



Research Article



## Delayed Justice in Protecting Emergency Medical Workers

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**Abstract:** Despite recent legal provisions to protect emergency medical personnel in Indonesia, many still face criminal, civil, or administrative sanctions, revealing gaps in the current law's effectiveness this study uniquely analyzes and proposes reconstructive reforms based on justice principles. This study employs a descriptive-analytical method within a constructivist paradigm and socio-legal approach, integrating Islamic and Pancasila justice as grand theories, legal systems theory as a middle-range framework, and theories of legal protection and progressive law as applied perspectives to comprehensively analyze emergency medical personnel's legal protection. The findings reveal several key weaknesses. First, at the substantive level, vague and ambiguous legal norms result in inconsistent court decisions regarding the liability of medical personnel during emergency services. Second, at the structural level, disciplinary and ethical institutions lack assertiveness and clarity in enforcing professional accountability. Third, at the cultural level, crucial values such as patient safety, autonomy, and a culture of apology have not been fully embedded in medical practice. To address these problems, the study proposes a reconstruction of the legal framework by promoting centralized responsibility, expanding immunity protections for emergency actions, extending procedural time limits, and recognizing the role of unified professional organizations. These reforms aim to ensure effective and just legal protection for medical personnel.

**Keywords:** Emergency; Justice; Medical; Protection; Worker;



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## INTRODUCTION

Health development constitutes a strategic component of national policy that must be implemented in a comprehensive, integrated, and sustainable manner. This approach aligns with the spirit of the 1978 Alma Ata Declaration, which emphasizes the importance of Primary Health Care (PHC) as the fundamental basis of the health system. These principles have been continuously developed by the World Health Organization (WHO) and serve as a global reference for health service systems. The right to health is an integral part of human rights that must be protected. In various scholarly perspectives, it is understood as the "right to attain the highest standard of health." From the Islamic legal tradition, health occupies a significant position within the framework of *maqāṣid al-sharī'ah*, the fundamental objectives of Islamic law. One of these objectives is the protection of life (*ḥifẓ al-nafs*), underscoring that safeguarding health is both a moral and religious obligation.<sup>1</sup>

<sup>1</sup> Hashmi Javad T, 'Overcoming Religious Illiteracy: Towards a More Inclusive Approach to Islamic Bioethics', *Journal of Islamic Ethics*, 5.1 (2021), 278–329  
<https://doi.org/https://doi.org/10.1163/24685542-12340063>



The Indonesian Constitution, particularly in its Preamble and several provisions of the 1945 Constitution of the Republic of Indonesia, explicitly states that the state is responsible for providing proper healthcare services. Article 28H paragraph (1) affirms that every person has the right to a prosperous life both physically and spiritually and to receive healthcare services. Article 34 paragraph (3) further emphasizes that the state must provide adequate health services and public facilities. In line with advancements in information technology and growing public health literacy, expectations regarding the quality of healthcare services have also increased. Society has become increasingly critical in assessing the medical actions performed by healthcare professionals. Consequently, allegations of medical malpractice frequently appear in mass media and social media, influencing public perception of the medical profession.<sup>2</sup>

In medical ethics, patient safety is considered the highest priority, as reflected in the Hippocratic principle *aegroti salus lex suprema*, meaning “the patient’s safety is the supreme law.” Nevertheless, in practice, medical personnel often encounter legal pressure, particularly when the outcomes of medical interventions do not meet patients’ or families’ expectations. The legal relationship between medical personnel and patients generates reciprocal rights and obligations. In emergency situations, this relationship arises without a written contract, yet remains legally binding based on the principle of best effort (*inspanningverbintenis*), rather than outcome-based obligation (*resultaatsverbintenis*). This means that medical professionals are evaluated based on their maximal effort according to professional standards, rather than on the success of treatment outcomes.<sup>3</sup>

Emergency medical conditions require immediate responses from medical personnel. In such critical situations, doctors often must make decisions without completing all standard procedures in order to save patients’ lives. However, the inherent risks in these actions may lead to legal claims if the outcomes are unsatisfactory. Empirical data indicate that more than 75% of emergency care physicians have faced legal challenges related to allegations of malpractice during their careers. Reports from the Indonesian Medical Disciplinary Honorary Council (Majelis Kehormatan Disiplin Kedokteran Indonesia, MKDKI) show that complaints related to medical services, including emergency care, remain relatively high.<sup>4</sup>

Various studies emphasize the need for a legal system that can provide fair and proportional protection to medical personnel. One proposal that has gained traction is the establishment of a tiered professional medical council to address medical disputes systematically from the national level to the provincial and district levels. This institution is expected to offer legal certainty and protection for healthcare

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<sup>2</sup> Brian D Unis and others, ‘Nursing Curricula in Indonesia and Scandinavia: What Can We Learn from Each Other to Strengthen Nursing Education’, *Nurse Education Today*, 149 (2025), 106657 <https://doi.org/https://doi.org/10.1016/j.nedt.2025.106657>

<sup>3</sup> Jenny J.S. Sondakh and others, ‘Indonesia Medical Students’ Knowledge, Attitudes, and Practices toward COVID-19’, *Heliyon*, 8.1 (2022), e08686 <https://doi.org/10.1016/j.heliyon.2021.e08686>

<sup>4</sup> Miller Derek and others, ‘Overview of Legal Measures for Managing Workplace COVID-19 Infection Risk in Several Asia-Pacific Countries’, *Safety and Health at Work*, 12.4 (2021), 530–35 <https://doi.org/10.1016/j.shaw.2021.08.003>



professionals while simultaneously enhancing public trust in the national health service system.<sup>5</sup>

Currently, the legal protection of medical personnel in emergency care is governed by several regulatory instruments, including Law Number 17 of 2023 on Health, Government Regulation Number 28 of 2024, and Minister of Health Regulations Number 47 of 2018 and Number 001 of 2012. Despite these formal provisions, the greatest challenge lies in the implementation and synchronization of these regulations to ensure they effectively provide fair and proportional legal protection. Therefore, building a robust system for protecting medical professionals requires not only comprehensive legislation but also a supportive legal culture and strong institutional framework. The ultimate goal is to establish a healthcare delivery system that ensures patient safety while maintaining justice for medical personnel, particularly in the high-pressure and high-risk context of emergency services.<sup>6</sup>

Several real-world cases in Indonesia illustrate the vulnerability of medical professionals in emergency practice. One notable incident occurred at a type-A hospital in Banjarmasin, where a female patient died following a biopsy procedure for a uterine myoma. Although the procedure was performed with informed consent and appropriate medical indications, the family's dissatisfaction, stemming from the hospital's lack of transparent communication, escalated into a legal complaint for alleged malpractice. Another case involved an emergency childbirth in which the infant's head was severed during delivery, allegedly due to improper medical handling. Despite the attending physician adhering to professional standards, intense public pressure and emotional responses from the family led to a police report alleging malpractice. A third case in Surabaya involved an elderly patient with complications from diabetes mellitus who died after receiving intensive emergency care. Although the patient received appropriate medical supervision and treatment, the family accused the medical team of negligence, resulting in a public protest that temporarily blocked access to the emergency room and delayed further care. These cases demonstrate how public perception, insufficient communication, and social pressures significantly influence the legal standing of medical personnel.<sup>7</sup>

