandini, Konsep Perlindungan Hukum bagi Tenaga Medis dalam Penanganan Covid-19, *Jurnal Hukum dan Pembangunan Ekonomi*, Volume 8, Nomor 2, 2020, 56

¹⁰ Michel Daniel Mangkey, Perlindungan Hukum Terhadap Dokter dalam Memberikan Pelayanan Medis, dalam *Jurnal ex et Societatis*, Vol. II/No. 8/Sep-Nov/2014.

¹¹ Nurani Ajeng Tri Utami dan Nayla Alawiya, Perlindungan Hukum Terhadap Pelayanan Kesehatan Tradisional di Indonesia, dalam *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi*, Vol. 1 No.1, Juni 2018.

¹² Anton Christian Ompu Sunggu, Perlindungan Hukum Bagi Dokter Pada Pelayanan Kegawatdaruratan di Rumah Sakit Umum Daerah Abdul Wahab Sjahranie Samarinda, dalam *Jurnal Idea Hukum*, Vol. 2 No. 1 Edisi Maret 2016.

¹³ Theresia Louise Pesulima dan Yosia Hetharie, Perlindungan Hukum Terhadap Keselamatan Kerja Bagi Tenaga Kesehatan Akibat Pandemi Covid-19, dalam *Jurnal SASI*, Vol. 26, No. 2, April-Juni 2020, p. 280

¹⁴ Gerardus Gegen dan Aris Prio Agus Santoso, Perlindungan Hukum Tenaga Kesehatan di Masa Pandemi Covid-19 dalam *Jurnal Ilmiah Ilmu Hukum QISTIE* Vol. 14 No. 2. November 2021, 29.

Method

The method used in this research was a structural and systematic method, it was normative juridical. Normative juridical research was research that examined the law from the point of view of the norms and values regulated in the codification of laws and regulations in Indonesia. In order for this research to be comprehensive, research specifications were used in the form of analytical prescriptives with an analysis approach, statute approach, literature approach, concept approach, case approach as well as strengthening data from primary, secondary, and tertiary law materials in order to be able to analyze research as a whole and systematically¹⁵.

Result and Discussion

Juridical Overview of Legal Protection Concept

Legal protection in general is all rights by the state that protect its people from actions that are detrimental both materially and immaterially. According to one expert, Setiono, protection is precisely defined as an action or effort to protect the community from an arbitrary act by the ruler who does not carry out policies according to legal norms and rules and violates the goal of realizing public order and provisions and peace so as to promote the benefits of favors as a whole human being¹⁶. According to experts such as Steven J. Heyman, legal protection can be divided into three main basic elements in a literal sense, the concept is detailed into a reasoning that has universal meaning, the deep meaning put forward, among others:¹⁷ (1). "Legal protection is related to the position/condition of the individual, which means the position of the individual as a free person and citizen"; (2). "Legal protection is related to substantive rights, which means that the law recognizes and guarantees individual rights to life, liberty and property"; (3). "The most basic meaning of legal protection is related to the enforcement of rights, namely the special way in which the government prevents acts of violation of substantive rights, corrects, and provides penalties for such violations".

The meaning of legal protection above can be interpreted that all legal protections in particular can be implemented to humans in the sense of individuals and humans in the sense of groups whose rights are guaranteed such as the right to freedom, the right to a decent life and the right of ownership where the government is active in maintaining and providing guarantees of substantive rights. The concept of legal protection for health workers has been regulated in many laws and regulations, including:¹⁸ (1). "Law No. 13 of 2003 concerning Manpower (Law No. 13 of 2003 concerning Manpower)"; (2). "Law No. 29 of 2004 concerning Medical Practice (Law No. 29 of 2004 concerning Medical Practice)"; (3). "Law Number 24 of 2007 concerning Disaster Management (Law No. 24 of 2007 concerning Disaster Management)"; (4). "Law Number 6 of 2018 concerning Health Quarantine (Law No. 6 of 2018 concerning Health Quarantine)"; (5). "Article 531 and Article 304 of

¹⁵ Jhuanda Fratama Kharismunandar and Eko Soponyono, Kebijakan Formulasi Sanksi Teguran (Reprimand) Oleh Hakim Terhadap Korporasi. *Jurnal Jurisprudence*, 10(1),2020. p.56

¹⁶ Wahyudi and Ditha Annisa, Analisis *Informed Consent* Terhadap Perlindungan Hukum Tenaga Kesehatan di Rumah Sakit Umum Daerah Kota Bandung. *Res Nullius Law Journal*, 2(1),2020, p.68

