Government Legal Responsibility from a Human Rights Perspective in the Health Sector

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Abstract
Ensuring health for the community in receiving quality and adequate medical services as a basic right is the government's responsibility, which is regulated in Article 28H of the 1945 Constitution and Law Number 36 of 2009 concerning Health. The government is obliged to fulfill the public's right to health in accordance with its capabilities and resources, and must not limit or hinder the public's access to adequate health services. This research aims to protect people's rights to medical services that are supported through legal protection. This research uses a normative legal approach and uses secondary data sourced from laws, journals and analytical descriptive articles. The results of this research are used to gain deeper insight into health problems, determine them, and then proceed with scientific solutions in accordance with Law no. 39 of 1999 concerning Human Rights and Law no. 36 of 2009 concerning health. It is stated that the people's right to health is a human right for all human beings that must be fought for. The 2014 law establishes health service standards as an instrument of a legal system based on the principle of the supremacy of law to ensure compliance with health regulations as well as human rights.

INTRODUCTION
The development of legal instruments as an effective and just system is the first step towards the supremacy of law. This was built through political, economic and social institutional structures oriented towards social and national life which began in the Middle Ages, including rational and objective education and legal and cultural awareness. The idea of a legitimate state emerged as a struggle against the absolute power of kings. According to Paul Scholten, the term "rule of law" first appeared in the nineteenth century, but the concept first appeared in Europe in the seventeenth century. Responding to the absolute monarchy system, the Bill of Rights of 1689 expressed the idea of the rule of law, which contains the rights and freedoms of citizens as well as regulations governing the succession of English kings (Maskawati & Iswanty, 2018). The concept of the modern legal state received legal certainty in legal legitimacy in the 1800s and early 1900s. People in Continental Europe such as Immanuel Kant, Paul Laband, Julius Stahl Fichte, and others developed this idea by using the German term "Rechstaat." However, AV Dicey supports the idea of the rule of law as the "Rule of Law" in the Anglo Saxon tradition. This idea is also related to the term nomocracy, which means that law is the determinant in exercising state power (Muhlashin, 2021). A formal and limited definition of law is legal regulations that are written and called "formal". The state is responsible for implementing legislation to maintain order. The state of material law has one meaning such as justice.
Maintaining order by implementing the law and providing welfare rights to the community is the government's responsibility.

Fitzgerald quotes Salmond's theory of legal protection, which states that law aims to combine and organize various interests of society because certain interests can be protected by stopping various legal interests and safeguarding human rights and interests. Therefore, law has the highest authority to determine human interests that must be regulated and receive protection. According to Satjipto Rahardjo, legal protection is the protection of human rights that are harmed by other people; This protection is given to the community so that they can enjoy all the rights granted by laws issued by the government (Sakti & Budhisulistiyawati, 2020). The meaning of humans themselves is a gift from God that must be respected, guarded, and protected, based on the formulation of the meaning of Human Rights (HAM), justice is centered on the human rights of every community. Therefore, respecting and protecting human rights means maintaining human existence through a balance between human rights and the rights of the state or community groups. The implementation of rights and demands for rights is not influenced by the fulfillment of obligations that must be fulfilled. In the same way, private gain must not destroy generally beneficial interests. As a result, Article 26 of the 1945 Constitution states that "those who become citizens are people of the original Indonesian nation and people of other nations who are legalized by law as citizens, as stated in paragraph 1, and paragraph 2 explains the conditions stipulated with the law to become a citizen." The state's objectives give the authorities the authority and obligation to carry them out.

