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# Legal Protection for Medical Personnel and Patients in Natural Disaster Crisis Areas

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Abstract:

Indonesia is a country with a high level of disaster vulnerability, which can disrupt the provision of health services, particularly medical services. Normatively, legal protection for medical personnel and patients is regulated by various statutory provisions, including Law Number 17 of 2023 concerning Health and Law Number 24 of 2007 concerning Disaster Management. However, in practice, there remains a gap between legal norms and the delivery of medical services, especially in disaster situations. Medical personnel often have to provide services in conditions of limited facilities, health personnel, logistics, and administrative procedures, while patients still have the right to receive safe, quality, and non-discriminatory health services. This condition indicates that existing regulations are not fully adaptive to disaster-related emergencies, resulting in legal uncertainty for medical personnel and suboptimal fulfillment of patients' rights. This study aims to analyze legal protection for medical personnel and patients in the implementation of medical services in crisis areas due to natural disasters and identify gaps between legal norms and practice in the field. The research method used is normative legal research with a legislative approach and a conceptual approach. Legal materials were obtained through a literature review of laws and regulations, scientific journals, and other legal sources related to healthcare and disaster management. The results of the study indicate that legal protection for medical personnel and patients is essentially regulated in various regulations, but their implementation has not been optimal due to the lack of more adaptive arrangements for disaster emergencies. Therefore, regulatory strengthening, harmonization of health and disaster law, and the development of emergency medical service standards are needed to provide legal certainty and balanced protection for medical personnel and patients in disaster situations.

Keywords: emergency health services; legal protection; medical personnel; medical services; natural disasters.

## INTRODUCTION

Indonesia is one of the countries most vulnerable to natural disasters due to its geographical, geological, and climatological conditions. Indonesia's location at the confluence of three tectonic plates makes it vulnerable to various disasters such as earthquakes, tsunamis, floods, landslides, and volcanic eruptions (World Health Organization, 2019). These conditions impact various aspects of people's lives, including disruptions to the health care system (Kurniayanti, 2012). In disaster situations, health services must still be provided to fulfill the right to health guaranteed by the state. Natural disasters not only cause loss of life and environmental damage, but also disrupt health facilities, limit the availability of medical personnel, and increase the number of people requiring simultaneous medical services. Under these conditions, medical personnel are required to continue providing healthcare services despite limited

facilities, infrastructure, and administrative procedures (Jauhani et al., 2022). Furthermore, patients retain the right to receive safe, high-quality, and non-discriminatory healthcare, as stipulated in Law Number 17 of 2023 concerning Health.

In practice, the provision of medical services in disaster-affected areas reveals a discrepancy between applicable legal norms and on-the-ground conditions. Healthcare regulations are generally designed for normal conditions and are not yet fully adaptive to emergency situations resulting from disasters (Febryaningsih, 2022). Research on healthcare regulations in the post-disaster emergency response phase indicates that there are no emergency healthcare service standards that specifically and comprehensively regulate healthcare services in disaster situations (Novianti & Supartono, 2024). This situation places medical personnel at legal risk because they must take rapid medical action under limited resources. According to Muhammad Afiful Jauhani, medical action in emergency situations has special characteristics because it is carried out to save the patient's life, so in certain circumstances it can override normal healthcare procedures (Jauhani et al., 2022). However, the legal accountability mechanism for medical actions still refers to normal service standards, potentially creating legal uncertainty for medical personnel (Novianti & Supartono, 2024).

On the other hand, patients as recipients of health services have not yet fully received optimal legal protection in disaster situations. Damage to health facilities, limited medical personnel, and lack of access to health services mean that patients' rights cannot be fully realized. Research on the rights and obligations of patients and medical personnel in disaster health services explains that health services in emergency situations require good preparedness and coordination to ensure patient rights remain protected even in crisis conditions (Pardomuan & Prasetyo, 2024). Furthermore, medical personnel face the risk of criminalization for medical actions performed in emergency situations. In fact, Article 58 paragraph (2) of the Health Law provides an exception to compensation claims for health workers who perform life-saving or disability-preventing actions in emergencies. However, in practice, this provision does not fully provide legal certainty for medical personnel working in disaster-affected areas. Another problem that arises is the disharmony of regulations and the division of authority in the provision of health services for disaster victims (Novianti & Supartono, 2024). Research on the responsibility for administering the National Health Insurance Program for disaster victims shows a lack of clarity regarding the institutions responsible for financing and administering health services in the post-disaster phase (Riyanto, 2022).

