

## Health Workers Handling Covid-19, Heroes Without Protection?

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### Abstract

*In recent months the world has faced a serious case in the form of the Covid-19 pandemic. All work together in order to reduce the number of increasing cases of Covid-19. Including among them is the state of Indonesia. Where Indonesia is slowly but surely increasing the number of victims from both ordinary people and medical personnel. The mortality ratio is 8%. Some of the deaths were due to Covid-19 medical personnel. The ratio of the death rate due to Covid 19 in Indonesia is recorded as the highest in the Southeast Asia region. Medical personnel are a profession where handling Covid-19 is at the forefront. However, the Indonesian government has not been able to meet the needs of medical personnel in order to serve or treat positive COVID-19 patients. Several government referral hospitals for covid-19 patients do not yet have sufficient medical equipment such as PPE, N95 Mask, Hand Sanitizer and others. This of course is not in accordance with Law Number 36 of 2014 concerning health workers. The research method used in this article is a normative research approach with a statute approach. The purpose of writing this scientific article is to provide recommendations regarding the government's responsibility for the rights of medical personnel as stipulated in Law Number 36 of 2004 concerning Health Workers.*

**Keywords:** Health Workers, Covid-19, Legal Protection

### Abstrak

Dalam beberapa bulan terakhir dunia menghadapi kasus serius berupa pandemi Covid-19. Semua bekerja sama untuk mengurangi jumlah kasus Covid-19 yang terus meningkat. Termasuk di antaranya adalah negara Indonesia. Dimana Indonesia perlahan tapi pasti menambah jumlah korban baik dari masyarakat biasa maupun tenaga medis. Rasio kematian adalah 8%. Beberapa kematian disebabkan oleh tenaga medis Covid-19. Rasio angka kematian akibat Covid 19 di Indonesia tercatat tertinggi di kawasan Asia Tenggara. Tenaga medis merupakan salah satu profesi dimana penanganan Covid-19 menjadi garda terdepan. Namun, pemerintah Indonesia belum mampu memenuhi kebutuhan tenaga medis dalam rangka melayani atau merawat pasien positif COVID-19. Beberapa rumah sakit rujukan pemerintah untuk pasien covid-19 belum memiliki peralatan medis yang memadai seperti APD, Masker N95, Hand Sanitizer dan lain-lain. Hal ini tentunya tidak sesuai dengan Undang-Undang Nomor 36 Tahun 2014 tentang tenaga kesehatan. Metode penelitian yang digunakan dalam artikel ini adalah pendekatan penelitian normatif dengan pendekatan undang-undang. Tujuan penulisan artikel ilmiah ini adalah untuk memberikan rekomendasi mengenai tanggung jawab pemerintah terhadap hak-hak tenaga medis sebagaimana diatur dalam Undang-Undang Nomor 36 Tahun 2004 tentang Tenaga Kesehatan

**Kata kunci:** Tenaga Kesehatan, Covid-19, Perlindungan Hukum

## I. Introduction

The Corona virus or often referred to as the Corona Virus Disease (Covid 19) has become a world pandemic because it has attacked several countries. Since the end of 2019, symptoms of its spread have begun to appear, especially in China, especially the City of Wuhan. In the last few months, the world has tried to suppress the spread of the Covid 19 virus. However, the number of decreases in positive confirmation cases of Covid 19 has not been seen enough, even tends to increase. Reporting from the Worldometers page, the total confirmed cases of Covid-19

in the world were 22,292,658 (22.2 million) cases as of August. Of these, 15,035,489 (15 million) patients have recovered, and 783,348 people have died.<sup>1</sup> Meanwhile, specifically for the positive confirmation cases of Covid 19 in Indonesia, there were 143,043 cases of positive confirmation of Covid 19 in August 2020. Among them, almost 96,306 positive cases of Covid 19 were declared cured, as many as 6,277 positive cases of Covid 19 were declared dead. (Ministry of Health data for August 2020).

Based on the data on the distribution of Covid 19 above, health workers have a high potential for Covid 19 transmission, because of their duty to provide health services to the community. The description of the protection of health workers in carrying out their duties in Indonesia continues when the 1945 Constitution of the Republic of Indonesia in Article 27 paragraph (2) affirms that a decent work and life is a constitutional right for all Indonesian people. The logical consequence of this affirmation is the birth of the State's obligation to provide the widest possible facilities and opportunities for all the people to be able to get a job while at the same time making that job something worthy of humanity. Thus, violations of basic rights protected by the constitution are violations of human rights.

In essence, affirming the role of the government is needed in order to reduce the spread of Covid 19 and as a form of appreciation for the services of health workers as the frontline in handling cases of Covid 19 patients. Because as a follower of a "welfare state", there is no reason for the State. / The government should not enter all lines of life, including fulfilling the rights of health workers who face Covid 19 patients.