The right to health does not mean that every human being has the right to excessive health care or that the government must provide expensive medical services beyond the government's means. In Indonesia, the government has attempted to improve access and quality of health services for the community, through the National Health Insurance (JKN) program and development of health infrastructure throughout the region. However, there are still challenges in the distribution and effectiveness of health services, especially in remote areas. On the other hand, the right to health requires the government and public officials to create various policies and work plans to ensure that medical services are immediately accessible and affordable for everyone. The International Covenant on Economic, Social and Cultural Rights defines "the right of every human being to enjoy the highest attainable standard of physical and mental health" as "the right of every human being to the enjoyment of the maximum attainable standard of physical and mental health", but the definition This does not cover the field of medical services as well as the obligations and responsibilities of humanitarian principles in the lives of individuals, communities, and countries. Human Rights need to be protected. Several formulations of human rights explained above can be used to determine several main characteristics of human rights. As a result, the state also needs and must recognize and protect the right to health. According to previous research, "Governments are responsible for the health of their citizens." The government is responsible for all services and arrangements, including medical services. The government must not only maintain order by implementing the law, but also must improve the welfare of the people through social justice in the health sector. Therefore, to achieve this goal, the government takes action on medical services, regulation of services, guidance, coordination and development (Yustin & Yohanes Budisarwo, 2020). Several non-governmental institutions as well as government institutions, officials serve the community directly and provide medical services because of the awareness of the state and community that is growing in individuals and increasing in number, government services can also be felt by the wider community. Information received directly, in print and electronic media often shows the weaknesses of medical services, causing people to become disappointed and dissatisfied. Several components in medical services are medical personnel, health facilities, and patients. Medical personnel cure someone for a particular disease, while patients are people who need medical services.
Fitzgerald quotes Salmond's theory of legal protection, which states that law aims to combine and organize various interests of society because in certain interests, certain interests can be protected by stopping various legal interests and safeguarding human rights and interests. Therefore, the law has the highest authority to determine the priority scale of human interests which must be regulated in accordance with Standard Operating Procedures and protected. According to Satjipto Rahardjo, legal protection is protecting human rights that are harmed by other people; This protection is provided to the community so that they can enjoy all the rights granted by law (Mohamad, 2019). To improve the quality of human life, there are many things that can be done. Improving public health standards, both physical and mental, is the focus of this medical service effort. The health system covers all aspects of life, which has a very broad and complex scope and scope. This is in accordance with the definition of health in countries around the world, which means overall health, not only recovering from illness but psychological mental health also needs to be maintained (Emilia & Prabandari, 2019). Health is considered a human right, which means that the state is responsible for fulfilling this right. However, what is happening on the ground at the moment is that the right to obtain an optimal level of health does not mean that the right to receive medical services or the right to a social order that requires the state to take special action to improve public health is still not fulfilled. It is still found that medical services still look at the strata of society, resulting in patients being neglected or even dying (Ardinata, 2020). The population and economic strata of society are still not balanced with the medical services provided by the government. Because there is no guarantee of money to pay the patient before the examination, the patient remains stranded. This research focuses on the government's legal responsibility to ensure that the public receives health services that are socially just. The aim of this research is to determine the government's responsibility for the community's basic rights to health services.

RESEARCH METHODS

The normative method used is a qualitative approach. Normative legal research is a process of finding and formulating legal arguments through analysis of legal theories, principles or doctrines. In normative legal research, secondary data is used to create ideas and arguments. The statutory regulation method looks at how legal regulations relating to the recognition of the human right to health have developed historically. The conceptual method looks at the relationship between law and human rights. This study is prescriptive in nature. Law Number 39 of 1999 concerning Human Rights and (3) Law Number 36 of 2009 concerning Health are the main legal sources in this research. Other regulations on human rights and health are also used. The data used for the literature study comes from sources related to the research topic. These sources can be literature, books, documents, or regulations that are relevant to the research topic. Articles from these sources will show you how to solve the problem and research.

RESULTS AND DISCUSSION

Government Legal Responsibility Viewed from the Perspective of the Right to Health

In the modern view, the state's responsibility is to protect society and ensure maximum levels of prosperity and welfare by prioritizing justice (Maatisya & Santoso, 2022). In this case, the state's goal to be achieved is to maintain the integrity of the unitary state of the Republic of Indonesia through the welfare of society. The state's function in realizing this goal is primarily the philosophy that is the basis for guaranteeing the right to health as a human right (Ridwan & Sudrajat, 2020). Several aspects of the state's legal responsibilities in the health sector, viewed from a human rights perspective, include ensuring that all people have easy and fair and adequate access to medical services, such as:
1. Protection of Human Rights: Governments are responsible for protecting human rights, including the right to health, as stated by various international bodies or institutions, such as the World Health Organization (WHO). The Indonesian government is committed to protecting human rights, including the right to health, in accordance with the 1945 Constitution and various international agreements in the field of human rights that have been ratified. However, in practice, there are still challenges in ensuring comprehensive protection of the right to health, especially for vulnerable groups in society.