This situation indicates a gap between legal norms (*das sollen*) and field practice (*das sein*). Normatively, the state has guaranteed legal protection for medical personnel and patients through various statutory provisions. However, in practice, this legal protection has not been implemented optimally due to the lack of specific and adaptive regulations governing health services in crisis situations caused by disasters (Febryaningsih, 2022). Research on legal protection in medical services generally still addresses it separately for medical personnel and patients. Meanwhile, studies examining legal protection for both parties simultaneously in the context of medical services in crisis areas affected by natural disasters remain relatively limited. Therefore, the novelty of this research lies in the integrated analysis of legal protection for medical personnel and patients during the implementation of medical services in crisis areas affected by natural disasters, drawing on the perspectives of health law and disaster law. This research is a normative legal research that focuses on the analysis of legal norms and the synchronization of laws and regulations, and therefore does not use hypotheses. Based on the description, this study aims to analyze legal protection for medical personnel and patients in the implementation of medical services in crisis areas due to natural disasters, identify gaps between legal norms and their implementation in the field, and provide recommendations for strengthening more adaptive and comprehensive regulations in disaster situations.

Legal protection is a form of protection provided by law to legal subjects to ensure the fulfillment of rights and obligations fairly. According to Philipus M. Hadjon, legal protection consists of preventive legal protection and repressive legal protection. Preventive legal protection aims to prevent disputes through the establishment of clear legal rules, while repressive legal protection is provided through dispute resolution in the event of a legal violation (Karina, 2024). This concept of legal protection serves as the basis for analyzing legal protection for medical personnel and patients in healthcare services in crisis areas due to disasters. In the context of medical services, medical personnel are obliged to provide medical services in accordance with standard operating procedures (SPM), minimum service standards (SPM), and professional codes of ethics. However, in disaster situations, medical personnel are often required to perform medical

procedures in emergency situations and limited health facilities. Research by Muhammad Afiful Jauhani explains that medical procedures in emergency situations have special characteristics because they are carried out to save the patient's life, so in certain circumstances they can override standard healthcare procedures (Jauhani et al., 2022). This condition places medical personnel at legal risk if the procedures performed cause harm to the patient.

On the other hand, patients as recipients of medical services still have the right to receive safe, high-quality, and non-discriminatory medical services, as stipulated in Law Number 17 of 2023 concerning Health. Research on the rights and obligations of patients and medical personnel in medical services in disaster areas shows that protecting patient rights in emergency situations still faces various obstacles, particularly due to limited health facilities, health personnel, and access to medical services in disaster-affected areas. Furthermore, research on health service regulations in the post-disaster emergency response phase indicates that health service regulations in Indonesia have not been fully adaptive to the health crisis conditions caused by disasters (Novianti & Supartono, 2024). Health service regulations are generally still oriented towards normal conditions and therefore unable to comprehensively accommodate the needs of emergency health services. As a result, a gap remains between legal norms (*das sollen*) and the implementation of health services in the field (das sein). Based on several previous studies, studies on legal protection in health services generally only discuss legal protection for medical personnel or patients separately. Meanwhile, research that simultaneously examines legal protection for medical personnel and patients in the context of medical services in disaster-related crisis areas is still relatively limited. Therefore, this research is novel in its analysis of legal protection for medical personnel and patients, integrating the perspectives of health law and disaster law.

## METHOD

This study uses a normative legal research method, namely research that focuses on analyzing legal norms, legal principles, and the harmonization of laws and regulations related to legal protection for medical personnel and patients during the provision of medical services in disaster-affected crisis areas. The normative legal research method is used because the main focus of this study is the legal regulations governing medical services in disaster situations. The approaches used in this study include a statute approach, a conceptual approach, and a case approach. The statutory approach is carried out by examining various regulations related to health and disaster management, such as Law Number 17 of 2023 concerning Health and Law Number 24 of 2007 concerning Disaster Management. The conceptual approach is used to examine the concept of legal protection, health services, and medical actions in emergency situations based on legal doctrine and the results of previous research (Creswell, 2014).

The objectives of this research are legal materials consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include laws and regulations related to health and disaster management. Secondary legal materials include scientific journals, research results, and other scientific works related to legal protection for medical personnel and patients in disaster situations (Miles, 1994). Tertiary legal materials are used to support the explanation of legal terms and concepts used in this research. The legal material collection technique is carried out through library research by collecting and reviewing various legal materials relevant to the research object. The collection of legal materials is carried out by tracing laws and regulations, scientific journals, and prior research findings related to health services and disaster management. The analytical method used in this research is qualitative legal analysis with a descriptive-analytical approach. The analysis was conducted by describing the applicable legal provisions, then connecting them with the conditions of medical services in disaster-affected areas to identify gaps between legal norms (*das sollen*) and practices in the field (*das sein*) (Sugiyono, 2019).