## **II. Research Method**

This research is a normative juridical method, with a statute approach (statutory law approach). Data collection techniques in this research are literature study and field research in order to obtain secondary and primary data. In addition, this research material was also obtained from document studies including scientific journals and research related to the protection of health workers. The data were collected in the raw state, then processed through descriptive analysis.

## **III. Result and Discussion**

### **1. Problems in the Protection of Health Workers in Handling Covid-19**

Throughout its history, labor issues have never been resolved, and are always related to issues of protection, wages, welfare, justice, disputes and their resolution, guidance and supervision as well as regulatory issues governing the manpower sector. Adrian Sutedi identified these things as a result of the government's weakness in implementing the law, and there was even a tendency for irregularities to occur, including problems of coordination and work between institutions that were not yet optimal.

Health workers in carrying out their profession cannot be separated from labor problems. In handling Covid 19, not only health workers are dealing with hospital institutions but also the Health Service in particular and the government as policy makers in general. As data has been compiled from various sources as of July 2020, data on health workers who died due to Covid were 61 doctors and 39 nurses based on confirmation from the IDI (Indonesian Doctors Association) and PPNI (Indonesian National Nurses Association), 129 positive nurses for Covid-19, 717 have ODP status and 64 are in PDP status. Among these data, 110 nurses positive for Covid 19 came from East Java province. In percentage terms, in our world, we are among the highest, 7 of them died.<sup>2</sup> Countries that are included in the ASEAN region, Indonesia has the highest death record for health workers, because the figure for other countries is only

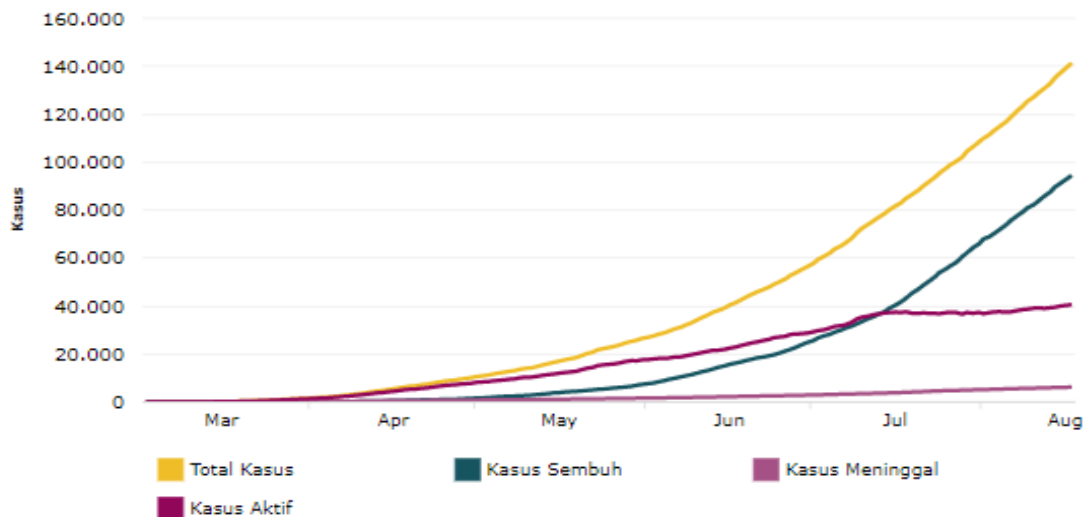
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<sup>1</sup> <https://www.kompas.com/tren/read/2020/08/19/081000765/update-virus-corona-global-19-agustus--22-juta-orang-terinfeksi-jutaan-anak?page=all>

<sup>2</sup> <https://www.abc.net.au/indonesian/2020-06-24/tingginya-kematian-tenaga-kesehatan-di-indonesia-karena-covid-19/12385556>

around 1%. (Source: dr. Adib Khumaidi, Deputy Chairperson of IDI). This problem has been compared with several countries outside ASEAN, including in the United States the mortality of health workers is at 0.16% and for the UK the death of health workers due to Covid 19 is 0.5%. Where the two countries have positive cases of Covid 19 which are greater than Indonesia. America has more than 1.5 million cases of Covid 19 and Britain 250 thousand cases.<sup>3</sup> Most recently, on August 1, 2020, a Lung specialist who worked everyday caring for Covid-19 patients finally died after fighting for approximately 2 weeks against Covid-19.

**Graph 1.** Development of Covid 19 Cases in Indonesia



(source: Ministry of Health August 2020)

From the graph above, more than 143,043 cases of positive confirmation of Covid 19 occurred in August 2020. Among them, nearly 96,306 positive cases of Covid 19 were declared cured, as many as 6,277 positive cases of Covid 19 were declared dead. (Ministry of Health data for August 2020).