2. Access to Medical Services: The government is responsible for ensuring that everyone has fair and equal access to basic medical services, such as diagnosis, treatment, rehabilitation, and the medicines needed to maintain their health. The Indonesian government has made efforts to increase public access to basic medical services, for example through the National Health Insurance (JKN) program which provides health insurance for the entire population. However, the distribution and quality of medical services is still a challenge, especially in remote and rural areas which still face a shortage of health facilities and personnel.

3. Participation and Involvement: The government is responsible for ensuring that the public is involved in decision-making about health policy, including participating in planning, implementation and evaluation of health policy by considering the needs of the community. Even though the government has opened up space for community participation in planning and evaluating health policies, active and representative community involvement still needs to be increased, so that health policies can be more responsive to community needs.

4. Oversight and Law Enforcement: The government is responsible for supervising medical services and enforcing the law in the event of human rights violations related to health policy, including ensuring that medical service activities, health institutions and the government comply with human rights standards when providing medical services. The government already has regulations and monitoring mechanisms for medical services, but law enforcement still needs to be improved, especially in handling cases of human rights violations related to health services. Coordination between government agencies and the role of civil society are also needed to strengthen the monitoring system.

5. Availability and Accessibility of Health Facilities: The government needs to ensure that adequate health facilities are well available and accessible throughout Indonesia, including in the outermost, remote and rural areas. This includes providing adequate and proper health infrastructure, providing quality and professional human resources, and improving economic levels as well as providing easy transportation services based on geographic locations that would prevent people from getting medical services. The government has made efforts to increase the availability and accessibility of health facilities throughout Indonesia, but there are still significant gaps between urban and rural areas, as well as remote areas. Development of health infrastructure, increasing the number and distribution of health workers, and increasing ease of access to transportation are important focuses for the government in realizing quality and equitable health services throughout Indonesia.

The government continues to increase the fulfillment of legal responsibilities regarding the right to health and medical matters to protect human rights in social life through welfare (Saraswati, Afifah, & Fikri, 2022) . According to previous research, a nation's position, honor and dignity are measured based on the social role it plays, and public health is an important component of nation development. Governance processes will be disrupted if there are poor standards for medical services. Based on this awareness, the government must carry out its duties to establish the right to health, which includes the right and obligation to behave to achieve economic, social and cultural goals (Usman, 2014) . One of the principles of international law that is binding on all listed countries is as
stated in the Constitution of the World Health Organization. The right to health is everyone's basic right. A country can create policies based on these principles to protect the right to health of every individual to whom they are entitled. On the other hand, the benchmark for ideal health services is to provide everyone's basic rights. In this case, the right to health must be respected, fulfilled and protected by the state, aspects of respect such as: the ability to help people or organizations achieve their goals or exercise their rights. Currently, as part of compliance, the state includes the legislature in administrative and budgetary planning, and involves the judiciary to protect the right to health. There is a term that conveys "one second of protection occurs when the government prevents intentional violations or negligence (Edon & Hidayat, 2021)."

According to previous research, states are responsible for maintaining human rights fairly and equally throughout the world. It is very important regionally and nationally to remember that every country, whatever its political, economic, cultural or religious form, is responsible for promoting and protecting human rights in all its aspects (Mardiansyah, 2018). This is because human rights are universal and relies on other laws. All countries throughout the world will comply with human rights, including the right to health. In this case, human rights establish the minimum requirements that everyone must have to build an ideal social and political world. Safeguarding human rights is the same as providing all citizens with the authority to make most of the decisions made by the national government (Duan, 2017).

**Government policy provides legal protection to medical personnel and the public**

Government policies that regulate the health sector help the public and medical personnel. Regulating and protecting health workers is very important because regulations in the health sector protect the rights and obligations of health workers and society as a whole. According to Satjipto Rahardjo, legal protection is the protection of human rights that are harmed by other people. This provides the opportunity and inspiration to provide the best health services to communities throughout the Republic of Indonesia, including doctor or dentist services, with rights such as:

1) Law Number 29 of 2004 concerning Medical Practice: Article 50 of the law regulates the rights and obligations of doctors or dentists in carrying out medical practice, including their rights to:
   a. obtain legal protection while carrying out duties in accordance with professional standards and operational procedures; And
   b. provide medical services in accordance with professional standards and their obligations.