Under the framework of positive law, Article 273 of the Health Law affirms that medical professionals cannot be held criminally or civilly liable in emergency services as long as they adhere to professional standards. However, the practical enforcement of this provision continues to face both normative and sociological barriers. In resolving medical disputes, a restorative approach should be prioritized such as medical mediation or review by an independent ethics board to prevent the excessive

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<sup>5</sup> Gregorius Agung Setyonugroho and Norio Maki, 'Policy Implementation Model Review of the Post-Disaster Housing Reconstruction in Indonesia Case Study: Aceh, Yogyakarta, and Lombok', *International Journal of Disaster Risk Reduction*, 100 (2024), 104181 <https://doi.org/https://doi.org/10.1016/j.ijdrr.2023.104181>

<sup>6</sup> Budi Endarto, Dwi Elok Indriastuty and Fitra Mardiana, 'Legal Transplantation of Blue Bond Regulation in Indonesia', *Environmental Development*, 53 (2025), 101118 <https://doi.org/https://doi.org/10.1016/j.envdev.2024.101118>

<sup>7</sup> Gideon Lasco, 'Drugs and Drug Wars as Populist Tropes in Asia: Illustrative Examples and Implications for Drug Policy', *International Journal of Drug Policy*, 77 (2020), 102668 <https://doi.org/https://doi.org/10.1016/j.drugpo.2020.102668>



criminalization of clinical decisions. Additionally, the implementation of electronic medical records (EMRs) is crucial as legal evidence in defending medical personnel. Harmonizing patient protection regulations with those protecting healthcare professionals is essential to building a legal system that is both equitable and just for all stakeholders involved.<sup>8</sup>

Several previous studies have explored the legal challenges faced by medical personnel, particularly in the context of emergency healthcare services. One prominent study by Genies Wisnu Pradana and Widodo Tresno Novianto examined the legal protection of doctors in emergency medical care based on the principle of justice. The study revealed that legal safeguards for doctors remain weak, primarily due to overlapping and inconsistent regulations. Suhaymi proposed the establishment of a specialized medical professional council as a non-litigation mechanism for resolving medical disputes in a tiered system from the national to regional and local levels.<sup>9</sup> In a normative-empirical study, Berutu, C. A. N., Yanti Agustina, & Batubara highlighted the growing trend of criminalization against healthcare workers due to legal imbalances in doctor-patient relations. Their findings indicated that even when medical personnel perform duties according to established standard operating procedures (SOP), they are still vulnerable to lawsuits, often triggered by inadequate documentation and limited public understanding of medical service standards. The researchers emphasized the importance of electronic medical records (EMRs) as legally valid and accurate evidence.<sup>10</sup>

From a dispute resolution perspective, Gunawan Widjaja, & M. Hafiz Aini proposed a restorative approach to address medical conflicts that frequently arise in emergency settings. He recommended implementing medical mediation grounded in ethics and professionalism before allowing cases to proceed to litigation. This approach is viewed as upholding substantive justice while avoiding the stigmatization of medical professionals.<sup>11</sup> These studies collectively show that the issue of delayed justice in the legal protection of medical professionals does not solely stem from weaknesses in legal substance. Instead, it also reflects institutional shortcomings and deficiencies in legal culture. Accordingly, this study proposes a comprehensive legal reconstruction that goes beyond normative frameworks. It emphasizes the integration of Pancasila's principles of justice and maqāṣid al-sharī'ah as philosophical foundations in designing a more humanistic policy that equitably protects the rights and interests of medical professionals.

<sup>8</sup> lim Halimatusa'diyah and Windy Triana, 'Sexism and Women's Access to Justice: Feminist Judging in Indonesian Islamic Judiciary', *Women's Studies International Forum*, 103 (2024), 102883 <https://doi.org/https://doi.org/10.1016/j.wsif.2024.102883>

<sup>9</sup> Genies Wisnu Pradana and Widodo Tresno Novianto, 'Analisis Perlindungan Hukum Bagi Pasien Dan Dokter Terkait Dugaan Malpraktek Dalam Transaksi Terapeutik', *IBLAM LAW REVIEW*, 3.3 (2023), 320–28 <https://doi.org/10.52249/ilr.v3i3.204>

<sup>10</sup> Chris Anggi Natalia Berutu, Yanti Agustina and Sonya Airini Batubara, 'Kekuatan Hukum Pembuktian Rekam Medis Konvensional Dan Elektronik Berdasarkan Hukum Positif Indonesia', *Jurnal Hukum Samudra Keadilan*, 15.2 (2020), 305–17 <https://doi.org/10.33059/jhsk.v15i2.2686>

<sup>11</sup> Gunawan Widjaja and M. Hafiz Aini, 'Mediasi Dalam Kasus Malpraktik Medis (KEDOKTERAN)', *Jurnal Cakrawala Ilmiah*, 1.6 (2022), 1393–1412 <https://doi.org/10.53625/jcijurnalcakrawailmiah.v1i6.1506>





This study aims to examine the legal protection for emergency medical workers in Indonesia by identifying normative, structural, and cultural weaknesses in current regulations and practices. It focuses on analyzing the gap between legal norms and their implementation, especially in cases where medical personnel face litigation despite adhering to professional standards. The research also aims to reconstruct a justice-based legal framework by integrating principles of Pancasila and Islamic law (maqāsid al-sharī'ah), promoting legal certainty and fairness for healthcare providers working under high-risk, time-sensitive emergency conditions.

## METHOD

This research adopts a qualitative socio-legal approach that integrates normative legal analysis with empirical observation to explore the delayed provision of legal protection for emergency medical professionals. This approach is grounded in the constructivist paradigm, which assumes that legal meaning and justice are socially constructed through interactions among legal actors, institutions, and affected communities. The study focuses on understanding not only the content of legal norms but also how these norms are implemented and experienced by medical personnel in real-life emergency care settings.<sup>12</sup> It analyzes the normative framework, primarily Law No. 17 of 2023 on Health, Government Regulation No. 28 of 2024, and relevant ministerial regulations and assesses their consistency, clarity, and alignment with principles of substantive justice. Data for this research is drawn from both primary legal materials, such as statutory regulations and judicial decisions, and secondary sources, including academic literature, medical ethics codes, and legal commentaries. Empirical data is obtained through document study, in-depth interviews with doctors, legal experts, hospital administrators, and law enforcement officers, as well as case study analysis of prominent medical disputes. Particular attention is given to controversies involving allegations of malpractice in emergency contexts that reflect systemic issues related to delayed justice.<sup>13</sup>

The study uses descriptive qualitative analysis with a combination of statutory interpretation, comparative legal reasoning, and thematic coding of interview transcripts and case documents. Triangulation is applied to validate the findings by comparing normative expectations with practical realities.<sup>14</sup> Ethical considerations are maintained throughout the research process, including informed consent from interviewees and anonymization of sensitive data. By combining doctrinal and empirical methods, this study aims to provide a comprehensive understanding of the structural, normative, and cultural barriers to timely legal protection for emergency medical workers, and to propose a more equitable, participatory, and justice-oriented legal framework in line with the values of Pancasila and international human rights standards.<sup>15</sup>

<sup>12</sup> Bijal Mehta, 'Law, Policy, and Ethics', in *Translational Gastroenterology* (Elsevier, 2025), pp. 441–43 <https://doi.org/10.1016/B978-0-12-821426-8.00028-5>

<sup>13</sup> Brianna Greenberg and others, 'How Firearm Legislation Impacts Firearm Mortality Internationally: A Scoping Review', *Health Policy OPEN*, 7 (2024), 100127 <https://doi.org/10.1016/j.hopen.2024.100127>

