



Law and Morals in Health Services in Indonesia

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ABSTRACT

Law is closely related to morality. Law has no meaning if it is not accompanied by morals, so the quality of law is largely determined by moral quality. Law is more codified than morality, written down and more systematically arranged in statutory regulations. The law limits itself to outward behavior, while morals concern a person's inner attitude as a legal subject. Law is based on the will of society and ultimately on the will of the state and morality is based on moral norms that transcend individuals and society. Abandoning morals in law is the same as the law losing its spirit.

INTRODUCTION

When talking about law, the author always remembers one proverb or adegium that *let justice be done and the world perish* (even if the sky falls, the law must be upheld). This proverb or adegium provides an example of not only the law being enforced, but also legal certainty, its usefulness, and justice for those who seek justice. Justice is a part that cannot possibly be separated from the law itself because law is basically the essence of justice. Gustav Radbruch said that justice is one of the basic values of law and The aim of law according to Aristotle (ethical theory) is solely to achieve justice.

In simple societies, moral standards are necessary to create order and guide people's behavior, and to maintain prosperity in society. Ethics gives a person the rules and laws to become a perfect human being. Medical services require special abilities when serving people or patients who are suffering from illness. These special abilities include intellectual, technical, and interpersonal skills which are reflected in caring behavior (Johnson, 1989). Caring is a universal phenomenon related to how a person thinks, feels, and behaves towards other people. Human care consists of efforts to protect, enhance, and maintain or serve humanity by helping others, seeking meaning in pain, suffering, and existence, and helping others to increase their knowledge and self-control (Pasquali and Arnold, 1989 and Watson, 1979). In addition, Watson in the Theory of Human Care emphasizes that caring is a type of relationship and transaction that is necessary between the giver and recipient of care to improve and protect the patient as a human being.

Caring is not just behavior, a caring attitude in providing nursing care, gentle words, touch, giving hope, always being next to the client, and acting as a medium for providing care (Carruth et al., 1999). It is estimated that around $\frac{3}{4}$ of health services are caring while $\frac{1}{4}$ are curing. Care and cure capabilities must be combined in a balanced way to produce optimal care for clients. Curing itself has the meaning of health efforts from doctors' activities in their practice to treat patients. Apart from that, it can also be understood that curing is an empirical science, treating based on evidence/data and treating with reliable pathophysiology. In caring, more emphasis is placed on the client's needs and responses to be responded to by providing care. In contrast to curing, it pays more attention to the disease suffered and how to deal with it. Nursing intervention (caring) is helping clients meet the client's physical, psychological, social and spiritual problems with nursing actions which include nursing intervention, observation, health education and counseling. Meanwhile, medical intervention (curing) is more about carrying out treatment with drugs and operative measures. From this it can be understood that caring pays attention to the client's physical, psychological, social, and spiritual aspects while curing emphasizes the client's health and physical aspects.

One more thing that can be understood from the difference between caring and curing is the aspect of goals. The goals of caring behavior are to assist in implementing treatment or therapy plans and Helping patients/clients adapt to health problems, independently fulfill their basic needs, prevent disease, improve health, and improve the function of the patient's body. Meanwhile, the

aim of curing activities is to determine and eliminate the cause of disease or change the problem of disease and its treatment.

THEORETICAL REVIEW

The Relationship between Law and Morals in Health Services

Law is meaningless if it is not accompanied by ethics, so the quality of law is largely determined by moral quality. On the other hand, morality also needs law because morality will be in the air if it is not clearly expressed in society in the form of law. So law can increase the impact of morality. Morals are generally defined as, General rules of politeness and customs that apply to certain groups; and The teaching of decency or politeness, namely teaching about the principles and rules of politeness which are studied systematically in a value called ethics. Called "*ethos*" (Greek) which means norms, and rules regarding good and bad things in relation to human actions, elements of humanity, methods, motives, intentions, and human nature. then "morality" means decency, reflecting how behavior actually is in society, what is good and what is bad. Basically *etymological* morality comes from Dutch ie "*moural*", which means morality, or character. Whereas according to W.J.S. Poerwadarminta Morals mean teachings about good bad deeds and behavior.

There are several legal principles in health science, namely "*Sa science et sa conscience*" which means yes the science, and yes the conscience. The meaning of this statement is that the intelligence of a health professional must not conflict with his conscience and humanity. Usually used in regulating doctors' rights, where doctors have the right to refuse to carry out medical procedures if it goes against their conscience; "*Agroti Salus Lex Suprema*" means patient safety is the highest law.; "*Deminimis noncurat lex*" means the law does not interfere with trivial matters. This is related to negligence committed by health workers. As long as the negligence does not have a detrimental impact on the patient, the law will not prosecute; and "*Res Ipsa liquitur*" means the facts have spoken. Used in malpractice cases where the negligence that occurred does not need further proof because the facts are clearly visible.

