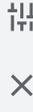




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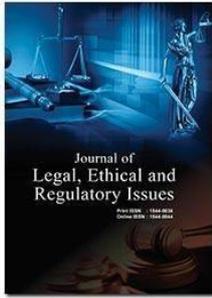


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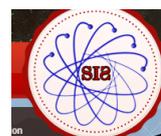
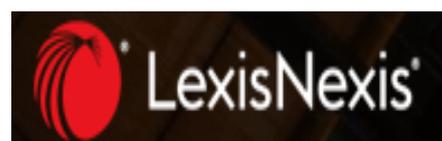
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PROTECTION OF WORKERS IN A HEALTH SECTOR AGAINST OCCUPATIONAL DISEASES DURING COVID-19 PANDEMIC IN INDONESIA

Asri Wijayanti, Faculty of Law University Muhammadiyah Surabaya
Satria Unggul Wicaksana Prakasa, Faculty of Law University Muhammadiyah Surabaya
Yayuk Sugiarti, Faculty of Law University Wiraraja

ABSTRACT

The health sector who are at risk of contracting Covid-19. This research aimed to examine the form of legal protection for workers in the health sector for occupational diseases during the Covid-19 pandemic in Indonesia and their legal remedies. This legal research is normative with a statute approach. The results showed that the workers in the health sector consisting of doctors, nurses, other health workers and non-health workers who work in health service facilities. It really needed the legal protection in the form of guarantees for protection of their lives from the dangers of Covid-19 pandemic in Indonesia through statutory regulations that categorize Covid-19 as a form of occupational disease. The workers diagnosed with occupational disease that based on a doctor's certificate was entitled to work accident benefits even though the employment relationship has ended. Even though each worker had understood the risks of work and worked according to safety procedures. The criteria for occupational diseases originating from Covid-19 must be based on the relationship between COVID-19 pandemic and work carried out by health workers, non-health workers and non-health workers. The workers who work in health service facilities. The form of guarantee provided by the state to workers who suffer from Covid-19 pandemic as a work-related disease that got the treatment according to medical needs until recovery. The funding is borne by the central government through Health Social Security Agency. Receive compensation in the form of money and disability benefits. The resulting recommendation revised the scope of the subject receiving occupational disease insurance in the form of covid-19 to be broader not limited to workers in the health sector.

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

INTRODUCTION

Human rights are protected and guaranteed by the State. The constitution guarantees the protection of the implementation of human rights. Every citizen has the same right to work and a decent living. The parameters of a decent living are from the point of view of humanity (Article 27 paragraph 2 of the Constitution).

Guarantees for the implementation of human rights, including the right to work. Everyone has the right to work and receive fair and proper remuneration and treatment in an employment relationship. Feeling justice in the implementation of work relations (Article 28 D paragraph 2 of the Constitution). The fairness must be felt by every worker, including in the guarantee of occupational safety and health.

The protection of workers in the health sector is very much needed at this time (Dollard & Nesor, 2013). The Covid--19 pandemic has placed health workers as workers in the health sector in the leading position in providing health services (Rothan & Byraredy, 2020). Health workers have a high risk of contracting Covid-19 (Sun et al., 2020). Not all patients who come to health care facilities are honest about their body condition (Zhang & Liu, 2020). There are patients who have

lied that they are healthy even though the results of the patient's swab test/rapid test are positive (Banerjee et al., 2020). This is one of the reasons why health workers contracted Covid-19 from patients who lied, because there are differences in the protocol for treating patients who are positive for Covid-19 and negative for Covid-19 (Senator, 2020).

Covid 19 is an infectious disease caused by a corona virus that causes respiratory tract infections in humans that can cause death (Shereen et al., 2020). Until now, there is still a debate in the community, whether Covid-19 is an infectious disease or an engineered disease as a very dangerous disease or as a common disease like Influenza in general (Wang et al., 2020). On March 11, 2020, WHO declared Covid-19 is a pandemic (Li et al., 2020). The Covid-19 pandemic has had both positive and negative impacts on the people of Indonesia and the world.