¹⁷ Dyah Trihandini, Konsep Perlindungan Hukum Bagi Tenaga Medis dalam Penanganan Covid-19. *Jurnal Hukum dan Pembangunan Ekonomi*, 8 (2), 2020, p.56

¹⁸ Dyah Trihandini, Konsep Perlindungan Hukum Bagi Tenaga Medis dalam Penanganan Covid-19. *Jurnal Hukum dan Pembangunan Ekonomi*, 8(2), 2020,

the Criminal Code (KUHP”); (6). “Regulation of the Minister of Health of the Republic of Indonesia Number 11 of 2017 concerning patient safety”; (7). “Regulation of the Minister of Health of the Republic of Indonesia number 269 of 2008 concerning medical records”; (8). “Regulation of the Minister of Health of the Republic of Indonesia number 290 of 2008 concerning approval of medical actions”; (9). “Decision of Minister of Health HK.01.07/Menkes/413/2020 concerning Guidelines for the Prevention and Control of Corona Virus Disease 2019”; (10). “Decree of the Minister of Health Number HK.01.07/Menkes/216/2020 concerning the Determination of the Covid 19 Examiner Laboratory”; and (11). “Central Java Governor Decree No. 445/46 of 2020 concerning Referral Hospitals for the Management of Certain Emerging Infectious Diseases Second Line in Central Java”.

Seeing so many regulatory policies above regarding legal protection for health workers so that aspects of legal protection have also been regulated in various instruments of legislation¹⁹. The scope of legal protection for health workers applies as long as they are carrying out their duties in accordance with standard health professional procedures and standard operating procedures (SOP)²⁰. It is also regulated in Article 57 letter a of Law no. 36 of 2014 concerning Health which states that “health workers in carrying out their practice are entitled to legal protection as long as they carry out their duties in accordance with Professional Standards, Professional Service Standards, and Standard Operating Procedures”. The excerpt of the contents of the article above means that as long as health workers carry out work in their profession and comply with professional service standards and standard operating procedures, they will get legal protection by the government based on statutory regulations.

From the above meaning which is currently being discussed, the government needs to take part in implementing the law to provide legal protection and guarantee the rights and obligations of health workers who feel disadvantaged due to public bullying and provide protection which is a guarantee. health workers in maintaining their human rights to Human Rights as a whole²¹.

There are several forms of legal protection which are detailed into health law, among others, as follows: First, purpose of Health Law. In essence, the purpose of the law is to create an orderly order and the purpose of health law is to create good health order between humans in the life of a human society, then Second, Characteristics of Health Law; (a). Everything related to health services to human conditions, and; (b). All free space for the movement of health services has been regulated in criminal law, civil law and state administrative law²². From the study of health law above, it is none other than examining the purpose of health law being formed to create an orderly order among the human environment and with everything that is done with health services and is regulated by laws and regulations in criminal, civil and state administrative law. Health services themselves have a

¹⁹ Ahmad Mukri Aji, Hak dan Kewajiban Asasi Manusia Dalam Perspektif Islam. *Jurnal Sosial dan Budaya Syar-i*, 2(2), 2015, p.210

²⁰ Dyah Trihandini, Konsep Perlindungan Hukum Bagi Tenaga Medis dalam Penanganan Covid-19. *Jurnal Hukum dan Pembangunan Ekonomi*, 8(2), 2020, p.54

²¹ M. Jamil, Pemalsuan Akta Autentik Sebagai Aspek Pidana Notaris M. Jamil. *Bestuur*, 7(2), 2019, p.114

²² Wahyudi and Ditha Annisa, Analisis *Informed Consent* Terhadap Perlindungan Hukum Tenaga Kesehatan di Rumah Sakit Umum Daerah Kota Bandung. *Res Nullius Law Journal*, 2(1),2020, p.68

complex systematic nature with the nature of the relationship between different components, namely a system with tight services (complex and heavily coupled). This complex system is always characterized by the specialization and interdependence of the health workers themselves²³. Based on the above study, it is clear that legal protection is an absolute right for every human being and citizen which is an obligation that must be fulfilled by the government and law enforcement²⁴. Universally it is also said in his writings Philipus which states that legal protection is an effort to protect a person's interests in a way that is allocating power to act in the interests of that person. Therefore, legal protection must be realized in people's lives to ensure the interests of legal subjects in the implementation of legal protection²⁵.