2) Doctors or dentists are responsible for providing medical care in accordance with professional standards, meeting the patient's medical needs, and referring patients to other doctors or dentists who have better skills or abilities if they are unable to carry out examination or treatment;

3) retains all the information he knows about patients, even after they die; And

4) provide emergency care to patients in a reasonable and humane manner, but if the doctor or medical personnel believes that other medical personnel will help him;

5) improve their knowledge and skills to stay abreast of developments in the field of medicine or dentistry; and to ensure that the medical or dental profession continues to have fair equality;

Any person who knows or feels disadvantaged by an action taken by a doctor or dentist during a medical examination can report it to the Chairman of the Indonesian Medical Discipline Honorary Council. Everyone's right to report suspected criminal acts to the authorities and/or sue for civil losses to court is not hampered by complaints, according to Law Number 36 of 2009 concerning Health, paragraph (1) and paragraph (2). In addition, Law Number 36 of 2009 concerning Health requires doctors or dentists to comply with the Medical Code of Ethics when they work. The health care system consists of funds, personnel, health supplies, pharmaceuticals, medical devices, health service facilities, and technology used to implement health programs from the central government, regional government, and/or the community. Planning, procurement, utilization, development and monitoring of the quality of health workers are also part of health resources. However, Article 29 of
Law No. 36 of 2009 concerning Health stipulates that mediation must be carried out first to prevent negligence in handling cases where health workers are suspected of committing violations. Article 27 also stipulates that health workers have the right to increase their knowledge and skills while carrying out their duties in accordance with their profession, and that they have the right to compensation and legal protection.

Health services are also being adapted to deal with currently communicable diseases and illnesses. For example, as the disease COVID-19 spreads around the world, governments can force people to be vaccinated as a medical measure with the patient's consent. On the other hand, the country's healthcare system is highly regarded. Law no. 36 of 2014 concerning Health Personnel and Employment Laws As a human right, health services form the legal basis for all medical procedures, giving patients the right to decide whether or not to receive any medical treatment. Due to the above principles, patients also have the right to refuse recommended treatment. In terms of the COVID-19 vaccine, the Health Law states that "Health development is based on humanity, balance, benefit, protection, respect for rights and responsibilities, justice, gender and non-discrimination and religious norms". This shows related development efforts with public health, where benefits need to be sought to protect human rights and must not violate the human rights of other people. In addition, "Everyone has an obligation to participate in implementing, maintaining and improving medical services for the community as high as possible," stated paragraph 1 Article 9. Therefore, the sentence "Everyone is obliged to participate in organizing, maintaining and improving" proves the government's commitment to making every effort to stop the pandemic and improve public health caused by the COVID-19 pandemic. Everyone is obliged to respect the human rights of others and comply with them if they want to live physically, mentally, biologically and socially healthy, as stated by the Ministry of Health. According to Law Number 39 of 1999 concerning Human Rights, respecting the human rights of other people, as well as morals, ethics and principles of life in society, nation and state, is included in orderly social life.