On July 10, 2021 in Indonesia that there were 2,491,006 positive patients, 2,052,109 people recovered and 65,457 people died. While the number in 223 countries confirmed by Covid-19 is 185,291,530 people and those who have died are 4,010,834 people. Of this number, 927 health workers died due to COVID-19, with details of 412 doctors (210 general practitioners, 159 specialists, 43 dentists), 339 nurses, 155 midwives, 25 laboratory workers, 15 pharmacists, 2 epidemiologists, 1 medical physicist and 3 ambulance officers.

Until now, there is still a spike in the number of deaths due to covid-19. This affects the government to issue regulations. Various regulations have been issued due to the Covid-19 pandemic. Since the restrictions are on outdoor activities that almost all activities are currently carried out at home such as Work from Home (WFH) (Setiati & Azwar, 2020; Ebrahim & Memish, 2020) as the new habits that have emerged (Brynjolfsson et al., 2020). The aim of the new habit prevents the transmission of Covid-19 (Hilgert, 2017). There are three new habits that must be implemented together, namely using masks correctly; always maintain a safe distance from anyone outside of the house and should avoid crowds; wash hands with soap and running water for at least 20 seconds

As long as crew members are not yet effective in Indonesia that the restrictions on community activities (Pemberlakuan Pembatasan Kegiatan Masyarakat/PPKM) are currently being implemented. The goal is to reduce the spread of Covid-19. The emergency in the restrictions on community activities has been implemented in 15 districts/cities outside Java and Bali. Regardless of whether or not Covid-19 is a disease or a political engineering, the negative impacts can still be felt in the field of employment. The risk of being exposed to Covid-19 is shared by all workers, especially workers in the health sector or health workers.

The workers in the health sector are more at risk of contracting Covid-19 than in other sectors, because the interactions with patients of covid-19 are more intense. In several places in Indonesia that there has been a situation where the capacity of the hospital is not fulfilled. This shows that health workers have the highest risk of being exposed to Covid-19. Therefore, the protection is needed for workers in the health sector. This research aimed to examine forms of legal protection for workers in the health sector for occupational diseases during the Covid-19 pandemic in Indonesia. This legal research is normative with a statute approach.

ANALYSIS AND DISCUSSION

Current Situations Regarding Health and Worker Sectors in Indonesian

The number of Covid-19 sufferers in Indonesia continues to soar. The policy from the government to deal with the surge in Covid-19 patients is already within the framework of a comprehensive system. From the legal substance, rules and policies have been made, for example the imposition of restrictions on community activities. From the legal structure, the government has provided infrastructure, namely building an emergency temporary hospital as an action to overcome

the inability to accommodate Covid-19 patients in existing permanent hospitals. In terms of legal culture, the government has succeeded in growing the community's need to obey the health protocol by forming a village that adapts to new habits, in a form that adapts to regional conditions.

Various measures have been taken to prevent the spread of covid-19. This has not been able to reduce the number of Covid-19 to decline. In Surabaya, there was a request for a lock down from the hospital to the governor of East Java Province because nearly 90% of the health workers from the hospital were exposed to Covid-19, namely Adi Husada Hospital of Kapasari, Aisyah Hospital, Gotong Royong Hospital, Premier Hospital of Surabaya, Royal Hospital of Surabaya, RSP HC Surabaya, National Hospital, Adi Husada Hospital of Undaan Wetan and Islam Hospital of Surabaya have submitted a request for lock down from the hospital to the governor of East Java Province. Although the request was not granted considering the emergency need to handle Covid-19 patients. This action shows the unbalanced workload of health workers with the number of patients that admitted to the hospital.

Protection Workers in Health Sectors: Indonesian Cases

The health workers in the health sector are in terms of employment law especially in employment relations that are legal subjects besides hospitals as entrepreneurs. The work relations that occur in hospitals must prioritize work safety and security. Legal protection for workers is very important in the continuity of employment relationships in the health sector. Every worker has the right to obtain protection for occupational safety and health, morals and decency and treatment in accordance with human dignity in accordance with religious values.

To protect the safety of workers in realizing optimal work productivity, protection of occupational health and safety is carried out (Article 86 of the labour law). For health workers, more specifically, legal protection for health workers is regulated, namely:

1. To guarantee to perform tasks according to professional standards, professional service standards, and standard operating procedures;
2. To obtain complete and correct information from health service recipients or their families;
3. To receive service fee;
4. To obtain protection for occupational safety and health, treatment in accordance with human dignity, morals, decency, and religion values
5. To get the opportunity to develop his profession;
6. To refuse the wishes of the recipient of health services or other parties that are contrary to professional standards, codes of ethics, service standards, standard operating procedures, or provisions of laws and regulations; and
7. To obtain other rights in accordance with the provisions of laws and regulations. (Article 27 of the Health Law in conjunction with Article 24 paragraph 1 Government Regulation Number 32/1996).

