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LEGAL PROTECTION FOR MEDICAL PERSONNEL IN PROVIDING ASSISTANCE TO DEMONSTRATION VICTIMS BASED ON LAW NUMBER 12 OF 2005

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Abstract: *Demonstrations as a manifestation of the right to freedom of expression and peaceful assembly often develop into conflict-prone and injury-prone situations, requiring the presence of medical personnel to provide emergency assistance. In these conditions, medical personnel carry out a neutral and professional humanitarian function, but in practice they often face the risk of violence, intimidation, obstruction of duty, and criminalization. This study aims to analyze the legal protection for medical personnel in providing assistance to victims of demonstrations based on Law Number 12 of 2005 concerning the Ratification of the International Covenant on Civil and Political Rights (ICCPR), as well as to examine its implementation in the national legal system. The research method used is normative legal research with a legislative approach and a conceptual approach, through a literature study on laws and regulations, legal doctrines, and literature related to human rights and the protection of medical personnel. The results of the study show that normatively the legal protection of medical personnel has been regulated in Law Number 17 of 2023 concerning Health and strengthened by the principles of the ICCPR, especially related to the right to life, personal security, and protection from inhuman treatment. However, the implementation of these protections in the context of demonstrations has not been optimal due to general regulations, harmonization between international human rights norms and national security policies, and low understanding of the principles of neutrality of medical personnel. Therefore, it is necessary to strengthen operational regulations, harmonize policies, and raise human rights awareness to ensure effective legal protection for medical personnel in demonstration situations.*

Keywords: *Legal Protection; medical personnel; Demonstrations; Human Rights; ICCPR*

1. Introduction

Demonstrations are one of the tangible manifestations of the exercise of the right of citizenship to express opinions in public which is constitutionally guaranteed. Article 28 of the 1945 Constitution of the Republic of Indonesia emphasizes that every citizen has the freedom to associate, assemble, and express his thoughts both orally and in writing in accordance with the provisions of the law. In practice in Indonesia, demonstrations have become a common phenomenon in democratic life as a means of

people's political participation. However, it is not uncommon for demonstrations to be accompanied by an escalation of conflict due to misunderstandings, emotional pressure from the masses, and the response of the security forces, thus giving rise to the erroneous assumption that any demonstration must always end with the fulfillment of the demands put¹ forward.

Expression of opinions in public places can be done through various forms, such as protests or demonstrations, marches, public meetings, and free rostruts. However, in reality on the ground, demonstrations often have the potential to lead to conflicts that lead to physical clashes, repressive actions, and the use of crowd control tools. This situation often causes injuries, both from demonstrators, security forces, and civil society around the scene. The injuries suffered by the victim also vary, ranging from minor injuries due to pushing to severe injuries due to the use of tear gas, sticks, or rubber bullets. This condition shows that demonstrations are not only related to the delivery of political aspirations, but also have serious humanitarian impacts and require prompt and appropriate medical treatment.

In conflict situations that are prone to demonstrations, the presence of medical personnel has a very crucial role. Medical personnel are responsible for providing first aid to victims as a form of professional obligation as well as a humanitarian call. Their presence at the scene is often a determining factor in the safety and survival of the victims. However, on the other hand, medical personnel are in a vulnerable position because they have the potential to face physical threats, intimidation, and criminalization while carrying out their duties in the field. This condition raises serious problems regarding the extent to which the state has fulfilled its obligations in providing

¹ Anastasya Putri Permana Aulia and Shafarina Intan Khomsah, "Restrictive Interpretation of Article 28 Paragraph (2) of the ITE Law," *Jurnal Yustika: Media of Law and Justice* 24, No. 1 (2021): 25–36, <https://doi.org/10.24123/yustika.v24i01.4603>.

legal protection for medical personnel on duty in demonstration situations.

The legal protection of medical personnel cannot be separated from the human rights framework. Theoretically, human rights are basic rights inherent in human dignity as a gift of God Almighty and cannot be taken away under any circumstances. From a human rights perspective, the state has an obligation to guarantee the right to security, legal protection, and occupational safety for every individual, including medical personnel. The doctrine of human rights emphasizes that the obligations of the state include three main aspects, namely the obligation to respect, the obligation to protect, and the obligation to fulfill human rights². These three obligations require the state to not only make regulations, but also ensure the effective implementation of legal protections.