Juridical Arrangements for Health Personnel Services

The definition of health workers is a profession that has high morals, because everything that is private about the confidentiality of the patient's medical history is entrusted to health workers. In a juridical sense, what is stated in the Health Law is "every person who devotes himself to the health sector and has knowledge and skills through education in the health sector for certain types that require authority to carry out health efforts"²⁶. There are several regulations in the legislation that examine health workers from the point of view of regulation of health workers and in the form of their services, including: Article 34 paragraph 4 of the 1945 Constitution which reads further provisions regarding this article are regulated in law. Therefore, the concretization of the provisions in Article 34 paragraph 3 and Article 28 letter h paragraph 1 of the 1945 Constitution is the existence of a law in the health sector which guarantees the fulfillment of the needs of citizens for good health services. Departing from the above article that health services by health workers have been regulated and their rights guaranteed in the health law and confirmed by the 1945 Constitution.

In its implementation in enforcing the law, it is necessary to pay attention to the principles in the formation of legislation, especially the principles of legal justice and legal certainty. So that the contribution in the form of services to the community can be fulfilled properly and with quality from the service side by health workers. The form of health services and their legal protection has been strengthened and has become the basis of legality in the health law. To realize success in providing health services to the community, it is necessary to have a quality profession that maintains its good name in public, health workers can provide health services safely which is an important element in the health law²⁷.

The current regulation of health worker registration has been set forth in the

²³ Sofia J. A., Kajian Penerapan Etika Dokter pada Pemberian Pelayanan Kesehatan di Era Pandemi Covid-19. *Jurnal Hukum dan Pembangunan Ekonomi*, 8(2),2020, p.18

²⁴ Dwi Armeilia, Perlindungan Hukum dan Hak Memperoleh Keselamatan Kerja Bagi Tenaga Kesehatan Akibat Pandemi Covid-19. *Al'Adl Jurnal Hukum* 13(2),2021, p.307

²⁵ Philipus M. Hadjo, Perlindungan Hukum Bagi Masyarakat Indonesia. (Surabaya: Bina Ilmu,1983), p.38

²⁶ Wahyudi and Ditha Annisa, Analisis *Informed Consent* Terhadap Perlindungan Hukum Tenaga Kesehatan di Rumah Sakit Umum Daerah Kota Bandung. *Res Nullius Law Journal*, 2(1),2020, p.68

²⁷ Harif Fadhillah, Endang Wahyati and Budi Sarwo, Pengaturan Tentang Tenaga Kesehatan dalam Peraturan Perundang-undangan dan Asas Kepastian Hukum, *Soepra Jurnal Hukum Kesehatan*, 5(1), 2019, p.147

Minister of Health Regulation No. 161 of 2010 concerning Health Personnel Registration, which was later amended by Permenkes No. 1796 of 2011 and the last one was amended again by Permenkes No. 46 of 2013 concerning Health Personnel Registration. Globally, Indonesia's registration of health workers is carried out nationally in various regions by taking into account the policies of the central government and local governments, educational institutions for health workers, health service institutions and professional organizations²⁸. In addition to the regulation on health registration and health services by health workers as regulated in the health law, the 1945 Constitution and the regulation of the minister of health are also inseparable from the criminal sanctions that bind them²⁹. Sanctions themselves are a tool for law enforcement to be able to bring order to the rules that have been made, in this case regarding health workers who have sanctions for canceling actions that are part of a violation of the law³⁰. Law Number 36 of 2014 concerning Health Workers (Health Personnel Law) which states in article 84 paragraph 1 and 2: (1). "Every Health Worker who commits gross negligence resulting in serious injury to the Health Service Recipient shall be punished with imprisonment for a maximum of 3 (three) years"; and (2). "If the gross negligence as referred to in paragraph (1) results in death, each Health Worker shall be sentenced to a maximum imprisonment of 5 (five) years." From the article above, every health worker is bound by legal sanctions, if a health worker commits negligence, both mild and severe, he will still be subject to sanctions in the form of imprisonment. Seeing this, health workers are not only guaranteed legal protection rights and obligations in carrying out their duties and professions, they are also bound by sanctions that regulate them if health workers violate the law against the health law and the health worker law.

Guaranteed Legal Protection for Health Workers

Health insurance in Indonesia has a form in the form of an administrative mechanism in health services in hospitals. Health services that already have regulations in the law that systematically review materially the implementation and sanctions of health service policies by health workers. The form of health services in Indonesia is in the form of social security for human health. Seeing the sadness of health workers who are bullied by the community makes a reaction to the performance of health workers. This gave birth to many violations in society. Various violations that occurred in the form of deviations from the right to honest information so that in this case legal protection must be given to health workers in the form of doctors, nurses and other health workers³¹.