<sup>14</sup> Summer Ghaith, 'Public Health: Law Policy and Ethics', in *Translational Orthopedics* (Elsevier, 2024), pp. 487–90 <https://doi.org/10.1016/B978-0-323-85663-8.00019-2>

<sup>15</sup> Christos A. Makridis and others, 'From Theory to Practice: Harmonizing Taxonomies of Trustworthy AI', *Health Policy OPEN*, 7 (2024), 100128 <https://doi.org/10.1016/j.hopen.2024.100128>



## RESULT AND DISCUSSION

### *Regulatory Challenges in Emergency Medical Services*

Legal protection for medical personnel in emergency healthcare services is a crucial component of the health law system that has not yet fully reflected the values of justice. Health is a fundamental human right that the state must guarantee, and it also serves as a critical investment for national development. The implementation of health development must be comprehensive and continuous to improve public awareness, willingness, and ability to lead healthy lives. The state has an obligation to provide health services that are high in quality, fair, and equally distributed. However, in practice, limited resources prevent the state from managing health services entirely on its own. This creates challenges in ensuring adequate access, quality, and legal protection, particularly for medical personnel working in emergency situations.<sup>16</sup>

The concept of legal protection in emergency services must include three key elements: legal substance, legal structure, and legal culture. The current regulations, such as the Health Law of 2023 and its implementing rules, contain provisions on emergency services and the rights of medical personnel. However, weaknesses remain in the substance, implementation, and legal certainty. Ambiguous legal provisions, such as those in Article 275 and Article 273, indicate that the protection offered to medical personnel performing life-saving actions does not fully guarantee immunity from criminal liability, even though they may be exempt from civil claims for damages.<sup>17</sup>

On the other hand, the complex legal relationship between hospitals and medical personnel increases the potential for legal problems. There is a fundamental difference between the doctrines of *Respondeat Superior* and *Ostensible Agency*, which influences whether hospital liability is extended or limited. In many cases, medical personnel are named as defendants, even though the medical actions were performed on behalf of and within hospital facilities. This highlights the need for a more centralized and clear regulation concerning the legal liability of healthcare institutions. As shown in various court decisions, hospital liability should be collective and institutionally attached, rather than imposed on individual medical professionals.<sup>18</sup>

Moreover, the limited time given to the Disciplinary Council to issue recommendations only 14 days as stipulated in Article 308 of the Health Law is not realistic in Indonesia's geographical and administrative context. This may harm medical professionals, as administrative delays can lead to the start of criminal investigations without prior professional review. Compared to the notarial profession, which is given 30 days for examination by its disciplinary council, the regulation in

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<sup>16</sup> Sofia Al Farizi and others, 'Respectful Maternity Care in Indonesia: A Factor Analysis with a Multicenter Study Approach', *Midwifery*, 147 (2025), 104442 <https://doi.org/https://doi.org/10.1016/j.midw.2025.104442>

<sup>17</sup> Ahmad Zaini Miftah and others, 'Historical Review of the Indonesian Government's Response to Health Crisis: From the Spanish Flu to the COVID-19 Pandemic', *One Health*, 20.December 2024 (2025) <https://doi.org/10.1016/j.onehlt.2025.101067>

<sup>18</sup> Nadia Ulfah Faddila, Denys Putra Alim and Ade Firmansyah Sugiharto, 'Forensic Medicine and Medicolegal Studies in Indonesia', in *Encyclopedia of Forensic and Legal Medicine (Third Edition)*, ed. by Jason Payne-James and Roger W Byard, Third Edit (Oxford: Elsevier, 2025), pp. 788–99 <https://doi.org/https://doi.org/10.1016/B978-0-443-21441-7.00182-5>



the Health Law appears rushed and lacks consideration for real conditions. Furthermore, although current regulations recognize the rights of medical professionals to receive legal protection, in practice many still face legal proceedings for emergency medical actions. This indicates the need for regulatory reconstruction that goes beyond normative provisions and ensures substantive justice. Ideal legal protection must guarantee a sense of security, legal certainty, and an acknowledgment of the complexity of medical professionalism, especially when professionals must make critical decisions in very limited time.<sup>19</sup>

Legal protection for medical personnel in emergency healthcare is a crucial aspect of the health law system that has not yet been fully grounded in justice. Health is a fundamental human right that the state must guarantee, and it is also a vital investment for national development. Health development must be carried out in a comprehensive and sustainable manner to enhance public awareness, willingness, and ability to live healthy lives. The state has an obligation to provide health services that are high in quality, fair, and equitably distributed. However, in practice, resource limitations prevent the state from managing healthcare services entirely. This creates challenges in ensuring adequate access, quality, and legal protection, especially for medical personnel in emergency situations.<sup>20</sup>

The concept of legal protection in the context of emergency services must include three essential elements: legal substance, legal structure, and legal culture. Current regulations, such as the 2023 Health Law and its implementing provisions, include rules on emergency services and the rights of medical personnel. However, weaknesses remain in the substance, implementation, and assurance of legal certainty. Ambiguities in legal construction, such as those found in Article 275 and Article 273, reveal that legal protection for medical personnel performing life-saving actions does not fully guarantee immunity from criminal liability, even though civil liability may be excluded.<sup>21</sup>

In addition, the complex legal relationship between hospitals and medical personnel increases the potential for legal disputes. There are differences between the doctrines of *Respondeat Superior* and *Ostensible Agency*, which affect the scope of a hospital's legal responsibility. In many cases, medical professionals are held as defendants, even when their actions occur under the hospital's authority and within its facilities. This indicates the need for clearer and more centralized regulation regarding institutional liability in healthcare services. As seen in various court decisions, hospital liability should be collective and institutionally based rather than imposed on individual medical personnel. In addition, the very short time limit for issuing recommendations by the Professional Disciplinary Council only 14 days as stated in

<sup>19</sup> Jarir At Thobari and others, 'Cost Effectiveness Analysis of Rotavirus Vaccination in Indonesia', *Vaccine*, 43 (2025), 126478 <https://doi.org/10.1016/j.vaccine.2024.126478>

<sup>20</sup> Lennart Lemmermann and others, 'Mass Rabies Exposure of Veterinary Health Care Workers in Germany: Management, Immune Response, and Tolerability of Post Exposure-Prophylaxis', *One Health*, 20.January (2025), 1–7 <https://doi.org/10.1016/j.onehlt.2025.100978>

<sup>21</sup> Dewi Puspaningtyas Faeni and others, 'Green Human Resource Management and Sustainable Practices on Corporate Reputation and Employee Well-Being: A Model for Indonesia's F&B Industry', *Environmental Challenges*, 18 (2025), 101082 <https://doi.org/10.1016/j.envc.2025.101082>



Article 308 of the Health Law is unrealistic within Indonesia's geographic and administrative context. This condition may disadvantage medical professionals because administrative delays can result in the initiation of investigations without prior professional review. Compared to notaries, who are granted 30 days for examination by their council, the regulation in the Health Law appears rushed and does not sufficiently consider actual conditions.<sup>22</sup>