**Human Rights to Health for Vulnerable Groups**

In fact, terms such as protection, development, enforcement and fulfillment of human rights are very unclear. There is no law that explains these ideas in a concept that should be part of a leader's plan for interpretation, so the question is whether the court's decision is consistent with the interpretation of the concept. Despite this, human rights are often the subject of political conversation rather than the legal issues themselves. Articles 41 and 42 of Law no. 39 of 1999 concerning Human Rights regulates special treatment for vulnerable groups such as people with disabilities, elderly people, pregnant women and children, without reducing the principle of non-discrimination in the context of protecting and respecting human rights. These ideas are driven by the idea that the purpose of this regulation is to ensure that vulnerable groups in society will receive the same treatment as men and young people as a form of humanity. Therefore, the right to reproductive health of women and children is also regulated in Articles 49 and 62 of Law no. 39 of 1999 concerning Health. Through the World Health Organization (WHO), all citizens of the world also comply with and ratify the right to health of vulnerable groups who have the right to welfare. Article 79 Law no. 39 of 1999 concerning Human Rights (Rantung, Palilingan, & Lumenon, 2023). Health protection, adolescent reproduction and protecting the rights of adolescents to obtain information about their reproductive health in a comprehensive and safe manner. This is related to the right of young women to receive medical treatment (Prijatni, Prijatni, & Rahayu, 2016). Taking into account the current distribution of legislation, women's health rights should be closely aligned with women's health needs. However, the current situation is still considered to be inversely proportional so that system and administration improvements are needed to meet the needs of these vulnerable groups.
The results of a survey conducted by Long Form stated that maternal deaths were still highest due to pregnancy or medical treatment, not accidents or falls or slips (Majid, Mote, & Jaya, 2024). The lowest maternal and childbirth mortality rates were found in DKI Jakarta Province, with the highest maternal and childbirth mortality rates occurring in Papua.

Apart from that, a survey from Long Form stated that the 2020 birth period still ranked highest in Papua in contributing to the female mortality rate during pregnancy, during childbirth and the postpartum period. These results show a downward trend when compared with several other countries. The high maternal mortality rate is largely due to late delivery care. This is because childbirth is still carried out conventionally or with the help of a traditional birth attendant, it is still difficult to get the next level referral facility, and there is still a lack of relevant medicines. It is believed that the complicated process of ordering and distributing medicines using E-Catalogs in procurement is thus responsible for the ongoing pregnancy shortage.

No country or person can guarantee certain medical conditions. Heredity, environment, and even medications often influence a person's health. The right to health is regulated in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic Rights as several world organizations that focus on handling other international human rights. The government is responsible for organizing, establishing, and supervising medical services because of the relationship between government and the right to health. All communities can participate because the government supervises the implementation of these health activities.

The government takes administrative action against health staff, health facilities, or individuals who violate the regulations of Article 36 of Law no. 36 of 2009 concerning health but it has not been specifically regulated and explained the government's legal responsibilities (Sutarih, 2018). Legal theory helps explain unclear rules. Government obligations can be explained through systematic interpretation and linking obligations with existing provisions in positive legal products or relevant statutory regulations (Purwati, 2020). The government is responsible for ensuring the availability, equality and affordability of health supplies, especially limited production drugs and those specifically designated as hard drugs. The government can establish special policies for the procurement and utilization of efficacious medicines and medicinal ingredients to ensure the availability of medicines in case of emergency. Therefore, it is clear that the government is responsible for organizing, developing and supervising health services. This obligation, in administrative law theory, is an internal part of the government's responsibility to protect all its citizens, especially from dangers that can disturb or threaten their health in general. On the contrary, one of the most sought after rights is the right to receive medical services. International agreements and UN General Assembly resolutions on the environment, food, and disease prevention. Consequentialism is the basis of international law. The Health System shows that international agreements are binding to meet human needs for adequate, safe, high quality and affordable health services and supplies. With a mandate from the Constitution or through delegation, the government obtains legal authority to make a policy (Risal, 2021). The World Health Organization (WHO) states that part of human well-being is physical health, mental health, and social relationships between humans and also includes health without disability or weakness (Nihaya, 2016). To ensure that medical services are equal and balanced between the public and private sectors, including the roles, duties and responsibilities of the government so that they become clearer (Grenaldo, 2017).
CONCLUSION

In the health sector, the Law of the Republic of Indonesia on Health emphasizes that the government's responsibility is to protect the community, increase the prosperity and welfare of the community to the maximum by prioritizing justice in the health sector and realizing the state's goal of maintaining the integrity of the unitary state of the Republic of Indonesia through the welfare of the community. Philosophically, the basis for guaranteeing the right to health is the most basic human right, including ensuring that all people have easy access to medical services that are fair and decent. The benchmark for medical services is that medical services reach their maximum performance by providing space for the basic rights of every human being, providing emergency care to patients in a decent and humane manner, increasing their knowledge and skills to keep abreast of developments in the field of medicine or dentistry.

REFERENCE