In the context of international law, the right to express opinions and assemble peacefully is regulated in the International Covenant on Civil and Political Rights (ICCPR). The Covenant affirms that every individual has the right to express his or her views without discrimination and that the state is obliged to provide protection for the exercise of these rights³. Indonesia has ratified the ICCPR through Law Number 12 of 2005, thus giving rise to juridical consequences in the form of an obligation to internalize the principles of the ICCPR into national law and law enforcement practices. With this ratification, the state is not only obliged to protect the rights of demonstrators, but also those who play a role in fulfilling those rights, including medical personnel⁴.

At the national level, various regulations have regulated the protection of medical personnel, including Law Number 17 of 2023 concerning Health and Government

² "Law Number 39 of 1999 concerning Human Rights," n.d.

³ B Sarnawa, "The Relationship between the State Civil Apparatus and Regional Heads: Bureaucracy as a Political Machine," *Varia Justice* 18, no. 3 (2022): 85–106.

⁴ M Abrori, *LEGAL ANALYSIS OF THE RE-EXISTENCE OF TAP MPR-RI IN THE HIERARCHY OF LAWS AND REGULATIONS (STUDY OF LAW NUMBER 12 OF YEAR ...* (digilib.uin-suka.ac.id, 2016), <https://digilib.uin-suka.ac.id/id/eprint/22626/>.

Regulation Number 28 of 2024 as implementing regulations. This regulation recognizes the rights and obligations of medical personnel as well as the state's responsibility in providing legal protection. However, these arrangements are still general and do not specifically regulate the protection of medical personnel in demonstration situations fraught with the risk of violence. Research shows that the implementation of legal protection for medical personnel, especially in emergency situations, still faces various obstacles, including delays in legal handling and ⁵unclear protection mechanisms.

From an international perspective, research has revealed that medical personnel are often subjected to violence even in situations of armed conflict, despite the fact that international humanitarian law expressly prohibits such actions ⁶. This phenomenon shows that there is a gap between legal norms and their implementation on the ground, which is also reflected in the context of demonstrations in Indonesia. The weakness of derivative legal instruments, low awareness of the apparatus, and the delay in state response further exacerbated the vulnerability of medical personnel⁷.

Based on this description, it is clear that legal protection for medical personnel in providing assistance to demonstration victims is still not optimal. In fact, medical personnel play a strategic role in maintaining human values and the safety of human lives in the midst of conflict situations. Therefore, the state must be present in a tangible way through strengthening regulations, effective protection mechanisms, and consistent law enforcement. On this basis, this study examines in depth the legal protection for medical personnel in providing assistance to demonstration victims based on Law

⁵ D Fibrini, "Legal Protection of Health Workers in Performing Medical Measures," *Iuris Studia: Journal of Legal Studies* 5, no. 2 (2024).

⁶ R Gultom, E Simanjuntak, and T Pasaribu, "The Effect of the Implementation of Occupational Safety and Health (K3) on the Performance of Loading and Unloading Workers at Belawan Port," *Indonesian Journal of Transportation and Maritime* 14, no. 2 (2022): 112–20.

⁷ D Prameswari, "THE EFFECT OF WORK ETHICS AND WORK ENVIRONMENT ON EMPLOYEE PERFORMANCE (Study of BRI Sharia Employees Kediri Branch Office)" (PONOROGO STATE ISLAMIC RELIGIOUS INSTITUTE, 2020).

Number 12 of 2005 concerning the Ratification of the ICCPR.

2. Research Methods

This research is a normative legal research that focuses on the study of written legal norms to analyze legal protection for medical personnel in providing assistance to victims of demonstrations and the implementation of Law Number 12 of 2005 concerning the Ratification of the International Covenant on Civil and Political Rights (ICCPR). The approach used includes a legal approach by examining relevant laws and regulations, especially Law Number 12 of 2005, Law Number 17 of 2023 concerning Health, and Government Regulation Number 28 of 2024, and a conceptual approach through the study of doctrines, concepts, and views of legal experts to build comprehensive legal arguments. The source of legal material consists of primary legal material in the form of laws and regulations and secondary legal material in the form of books, scientific journals, and relevant legal articles. The collection of legal materials is carried out through library research by classifying and selecting legal materials according to the research object. The analysis of legal material is carried out qualitatively by descriptive-analytical method through the interpretation of existing legal norms and doctrines, as well as drawing conclusions using the deductive method, which is drawing conclusions from general legal principles into certain formulations.