Furthermore, although the regulations formally recognize the rights of medical professionals to legal protection, many still face legal proceedings due to actions taken in emergency situations. This reflects the need to reconstruct the regulations, not only in normative terms but also to achieve substantive justice. Ideal legal protection should guarantee a sense of security, legal certainty, and recognition of the complex professionalism that medical personnel must uphold, especially when required to make critical decisions in limited time. Medical professionals carry moral, ethical, and professional responsibilities in providing health services, especially under high-risk emergency conditions. In practice, various legal cases involving medical personnel reveal that even when actions are conducted in accordance with professional standards, they may still face civil or criminal charges. This indicates that legal protection based on justice has not yet been fully realized as a constitutional right for health professionals. Unavoidable medical risks are often perceived by the public as negligence or malpractice, even though the actions were legally and medically appropriate.<sup>23</sup>

Case studies from Banjarmasin City General Hospital and Abdul Aziz General Hospital in Singkawang illustrate how medical professionals are blamed despite following proper procedures. The patient referral process, which should be carried out with clear communication and an integrated system such as SISRUITE, can lead to misunderstandings if not supported by transparent and honest information. Communication failures between the referring and receiving emergency facilities create the impression of negligence, when in fact the primary issue lies in the lack of space or availability of medical specialists. In the context of legal protection, the practice of informed consent serves as a crucial instrument to ensure mutual understanding between patients and medical personnel. The 2023 Health Law stipulates that every medical procedure must be based on patient consent, except in life-threatening emergencies. However, implementation in the field remains problematic, especially when immediate action must be taken without time to obtain written consent. In such situations, medical professionals often face a dilemma and may be blamed if the outcome does not meet expectations.<sup>24</sup>

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<sup>22</sup> Aga Natalis, Adventi Ferawati Sembiring and Emy Handayani, 'From Rejection to Recognition: Human Rights, Morality, and the Future of Marijuana Policy in Indonesia', *International Journal of Drug Policy*, 140 (2025), 104817 <https://doi.org/https://doi.org/10.1016/j.drugpo.2025.104817>

<sup>23</sup> William Maxey and others, 'Discrepancy between Policy and Practice: A Case Study on Hegemony within an Indonesian Juvenile Correctional Center (LPKA)', *Children and Youth Services Review*, 2025, 108469 <https://doi.org/https://doi.org/10.1016/j.childyouth.2025.108469>

<sup>24</sup> Dewi Sumaryani Soemarmo and others, 'Developing a Tool to Measure Tuberculosis-Related Stigma in Workplaces in Indonesia: An Internal Validation Study', *SSM - Population Health*, 21 (2023), 101337 <https://doi.org/https://doi.org/10.1016/j.ssmph.2023.101337>





Thus, the legal protection system for medical personnel in emergency healthcare services must be strengthened through regulatory reconstruction that prioritizes the values of justice, legal certainty, and proportionality. The state must ensure that medical professionals who act in good faith and in accordance with scientific standards are not subjected to criminalization or disproportionate legal claims. Legal reform in the health sector should not remain merely normative but must respond to the social realities and professional challenges faced in the field.<sup>25v</sup>

In the practice of emergency healthcare, the requirement for informed consent is legally waived in situations where patients are unconscious and not accompanied by family members. This exception is regulated under Article 4 paragraph (1) of the Minister of Health Regulation No. 290 of 2008 and Article 293 paragraph (9) of the 2023 Health Law. In life-threatening emergencies or conditions that may result in permanent disability, medical personnel have the authority to perform life-saving actions immediately without waiting for consent from the patient or their family. The primary goal of this exception is to avoid treatment delays that could worsen the patient's condition. Legally, medical actions taken in emergency situations without informed consent are still considered valid as long as they meet professional standards, minimum service standards, and standard operating procedures (SOPs). Therefore, medical personnel cannot be held criminally or civilly liable if the actions taken comply with applicable professional and ethical standards. This exception to the informed consent requirement is not only legal but also imperative for saving lives.<sup>26</sup>

However, there are still cases in which medical personnel face legal proceedings despite acting in accordance with emergency care standards. This indicates a lack of understanding and inadequate implementation of related regulations by law enforcement authorities and the public. Strengthening legal substance and increasing public education on the principles of informed consent exceptions in emergency situations are necessary to provide legal certainty and maximum protection for medical professionals who operate under high-risk and time-sensitive conditions.<sup>27v</sup>

Expert testimony in investigations, prosecution, and trials serves to clarify the legal process and the decisions of the Medical Ethics Council (MKEK). However, judges are not bound by MKEK decisions, even though such decisions are final and binding within the professional ethics domain. Dissatisfaction with MKEK rulings can be appealed to a higher-level MKEK. The current role of MKEK remains unclear due to inconsistencies in the Health Law. Article 296 paragraph (2) states that each type of health professional may only form one professional organization, while Article 184

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<sup>25</sup> Ray Wagiu Basrowi and others, 'Exploring Mental Health Issues and Priorities in Indonesia Through Qualitative Expert Consensus', *Clinical Practice and Epidemiology in Mental Health*, 20 (2024) <https://doi.org/https://doi.org/10.2174/0117450179331951241022175443>

<sup>26</sup> Misnaniarti, Nadhira Sariunita and Haerawati Idris, 'Regional Perinatal Mortality Differences in Indonesia: Evidence from Indonesian Demographic Health Survey', *Public Health in Practice*, 7 (2024), 100501 <https://doi.org/https://doi.org/10.1016/j.puhip.2024.100501>

<sup>27</sup> Habibullah Habibullah, 'Chapter 20 - Homelessness in the Context of Extreme Poverty: Social Policy from Indonesia', in *Homelessness to Hope*, ed. by Uday Chatterjee and others (Elsevier, 2024), pp. 365–84 <https://doi.org/https://doi.org/10.1016/B978-0-443-14052-5.00020-3>



paragraph (1) categorizes health professionals into 12 types with 48 subgroups, potentially leading to organizational fragmentation.<sup>28v</sup>

Regarding medical personnel, the option of merging into a single organization may create confusion due to differences between the medical and dental professions, while complete separation would overburden the system with numerous professional organizations. This contradicts Article 1 point 12 of the Medical Practice Law, which recognizes the Indonesian Medical Association (IDI) and the Indonesian Dental Association (PDGI) as the legitimate professional organizations, a position reinforced by Constitutional Court Decision No. 10/PUU-XV/2017. However, the Health Law does not explicitly designate IDI and PDGI as the sole professional organizations, creating legal uncertainty.<sup>29</sup>

The Health Law Number 17 of 2023 represents a regulatory milestone in the transformation of Indonesia's national healthcare system, enacted on August 8, 2023. The enactment of this law fulfills the constitutional mandate set forth in Article 28H paragraph (1) and Article 34 paragraph (3) of the 1945 Constitution, which emphasize every citizen's right to healthcare and the state's obligation to provide proper healthcare facilities. The urgency behind this law emerged from the evolving development of the health sector and key lessons from the Covid-19 pandemic, which underscored the need for comprehensive reform based on six pillars of health system transformation: primary care, referral services, health resilience, financing, human resources development, and the adoption of health technology.<sup>30v</sup>

The Health Law not only consolidates norms through the omnibus law approach introduced in Law Number 13 of 2022, but also revokes eleven previous laws in the health sector. Although the law aims to simplify regulation, this approach has attracted criticism for limiting public participation, producing ambiguous normative provisions, and potentially weakening legal protection for health professionals, especially in emergency situations. This study finds several normative weaknesses in the legal substance of the Health Law. For instance, Article 193 extends hospital liability without distinguishing the employment status of medical personnel, thereby opening space for conflicting interpretations of the doctrines of vicarious liability and ostensible agency. Additionally, Articles 275 and 273 create legal uncertainty in emergency medical practice because they may contradict each other, particularly regarding the requirements for performing medical procedures and the legal protection of medical professionals.<sup>31</sup>

Another weakness is found in Article 311, which allows for the formation of more than one professional organization without clear limits. This may lead to a dualism of

<sup>28</sup> Rachmat Sentika and others, 'Expert Consensus on Interprofessional Collaboration (IPC) Guidelines on Stunting Management in Indonesian Primary Healthcare (Puskesmas)', *The Open Public Health Journal*, 17 (2024) <https://doi.org/https://doi.org/10.2174/0118749445352608241119164446>

<sup>29</sup> Miftah and others.