According to Selznick, the law is related to efforts to realize certain values that live in or within society. There are 4 types of legal and moral relationship patterns, that law is a part (*part*) of a system of teachings that exist in morals, that law is part of human morality which is integrated into the rules adopted by existing consensus and community life; That this law is derived from general moral principles or rules. In other words, law is the evolution of general moral principles that apply everywhere and transcend the boundaries of different cultures; there is a relationship between legal norms and moral norms. This means that there are parts of human behavior that are equally regulated by both norms, and there is no connection between law and morality. Because these two realms are not just two different things, they are two different aspects. The difference or separation of law and morality can be depicted with a diagram of two circles without contact points. One circle is moral and the other is legal.

The Moral and Ethical Problems of Implementing Health Services on Indonesia

In daily practice, we can see various things that cause relationships between patients and doctors. This relationship occurs mainly for several reasons: among other things, because the patient himself comes to the doctor to ask for help in treating the illness he is suffering from. In circumstances like this, there is an agreement of will between the two parties, meaning that the parties have fully agreed to enter into a legal relationship. This legal relationship originates from the patient's trust in the doctor so that the patient is willing to give approval for medical treatment (informed consent), namely a patient's agreement to accept medical efforts that will be carried out after he receives information from the doctor regarding medical efforts that can be taken to help him, including obtaining information about all possible risks.

In Indonesia, informed consent in health services has received legal justification through the Regulation of the Minister of Health of the Republic of Indonesia No. 585/Menkes/1989. Even though in reality the implementation of providing information to obtain consent is not as simple as imagined, at least the issue has been regulated legally, so that there is power for both parties to take legal action. The main problem that makes it difficult to implement informed consent in Indonesia is that there are too many obstacles that arise in daily practice, including the language used in conveying information is difficult for the public, especially patients or their families, to understand, limits on the amount of information that can be accessed. provide unclear, the problem of family or third-party interference in granting approval for medical procedures is very dominant, and so on.

Apart from that, regarding information and consent, there are often differences in interests between patients and doctors. If these differences in interests do not meet common ground that satisfies both parties, this will result in a conflict of interest. For example, a patient has an interest in curing the disease they are suffering from, but considering the risks that will arise based on the information they get from the doctor, the patient or their family refuses to give consent, while on the other hand, the doctor who will carry out the treatment needs that consent. Another reason that causes the relationship between the patient and the doctor to arise is that the patient's condition is very urgent to immediately get help from a doctor, for example, because there is a traffic accident, a natural disaster, or because there are other situations that cause the patient's condition to be critical, so it is very It is difficult for the treating doctor to know for sure what the patient's wishes are. In situations like this, doctors immediately carry out what is called *zaakwaarneming* as regulated in Article 1354 of the Civil Code, namely a form of legal relationship that arises not because of prior "Approval of Medical Actions", but because of compelling circumstances or emergencies. The relationship between a doctor and a patient that occurs like this is one of the characteristics of a therapeutic transaction that differentiates it from an ordinary agreement as regulated in the Civil Code.

METHODOLOGY

Legal research carried out by only considering library documents or secondary data can be called normative legal research or library legal research (*library research*). This is done by collecting legal materials, including primary legal materials, secondary legal materials, and tertiary legal materials. The approaches used are statutory regulations (*statute approach*) and comparative approaches (*comparative approach*). Nature of research *descriptive-prescriptive*. Material collection techniques using literature study, the author uses content analysis (*content analysis*).

RESULTS

Law in all modern states manifests itself in different ways having a relationship (influence) with socially accepted ethics and broader moral ideals. These different influences enter the law in either the rapid and formal passing of laws or the quiet and step-by-step stages of the judicial process. If you look deeper into the relationship between law and morality, there are 3 (three) models relating law and morality, namely, law is part of a religious or ideological moral education system. Law is the source of general moral principles and the intersection of law and morality; The existence of a legal and moral relationship gives rise to a reciprocal functional relationship (*causality*) between 2 (two) subjects in the formation and enforcement of law: and the moral function of law is that it is a source of positive legal moral training (values), a source of positive law, a tool for assessing the content of legal rules and a source of reasons for handling legal cases with unclear legal provisions. In looking at the law and morals of L.H.A. Hart, emphasized that law and morality have complete needs or have many relationships in understanding diversity. L.H.A. Hart acknowledged that justice, law, and morality have a very close relationship or in other words are related to each other. In the book *The Concept of Law* written by L.H.A. Hart examines 6 (six) reasons that are used as the basis for demonstrating the existence of an absolute relationship between law and morality, namely Power and authority; The influence of morality on law; Interpret; Legal Criticism; Principles of Legality and Justice; And Legal Validity and Resistance.