3. Analysis or Discussion

3.1 Legal protection of medical personnel in providing assistance to protest victims in accordance with the provisions of national law and international instruments of the ICCPR

The results of the study show that medical personnel have a strategic and crucial role in demonstration situations that develop into health emergencies. In these conditions, medical personnel not only play the role of health professionals as a routine

service, but also as humanitarian actors who carry out the function of saving lives without discrimination. Therefore, the position of medical personnel in demonstrations must be understood within the framework of law, morals, and human rights (HAM). Juridically, Law Number 17 of 2023 concerning Health emphasizes that medical personnel are entitled to legal protection as long as they carry out their duties in accordance with professional standards, service standards, and standard operating procedures. This provision provides a legal basis that emergency medical measures at demonstration sites are legitimate professional actions and must be protected by the state.

From a human rights perspective, medical personnel cannot be positioned as part of the conflict or political actors in demonstrations. They are independent parties that carry out humanitarian functions. The principle of preventive legal protection as stated by Hadjon emphasizes that the state is obliged to prevent arbitrary actions, including violence, intimidation, and criminalization of medical personnel before violations occur.⁸ This study found that in practice, medical personnel are actually in a vulnerable position, both physically and legally. The risk of criminal prosecution can still arise even if medical measures are carried out in emergency conditions and according to professional standards, as conveyed by Jauhani et al. (2022).

This vulnerability is even more evident when it is associated with the principles of international humanitarian law. The Prastika study (2020) shows that medical personnel in armed conflict areas have a special status that must be protected because of their neutrality⁹. Although demonstrations are not armed conflicts, the characteristics of uncertainty, mass pressure, and the potential for violence have common principles.

⁸ Philipus M Hadjon, *Introduction to Indonesian Administrative Law* (Yogyakarta: Gadjah Mada University Press, 2005).

⁹ D E Papalia, S W Olds, and R D Feldman, *Human Development Human Development* (Jakarta: Salemba Humanika, 2009).

Therefore, the principle of protecting the neutrality of medical personnel must also be applied in the context of civil demonstrations.

The study also found that normatively, the national legal framework has provided a fairly strong basis for protection. Law Number 17 of 2023 concerning Health, especially Article 92 paragraph (1) and Article 273 expressly guarantees the rights of medical personnel to legal protection. This guarantee is strengthened by Government Regulation Number 28 of 2024 as an implementing regulation, which regulates aspects of work safety, security from physical and non-physical threats, as well as the obligation of the state and health facilities to provide risk prevention and incident reporting mechanisms. Thus, normatively, acts of obstruction, intimidation, or violence against medical personnel in demonstrations constitute a violation of the law.

However, the results of the study show that there is a significant gap between legal norms and their implementation. Previous studies have revealed that legal protection for medical personnel still faces operational constraints, especially since there are no standard technical procedures for social emergency situations in public spaces¹⁰. Much of the medical assistance in the demonstrations was carried out outside formal health facilities, so medics worked without adequate security protections.

From the perspective of preventive legal protection, this study emphasizes that the state's obligations do not stop at the formation of regulations, but also include the creation of safe conditions before violations occur. This principle is reflected in the obligation of the security forces to provide protection during demonstrations as stipulated in Law Number 9 of 1998. Although the law does not explicitly mention medical personnel, the protection obligations of the apparatus can be expanded to include medical personnel as parties who carry out humanitarian functions. In addition,

¹⁰ M. Najibur Rohman and Daud Rismana, "Policy to Cut the Bureaucratic Structure in Indonesia," *Volksgeist: Journal of Constitutional Law and Science* 4, no. 2 (2021): 221–32, <https://doi.org/10.24090/volksgeist.v4i2.5232>.

Law Number 39 of 1999 concerning human rights affirms the right of everyone to self-protection and a sense of security, which is also inherent in medical personnel.

At the international level, the results of the study show that the obligation of preventive protection is further strengthened by the ICCPR which has been ratified through Law Number 12 of 2005. Articles 6 and 9 of the ICCPR require states to protect the right to life and personal security of every individual. In the context of demonstrations, this provision requires the state to ensure that medical personnel can work without the threat of violence, intimidation, or criminalization.