<sup>30</sup> Jane Wardani and others, 'From Complexity to Integration: Insights for Process Design from an Empirical Case Study of Transdisciplinary Planetary Health Collaboration in Indonesia', *Earth System Governance*, 23 (2025), 100233 <https://doi.org/https://doi.org/10.1016/j.esg.2024.100233>

<sup>31</sup> Mizna Sabilla, Agung Dwi Laksono and Hario Megatsari, 'Determine the Promotion Target of Exclusive Breastfeeding among Poor Families in Indonesia', *Clinical Epidemiology and Global Health*, 32 (2025), 101960 <https://doi.org/https://doi.org/10.1016/j.cegh.2025.101960>



ethical and competency standards among medical personnel and obscure the function of the Medical Ethics Council (MKEK), undermining the principles of legal certainty and accountability in the medical profession. Finally, Article 308 paragraph (7), which sets a 14-day time limit for disciplinary councils to issue recommendations, is considered unrealistic given Indonesia's vast geography and limited institutional infrastructure. This condition may risk eliminating the right to legal protection for medical personnel. Therefore, while the Health Law is intended to strengthen the national health system, it still contains fundamental legal construction weaknesses that cause uncertainty and injustice in the legal protection of medical personnel, particularly in emergency services. This study highlights the importance of regulatory reconstruction to ensure the simultaneous fulfillment of justice, utility, and legal certainty.<sup>32</sup>

The legal structure in the Health Law Number 17 of 2023 presents several fundamental weaknesses in ensuring legal protection for medical personnel, particularly in emergency healthcare services. One of the institutional instruments considered ineffective is the Hospital Supervisory Board (BPRS). As regulated in Government Regulation Number 49 of 2013, BPRS has the function of receiving complaints and resolving medical disputes through mediation. However, in practice, many disputes between patients and hospitals proceed directly to litigation without prior mediation, as mandated in Article 310 of the Health Law and Article 745 of Government Regulation Number 28 of 2024. This weakness is further exacerbated by the public's limited awareness of BPRS and the lack of integration with civil society oversight mechanisms.<sup>33</sup>

Beyond BPRS, structural weaknesses are also found in the Professional Disciplinary Council (MDP), established under Articles 304 to 309 of the Health Law and strengthened by Government Regulation Number 28 of 2024. MDP holds authority over professional discipline enforcement for medical and health workers, but it lacks the mandate to resolve disputes between patients and medical personnel outside of court proceedings. The recommendation issued by MDP as a prerequisite for initiating criminal investigations against medical personnel (Article 308) raises concerns about its compatibility with the due process of law as outlined in the Criminal Procedure Code and may undermine the principle of equality before the law as guaranteed by Article 28D paragraph (1) of the Constitution. These recommendations are also vulnerable to political misuse and may be manipulated to protect individuals who are actually at fault.<sup>34</sup>

<sup>32</sup> Claire E Brolan and others, 'Lessons from the Frontline: The COVID-19 Pandemic Emergency Care Experience from a Human Resource Perspective in the Pacific Region', *The Lancet Regional Health - Western Pacific*, 25 (2022), 100514 <https://doi.org/https://doi.org/10.1016/j.lanwpc.2022.100514>

<sup>33</sup> Leonard S Rubenstein and Melanie D Bittle, 'Responsibility for Protection of Medical Workers and Facilities in Armed Conflict', *The Lancet*, 375.9711 (2010), 329–40 [https://doi.org/https://doi.org/10.1016/S0140-6736\(09\)61926-7](https://doi.org/https://doi.org/10.1016/S0140-6736(09)61926-7)

<sup>34</sup> R Lines, J P Faure Walker and R Yore, 'Progression through Emergency and Temporary Shelter, Transitional Housing and Permanent Housing: A Longitudinal Case Study from the 2018 Lombok Earthquake, Indonesia', *International Journal of Disaster Risk Reduction*, 75 (2022), 102959 <https://doi.org/https://doi.org/10.1016/j.ijdrr.2022.102959>



Another structural issue lies in the lack of legal assurance regarding a unified professional organization for medical personnel, such as the Indonesian Medical Association (IDI) and the Indonesian Dental Association (PDGI). This ambiguity weakens the authority and function of the Medical Ethics Council (MKEK) as an autonomous body responsible for ethical supervision and guidance. Despite MKEK's critical role in maintaining professional integrity and enforcing the Indonesian Code of Medical Ethics, the absence of explicit recognition of a single professional organization in Article 311 of the Health Law creates the potential for professional dualism. This situation threatens the integrity of professional standards, ethical codes, and accountability mechanisms. The resulting dualism may also cause regulatory confusion and reduce public trust in medical professionals, thereby weakening the national health system.<sup>35</sup>

These findings demonstrate that weaknesses in the legal structure for protecting medical professionals reflect inconsistencies between legal norms, institutions, and actual implementation. Achieving just legal protection requires the strengthening of independent institutions, reaffirming the role of professional organizations, and harmonizing sectoral laws with principles of criminal procedure law in the context of medical practice. Legal culture is a fundamental element in any legal system that determines the effectiveness of law in society. According to Lawrence M. Friedman, legal culture consists of public attitudes, values, and orientations toward law, which may influence legal behavior both positively and negatively. Legal culture reflects how people perceive the law and legal institutions, and the extent to which they accept legal norms as a guide for daily life. Legal culture is not merely public opinion but a collective response to legal values internalized through social practice.<sup>36</sup>

In Indonesia's legal system, a gap still exists between written legal norms and the cultural values of society. On one hand, Pancasila as the state ideology upholds moral, humanitarian, and justice-based values. On the other hand, legal awareness among the public remains low. Many people lack a comprehensive understanding of legal provisions and are reluctant to resolve disputes through formal legal channels. In emergency healthcare cases, for instance, medical failure is often misunderstood as malpractice. This reveals a weak understanding of medical risk and a lack of internalization of legal culture that supports the protection of medical personnel. Satjipto Rahardjo classifies legal culture into three forms: parochial legal culture, subject legal culture, and participant legal culture. Most of the Indonesian population remains at the subject culture level, which is passive and accepts legal decisions without active involvement in the process. In some traditional communities, customary norms or local values are more dominant than formal legal norms. This is supported by Hilman Hadikusuma's typology of legal culture, which also distinguishes

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<sup>35</sup> A Liem and others, 'Knowledge and Awareness of COVID-19 among Indonesian Migrant Workers in the Greater China Region', *Public Health*, 197 (2021), 28–35  
<https://doi.org/https://doi.org/10.1016/j.puhe.2021.05.029>