Indonesian legal protection can be interpreted as a form of guarantee given by the government to all Indonesian citizens who have the main right and obligation to

²⁸ Harif Fadhillah, Endang Wahyati and Budi Sarwo, Pengaturan Tentang Tenaga Kesehatan dalam Peraturan Perundang-undangan dan Asas Kepastian Hukum, *Soepra Jurnal Hukum Kesehatan*, 5(1), 2019, p.148

²⁹ Sherel Poluan, Max Sepang and Herlyanty YA Bawole, Pemberlakuan Tindak Pidana Bagi Tenaga Kesehatan Apabila Melakukan Kelalaian Terhadap Penerima Pelayanan Kesehatan Menurut Undang-undang Nomor 14 Tahun 2014 Tentang Tenaga Kesehatan. *Lex Crimen*, 10(3),2021, p.44

³⁰ *Kamus Istilah Aneka Hukum*. (Jakarta: Jala Permata Aksara,210), p.383-384

³¹ Isdiana Syafitri, Analisis Perlindungan Hukum Terhadap Tenaga Kesehatan Atas Keselamatan dan Kesehatan Kerja di Masa Pandemi Covid-19 di Indonesia. *Jurnal Insitusi Politeknik Ganesha Medan*, 4(2),2021, p192.

live a more decent life and have the right to comply with legal interests both regionally and nationally in the era of modern globalization to create a society that is safe and prosperous and form a healthy environment³². Apart from being a form of guarantee by the government, legal protection can also be interpreted as a human right that applies to every human being, Indonesian citizens, individual human interests, and group interests are entitled to equal legal protection before the law³³. This has been stated in Article 28 D paragraph 1 chapter 10A concerning human rights of the 4th Amendment of the 1945 Constitution which states:

“That the State is obliged to provide recognition of guarantees, protection and legal certainty, as well as justice that leads to legal protection for its country which includes health protection, social protection, political protection, cultural protection, and other protections.”

Based on the contents of the article above, it is stated that legal protection is the obligation of the state to be responsible and to realize/work/run implementation programs that provide health and justice services for Indonesian citizens in order to create order in the environment and equality in life. In terms of legal attention, that legal protection should indeed apply to any citizen who is anywhere, both within the country and abroad. On the other hand, the government is obliged to share responsibility for its citizens to protect their rights and obligations for the practice of legal certainty in the form of equality before the law for the sake of the implementation of a just and prosperous society without discrimination by the parties involved.

The guarantee of legal protection is very broad, in this case the legal protection for health workers is the protection of the rights and obligations of health workers in the form of their human rights in responding to bullying by the public on the performance of health workers. In detail the guarantee of legal protection in the form of protection of human rights for health workers in obtaining health services has been regulated in international human rights instruments and national laws and regulations, it is:³⁴ international human rights instruments, the universal declaration of human rights was ratified and proclaimed by general assembly resolution 217 A (111) 10 December 1948 which stated Article 25 paragraph: (1). “Everyone has the right to a standard of living that guarantees health and good conditions for himself and his family, including food, clothing, housing and health care as well as necessary social efforts and has the right to security when experiencing unemployment, suffering from illness, being people with disabilities, widows, reaching old age or experiencing other lack of livelihood due to circumstances beyond their control”; and (2). “Mothers and children have the right to special care and assistance. All children, whether born in or out of wedlock, must be protected. The Universal Declaration is the foundation of human rights. The Universal Declaration is the basis for the protection and promotion of human rights throughout the world and is supported by all countries including Indonesia. Most of the Universal Declarations are now

³² Koermiatmanto Soetoprawiro, Peraturan Perindungan Hak-Hak Perempuan dan Anak-Anak dalam Hukum Kewarganegaraan Indonesia, *Journal Hukum Pro Justisia* 20(3), 2002, p.20

³³ Dian Kartika, Pan Lindawaty S. Sewu and Rullyanto W, Pelayanan Kesehatan Tradisional dan Perlindungan Hukum Bagi Pasien. *Soepra Jurnal Hukum Kesehatan*, 2(1),2016, p.6

³⁴ Irwansyah Reza Mohamad, Perlindungan Hukum Atas Hak Mendapatkan Pelayanan Kesehatan Ditinjau Dari Aspek Hak Asasi Manusia. *Akademika Jurnal Umgo*, 8(2),2019, p.81

customary international law binding on all states.”