However, government intervention in the labor sector, especially the health worker profession in handling Covid 19, should not cause new problems, because in the history of handling the Covid 19 case, government intervention is very much needed. For example, protection (law) for health workers. Because the problems that often arise are due to the lack of facilities and infrastructure in handling Covid 19, such as minimal APD, limited standard masks for health workers and etc.

## 2. Legal Protection of Health Workers in Handling Covid 19

The protection of the law is the protection of dignity and worth, as well as the recognition of human rights possessed by the subject of law based on the legal provisions of the authorization or as a set of rules or rules that will be able to protect one thing from another.<sup>4</sup> In Indonesia, the protection of the law in question has always been based on Pancasila as an ideal foundation, although the concept of its formulation uses western world thinking whose emphasis is on the protection of human rights. Thus, in simple terms, the concept of legal

<sup>3</sup> <https://databoks.katadata.co.id/datapublish/2020/05/15/tingkat-kematian-tenaga-kesehatan-indonesia-mencapai-65>

<sup>4</sup> Philipus M Hadjon, *Perlindungan Hukum Bagi Masyarakat Indonesia*, (Surabaya; Bina Ilmu, 1983), h. 38

protection of workers in Indonesia still focuses on the protection of the dignity and dignity of workers, following their human rights, both individually and as "workers".

Health workers have an important role in improving the quality of maximum health services to the community so that people are able to increase awareness, willingness and ability to live healthy so that the highest degree of health will be realized as an investment for the development of socially and economically productive human resources as well as as one of the elements of public welfare as referred to in the Preamble of the 1945 Constitution of the Republic of Indonesia. Therefore, the implementation of health efforts must be carried out by responsible health personnel, who have high ethics and morals, expertise, and authority which must continuously quality is improved through continuous education and training, certification, registration, licensing, as well as guidance, supervision and monitoring so that the implementation of health efforts fulfills a sense of justice and humanity and is in accordance with the development of science n and health technology.

In detail, the rights of health workers are regulated and guaranteed in Article 57 of Law Number 36 of 2014 concerning health, which includes:

- Obtain legal protection as long as carrying out tasks in accordance with Professional Standards, Professional Service Standards, and Standard Operating Procedures;
- Obtain complete and correct information from Health Service Recipients or their families;Receiving fees for services;
- Obtain protection for occupational safety and health, treatment in accordance with human dignity, morals, morals, and religious values;
- Get the opportunity to develop their profession;

Refusing the wishes of Health Service Recipients or other parties that are contrary to Professional Standards, code of ethics, service standards, Standard Operating Procedures, or provisions of laws and regulations; and Obtaining other rights in accordance with the provisions of the Legislation Based on the contents of the article in the Health Workers Act, the protection of health workers includes:

- Basic rights of health workers in carrying out their duties according to Standard Operating Procedures
- Occupational safety and health
- Protection of the implementation of code of ethics and professional standards of health workers
- Protection of benefits and welfare

In other laws and regulations also stipulate the government's responsibility in providing health service facilities for health workers in carrying out their duties. The regulation regarding government responsibility to health workers is further regulated in Government Regulation Number 47 of 2016 concerning Health Service Facilities. As stated in Article 6 of Government Regulation Number 47 of 2016, the Central Government and Regional Governments are responsible for the availability of health service facilities in the context of realizing the highest health status. Provision of Health Service Facilities is the responsibility of the Central Government and Regional Governments in accordance with the provisions of Law Number 36 Year 2009 concerning Health which states that the Government is responsible for the availability of Health Service Facilities for the community to achieve the highest health status.

Given the increase in cases of the spread of the Covid 19 virus currently having the status of a national disaster after the issuance of the Decree of the Head of BNPB (National Disaster Management Agency) Number 13A of 2020, all levels of the Government are required to carry out all their obligations as regulated in the prevailing laws and regulations. The obligations that should be fulfilled by the Government to health workers, especially in handling the Covid 19 case, include:

- Support the availability of medical equipment in the field
- Ensuring the fulfillment of the rights of the community and health workers
- Transparency of information to the public
- Making policies that pay attention to human rights values

### **3. Types of protection for health workers in handling covid 19**

In principle, the protection of health workers is the same as the protection of workers which as a whole is included in the realm of public law. According to Imam Soepomo, the protection of health workers as part of work includes 3 types of protection, namely economic protection, social protection and technical protection.<sup>5</sup>

#### *a. Economic Protection*

Economic protection for workers, in this case health workers, is of course closely related to the guarantee of wages or income that is obtained as compensation for the achievements that have been paid. With regard to protection in terms of income, the problem is the appropriateness of remuneration for hard work in handling Covid 19. As issued by the Decree of the Minister of Health HK.01.07 / MENKES / 392/2020 concerning the provision of incentives and death benefits for health workers handling cases Covid 19, where the Minister of Health Decree is a change from the old Minister of Health, namely Number HK.01.07 / MENKES / 278/2020. The difference between the old Kepmenkes and Kepmenkes is only in the process of verifying incentive documents.