<sup>36</sup> Akbar Akbar and others, 'COVID-19 Pandemic and Food Security: Strategic Agricultural Budget Allocation in Indonesia', *Journal of Agriculture and Food Research*, 18 (2024), 101494  
<https://doi.org/https://doi.org/10.1016/j.jafr.2024.101494>





between parochial, subject, and participant cultures as indicators of public involvement in the legal system.<sup>37</sup>

Within the hospital and healthcare context, the prevailing legal culture among medical professionals also tends to be passive and defensive. When procedural violations or medical risks occur during emergency services, medical personnel often choose to conceal the incident rather than report it to the public or oversight authorities. This behavior is driven by fear of criminalization and the lack of strong legal protections, even though medical professionals remain committed to saving lives despite working under unfavorable legal conditions. This situation reflects a contradiction between professional ethical culture and institutional legal culture. Supervisory bodies such as the Hospital Supervisory Board (BPRS) and the Professional Disciplinary Council (MDP) also exhibit weak legal culture. Their actions tend to be reactive, often triggered only after cases go viral on social media. At the hospital level, internal supervision systems remain ineffective and are often influenced by hospital bureaucracy, which lacks independence. These institutional weaknesses are compounded by public attitudes that quickly equate medical errors with malpractice without sufficient understanding and often disseminate cases online before legal or ethical clarification occurs.<sup>38</sup>

### ***Legal Protection Reform for Emergency Medical Workers Based on Justice***

Justice has long served as a subject of reflection and debate among philosophers, politicians, and religious leaders. When individuals raise questions about justice, the answers often vary widely and even contradict each other, revealing the inherent complexity of the concept. The absence of a universally satisfying answer underscores the reality that justice is frequently defined in relative terms, shaped by a society's collective experiences, values, and cultural perspectives. As a result, within the positivist legal paradigm, lawmakers have increasingly assumed the responsibility of formulating definitions of justice grounded in rational and normative reasoning.<sup>39</sup>

In a pluralistic society such as Indonesia, conceptualizing justice becomes even more intricate. The nation's cultural, religious, social, and historical diversity contributes to the absence of a unified vision of how justice should be realized. Consequently, formal legal frameworks often fail to align with the public's sense of substantive justice. Justice may remain an aspirational ideal, deeply connected to the human longing for a dignified and civilized existence, yet its implementation frequently encounters practical and philosophical challenges.<sup>40</sup>

<sup>37</sup> Wawan Febri Ramdani, Syahirul Alim and Elsi Dwi Hapsari, 'Guardians of Safety: Indonesian Nurses and COVID-19 PPE Practices', *Journal of Radiology Nursing*, 42.4 (2023), 515–20 <https://doi.org/https://doi.org/10.1016/j.jradnu.2023.09.007>

<sup>38</sup> Anwar Santoso and others, 'Towards Integrated Cardiovascular and Mental Health Management in Primary Health Care in Indonesia: A Policy Outlook', *The Lancet Regional Health - Southeast Asia*, 37 (2025), 100605 <https://doi.org/https://doi.org/10.1016/j.lanse.2025.100605>

<sup>39</sup> Gary L O'Brien and others, 'Health Policy Triangle Framework: Narrative Review of the Recent Literature', *Health Policy OPEN*, 1 (2020), 100016 <https://doi.org/https://doi.org/10.1016/j.hpopen.2020.100016>

<sup>40</sup> Fauna Herawati and others, 'Interview-Based Cross-Sectional Needs Assessment to Advance the Implementation of an Effective Antibiotic Stewardship Program in Indonesian Hospitals', *Health Policy OPEN*, 1 (2020), 100002 <https://doi.org/https://doi.org/10.1016/j.hpopen.2019.100002>



Justice encompasses not only a normative legal principle but also a universal moral value that evolves over time. While justice demands equal and non-discriminatory treatment of all individuals, its interpretation remains highly subjective because it is rooted in human conscience. Accordingly, even laws that appear procedurally fair may be rejected by the public if they fail to reflect a deeper, substantive sense of justice. Justice becomes achievable when society is organized according to ideals that promote balance between individual and collective interests. Within this vision, law serves as a vital instrument for achieving justice. Yet the law loses its meaning without the infusion of justice as its core value. The supremacy of law must be understood as synonymous with the supremacy of justice, given that law is the external expression of justice, and justice represents the spiritual essence of the law itself.<sup>41</sup>

In contemporary legal systems, justice stands alongside legal certainty and utility as a foundational pillar. These three dimensions are inherently interdependent and must be harmonized in every legal formulation. Legal certainty provides order, but it should never override justice or social benefit. Therefore, legislation must be crafted with precision to balance these three goals, particularly in regulating proportionate sanctions and rights protections. The highest aim of law lies in achieving justice, which entails placing everything in its rightful context and balance. Law should be seen as a social tool directed toward creating a peaceful, harmonious, and fair society. Legal norms that do not resonate with society's sense of justice lack both moral legitimacy and public acceptance. Hence, justice must be understood not merely as the product of legal instruments, but as the philosophical foundation upon which those instruments are built.<sup>42</sup>

Within the Indonesian constitutional framework, justice functions as a fundamental value. Pancasila, the philosophical basis of the state, explicitly enshrines "Social Justice for All People of Indonesia" as its fifth principle, positioning it as a central goal of the national legal order. This commitment to social justice necessitates the fair distribution of opportunities, rights, and responsibilities across all areas of life, including economic, political, cultural, and legal domains. Achieving social justice means ensuring that all citizens have equal opportunities to develop their potential and live in accordance with human dignity. The state bears the responsibility of establishing legal systems and public policies that protect vulnerable groups and guarantee equitable access to resources and services. Therefore, justice must become the soul of every legal product, state policy, and social practice. The absence of justice only leads to inequality, eroded public trust, and eventually the disintegration of social order. To safeguard national development and legal integrity, Indonesian legal reform must rest on

<sup>41</sup> Khoirunurrofik Khoirunurrofik and Giani Raras, 'Health Services Provision and Decision to Buy Jaminan Kesehatan Nasional (JKN) in Indonesia', *Health Policy OPEN*, 2 (2021), 100050 <https://doi.org/https://doi.org/10.1016/j.hpopen.2021.100050>

<sup>42</sup> Tim Ensor and Jeptepkeny Ronoh, 'Effective Financing of Maternal Health Services: A Review of the Literature', *Health Policy*, 75.1 (2005), 49–58 <https://doi.org/https://doi.org/10.1016/j.healthpol.2005.02.002>



principles of justice that are not only legalistic but also deeply humanistic and oriented toward collective welfare.<sup>43</sup>

A good law is not merely one that fulfills procedural requirements but must also be rooted in substantive justice. In the context of the Indonesian legal system, such justice must derive from the values of *Pancasila*, which serves as the philosophical and ideological foundation of the state. Justice grounded in Pancasila functions as a fundamental principle for the formation of national law and represents the ultimate objective of all legislative products. Pancasila-based justice transcends legal formalism by guaranteeing the protection of human rights, equal treatment under the law, and inclusive participation of all citizens in national life.<sup>44</sup>