Service, occupational safety and health in Health Service Facilities must apply standard precautions (use of personal protective equipment); ergonomic principles (Minister of Health Regulation No. 52 of 2018 in conjunction with Minister of Health Regulation No. 66 of 2016). There is an obligation for employers or hospital managers related to health to strive for infection prevention and control. The infection prevention and the control must be carried out routinely with full vigilance

In addition, there is protection for health workers in the form of giving awards, for example in the form of money or other forms when an infectious disease outbreak occurs (Law number 4 of 1984 concerning infectious disease outbreaks). Empowerment of health workers in terms of obtaining education and technical training as well as awarding or promotion of positions (Minister of Health Regulation Number 84 of 2014 concerning Control of Infectious Diseases) and Work accident insurance

Work accident insurance includes the coverage for work-related illnesses (Hilgert, 2017; ILO, 2018). The occupational diseases are diseases caused by work environment (Legg et al., 2015; Allen, 2016). The occupational diseases include the types of diseases that caused by exposure to factors arising from work activities (Creighton & McCrystal, 2016); based on target organ system; occupational cancer; and other specifics. It can be categorized as diseases caused by potential hazard factors arising from work activities, namely the group of biological potential hazard factors.

The biological potential hazards are one of 8 potential hazards, namely physical hazards, chemical hazards, biological hazards, ergonomic hazards, psychosocial hazards, mechanical hazards, electrical hazards and waste hazards. The biological potential hazards are divided into 4 types, namely AIDS, Hepatitis B and Non-A Non-B (virus); Cytomegalovirus; Rubella; and tuberculosis.

The diseases caused and arise from work activities (Xia et al., 2018). The occupational diseases caused by biological factors and infectious or parasitic diseases, including brucellosis; viral hepatitis; viruses that attack the human immune system (human immunodeficiency virus; tetanus; tuberculosis; toxic or inflammatory syndromes related to bacterial or fungal contamination; anthrax, *Leptospira*; and diseases caused by other biological factors in the workplace not mentioned above, in where there is a direct relationship between exposure to biological factors that arise due to work activities and diseases experienced by workers which are scientifically proven using the right method (Presidential Regulation No 7/2019 concerning occupational diseases).

Health workers have a high risk of potential biological hazards that are doctors, dentists, nurses, laboratory workers, sanitation and laundry workers; nurses, doctors working in the mother and child department, and physiotherapists. Potential hazards in a hospital can spread to other areas of the hospital. The potential hazards and locations and subjects that have the highest risk can develop along with the development of services in health care facilities, including hospitals. During this covid-19 pandemic, the 2019 corona virus disease (Covid-19) has been classified in the occupational disease category in the Circular of the Minister of Manpower Number M/8/HK.04/V/2020 dated 28 May 2020 concerning the protection of workers in the program. work accident insurance in cases of occupational diseases due to corona virus disease 2019 (Covid-19).

This Circular Letter includes medical personnel and health support personnel at hospitals, health facilities and or other places designated to treat patients infected with COVID-19 as well as volunteers as workers. The workers who can be categorized as having specific special risks that can cause occupational diseases, because of Covid-19 (Magee & Smith, 2013). There are three groupings that can be equated as workers, namely:

1. Medical personnel and health personnel (dentist specialists; nursing staff, midwifery personnel, biomedical engineering personnel: medical laboratory technology experts, pharmaceutical personnel: pharmacists and pharmaceutical technical personnel and public health personnel: health epidemiologists)
2. Health support personnel at hospitals, health facilities and other places designated to handle patients infected with covid-19, namely cleaning services for other workers' laundry work, who in their work face the risk of being infected or exposed to you being fit in their work environment.
3. Volunteer teams, namely health and non-health workers who are also on duty in handling covid-19 who can be placed directly in hospitals, health facilities and or other places while in handling covid-19.