## RESULTS AND DISCUSSION

### Legal Regulations for the Protection of Medical Personnel and Patients in Disaster Situations

Legal protection for medical personnel and patients during the implementation of medical services in crisis areas affected by natural disasters is primarily regulated by various provisions of laws and regulations in Indonesia. The right to health is a constitutional right of citizens as stated in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that everyone has the right to obtain health

services. This constitutional right shows that the state has an obligation to ensure the provision of health services, including in emergency situations arising from natural disasters. According to Philipus M. Hadjon, legal protection is the protection of human dignity and recognition of human rights owned by legal subjects based on applicable legal provisions (Hadjon, 1987). In the context of medical services, legal protection is provided to medical personnel as implementers of health services and patients as recipients of health services. This protection is realized through the regulation of the rights, obligations, and responsibilities of each party in the implementation of medical services.

Law Number 17 of 2023 concerning Health provides the legal basis for the protection of medical personnel and patients. This provision emphasizes that patients have the right to receive safe, high-quality, humane, fair, and non-discriminatory health services. Furthermore, medical personnel also receive legal protection as long as they carry out their professional duties in accordance with professional standards, professional service standards, standard operating procedures, and professional codes of ethics. This provision demonstrates that the state guarantees legal protection for the provision of medical services under both normal conditions and emergencies. From a disaster law perspective, Law Number 24 of 2007 concerning Disaster Management emphasizes that the government and regional governments are responsible for protecting communities affected by disasters, including by providing health services in emergency situations. This responsibility includes providing health services, evacuating victims, establishing emergency health facilities, and protecting vulnerable groups during disasters (Suminar, 2025).

The World Health Organization explains that health services in disaster situations are part of health emergency and disaster risk management, which must ensure the safety of patients and healthcare workers even under conditions of limited health facilities and resources (World Health Organization, 2019). Therefore, the health legal system should be able to adapt to emergency conditions so that medical services can continue to operate effectively and provide legal protection for all parties involved in disaster health services. However, research findings show that health service regulations in Indonesia remain primarily oriented towards normal service conditions and are therefore not fully adaptive to disaster situations. Novianti and Basuki Supartono explain that health service regulations in the post-disaster emergency response phase are still partial and do not yet have comprehensive emergency health service standards (Novianti & Supartono, 2024). This condition often causes medical personnel to face legal uncertainty when performing rapid medical treatment in emergency situations and with limited health facilities.

According to Satjipto Rahardjo, the law should exist to provide substantive protection for public interests and not solely oriented towards formal procedural aspects (Rahardjo, 2019). In the context of disaster medical services, an overly formalistic legal approach can hamper patient rescue efforts because medical personnel are still held to normal service standards even when working under crisis conditions. This condition indicates a gap between legal norms (das sollen) and the reality of medical services in the field (das sein). Furthermore, the provisions regarding informed consent as stipulated in Minister of Health Regulation Number 290/MENKES/PER/III/2008 are difficult to implement in practice in emergency situations due to disasters. In certain situations, medical personnel must immediately perform life-saving measures without completing all administrative procedures. Muhammad Afiful Jauhani explained that medical procedures in emergency situations have special characteristics because they aim to save the patient's life, so in certain circumstances they can override standard medical service procedures (Jauhani et al., 2022).

From the perspective of Philippe Nonet and Philip Selznick's responsive legal theory, the law should be able to adapt to society's social needs and the real conditions that develop in the field (Nonet & Selznick, 1978). However, medical service regulations in Indonesia do not fully reflect the law's responsive character in dealing with crisis situations caused by disasters. As a result, legal protections for medical personnel and patients in disaster situations have not been fully implemented. Based on the results of this study, it can be understood that legal regulations protecting medical personnel and patients in disaster situations are largely already in place across various regulations, but still require harmonization and the strengthening of regulations that are more adaptive to emergency conditions. Special regulations are needed regarding emergency medical services for disasters, standard operating procedures for crisis health services, and legal protection mechanisms that are more responsive to medical personnel and patients in disaster situations (Nonet et al., 2017).