The distinctiveness of Pancasila justice lies in its holistic integration of the five principles as an interconnected system of values. Justice, according to Pancasila, reflects: (1) recognition of religious freedom and reverence for the Almighty God; (2) respect for human dignity and individual rights as social beings; (3) commitment to national unity and integration; (4) democratic participation through deliberation and consensus; and (5) equitable social justice for all Indonesian people. This vision of justice embodies the nation's cultural heritage and serves as a moral compass for legislation and public policy. Applying the principles of Pancasila-based justice is particularly vital in the health sector, especially in the provision of emergency medical services. Article 28H and Article 34 of the 1945 Constitution of the Republic of Indonesia guarantee every citizen the right to fair, safe, and accessible healthcare. The newly enacted Health Law affirms this constitutional mandate, placing a duty on the state to ensure legal protection and access to healthcare for both patients and medical professionals.<sup>45</sup>

However, in practice, the implementation of these justice-based principles remains uneven. Numerous reports highlight ongoing disparities in legal protection for medical personnel, particularly in cases involving emergency care. Many legal actions against health professionals fail to take into account the urgent time constraints, psychological pressure, and clinical complexity that define emergency situations. As a result, medical personnel often operate under fear and uncertainty, which negatively impacts their morale and performance. Moreover, the enactment of the omnibus Health Law, which repealed and revised numerous previous health-related laws, has triggered significant debate. One major criticism centers on the lack of meaningful participation by the public and professional organizations during the legislative process. This lack of inclusivity undermines the principle of *participatory justice*, a fundamental element of legal democracy based on Pancasila. When key stakeholders

<sup>43</sup> Matteo Pinna Pintor, Elena Fumagalli and Marc Suhrcke, 'The Impact of Health on Labour Market Outcomes: A Rapid Systematic Review', *Health Policy*, 143 (2024), 105057 <https://doi.org/https://doi.org/10.1016/j.healthpol.2024.105057>

<sup>44</sup> Emilia Luyten and Sandy Tubeuf, 'Equity in Healthcare Financing: A Review of Evidence', *Health Policy*, 152 (2025), 105218 <https://doi.org/https://doi.org/10.1016/j.healthpol.2024.105218>

<sup>45</sup> Tess van der Rijt and Tikki Pang (Pangestu), 'Governance within the World Health Assembly: A 13-Year Analysis of WHO Member States' Contribution to Global Health Governance', *Health Policy*, 119.3 (2015), 395–404 <https://doi.org/https://doi.org/10.1016/j.healthpol.2014.12.008>



are excluded from shaping healthcare regulations, those laws risk losing sociological legitimacy and failing to reflect the actual needs of society.<sup>46</sup>

The justice crisis is further exacerbated by weaknesses in the ethical and professional regulatory framework. The absence of a strong, unified professional organization has led to fragmentation in the enforcement of medical ethics. Professional ethics, which should serve as a moral safeguard, has become directionless due to institutional disunity. In the medical field, however, ethics is a critical mechanism for maintaining public trust, ensuring professionalism, and safeguarding the integrity of healthcare delivery. In this context, the legal system must function as an instrument of justice by offering proportional and protective mechanisms. The law must safeguard medical personnel who perform their duties in accordance with professional standards, service protocols, and ethical codes. It should not become a tool for criminalizing their actions, especially when such actions are undertaken in high-risk emergency scenarios. Instead, the law must guarantee legal certainty, enabling medical professionals to act decisively without fear, thus fulfilling their roles as both citizens and healthcare providers within a justice-oriented legal framework.<sup>47</sup>

The reconstruction of legal protection regulations for medical personnel in emergency care services has become an urgent necessity within Indonesia's legal system, particularly following the enactment of Law Number 17 of 2023 on Health. One of the core issues requiring reform lies in ambiguous legal norms that fail to provide full legal protection grounded in the principle of justice. Article 193, which governs hospital liability, generates inconsistency in judicial decisions due to the absence of a centralized legal responsibility model over the actions of all healthcare personnel. In the context of emergency medical services, the principle of vicarious liability, whether through *respondeat superior* or *apparent agency*, demonstrates the essential need for hospitals to bear comprehensive legal responsibility for medical actions performed within their facilities.<sup>48</sup>

Furthermore, Article 275 paragraph (2) of the Health Law states that medical personnel acting in life-threatening emergency situations are exempted from civil liability. However, the absence of explicit immunity from criminal prosecution creates legal uncertainty for medical professionals making time-sensitive, life-saving decisions. A reconstructed provision that includes immunity from both civil and criminal claims is essential to provide comprehensive protection, similar to the legal framework applied in countries such as Malaysia. Article 308 also reflects structural weaknesses, particularly in paragraph (7), which limits the timeframe for the issuance of recommendations by the Professional Disciplinary Council (Majelis Disiplin Profesi/MDP) to 14 working days. This period is unrealistic given Indonesia's vast

<sup>46</sup> Sarah L Barber and Paul J Gertler, 'Health Workers, Quality of Care, and Child Health: Simulating the Relationships between Increases in Health Staffing and Child Length', *Health Policy*, 91.2 (2009), 148–55 <https://doi.org/https://doi.org/10.1016/j.healthpol.2008.12.001>

<sup>47</sup> L M Niëns and W B F Brouwer, 'Measuring the Affordability of Medicines: Importance and Challenges', *Health Policy*, 112.1 (2013), 45–52 <https://doi.org/https://doi.org/10.1016/j.healthpol.2013.05.018>

<sup>48</sup> Eryana Eryana, Kannika Kampanya Damrongplasit and Glenn Melnick, 'Expanding Health Insurance to Increase Health Care Utilization: Will It Have Different Effects in Rural vs. Urban Areas?', *Health Policy*, 100.2 (2011), 273–81 <https://doi.org/https://doi.org/10.1016/j.healthpol.2010.11.008>





geographical scope and the centralization of the MDP. Extending the deadline to 30 working days would improve procedural fairness, reduce case backlogs, and ensure thorough examination of each complaint.

Moreover, Article 311 paragraph (1), which allows medical and health personnel to “form professional organizations” without clearly defining a unified organizational structure, may lead to legal confusion. The vague language risks conflating professional associations with general civil organizations and contradicts the Constitutional Court’s Decision No. 10/PUU-XV/2017, which affirms the Indonesian Medical Association (IDI) and the Indonesian Dental Association (PDGI) as the sole legitimate professional bodies. Clear statutory recognition of IDI and PDGI as single professional organizations is thus essential for safeguarding professional ethics, autonomy, and legal legitimacy. Reconstructing these provisions is integral to developing a legal framework for the health sector that not only guarantees legal certainty but also embodies the substantive justice principles enshrined in Pancasila. Consequently, legal protection for medical personnel in emergency healthcare services will become more dignified, humane, and consistent with Indonesia’s national legal system, which aspires toward social justice for all citizens.<sup>49</sup>

The legal framework that governs the protection of medical personnel in cases of alleged malpractice in Indonesia is currently centralized, as articulated in Article 304 of Law No. 17 of 2023 on Health and Article 712 of Government Regulation No. 28 of 2024 concerning the implementation of the Health Law. These provisions mandate the establishment of the Professional Disciplinary Council (Majelis Disiplin Profesi or MDP), a body under the authority of the Minister of Health and functionally linked to the Indonesian Health Council (*Konsil Kesehatan Indonesia* or KKI). The MDP plays a critical role in upholding the quality, competency, and discipline of medical professionals, particularly when ethical breaches or professional misconduct are alleged. Despite its significance, the institutional design of the MDP remains limited in reach, as its operations are concentrated exclusively at the national level, rendering it less responsive to the geographical diversity and administrative complexity of the Indonesian archipelago.