In the Indonesian context, the professional organization that can be said to be the first to develop and implement a code of ethics system for its members is the Indonesian Doctors Association (IDI) which is often called the Indonesian Medical Ethics Code or abbreviated as Kodeki. In the codeki, there are 4 (four) types of obligations in the medical profession, namely General obligations; Doctor's Obligations to Patients; Doctor's Obligations to Colleagues; And Doctors' Obligations toward themselves.

Apart from the four types of obligations above, in the world of medicine, there are 6 (six) basic characteristics that every doctor must rely on in carrying out their professional duties, namely divine nature; purity of intention; Nobleness of character; modesty; seriousness of work; and integrity (scientific and social). In carrying out the six basic characteristics above, there are several ethical principles that must be used as a reference, namely: (a) Autonomy, namely the right to determine or choose what is best for oneself and the patient;

(b) Beneficence, namely the principle of providing assistance or doing something useful for other people; (c) Nonmaleficence, namely not causing harm or causing physical or emotional pain; (d) Justice, namely behaving fairly; (e) Veracity, namely behaving honestly or not lying; and (f) Fidelity, namely having a commitment to service so as to create a sense of mutual trust. In the KODEKI it is regulated that acts or actions that fall into the category of violations can be divided into 2 (two), namely violations that are purely ethical in nature and violations that are ethical in nature. Purely ethical violations are acts or actions that only violate ethical norms as regulated in the KODEKI. An ethical violation is an act or deed that violates ethical norms and at the same time fulfills the elements of a legal violation. In addition, every violation that meets the elements of a legal violation is automatically classified as an ethical violation, but an ethical violation does not necessarily violate the law.

DISCUSSION

Mukhtar Kusumaatmadja believes that the use of the law as a tool of social manipulation under the government's policy scenario (*executive*) is very important for developing countries, far surpassing the needs of developed countries. Developed countries have legal mechanisms to adapt to changes in their societies, while developing countries do not. In fact, the hopes and desires of people in developing countries regarding the impact of change on a better standard of living are very high. Far exceeding the expectations of people in developed countries. Society and law are 2 (two) identities that cannot be separated. In legal science, there are also proverbs or adages that *there is a company there right* (where there is society, there is the law). To create order in society, an order structure (government) that is bound by law is needed. Law and morals are like two sides of a coin.

According to the teachings of Thomas Aquinas, the most basic moral command is to do good (*doing good*) and avoid evil (*stay away from crime*). The law will become a special recognition if it is supported by the supremacy of law. Therefore, order in society is always in line with good moral behavior, obeying equal legal rules.

Society increasingly believes that law is a positive value that must respect certain standards, namely the principle of justice. If a legal system that does not meet these requirements is still recognized as law, then according to this Law it can no longer be distinguished from power. Legal and moral transformation means that the code of ethics as one of the norms of social life becomes stronger because the moral code is no longer just an individual's inner code, but it has also become an interpersonal (community) rule enforced by official state legal institutions or institutions.

The forms and types of health services contain many variations, therefore they are very much determined by the Organization of services, whether carried out independently or jointly within an organization; The scope of activities, whether it only includes health maintenance activities, health improvement, disease prevention, disease cure, health restoration or a combination thereof; and The target of health services, whether for individuals, families, groups or for society as a whole. In connection with the legal aspects of

health services, it is of course related to the criminal law aspects therein as well, this is referred to as a health services crime. Health service crimes are different from ordinary crimes, especially crimes within the scope of health services because the focus in health service crimes is the cause or cause of the action, whereas in general crimes it is on the consequences of the action. In criminal acts of health services or what is called criminal malpractice, for criminal liability to exist, it must be proven that there was a procedural error, for example an error in diagnosis or an error in medication or treatment. Likewise, the responsibility of hospitals within the scope of criminal law includes health workers who carry out service duties at the hospital making procedural errors.

Meanwhile, the regulation of sanctions as a form of criminal responsibility must fulfill the following conditions, namely: These actions are carried out by legal subjects who carry out health service duties at hospitals as has been stated, namely health workers who carry out professional duties at the hospital in question; The existence of errors, that errors in health services in hospitals generally occur due to negligence committed by health workers. The form can take the form of doing something that should not be done or conversely not doing something that should be done; The actions carried out are against the law. The nature of unlawfulness can be against formal law or against material law; The perpetrator is capable of taking responsibility, namely the perpetrator is mentally or mentally healthy, And There is no reason to remove the crime. In order to gain trust (*trust*) community regarding health services seen from legal theory, the efforts that must be made are as follows: Inventory and legal follow-up on various cases in health services, medical disputes, and human rights (HAM); Empowering law enforcement officers (APH), especially police officers, prosecutors, courts and the community; Providing free legal aid to the community who cannot afford it; and Socialization and technical guidance regarding legal regulations to educate health service actors and the community and make public health service actors legally literate.