### Implementation of Legal Protection for Medical Personnel and Patients in Disaster Situations

The implementation of legal protection for medical personnel and patients in disaster situations still faces various obstacles in practice. Disaster conditions disrupt the health care system due to damaged health facilities, limited medical equipment, a shortage of medical personnel, and an increase in the number of victims requiring medical care simultaneously (Kurniayanti, 2012). This situation prevents health care services from operating optimally as under normal conditions. According to Mizam Ari Kurniayanti, health workers play a strategic role in disaster management, particularly during the emergency response phase, which requires swift and appropriate action to rescue disaster victims (Kurniayanti, 2012). However, in practice, medical personnel often work under stressful conditions, with minimal facilities and limited health logistics. This leaves medical personnel in a vulnerable position, both physically and legally.

In the practice of disaster medical care, one of the main issues that arises is the implementation of informed consent. Under normal circumstances, informed consent is a patient's agreement to a planned medical procedure and is an essential part of patient legal protection. However, in disaster situations, this procedure is often difficult to implement due to the patient's unconsciousness, limited time for rescue, or the absence of family members at the healthcare facility. According to the principle of salus populi suprema lex esto, the safety of the people is the supreme law, so saving human life must be the top priority in emergency situations. Therefore, life-saving medical procedures in disaster situations can, in principle, be performed even if administrative procedures for medical care cannot be perfectly met. However, in practice, medical personnel still face concerns about the risk of lawsuits resulting from medical procedures performed in emergency situations (Jauhani et al., 2022).

Article 58 paragraph (2) of Law Number 17 of 2023 concerning Health actually provides protection for health workers who carry out life-saving measures in emergencies. However, this provision does not fully provide legal certainty because there are no specific standard operating procedures for disaster medical services that can serve as a basis for protecting medical personnel (Novianti & Supartono, 2024). In addition to medical personnel, patients as recipients of health services also face various obstacles in obtaining safe and quality health services during disaster situations. Damage to health infrastructure limits access to health services, especially in remote areas and in areas with severe damage from disasters. Research by Jaury Douglas Pardomuan and Handoyo Prasetyo shows that the fulfillment of patient rights in disaster situations still faces obstacles in the form of limited health facilities, uneven distribution of medical personnel, and weak coordination of emergency health services (Aqrabin Faqih & Arba, 2022).

From the perspective of Aristotle's theory of distributive justice, the state has an obligation to distribute health services fairly to all people without discrimination, including those affected by disasters (Aristoteles, 2009). However, research results show that the distribution of health services in disaster situations is still uneven, resulting in unequal access to health services in several disaster-affected areas. The government, through Minister of Health Regulation Number 75 of 2019 concerning Health Crisis Management, has actually regulated health crisis management mechanisms that include the pre-crisis, emergency response, and post-health crisis stages. However, implementation in the field still faces various obstacles such as lack of coordination between agencies, limited health workers, slow distribution of health assistance, and a suboptimal national health preparedness system (Novianti & Supartono, 2024).

According to Soerjono Soekanto, the effectiveness of law enforcement is influenced by five factors: legal factors, law enforcement, facilities, society, and legal culture (Soekanto, 2014). Analyzing this theory, the weak legal protection for medical personnel and patients in disaster situations is not only caused by regulatory weaknesses, but also by limited health facilities, weak institutional coordination, and a suboptimal culture of disaster preparedness in the health sector. Therefore, the implementation of legal protection for medical personnel and patients in disaster situations is still not optimal. Therefore, it is necessary to strengthen regulations on emergency medical services, increase the capacity of health personnel in disaster management, develop standard operating procedures (SOPs) for disaster medical services, and strengthen the national health system to be more responsive to crisis conditions caused by natural disasters.

### The Gap between Legal Norms and Practices in the Field

Based on research findings, there is a significant gap between legal norms (*das sollen*) and the on-the-ground practice of medical services (*das sein*) in disaster situations. Normatively, various regulations guarantee legal protection for medical personnel and patients. However, implementation in the field shows

that medical services in disaster situations still face structural, administrative, and technical obstacles that prevent optimal legal protection.