Departing from the explanation of the article above, it can be interpreted that every human being has the right to live a more decent life and is entitled to health insurance for himself and his family, including all basic needs such as food, clothing, housing, health care and necessary social efforts and guarantees as well. when they are in difficult conditions such as being unemployed, suffering from illness, being disabled, widowed, elderly or in poverty such as lack of earning a living due to a situation beyond their capabilities, while the next article states that mothers and children have the right to health services. and special legal protection in both difficult and happy circumstances, for both new born children and newly married couples. This has been confirmed in the universal declaration which is the basis for the protection and promotion of human rights throughout the world and applies in Indonesia. Currently the universal declaration is a customary international law that is binding on all countries.

Legal protection and fulfillment of rights for health workers in the form of the Health Care Workers Security (HWS) program. This program consists of guarantee instruments, regulations, and sanctions. The purpose of this program is to reduce the high mortality index of health workers in Indonesia during the corona virus pandemic. Seeing this incident, the alternative that can be provided by the government in the design of policies for handling the covid-19 virus outbreak, especially those that affect the performance of health workers, who in their implementation and humanitarian missions risk their lives in stopping the virus outbreak and the main focus on healing Covid-19 patients³⁵. The form of legal protection based on statutory regulations in Indonesia is given through criminal prosecutions for people who do not comply with the protocol for dealing with the outbreak of the Covid-19 virus, which is contagious, resulting in many deaths to the general public and health workers due to exposure to the virus outbreak through the air or through the air. Covid-19 positive patient. Violations committed by the public against their disorderly conduct of health protocols clearly intentionally violate the laws and regulations in the form of Article 14 of Law Number 4 of 1984 concerning Infectious Disease Outbreaks (Law on Infectious Disease Outbreaks)³⁶.

As a preventive measure to ensure the protection of the public, the Government has issued policies related to handling Covid-19, including; Presidential Decree No. 2/2020 concerning the Task Force for the Acceleration of Handling Covid-19, and Minister of Health Regulation No. 9/2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating the Handling of Covid-19. Repressively to guarantee the rights of health workers, the Government issues policies, including; Kepmenkes No. HK. 01.07/MENKES/278/2020 concerning Provision of Incentives and Death Compensation for Health Workers Handling Covid-19, and Kepmenkes No. HK. 01.07/MENKES/215/2020 concerning the Utilization of the Special Allocation Fund for the Health Sector for the Prevention and Handling of Covid-19 for the 2020 Fiscal Year.

In addition to providing special incentives and death compensation, as a

³⁵ Rr. Halimatu Hira and Tania Amelia, Healthcare Workers Security. *Jurnal Khatulistiwa Review*, 1(2),2020, p.109

³⁶ Isdiana Syafitri, Analisis Perlindungan Hukum Terhadap Tenaga Kesehatan Atas Keselamatan dan KesehatanKerja di Masa Pandemi Covid-19 Di Indonesia. *Jurnal Insitusi Politeknik Ganesha Medan*, 4(2),2021, p193.

preventive measure, the government also provides early and special vaccine doses to medical personnel, and will take firm action against people who discriminate against medical personnel. This fact is in line with the opinion of Sukendar and Aris, who state that the means of legal protection are divided into 2 (two) types, namely: (1). Preventive legal protection is a step or method taken to prevent an event that has legal consequences; and (2). Repressive legal protection is a step or method taken if an event that results in the law has occurred³⁷. This is also a means of protecting health workers in order to socialize with other communities, as stated by Soedikno Mertokusumo, that legal protection is a guarantee of human rights and obligations in order to fulfill their own interests and in human relations.

Conclusion

After the excavation of data, reduction of existing data and analysis. So this research concludes that the implementation of health worker protection in Indonesia is carried out through a policy of providing high incentive guarantees, privileges in health services, and special health worker family guarantees. Such a model of implementing the protection of health workers needs to be provided, in order to fulfill the rights and obligations of the government to protect every citizen who is harmed, both individual interests and group interests, both material needs and immaterial needs. Legal protection is divided into several main things, protection of the right to life, protection of human rights and law enforcement. Legal protection is carried out in order to protect from the arbitrariness of the government or society for the purpose of realizing general welfare and social justice. Legislation regarding health workers has been regulated in various regulations in Indonesia. Health workers have rights and obligations as regulated in the laws and regulations concerning health workers. Health workers are guaranteed legal protection as long as the health workers are still carrying out their profession in accordance with standard health procedures and standard operating procedures. At the time of its implementation, health workers must provide health services fairly to fulfill human rights, namely the right to live a healthy life. These health services are strictly regulated in health regulations. Legal protection that can be given to health workers is the guarantee of legal protection in the legislation in the form of guarantee instruments, regulations and criminal sanctions. This applies to health workers in the professional field, doctors, nurses and other health professions. Legal protection must be given to health workers in carrying out their performance, it is humanitarian missions. The protection of law referred is right and obligation managed in the convention of human rights.

