

The Civil Liability System For Medical Malpractice In Hospitals As A Form Of Fulfillment Of Human Rights In The Health Sector

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Abstract

This research discusses the civil liability system for malpractice in hospitals in Indonesia. The right to health is a fundamental right protected by law, and medical malpractice can have serious consequences for patients. This research uses a normative juridical approach with analysis of related laws and regulations. The research results show that the civil liability system in Indonesia still faces various obstacles, including a lack of understanding of the law by patients and the difficulty of proving in malpractice cases. Legal reform and increasing public awareness are important steps in strengthening legal protection for patients.

Keywords: Medical Malpractice, Civil Liability, Patient Rights, Legal Reform

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I. INTRODUCTION

Health is a fundamental right recognized by the constitution and international law. In Indonesia, the right to health is guaranteed in the 1945 Constitution Article 28H paragraph (1) and is strengthened by Law No. 17 of 2023 concerning Health. This law stipulates health service standards that must be met by service providers, including hospitals.

Medical malpractice is a serious issue in health services because of its impact on patients, both physically, psychologically, and financially. This phenomenon occurs globally. Data from The Lancet (2022) states that medical errors are the third leading cause of death in the US, with around 250,000 deaths per year. The main causes of malpractice include medical personnel fatigue, lack of training, and excessive workload. Research by the Journal of Patient Safety (2023) shows that improving the welfare of medical personnel and continuing education can reduce the incidence of malpractice.

In Indonesia, cases of medical malpractice are quite high and tend to increase. According to the Health Legal Aid Institute, the number of malpractice reports has increased in recent years. Misdiagnosis is a significant form of malpractice, with around 15% of cases related to this problem. The contributing factors include the lack of adequate diagnostic tools and limited medical knowledge.

Hospitals have a major responsibility in ensuring the quality of health services. Malpractice that occurs in hospitals raises questions about the extent to which hospitals are responsible in this case. Law No. 44 of 2009 concerning Hospitals states that hospitals can also be held liable for the negligence of medical personnel working in them.

Comprehensive legal reform is needed to improve the civil liability system for medical malpractice. These steps include updating regulations, increasing supervision, and strengthening medical dispute resolution mechanisms. The goal is to ensure that victims receive justice and proper compensation. Lewis and Hinchcliff emphasize that hospital regulation and accreditation play an important role in reducing malpractice incidents. Accredited hospitals tend to have lower malpractice rates than non-accredited hospitals.

The civil liability system aims to provide compensation for patient losses due to malpractice, including financial compensation and other remedial actions. In accordance with Article 1365 of the Civil Code, a person who suffers a loss due to an unlawful act can file a civil lawsuit. However, the implementation of this regulation is often ineffective, with many cases not receiving a fair resolution. Therefore, reforms are needed to strengthen the accountability system, including stricter enforcement of professional standards, increased transparency in case handling, and strengthening patient rights. PP No. 47 of 2021 concerning the Implementation of the Hospital Sector emphasizes the state's responsibility in providing adequate health care facilities. Hospitals must be able to improve the quality of services so that the level of public health can be improved. However, the existing supervision system still has weaknesses that need to be fixed. Based on data from the Ministry of Health, between 2006-2012 there were 182 cases of malpractice in Indonesia, with general practitioners, surgeons, obstetricians, and pediatricians as the main perpetrators. A total of 29 doctors were subject to sanctions in the form of temporary revocation of their practice licenses. However, legal accountability is more directed at doctors, while hospitals as service providers also have legal obligations. Law No. Article 63 paragraph (2) of Law No. 44 of 2009 states that hospitals can be subject to sanctions in the form of revocation of business licenses or legal entity status if proven to have committed violations. Although various studies have been conducted, there are still many aspects of medical malpractice that require further study. Law No. 39 of 1999 concerning Human Rights affirms the right of every person to obtain adequate health services. Law No. 17 of 2023 also emphasizes the importance of quality and safe health services. The Indonesian Code of Medical Ethics requires medical personnel to carry out their profession with responsibility and integrity. In addition, Law No. 29 of 2004 concerning Medical Practice stipulates that medical personnel who make mistakes can be subject to administrative, civil, or criminal sanctions. Article 66 of this law states that anyone who feels aggrieved can report the doctor's actions to the Indonesian Medical Disciplinary Honorary Council.

The formulation of the problem in this article covers three main aspects. First, this study aims to understand how the civil liability system for malpractice in hospitals is regulated in Law Number 17 of 2023 concerning Health. Second, this study also aims to examine how the civil liability system for malpractice in hospitals is regulated in Law Number 39 of 1999 concerning Human Rights. Third, this study seeks to identify the obstacles faced in implementing the civil liability system for medical malpractice cases in hospitals. In line with the formulation of the problem, this study has three main objectives. First, this study aims to analyze the civil liability system for malpractice in hospitals based on the provisions of Law Number 17 of 2023 concerning Health. Second, this study also focuses on the analysis of the civil liability system for malpractice in hospitals based on Law Number 39 of 1999 concerning Human Rights. Third, this study aims to identify and analyze the obstacles faced in law enforcement related to civil liability for malpractice in hospitals.