Table 1: Gap between Legal Norms and Health Service Practices in Disaster Situations

| No | Legal Norms (Das sollen) | Field Practice (Das Sein) | Information |
|---|---|---|---|
| 1 | Health services must comply with medical service standards | Implemented under limited facilities and emergency conditions | Service standards cannot be implemented optimally |
| 2 | Patients have the right to receive safe and quality health services. | Limited health facilities and access to services | Patient rights have not been optimally fulfilled |
| 3 | Patient rights have not been optimally fulfilled | There is still a risk of lawsuits | Legal uncertainty |
| 4 | Informed consent is mandatory | Difficult to implement in emergency conditions | Administrative procedures are not optimal |

Data Source: Processed by the Author

Based on the table, it can be understood that the applicable regulations are not yet fully able to address the need for health services in disaster situations. According to Soerjono Soekanto's theory of legal effectiveness, the success of a legal regulation is influenced by five main factors: legal factors, law enforcement officers, facilities, society, and legal culture (Soekanto, 2014). When analyzed based on this theory, the weak implementation of legal protection in disaster medical services is not only caused by the substance of the regulations that are not yet adaptive, but also influenced by limited health facilities, a lack of medical personnel, weak coordination between agencies, and the low preparedness of the national health system in dealing with disasters. In practice, medical personnel are often faced with emergency situations that require quick action to save patients' lives. However, these medical actions still have the potential to pose legal risks because the legal accountability mechanism still uses normal medical service standards. Novianti and Basuki Supartono explain that health service regulations in the post-disaster emergency response phase still do not have comprehensive emergency health service standards, resulting in legal uncertainty for medical personnel.

This situation indicates a mismatch between the need for emergency medical services and applicable regulations. From the perspective of Philippe Nonet and Philip Selznick's responsive legal theory, the law should be able to adapt to the social needs of society and the concrete conditions developing on the ground (Nonet et al., 2017). However, medical service regulations in Indonesia still tend to be formalistic and therefore unable to fully accommodate the need for medical services in disaster situations. Another problem that arises is the implementation of medical service standards and standard operating procedures (SOPs) in disaster situations. Normatively, medical personnel are obliged to provide health services in accordance with professional standards and applicable SOPs. However, in disaster situations, these standards are difficult to implement optimally due to limited health facilities, limited medical equipment, and the high number of disaster victims requiring health services simultaneously.

According to Satjipto Rahardjo, law should function as a means of protecting human interests and not be understood solely textually (Rahardjo, 2019). In the context of disaster medical services, an overly procedural legal approach can actually hinder patient rescue efforts because medical personnel must still comply with administrative procedures in emergency situations. Therefore, a more flexible and substantive legal approach is needed to ensure effective legal protection for medical personnel and patients. Furthermore, patients' rights to safe and quality healthcare are not fully met in disaster situations. Damage to healthcare facilities, limited access to transportation, uneven distribution of medical personnel, and a lack of healthcare logistics make it difficult for disaster-affected communities to obtain optimal healthcare (Pardomuan & Prasetyo, 2024). These conditions indicate that the state is not yet fully capable of fulfilling the public's right to health in crisis situations.

From the perspective of Aristotle's theory of distributive justice, the state has an obligation to distribute public services fairly to all citizens without discrimination (Aristoteles, 2009). However, research results

indicate that there are still disparities in health services between urban areas and remote areas affected by disasters. Areas with difficult geographic access tend to experience delays in the distribution of health aid and medical personnel, thus preventing optimal health services for disaster victims. Another problem is the suboptimal coordination between institutions in the implementation of disaster health services. Law Number 24 of 2007 concerning Disaster Management actually regulates the responsibilities of the central government and regional governments in disaster management. However, in practice, there are still often overlapping authorities, slow distribution of health aid, and a lack of integration of emergency health service systems.

According to Jimly Asshiddiqie, a modern state governed by law is not only tasked with maintaining legal order but also responsible for providing protection and welfare to the community (Asshiddiqie, 2018). In the context of disaster medical services, the state has a constitutional responsibility to ensure the provision of adequate health services and legal protection for both medical personnel and patients. Therefore, strengthening the national health system and emergency medical service regulations is an essential part of realizing the principles of a welfare state. Based on the results of this study, it can be understood that the gap between legal norms and medical service practices in the field occurs because health service regulations are not fully adaptive to disaster conditions. Therefore, reformulation of health legal policies is needed through the development of specific regulations for disaster emergency medical services, the establishment of standard operating procedures for crisis medical services, strengthening inter-agency coordination, increasing the capacity of medical personnel, and strengthening a legal protection system that is more responsive to emergencies caused by natural disasters.