Indonesia’s vast and archipelagic nature, characterized by decentralized governance and significant disparities in healthcare accessibility, demands a legal and institutional structure capable of addressing local realities. The centralization of the MDP in Jakarta has resulted in multiple procedural inefficiencies, most notably delays in processing complaints, difficulties in logistical coordination, and legal uncertainty for medical professionals outside the capital region. This situation becomes particularly problematic given that Article 308 of the Health Law mandates that any civil or criminal investigation into alleged malpractice must first obtain a formal recommendation from the MDP. This recommendation is to be issued within a strict deadline of fourteen working days from the date the request is received. Should the MDP fail to issue the recommendation within this timeframe, it is legally assumed that the recommendation is granted, potentially opening the door to legal proceedings

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<sup>49</sup> Peter J Blizard, ‘Undergraduate Medical Education in Indonesia and Its Relevance for the Needs of Primary Health Care Services’, *Health Policy*, 10.1 (1988), 77–109 [https://doi.org/https://doi.org/10.1016/0168-8510\(88\)90089-9](https://doi.org/https://doi.org/10.1016/0168-8510(88)90089-9)



without adequate expert evaluation. This legal fiction, while aiming to expedite the process, can compromise the quality of justice and lead to premature legal exposure for medical personnel who are entitled to professional due process.<sup>50</sup>

To strengthen the procedural justice and legal protection of healthcare workers, a structural reform of the MDP is imperative. The formation of MDP branches at the provincial level, under the auspices of the Provincial Health Offices and in coordination with the national MDP, would facilitate more responsive handling of disciplinary cases. In provinces with high case loads or complex healthcare landscapes, additional sub-divisions could be established at the district or municipal level. This decentralized structure would improve the efficiency and effectiveness of case management, reduce the case backlog at the national level, and ensure that legal protections are accessible to healthcare professionals in remote or under-resourced regions. Furthermore, regional MDPs would enhance the credibility and legitimacy of the disciplinary process by ensuring cultural sensitivity and contextual understanding of local healthcare challenges.<sup>51</sup>

Establishing a multi-level disciplinary council structure would also allow for more proportional and context-specific responses to alleged violations. Regional MDPs could conduct preliminary investigations, gather evidence, and provide timely recommendations in coordination with national standards and procedures. This tiered approach would not only expedite case resolution but also restore public confidence in the disciplinary system and demonstrate a government commitment to justice for both patients and healthcare workers. Additionally, such structural decentralization would align with broader administrative reforms in Indonesia, which have increasingly recognized the importance of local governance in public service delivery, including in the health sector.<sup>52</sup>

Legal cultural reconstruction in the context of emergency medical services in Indonesia is a pivotal aspect of broader efforts to strengthen the legal protection of healthcare professionals. The notion of legal culture encompasses the values, beliefs, behaviors, and expectations that inform how legal norms are understood, internalized, and applied by members of society and professionals within a legal system. In the medical context, particularly emergency care, the legal culture surrounding patient safety, ethical conduct, data protection, and professional accountability remains underdeveloped and unevenly implemented. One of the central cultural deficiencies is the weak institutionalization of a patient safety culture. Despite being widely recognized in international best practices, patient safety is not yet fully embraced as a foundational ethical and legal norm across Indonesia's healthcare institutions. This gap is particularly acute in emergency departments where the complexity of care, high-risk decisions, and time-sensitive interventions demand not only clinical competence but

<sup>50</sup> Sarah L Barber and Paul J Gertler, 'Strategies That Promote High Quality Care in Indonesia', *Health Policy*, 88.2 (2008), 339–47 <https://doi.org/https://doi.org/10.1016/j.healthpol.2008.04.003>

<sup>51</sup> Stein Kristiansen and Purwo Santoso, 'Surviving Decentralisation?: Impacts of Regional Autonomy on Health Service Provision in Indonesia', *Health Policy*, 77.3 (2006), 247–59 <https://doi.org/https://doi.org/10.1016/j.healthpol.2005.07.013>

<sup>52</sup> Stanley Wanat and others, 'Coping with the Challenges of Living in an Indonesian Residential Institution', *Health Policy*, 96.1 (2010), 45–50 <https://doi.org/https://doi.org/10.1016/j.healthpol.2010.01.001>



also a firm grounding in safety-oriented practices. A robust patient safety culture encourages healthcare providers to proactively identify risks, acknowledge errors without fear of punishment, report incidents transparently, and engage in continuous learning. Such a culture has the dual benefit of enhancing the quality of care and providing legal safeguards by reducing the frequency and severity of malpractice claims.<sup>53</sup>

Moreover, the rapid advancement of medical technology has introduced new challenges to the legal culture of healthcare delivery. The integration of electronic medical records (EMRs), as mandated by Government Regulation No. 28 of 2024 through Articles 173, 833, and 840, obligates all healthcare providers to maintain digital records in accordance with international standards. While EMRs improve documentation, traceability, and legal accountability, their effective use requires a cultural shift toward data integrity, privacy protection, and technological literacy among healthcare workers. Article 177 of the Health Law emphasizes the obligation of healthcare institutions to maintain the confidentiality of personal health information. However, public dissemination of medical records often through social media platforms in response to dissatisfaction with medical services raises serious concerns about data misuse and violations of Law No. 11 of 2008 on Electronic Information and Transactions (ITE Law). Therefore, legal culture must evolve to promote not only patient rights to transparency and informed consent but also restraint and legal compliance in the use of sensitive health data. This is especially critical in emergency care settings where emotionally charged interactions may lead to breaches of professional boundaries or the erosion of trust between patients and providers.<sup>54</sup>

## CONCLUSION

This study concludes that the legal protection system for emergency medical personnel in Indonesia remains inadequate and requires urgent reform in three essential aspects. First, the legal substance of the Health Law Number 17 of 2023 and its supporting regulations is still vague and inconsistent. Provisions such as Articles 193, 273, and 275 do not clearly define the boundaries of legal immunity for medical professionals who act in emergency situations. This ambiguity causes inconsistent interpretations and judicial decisions, creating legal uncertainty for professionals who must make rapid and critical decisions to save lives. Second, the institutional structure designed to implement professional accountability and dispute resolution lacks effectiveness. The Hospital Supervisory Board and the Professional Disciplinary Council are limited in authority, insufficiently independent, and centralized in operation. The strict fourteen-day period for issuing recommendations, as required by Article 308, does not reflect the realities of Indonesia's vast geography and administrative limitations. These structural weaknesses prevent timely and fair resolution of complaints and contribute to the vulnerability of medical workers. Third,

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<sup>53</sup> Anhari Achadi, Widyastuti Soerojo and Sarah Barber, 'The Relevance and Prospects of Advancing Tobacco Control in Indonesia', *Health Policy*, 72.3 (2005), 333–49 <https://doi.org/https://doi.org/10.1016/j.healthpol.2004.09.009>

<sup>54</sup> Alex Jingwei He and Vivien F.Y. Tang, 'Integration of Health Services for the Elderly in Asia: A Scoping Review of Hong Kong, Singapore, Malaysia, Indonesia', *Health Policy*, 125.3 (2021), 351–62 <https://doi.org/10.1016/j.healthpol.2020.12.020>



the legal culture in the emergency healthcare context is underdeveloped. Public understanding of medical procedures and risks remains low, while essential values such as patient safety, informed consent, and transparent communication have not been fully institutionalized. Many medical professionals respond defensively to allegations of malpractice, not because of negligence, but due to fear of criminalization in the absence of strong legal safeguards.

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