In fact, there are many problems in the distribution of incentives to health workers handling the Covid 19 case, including the slow process of disbursing incentives to mismatches of promises with the realization of incentive disbursement.<sup>6</sup> Some of these problems directly or indirectly affect the performance of health workers in providing health services, especially those who deal directly with Covid 19 patients. Many of these health workers have volunteered their time off to stay in because of the low number of health workers handling Covid 19. Physical conditions that are always driven by reduced rest periods can result in decreased endurance, so that medical personnel often fall ill or contract the Covid 19 virus. in dealing with Covid 19.

#### *b. Social protection or occupational health*

Safety and health protection for health workers is closely related to the social protection of workers, which is contained together in Article 86 paragraph (1) of Law Number 13 of 2003 concerning Manpower, which states that every worker / laborer has the right to obtain protection for occupational safety and health. morals and morals, as well as treatment in accordance with human dignity and religious values.

Occupational health is defined as every effort and effort as well as rules aimed at protecting workers from actions and conditions that can interfere with physical, psychological health and (violate the norms of) morality in a work relationship<sup>7</sup>.

Other regulations governing occupational health and social protection are contained in Article 57 point 4 of Law Number 36 of 2014 concerning Health Workers, which states that health workers have the right to protection for occupational safety and health, treatment in accordance with human dignity, morals, decency, and religious values. On the other hand, in Government Regulation Number 47 of 2016 Article 6, the Provision of Health Service Facilities is the responsibility of the Central Government and Regional Governments. The Covid 19 pandemic has attacked the country of Indonesia since February until now. Several phases have been passed, including the phase where health workers have been discriminated against in the community where they live. When several health workers died, some neighborhoods refused the funeral procession in their area. This problem is a bad record of the lack of government education to community members regarding the concept of Covid 19 transmission itself.

Occupational health intends to protect or protect health workers from incidents / conditions of work relations that are detrimental to their health and morality in carrying out

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<sup>5</sup> Asri Wijayanti, *Hukum Ketenagakerjaan Pasca Reformasi*, (Jakarta; Sinar Grafika, 2009), h. 11

<sup>6</sup> <https://nasional.tempo.co/read/1374009/kemenkes-ungkap-alasan-pemberian-insentif-tenaga-kesehatan-diperlonggar>

<sup>7</sup> lih. Melania Kiswandari, *Kesehatan*, h. 78

their duties in handling the Covid 19 case. Therefore, the objectives of occupational safety and health regulations should be:

1. Protect health workers from the risk of work accidents.
2. Improve the health status of health workers.
3. So that health workers and the people around them are guaranteed their safety.
4. Keeping the handling and public health services carried out safely and optimally in accordance with Standard Operating Procedures.

*c. Technical Protection*

Another case, work protections which are generally determined for the benefit of workers / laborers, this work safety does not only provide protection for workers / laborers, but also for health workers and the government. In technical health services, handling Covid 19 patients in Indonesia cannot be separated from several problems. Among the technical needs that are lacking are hand sanitizers, disinfectants, masks, PPE (Personal Protective Equipment) to gloves.<sup>8</sup>

With the fulfillment of technical equipment for health services, especially the handling of Covid 19 patients, minimizing the transmission of the Covid 19 virus from positive Covid 19 patients to health workers in charge. Other impacts that arise include :

For health workers, the guarantee of work safety protection will create a peaceful working atmosphere so that health workers can focus on their work as much as possible without worrying that at any time there will be work accidents.

For hospital agencies, the existence of work safety arrangements within the institution will be able to reduce the occurrence of accidents which may result in the provision of social security.

For the government (and society), with the fulfillment and adherence to work safety regulations, what the government plans to reduce the number of Covid 19 cases will be as expected.

#### **IV. Conclusion**

Legal protection is a human right as a legal subject, both when he is in his position as an individual, or when he is in a community, group or other situation. Health workers who deal directly with the handling of Covid 19 patients need guarantees for the fulfillment and protection of their rights by the Government. Among them is the basic fulfillment of his nature as a human being, he also has rights which are regulated based on his status / position and position as a worker, which generally includes the right (access) to decent work, the right to income, the right to health and work safety, the right to organize / associate and other rights.

The implementation of the aforementioned rights requires protection, therefore, the Government through various laws and implementing regulations, in addition to affirming the form of rights held by workers, it also includes guarantees of protection of rights. these health workers. In general, the form of protection related to the aforementioned matters is the issuance of various regulations governing income incentives, occupational health and safety insurance, and others.

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<sup>8</sup> <https://www.cnnindonesia.com/nasional/20200401173443-20-489280/dki-kekurangan-apd-dan-masker-untuk-tenaga-medis>

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