### Efforts to Strengthen Legal Protection for Medical Personnel and Patients in Disaster Situations

Based on research findings, legal protection for medical personnel and patients in disaster situations requires strengthening regulations and a healthcare system that is more adaptive to emergency conditions. This strengthening is crucial because current healthcare regulations are still oriented towards normal conditions and therefore unable to fully address the need for medical services in crisis situations caused by natural disasters. According to Philipus M. Hadjon's legal protection theory, preventive legal protection aims to prevent disputes by establishing clear regulations and providing legal certainty to the public (Hadjon, 1987). In the context of disaster medical services, preventive protection can be realized through the establishment of specific regulations regarding emergency medical services, the development of standard operating procedures (SOPs) for disaster medical services, and the strengthening of the healthcare coordination system during the emergency response period.

One important way to strengthen legal protection is to develop Minimum Service Standards (SPM) and Standard Operating Procedures (SOPs) specifically for disaster medical services. These standards are necessary to provide medical personnel with clear guidelines for performing medical procedures in emergency situations. Furthermore, the existence of SOPs can provide legal certainty for medical procedures performed in situations with limited health facilities and human resources. According to Muhammad Afiful Jauhani, emergency medical procedures have special characteristics because they are performed to save the patient's life, thus requiring different legal treatment than normal medical services (Jauhani et al., 2022). Therefore, SOPs for disaster medical services must include specific provisions regarding emergency medical procedures, emergency informed consent mechanisms, disaster victim triage procedures, and limits on the legal liability of medical personnel in health crises.

In addition to strengthening regulations, increasing the capacity of medical personnel in disaster management is also a crucial aspect. Medical personnel need to receive regular training on disaster management, emergency medical services, victim evacuation, and health crisis management. Kurniayanti explained that the preparedness of health personnel is a crucial factor in the effectiveness of disaster management because medical personnel are the frontline in providing health care to disaster victims (Kurniayanti, 2012). Therefore, improving the competence of medical personnel can support the optimization of legal protection and the quality of health care services in disaster situations. On the other hand, the government also needs to strengthen the national health system by improving health facilities and infrastructure, equitable distribution of medical personnel, providing emergency health logistics, and strengthening the disaster health information system. According to the World Health Organization, a resilient health system is a key factor in maintaining the continuity of health care services in crisis and disaster situations (World Health Organization, 2019). Therefore, strengthening the national health system is a crucial part of realizing legal protection for medical personnel and patients.

Strengthening inter-agency coordination is also a crucial factor in providing disaster health services. In practice, disaster victim health care involves various parties, including the Ministry of Health, the National Disaster Management Agency (BNPB), local governments, hospitals, professional health organizations, and humanitarian agencies. However, research shows that coordination between these institutions is still suboptimal, often leading to delays in the distribution of health aid and medical services in disaster-affected areas(Novianti & Supartono, 2024).

According to the welfare state theory, the state has an active responsibility to ensure public welfare, including protecting citizens' health rights. In the context of disaster medical services, the state's responsibility extends beyond establishing regulations to providing emergency health facilities, guaranteeing funding for disaster victim health services, and providing legal protection for medical personnel serving in crisis areas. Therefore, strengthening legal protection in disaster medical services must be carried out comprehensively through regulatory, institutional, and national health policy approaches. Furthermore, harmonization of regulations between health law and disaster law is necessary to avoid overlapping authority in the provision of health services during disaster situations. Currently, there is still a lack of synchronization in regulations regarding the responsibility for health services, financing for disaster victim health services, and the legal accountability mechanisms for medical personnel in emergency situations. This situation has resulted in the ineffective implementation of legal protection in the field (Margono, 2026).

From the perspective of Satjipto Rahardjo's progressive legal theory, the law must be able to provide solutions to social problems and must not be trapped in a rigid normative approach (Rahardjo, 2017). Therefore, the formation of regulations for disaster medical services must be oriented to real needs in the field and able to provide substantive legal protection to medical personnel and patients. Adaptive and responsive regulations will provide legal certainty while supporting the effectiveness of health services in disaster situations. Based on the results of this analysis, strengthening legal protection for medical personnel and patients in disaster situations can be done through several steps, namely:

1. Preparation of special regulations for emergency medical services in disasters;
2. Establishment of Minimum Service Standards (SPM) and SOP for disaster medical services;
3. Capacity building and training of medical personnel in disaster management;
4. Strengthening the national health system and emergency health facilities;
5. Harmonization of health and disaster regulations;
6. Strengthening inter-agency coordination in disaster health services; and
7. Providing legal certainty regarding emergency medical actions carried out by medical personnel in disaster situations.

With this strengthening, it is hoped that legal protection for medical personnel and patients in the implementation of medical services in crisis areas due to natural disasters can be more effective, provide legal certainty, and ensure the optimal fulfillment of public health rights (Harefa & Harsono, 2026).