In addition to preventive protection, this study also highlights the importance of repressive legal protection. When violence or obstruction occurs against medical personnel, the state is obliged to provide a fair and effective law enforcement mechanism. However, research shows that repressive protection is still weak and inconsistent, both in the criminal, civil, and administrative realms.¹¹ Many medical professionals are reluctant to take the legal route due to the barriers to proof, litigation costs, and reputational risks.

Thus, the results of the study concluded that legal protection for medical personnel in demonstration situations is normatively available, but operationally still not optimal. The state needs to strengthen implementation through the preparation of SOPs for the safety of medical personnel, neutral medical identification in the field, coordination between agencies, rapid complaint mechanisms, and human rights training for security forces. Without these measures, legal protection will remain declarative and medical personnel will continue to be in a vulnerable position when carrying out humanitarian missions in the midst of demonstrations.

¹¹ Arif Kurniawan and Indah Sari, "The Risk of Criminalization of Medical Personnel in Emergency Actions," *Legal Journal* 11, no. 2 (2022).

3.2 Implementation of Law No. 12 of 2005 concerning the Ratification of the International Covenant on Civil and Political Rights (ICCPR) in Ensuring Legal Protection for Medical Personnel in Demonstration Situations in Indonesia

The ratification of the *International Covenant on Civil and Political Rights* (ICCPR) through Law Number 12 of 2005 has normative, binding, and operational legal consequences. With the ratification, Indonesia officially has the status of a *State Party bound* by international obligations to respect, protect, and fulfill civil and political rights as stipulated in the ICCPR. This consequence is not only symbolic, but demands real implementation in the national legal system and policy in accordance with the principle of *pacta sunt servanda* as stipulated in Article 26 of the 1969 Vienna Convention, which affirms that any applicable international treaty is binding on the parties and must be implemented in good faith.

In the context of the protection of medical personnel in demonstration situations, the ICCPR has strong relevance although it does not explicitly refer to medical personnel as special legal subjects. Articles of the ICCPR that are directly related to this issue include Article 6 on the right to life, Article 7 on the prohibition of torture and inhuman treatment, Article 9 on the right to liberty and personal security, and Article 21 on the right to peaceful assembly. Article 6 of the ICCPR obliges states to protect the right to life of every individual, including medical personnel carrying out humanitarian duties amid demonstrations that have the potential to lead to violence. This obligation not only means preventing direct loss of life, but also includes preventive measures to prevent medical personnel from facing safety risks due to mass clashes or excessive use of force by the authorities.

Article 7 of the ICCPR guarantees that medical personnel shall not be subjected to torture, violence, intimidation, or degrading treatment in the performance of their professional duties. This norm binds the state to ensure that security forces and others

respect the neutrality of medical personnel and do not take repressive measures that impede medical assistance. Meanwhile, Article 9 of the ICCPR guarantees personal freedom and security, which means that medical personnel must be free from the threat of criminalization, arbitrary detention, and barriers to access when providing assistance to protest victims. This personal safety protection includes physical and psychological aspects that can affect the performance of medical personnel in the field.

Article 21 of the ICCPR is also relevant because demonstrations are the embodiment of the right to peaceful assembly. In this context, the state is not only responsible for maintaining public order, but also ensuring that the organization of demonstrations does not create a situation that endangers medical personnel. The protection of the right to peaceful assembly implicitly includes respect for the role of medical personnel as neutral parties who support the safety of demonstrators.

The ratification of the ICCPR through Law Number 12 of 2005 requires Indonesia to internalize international norms into national law. In practice, Indonesia tends to adhere to a dualism approach, where the provisions of international agreements must first be changed into national laws and regulations in order to be implemented effectively. However, the results of the study show that the norms of the ICCPR have not been fully elaborated operationally into sectoral regulations, especially those specifically regulating the protection of medical personnel in demonstration situations.

Normatively, the ratification of the ICCPR gives birth to three main legal obligations for states, namely the obligation to *respect*, *protect*, and fulfill human rights. The obligation to respect means that the state must not take actions that violate the rights of medical personnel, including repressive actions by the authorities against medical personnel who are carrying out humanitarian duties. The duty to protect requires the state to prevent third parties, both demonstrators and non-state officials, from committing violence, intimidation, or threats against medical personnel. Meanwhile, the

obligation to meet these requirements is for the state to establish regulations, policies, and law enforcement mechanisms that concretely ensure safety and legal protection for medical personnel.