II. RESEARCH METHOD

This study uses a normative legal method, which examines theories, concepts, and legal regulations related to civil liability in medical malpractice cases. The approaches used include legislative, conceptual, and analytical approaches. The legislative approach is carried out by analyzing regulations such as Law No. 17 of 2023 concerning Health and Law No. 39 of 1999 concerning Human Rights to understand the legal liability system. Meanwhile, the conceptual approach is used to clarify legal concepts such as medical malpractice, civil liability, and human rights in the context of health. The analytical approach is used to evaluate obstacles in law enforcement, including analysis of court decisions and implementation of laws in practice.

The sources of legal materials in this study consist of several types. Primary legal sources include the 1945 Constitution, the Civil Code, and various laws related to health and human rights. Secondary legal sources include legal literature, scientific articles, and academic works that discuss medical malpractice cases. Tertiary legal sources include legal encyclopedias, legal dictionaries, and legal directories and indexes. In addition, this study also uses official documents and court decisions as case studies to see the application of regulations in legal practice. In data analysis, legal materials are analyzed qualitatively with inductive and deductive approaches. Inductive analysis is used to connect data with legal principles, while deductive analysis is used to apply legal interpretation and construction so that logical and systematic conclusions can be drawn.

III. RESULTS AND DISCUSSION

This study found that the civil liability system in cases of medical malpractice in hospitals still faces various obstacles, both in terms of regulations, evidentiary mechanisms, and access to justice for patients. There are two main bases for civil lawsuits against alleged malpractice cases, namely violation of the therapeutic agreement and the doctor's responsibility within the framework of fault liability.

In the legal relationship between doctors and patients, the therapeutic agreement is the main basis for determining civil liability. If a doctor does not fulfill his obligations in accordance with medical professional standards, then he can be categorized as committing a breach of contract, which allows the patient to file a claim for compensation based on Article 1239 of the Civil Code. In addition to breach of contract, doctors can also be held accountable based on unlawful acts (*onrechtmatige daad*) as regulated in Articles 1365, 1366, and 1367 of the Civil Code.

The implementation of the civil liability system for cases of medical malpractice in hospitals faces various obstacles. The main obstacles include difficulties in proving the element of negligence, lack of understanding of the law among patients, weak law enforcement, and the tendency of the legal system to protect medical personnel more than patients. In addition, high litigation costs and information asymmetry between patients and medical personnel are also factors that hinder patients from filing lawsuits.

From the results of this study, it can be said that the implementation of the civil liability system in medical malpractice cases is still not optimal. One of the main problems is the difficulty of proving the element of negligence. In civil law, patients who file a lawsuit must be able to prove that the doctor has made a mistake or negligence in providing medical services. However, because patients generally do not have medical expertise, this proof process becomes very difficult without the support of competent medical experts.

In addition, the inequality of legal access between patients and medical personnel is a significant obstacle. Patients often do not understand their legal rights, while doctors and hospitals have access to professional legal teams who can defend them in court. Weak law enforcement and ineffective medical dispute resolution mechanisms also make many cases of medical malpractice difficult to prove and resolve fairly.

On the other hand, existing regulations tend to protect medical personnel more than patients. One example is the requirement that requires expert opinions from medical circles to support malpractice claims, which often makes it difficult for patients. In addition, high litigation costs are an obstacle for patients who want to claim compensation, so that many cases do not continue to the legal process. To overcome this obstacle, improvements are needed in the regulations and law enforcement mechanisms related to medical malpractice cases. Reforms in the evidence system, increasing access to information for patients, and simplifying legal procedures can be solutions to ensure that patients receive justice in the civil liability system. With these improvements, it is hoped that the legal system can be fairer and more balanced for all parties involved in medical malpractice cases in hospitals.

IV. CONCLUSION

This study shows that Law Number 17 of 2023 concerning Health and Law Number 39 of 1999 concerning Human Rights provide a strong legal basis in the civil liability system for medical malpractice cases, by emphasizing patient rights and the obligations of medical personnel and hospitals in providing health services that meet standards. However, there are obstacles in its implementation, such as the difficulty of proving medical errors, lack of patient understanding of their rights, and long bureaucracy. Therefore, it is necessary to strengthen internal supervision in hospitals, increase patient education regarding their rights, and further research on evidentiary mechanisms and alternative dispute resolution to accelerate the legal process in medical malpractice cases.

V. RECOMMENDATIONS

Hospitals need to strengthen internal supervision, ensure medical personnel compliance with service standards, and implement electronic medical records to support transparency and proof of malpractice cases. Patients should receive more intensive education regarding their rights and complaint mechanisms if they experience medical negligence. In addition, further research is recommended to explore more effective evidentiary methods and alternative dispute resolution (ADR) approaches to expedite and simplify the legal process in medical malpractice cases.

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