## State Responsibility in Guaranteeing Medical Services in Disaster Situations

In the concept of a welfare state, the state has primary responsibility for ensuring the protection of basic human rights, including the right to health services. The right to health is a human right that the state must fulfill under normal conditions and in emergencies resulting from natural disasters. Therefore, the state is not only obligated to establish health regulations but also to ensure the provision of effective medical services for disaster-affected communities. According to Jimly Asshiddiqie, a modern state based on the rule of law functions as a protector and guarantor of public welfare through the provision of fair and equitable public services. In the context of disaster medical services, the state's responsibility is realized through the provision of emergency health facilities, distribution of medical personnel, provision of medicines and medical equipment, and financing of health services for disaster victims (Pamungkas & Hariri, 2022).

Law Number 24 of 2007 concerning Disaster Management affirms that the central and regional governments are responsible for implementing disaster management in a planned, integrated, and comprehensive manner. This responsibility includes protecting the public from the impacts of disasters, meeting the basic needs of disaster victims, and restoring public health after a disaster. Therefore, medical services in disaster situations are part of the state's obligation to protect the public. However, research shows that the implementation of the state's responsibility in disaster health services still faces various

obstacles. One of the main obstacles is the limited availability of health facilities in disaster-affected areas. Damage to hospitals, community health centers, and transportation infrastructure prevents optimal health services. Furthermore, the distribution of medical personnel and health logistics is often delayed due to access constraints to disaster locations (Maulana et al., 2024).

According to the World Health Organization, health system resilience is the ability of a health system to continue providing effective health services even in crisis and disaster situations. Therefore, countries need to build health systems that are highly prepared for potential disasters by strengthening health facilities, increasing the capacity of medical personnel, and strengthening emergency health logistics systems. Furthermore, in practice, there is often disharmony in coordination between the central and regional governments in the provision of disaster health services. This condition results in uneven distribution of health aid and delays in disaster response. Slamet Riyanto explained that in the provision of post-disaster health services, there is still a lack of clarity regarding the division of responsibility for financing and implementing health services between the central government, regional governments, and national health insurance providers (Riyanto, 2022).

These issues demonstrate that Indonesia's disaster health care system still requires institutional strengthening and regulatory harmonization to ensure more effective health care delivery. From the perspective of Soerjono Soekanto's theory of legal effectiveness, the effectiveness of a legal system is influenced by institutional factors, facilities, and law enforcement officials. Therefore, the success of legal protection for medical personnel and patients is determined not only by the existence of regulations but also by the readiness of healthcare institutions and the bureaucratic system to handle disaster situations. Furthermore, the state also has an obligation to provide legal protection for medical personnel working in disaster areas. Medical personnel are a professional group that faces high risks in providing emergency health care, including health risks, occupational safety risks, and legal risks resulting from medical procedures performed under limited health facilities (Waluyo, 2022). Therefore, the state needs to guarantee legal protection and occupational safety for medical personnel working in disaster situations.

According to Santy Febryaningsih, legal protection for healthcare workers must include professional protection, occupational safety protection, and protection against the risk of criminalization of medical procedures (Febryaningsih, 2022). In the context of disaster medical services, this protection can be realized through the provision of legal aid, health and occupational safety insurance, and regulations that provide legal certainty for emergency medical procedures. In addition to protecting medical personnel, the state is also obliged to ensure that patient rights are fulfilled in disaster situations. Patients have the right to receive safe, high-quality, and non-discriminatory healthcare services, as stipulated in Law Number 17 of 2023 concerning Health. However, in disaster situations, upholding patient rights is often hampered by limited healthcare facilities and the large number of victims simultaneously requiring medical services.

From the perspective of Aristotle's theory of distributive justice, the state is obliged to distribute public services fairly according to the community's needs. Therefore, the government must ensure that health services for disaster victims are provided equitably, including to communities in remote and hard-to-access areas. Based on the results of this analysis, it can be understood that the state's responsibility in providing medical services in disaster situations is not only limited to establishing regulations, but also includes providing a resilient health system, strengthening institutional coordination, legal protection for medical personnel, and fulfilling the health rights of disaster-affected communities. Thus, strengthening the role of the state is a crucial factor in realizing effective legal protection for medical personnel and patients in natural disaster situations (Arifin et al., 2024).