CONCLUSIONS

Law is more codified than morality, meaning it is written down and more systematically arranged in statutory regulations. The law limits itself to outward behavior, while morals concern the inner attitude of a person subject to the law. Laws are based on the will of society (*people's will*) and finally at the will of the state, (*the will of the state*) and morality is based on moral norms that transcend individuals and society. There are 3 (three) models relating law and morality, namely: Law is part of the religious or ideological moral education system, the existence of a legal and moral relationship creates a reciprocal functional relationship (*causality*) between 2 (two) subjects in the formation and enforcement of legal law, the moral function of law is that it is a source of moral training (values) of positive law, a source of positive law, a tool for assessing the content of legal rules and a source of reasons for handling legal cases with the provisions unclear law. 6 (six) reasons which are used as the basis for demonstrating the existence of an absolute relationship between law and morality 1). Power and authority; 2). The influence of morality on law; 3).

Interpretation; 4). Legal Criticism; 5). Principles of Legality and Justice; 6) Legal validity and resistance;

The most basic problem or problem in health services In Indonesia, there is frequent manipulation of legal functions by those in power. Apart from the four types of obligations above, in the world of medicine, there are 6 (six) basic characteristics that every doctor must rely on in carrying out their professional duties, namely: (1) divine nature; (2) purity of intention; (3) Nobility of mind; (4) humility; (5) seriousness of work; and, (6) integrity (scientific and social). In carrying out the six basic characteristics above, there are several ethical principles that must be used as a reference, namely: (a) Autonomy, namely the right to determine or choose what is best for oneself and the patient; (b) Beneficence, namely the principle of providing assistance or doing something useful for other people; (c) Nonmaleficence, namely not causing harm or causing physical or emotional pain; (d) Justice, namely behaving fairly; (e) Veracity, namely behaving honestly or not lying; and (f) Fidelity, namely having a commitment to service so as to create a sense of mutual trust.

RECOMMENDATIONS

Based on the extensive discussion about the relationship between law, morality, and ethics in health services in Indonesia, here are some recommendations, such as Integrating comprehensive ethics education into medical and healthcare training programs. This should focus on cultivating moral reasoning, ethical decision-making skills, and awareness of professional responsibilities among healthcare providers, Address the challenges surrounding informed consent by improving communication between healthcare providers and patients. Simplify medical information and ensure it is understandable to patients and their families to facilitate informed decision-making, Ensure rigorous adherence to ethical codes such as the Indonesian Medical Ethics Code (Kodeki). Promote these codes as essential guidelines that govern professional conduct and patient care standards, Conduct regular awareness campaigns to educate both healthcare providers and the public about their legal rights and ethical responsibilities in health services. This includes understanding patient autonomy, confidentiality, and the importance of ethical practice, Provide legal literacy programs tailored to healthcare professionals to enhance their understanding of healthcare laws, regulations, and their implications in daily practice.

Strengthen regulatory oversight to ensure compliance with ethical standards and legal requirements in healthcare settings. This includes mechanisms for reporting ethical violations and enforcing disciplinary actions when necessary, Encourage research on the intersection of law, ethics, and healthcare to inform evidence-based policy development. This research can help identify gaps in current practices and propose reforms to improve ethical and legal frameworks in healthcare, and Foster collaboration between healthcare institutions, professional associations, governmental bodies, and civil society organizations to collectively address ethical challenges and improve healthcare delivery. These recommendations aim to foster a healthcare environment in Indonesia where ethical principles are upheld, legal standards are respected, and

patient rights are protected. By integrating ethical considerations into legal frameworks and healthcare practices, the quality and trustworthiness of health services can be enhanced for the benefit of both providers and patients.

FURTHER STUDY

Based on the article further study in the article could focus on several promising areas such as conducting cooperative studies between Indonesia and other countries regarding healthcare ethics and legal frameworks, investigating the impact of ethical training programs on healthcare professionals' behavior and decision-making, exploring the effectiveness of informed concerns processes in Indonesia, investigate the level legal literacy among healthcare providers and its implications for ethical practice and compliance with healthcare law, Evaluate the roles and effectiveness of ethics committees in healthcare institutions. Investigate the level of legal literacy among healthcare providers and its implications for ethical practice and compliance with healthcare laws, Explore ethical dilemmas posed by advancements in healthcare technologies (e.g., AI, telemedicine) in the Indonesian context.

Analyze the impact of recent legal reforms or policy changes on healthcare delivery and ethical standards, Investigate how community values and cultural norms influence ethical decision-making in healthcare, Examine ethical challenges in public health interventions and policies, such as vaccination programs, disease prevention strategies, and resource allocation during health crises, study factors influencing professionalism and integrity among healthcare professionals in Indonesia, further research can contribute to strengthening ethical practices, improving legal frameworks, and enhancing patient-centered care in Indonesia's healthcare sector.

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