However, this study found that the implementation of these obligations still faces various obstacles. One of the main obstacles is the absence of special regulations that explicitly regulate the protection of medical personnel in the context of social conflicts or demonstrations. Existing protections are still scattered in health laws and general human rights provisions, with no technical arrangements regarding security procedures, medical identification, or coordination mechanisms on the ground. This creates a *normative gap* between international commitments and national practices.

Previous research has shown that even though the ICCPR has been ratified, its application in national court rulings and public policy is still inconsistent. The ICCPR is often positioned as a source of normative inspiration, rather than as a directly binding legal basis, as many of its provisions are considered *unenforceable on their own* and require implementing regulations in order to be effectively implemented¹². These findings confirm that ratification alone is not enough without the transformation of international norms into operational domestic regulations.

The weaknesses of this implementation are reflected in the practice in the field. Several demonstrations in Indonesia showed continued violence and intimidation of medical workers who provided assistance, sparking criticism from civil society and human rights organizations. This phenomenon corroborates the finding that normative regulations without mechanisms to support, supervise, and internalize human rights

¹² N Sabrina and Nurbani, "The Effect of Medical Personnel's Therapeutic Communication on Outpatient Satisfaction at Haji Medan Hospital," *Scientific Journal of Communication Science Communiqué* 6, no. 2 (2024), <https://ejurnal.stikpmedan.ac.id/index.php/jikq/article/view/346>.

values are not able to guarantee operational protection for medical personnel¹³.

In addition, the weak integration of ICCPR norms with national security policy means that security forces are often more oriented towards stability and public order than the protection of vulnerable subjects. In fact, from a human rights and public health perspective, failure to protect medical personnel not only violates the individual rights of medical personnel, but also has an impact on hindering access to health services for the wider community. Research also shows that when the state fails to protect health workers, the quality of public services and public trust in the state also decline¹⁴.

Therefore, the results of the study confirm the need for harmonization between ICCPR norms and national regulations, particularly in the areas of demonstration health and safety. This harmonization can be realized through the preparation of special protocols for the protection of medical personnel at the demonstration site, the use of clear medical identities, inter-agency coordination, rapid complaint mechanisms, and human rights training for security forces to understand the principle of neutrality of medical personnel. International human rights organizations also emphasize that ratification of human rights treaties must be followed by domestic law reform and institutional strengthening so that international norms do not stop at the level of rhetoric (Asian Human Rights Commission).

Thus, it can be concluded that the ratification of the ICCPR through Law Number 12 of 2005 has provided a strong legal basis for the protection of civil and political rights, including the implicit protection of medical personnel in demonstration situations. However, the effectiveness of such protections still depends heavily on the extent to which countries transform ICCPR norms into operational domestic regulations,

¹³ Maria Lusiana Br. Ginting, "Human Rights-Based Legal Protection for Health Workers in Conflict Zones," *Journal of Indonesian Health Administration* 11, no. 2 (2023).

¹⁴ G Widjaja, "Patient Health Services in Accordance with Law No. 17 of 2023 concerning Health," *Innovative: Journal of Social Science Research* 3, no. 6 (2023): 2490–98.

strengthen institutions, and change the paradigm of law enforcement to be more oriented towards the protection of human rights

4. Conclusion

1. Based on the results of research and discussion on Legal Protection for Medical Personnel in Providing Assistance to Demonstration Victims Based on Law Number 12 of 2005, it can be concluded that normatively legal protection for medical personnel has been regulated in national law through Law Number 17 of 2023 concerning Health, especially Article 273, and strengthened by the international human rights instrument ICCPR which was ratified through Law Number 12 of 2005, especially Articles 6, 7, 9, and 21 which guarantee the right to life, personal security, protection from inhuman treatment, and freedom of peaceful assembly;
2. However, the implementation of these provisions in the context of demonstrations has not been optimally carried out because existing regulations are still general and do not explicitly regulate the operational protection of medical personnel, weak harmonization between international human rights norms and national security policies, and low understanding of the principles of medical personnel neutrality, thus creating a gap between international legal commitments and practices on the ground that have an impact on the future medical personnel. There is a high risk of violence, intimidation, obstruction of duty, and even criminalization of medical personnel when carrying out their humanitarian functions in demonstration situations.



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