Legal protection for medical personnel and patients in disaster situations is a multidimensional issue, involving legal, institutional, and on-the-ground factual aspects. Normatively, Indonesia already has various regulations that serve as the basis for protection, such as the 1945 Constitution of the Republic of Indonesia, Law Number 17 of 2023 concerning Health, and Law Number 24 of 2007 concerning Disaster Management. However, these regulations are not yet fully capable of providing effective legal protection in emergencies caused by natural disasters. From the perspective of Philipus M. Hadjon's legal protection theory, legal protection encompasses preventive and repressive protection. Preventive protection aims to prevent legal violations through clear regulations, while repressive protection functions to resolve disputes that have already occurred. In the context of disaster medical services, preventive protection is still suboptimal due to the lack of specific Standard Operating Procedures (SOPs) that specifically regulate

medical actions in disaster emergencies. As a result, medical personnel often face legal uncertainty when having to make quick decisions in critical situations(Kusmiati, 2025).

When analyzed using Soerjono Soekanto's theory of legal effectiveness, five factors influence the suboptimal legal protection: legal factors, law enforcement officials, facilities, society, and legal culture. From a legal substance perspective, there is still a gap in technical regulations for emergency medical services. From an apparatus perspective, coordination between agencies such as the Ministry of Health, the National Disaster Management Agency (BNPB), and local governments is not optimal. In terms of facilities, health facilities are often damaged during disasters. Meanwhile, from a societal and legal culture perspective, the level of legal literacy and disaster preparedness remains relatively low. This condition indicates that the problem of legal protection lies not only in regulations, but also in their implementation and support systems. From Satjipto Rahardjo's perspective, law should not be understood merely as a rigid normative rule, but must be able to provide protection for humans as the primary subjects of law. Therefore, a progressive legal approach that is more adaptive to emergency conditions, particularly in health services during disasters, is needed. In addition, the concept of responsive law from Nonet and Selznick also emphasizes that law must be able to adapt to evolving social needs. In this context, disaster medical service regulations should provide sufficient discretion for medical personnel to act quickly to save patients without the threat of legal action, as long as the action is carried out in good faith and in accordance with the principles of professionalism.

From a national perspective, the welfare state concept emphasizes the state's active responsibility for ensuring public welfare, including providing healthcare services during disasters. However, in practice, challenges persist, such as limited resources, weak institutional coordination, and a suboptimal national health preparedness system. This results in suboptimal legal protection for medical personnel and the fulfillment of patient rights. Medical personnel, as the frontline in disaster management, also face high risks, not only medically but also legally. Therefore, the state needs to provide more concrete legal protection through mechanisms such as legal aid, occupational safety guarantees, and regulations that explicitly protect emergency medical procedures from criminalization as long as they are carried out in accordance with professional standards in disaster situations.

Thus, it can be concluded that strengthening legal protection for medical personnel and patients in disaster situations must be carried out comprehensively. This includes updating more responsive regulations, developing specific standard operating procedures (SOPs) for disaster medical services, increasing the capacity of medical personnel, and strengthening a resilient national health system. Furthermore, harmonization of health law and disaster law is necessary to avoid overlapping authorities. Ultimately, effective legal protection can only be achieved through synergy between the state, medical personnel, and the public. The state must be present as a guarantor of legal certainty and a provider of health services, medical personnel must be supported by clear professional protection, and the public must have legal awareness and preparedness in the face of disasters. Thus, the legal objective of providing justice and protection can be optimally achieved in natural disaster crises.

## CONCLUSION

Legal protection for medical personnel and patients in the implementation of medical services in crisis areas due to natural disasters has basically been regulated in various provisions of laws and regulations in Indonesia, especially Law Number 17 of 2023 concerning Health and Law Number 24 of 2007 concerning Disaster Management; however, its implementation is still not running optimally because the existing health service regulations are still oriented towards normal conditions, so they are not fully adaptive to disaster emergency situations. In practice, medical personnel often face limitations in health facilities, staffing, medical logistics, and administrative procedures that are difficult to implement optimally in crisis conditions, while patients have not fully received safe, quality, and equitable health services. This condition indicates a gap between legal norms (*das sollen*) and field practices (*das sein*), so it is necessary to strengthen more responsive and comprehensive regulations through the preparation of Minimum Service Standards (SPM), Standard Operating Procedures (SOP) for disaster medical services, harmonization of health law and disaster law, strengthening the national health system, increasing the capacity of medical personnel in disaster management, and strengthening legal protection for emergency medical actions in order to provide legal certainty and ensure the fulfillment of public health rights in disaster situations fairly and effectively.

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