Bibliography

- Aji, A. M. (2015). Hak dan Kewajiban Asasi Manusia Dalam Perspektif Islam. *Jurnal Sosial dan Budaya Syar-i*, 2(2).
- Anton Christian Ompu Sunggu, Perlindungan Hukum Bagi Dokter Pada Pelayanan Kegawatdaruratan di Rumah Sakit Umum Daerah Abdul Wahab Sjahranie Samarinda, dalam *Jurnal Idea Hukum*, Vol. 2 No. 1 Edisi Maret 2016.
- Armelia, D. (2021). Perlindungan Hukum dan Hak Memperoleh Keselamatan Kerja Bagi Tenaga Kesehatan Akibat Pandemi Covid-19. *Al'Adl Jurnal Hukum* 13(2),

³⁷ Dyah Trihandini, Konsep Perlindungan Hukum bagi Tenaga Medis dalam Penanganan Covid-19, *Jurnal Hukum dan Pembangunan Ekonomi*, Volume 8, Nomor 2, 2020, 56

- [online]. Available at perlindungan Hukum dan Hak Memperoleh Keselamatan Kerja Bagi Tenaga Kesehatan Akibat Pandemi Covid-19 | Armeilia | *Al-Adl : Jurnal Hukum* (uniska-bjm.ac.id) (akses: 25 September 2021).
- Ahsany, Fachry and Alamsyah, Ahmad Faiz and Al-Fatih, Sholahuddin (2020) Legal Protection of Labor Rights During the Coronavirus Disease 2019 (Covid-19) Pandemic. *Jurnal Pembaharuan Hukum*, 7 (2). pp. 100-115.
- Aziz, M. (2017). Adopsi Hukum Islam dalam Sistem Hukum Nasional (Kajian dalam UU RI No. 23 Tahun 2011 tentang Pengelolaan Zakat). *Proceedings of Annual Conference for Muslim Scholars*, (Seri 1), 188-213. Retrieved from <http://proceedings.kopertais4.or.id/index.php/ancoms/article/view/20>.
- Aziz, Muhammad, Ahmad Rofiq, and Abdul Ghofur. "Regulasi Penyelenggaraan Jaminan Produk Halal Di Indonesia Perspektif Statute Approach". *ISLAMICA: Jurnal Studi Keislaman* 14, no. 1 (September 1, 2019): 151-170. Accessed May 21, 2020. <http://islamica.uinsby.ac.id/index.php/islamica/article/view/577>
- Aziz, Muhammad. (2018). Perspektif Maqashid Al-Syariah Dalam Penyelenggaraan Jaminan Produk Halal di Indonesia Pasca Berlakunya Undang-Undang Nomor 33 Tahun 2014 Tentang Jaminan Produk Halal. *Al Hikmah: Jurnal Studi Keislaman*, 7(2), 78-94. <https://doi.org/10.36835/hjsk.v7i2.3284>
- Aziz, Muhammad; Sholikah. Metode Istinbat Hukum Zakat Profesi Perspektif Yusuf Al-Qardawi dan Implikasinya Terhadap Pengembangan Objek Zakat Di Indonesia. *ULUL ALBAB Jurnal Studi Islam*, [S.l.], v. 16, n. 1, p. 89 - 116, sep. 2015. ISSN 2442-5249. Available at: <<http://ejournal.uin-malang.ac.id/index.php/ululalbab/article/view/3039>>. Date accessed: 13 dec. 2019. doi:<http://dx.doi.org/10.18860/ua.v16i1.3039>.
- Dyah Trihandini, Konsep Perlindungan Hukum bagi Tenaga Medis dalam Penanganan Covid-19, *Jurnal Hukum dan Pembangunan Ekonomi*, Volume 8, Nomor 2, 2020, 56
- Fadhillah, H., Wahyati, E., dan Sarwo, B. (2019). Pengaturan Tentang Tenaga Kesehatan dalam Peraturan Perundang-undangan dan Asas Kepastian Hukum, *Soepra Jurnal Hukum Kesehatan*, 5(1). [online]. Available at <http://journal.unika.ac.id/index.php/shk/article/view/1653> (akses: 26 September 2021)
- Gede Yudiana, Novita Listyaningrum dan Bq. Nuraini Dwi S, Perlindungan Hukum Bagi Pasien Pengguna Badan penyelenggara jaminan Sosial (BPJS) di Rumah Sakit Kota Mataram. *Sistem Jurnal Terbuka*, 14 (12), 2020. hal.3591
- Gerardus Gegen dan Aris Prio Agus Santoso, Perlindungan Hukum Tenaga Kesehatan di Masa Pandemi Covid-19 dalam *Jurnal Ilmiah Ilmu Hukum QISTIE* Vol. 14 No. 2. November 2021, 29.
- Gunadha, R. (2021) *Kematian Nakes di Indonesia Karena Covid-19 Tertinggi di Asia, Ketiga Dunia* [Online]. Available at: *Kematian Nakes di Indonesia karena Covid-19 Tertinggi di Asia, Ketiga Dunia* (suara.com) (Akses: 24 September 2021).
- Hadjo, P. M. (1983). *Perlindungan Hukum Bagi Masyarakat Indonesia*. Surabaya: Bina Ilmu.
- Hira, Rr. H., dan Amelia, T. (2020). Healthcare Workers Security. *Jurnal Khatulistiwa Review*, 1(2).

- Kansil, C.S.T., Palandeng, E.R., dan Mamahit, G.N. (2010). *Kamus Istilah Aneka Hukum*. Jakarta: Jala Permata Aksara
- Kartika, D., Lindawaty S.P., Sewu dan Rullyanto W. (2016). Pelayanan Kesehatan Tradisional dan Perlindungan Hukum Bagi Pasien. *Soepra Jurnal Hukum Kesehatan*, 2(1), [online]. Available at <http://journal.unika.ac.id/index.php/shk/article/view/805> (akses: 26 September 2021)
- Kharismunandar, J. F dan Soponyono, E. (2020). Kebijakan Formulasi Sanksi Teguran (Reprimand) Oleh Hakim Terhadap Korporasi. *Jurnal Jurisprudence*, 10(1), [online]. Available at journals.ums.ac.id/index.php/jurisprudence/article/view/10526 (akses: 25 September 2021)
- M Jamil. (2019). Pemalsuan Akta Autentik Sebagai Aspek Pidana Notaris M. Jamil. *Jurnal Bestuur*, 7(2). pp-114–21.
- Michel Daniel Mangkey, Perlindungan Hukum Terhadap Dokter dalam Memberikan Pelayanan Medis, dalam *Jurnal ex et Societatis*, Vol. II/No. 8/Sep-Nov/2014.
- Mohamad, I.R. (2019). Perlindungan Hukum Atas Hak Mendapatkan Pelayanan Kesehatan Ditinjau Dari Aspek Hak Asasi Manusia. *Akademika Jurnal Umgo*, 8(2), [online]. Available at <https://journal.umgo.ac.id/index.php/akademika/article/view/401> (akses: 27 September 2021)
- Nurani Ajeng Tri Utami dan Nayla Alawiya, Perlindungan Hukum Terhadap Pelayanan Kesehatan Tradisional di Indonesia, dalam *Volkgeist: Jurnal Ilmu Hukum dan Konstitusi*, Vol. 1 No.1, Juni 2018.
- Poluan, S., Sepang, M., dan Bawole, H.Y.A. (2021). Pemberlakuan Tindak Pidana Bagi Tenaga Kesehatan Apabila Melakukan Kelalaian Terhadap Penerima Pelayanan Kesehatan Menurut Undang-undang Nomor 14 Tahun 2014 Tentang Tenaga Kesehatan. *Lex Crimen*, 10(3), [online]. Available at <https://ejournal.unsrat.ac.id/index.php/lexcrimen/article/view/33118> (akses: 26 September 2021).
- Rahardjo, S. (2010). *Teori Hukum Strategi Tertib Manusia Linmas Ruang dan General*. Yogyakarta: Genta Publishing.
- Renuka Nardodkar et.al, Legal protection of the right to work and employment for persons with mental health problems: a review of legislation across the world, *International Review of Psychiatry*, Volume 28, 2016 - Issue 4.
- Sandiata, S. B. (2013), Perlindungan Hukum Hak Mendapatkan Pelayanan Kesehatan di Rumah Sakit Pemerintah. *Lex Administratum*, 1(2), [online]. Available at [perlindungan.hukum.hak.mendapatkan.pelayanan.kesehatan.di.rumah.sakit.pemerintah|Sandiata|LexAdministratum\(unsrat.ac.id\)](http://perlindungan.hukum.hak.mendapatkan.pelayanan.kesehatan.di.rumah.sakit.pemerintah|Sandiata|LexAdministratum(unsrat.ac.id)) (akses: 24 September 2021).
- Soetoprawiro, K. (2002). Peraturan Perindungan Hak-Hak Perempuan dan Anak-Anak dalam Hukum Kewarganegaraan Indonesia, *Journal Hukum Pro Justisia* 20(3).
- Sofia, J. A. (2020), Kajian Penerapan Etika Dokter pada Pemberian Pelayanan Kesehatan di Era Pandemi Covid-19. *Jurnal Hukum dan Pembangunan Ekonomi*, 8(2), [online]. Available at [Konsep Perlindungan Hukum Bagi Tenaga Medis](http://konsep.perlindungan.hukum.bagi.tenaga.medis)

- Dalam Penanganan Covid-19 | Sofia | Jurnal Hukum dan Pembangunan Ekonomi (uns.ac.id) (akses: 25 September 2021)
- Syafitri, I. (2021). Analisis Perlindungan Hukum Terhadap Tenaga Kesehatan Atas Keselamatan dan Kesehatan Kerja di Masa Pandemi Covid-19 Di Indonesia. *Jurnal Insitusi Politeknik Ganesha Medan*, 4(2), [online]. Available at <https://www.polgan.ac.id/jurnal/index.php/juripol/article/view/11130/577> (akses 27 September 2021)
- Syambudi, I. (2021) *Kekerasan pada Nakes yang Terus Berulang saat Pandemi Covid-19* [Online]. Available at: [Kekerasan Pada Nakes yang Terus Berulang Saat Pandemi COVID-19 \(tirto.id\)](https://www.tirto.id) (akses: 24 September 2021)
- Theresia Louize Pesulima dan Yosia Hetharie, Perlindungan Hukum Terhadap Keselamatan Kerja Bagi Tenaga Kesehatan Akibat Pandemi Covid-19, dalam *Jurnal SASI*, Vol. 26, No. 2, April-Juni 2020. 280
- Trihandini, D. (2020), Konsep Perlindungan Hukum Bagi Tenaga Medis dalam Penanganan Covid-19. *Jurnal Hukum dan Pembangunan Ekonomi*, 8(2), [online]. Available at [konsep Perlindungan Hukum Bagi Tenaga Medis Dalam Penanganan Covid 19 | Handini | Jurnal Hukum dan Pembangunan Ekonomi \(uns.ac.id\)](https://www.umsida.ac.id/jurnal/index.php/jurnal/index.php/konsep_perlindungan_hukum_bagi_tenaga_medis_dalam_penanganan_covid_19) (akses: 24 September 2021)
- Utami, N. A. T., & Alawiya, N. (2018). Perlindungan Hukum Terhadap Pelayanan Kesehatan Tradisional di Indonesia. *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi*, 1(1), [online]. Available at [Perlindungan Hukum Terhadap Pelayanan Kesehatan Tradisional di Indonesia | Volksgeist: Jurnal Ilmu Hukum dan Konstitusi \(iainpurwokerto.ac.id\)](https://www.iainpurwokerto.ac.id/jurnal/index.php/volksgeist/article/view/1000) (akses: 24 September 2021).
- Wahyudi dan Annisa, D. (2020), Analisis *Informed Consent* Terhadap Perlindungan Hukum Tenaga Kesehatan di Rumah Sakit Umum Daerah Kota Bandung. *Res Nullius Law Journal*, 2(1), [online]. Available at [analisis Informed Consent Terhadap Perlindungan Hukum Tenaga Kesehatan Di Rumah Sakit Umum Daerah Kota Bandung | Res Nullius Law Journal \(unikom.ac.id\)](https://www.unikom.ac.id/jurnal/index.php/resnullius/article/view/1000) (akses: 24 September 2021)
- Yudiana, I.G., Listyaningrum, N., dan Dwi S. B. N. (2020). Perlindungan Hukum Bagi Pasien Pengguna Badan Penyelenggara Jaminan Sosial(Bpjs) Di Rumah Sakit Kota Mataram. *Open Journal System*, 14(12). [online] Available at <http://ejurnal.binawakya.or.id/index.php/MBI/article/view/600> | Yudiana | <http://ejurnal.binawakya.or.id/index.php/MBI/article/view/600> (binawakya.or.id) (akses 27 September 2021).