The regulation of the right to work accident insurance within the framework of the national social security system is regulated in law number 40 of 2004 concerning the national social security system. The workers diagnosed with occupational diseases based on a doctor's certificate are entitled to work accident insurance benefits even though the employment relationship has ended, even though the employment relationship has ended. It can arise within a maximum period of 3 (three) years from the end of the employment relationship. During this pandemic, health workers in

the health sector can receive work accident insurance benefits if they suffer from COVID-19 as an occupational disease, if they become participants in the BPJS for employment.

The workers in the health sector consist of doctors, nurses, other health workers and non-health workers who work in health care facilities desperately need legal protection in the form of guarantees for the protection of lives from the dangers of Covid-19. Indonesia through laws and regulations has categorized Covid-19 as a form of occupational disease. The workers diagnosed with occupational diseases, based on a doctor's certificate, are entitled to benefits.

CONCLUSION

The criteria for having an occupational disease originating from Covid-19 must be based on the relationship between COVID-19 and the work carried out by health workers, non-health workers and non-health workers working in health care facilities. The form of guarantee provided by the state to workers who suffer from Covid-19 as an occupational disease is to receive treatment according to medical needs until they recover. Funding is borne by the central government through health benefits that receive compensation in the form of cash and disability benefits. Workers who have been registered with BPJS for employment if they get an occupational disease can get compensation or work accident insurance

The resulting recommendation is to revise the scope of the subject of work-related illness insurance in the form of covid-19 to be wider and not limited to workers in the health sector.

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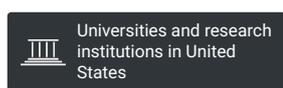


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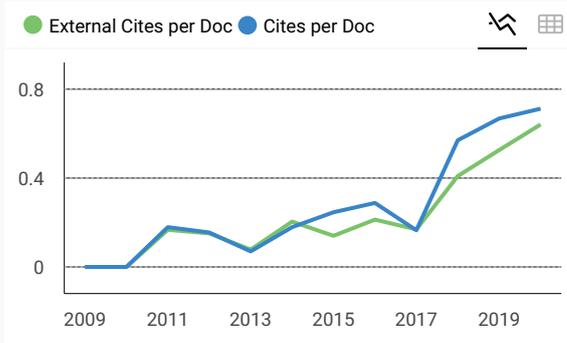
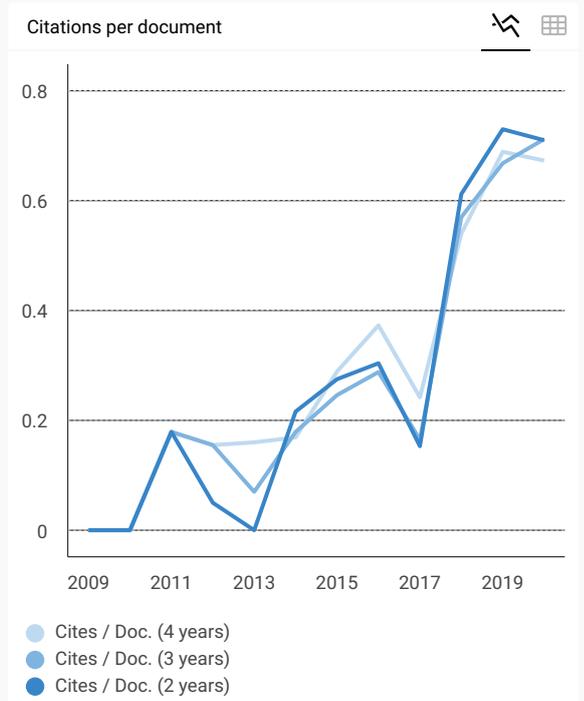
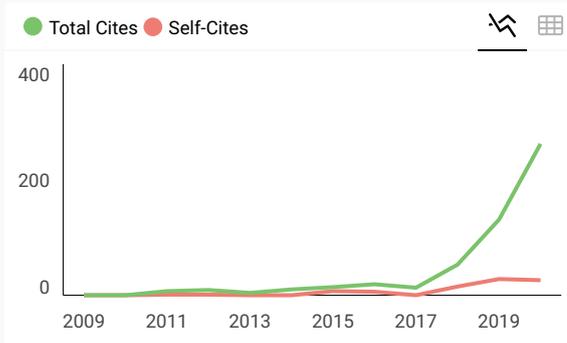
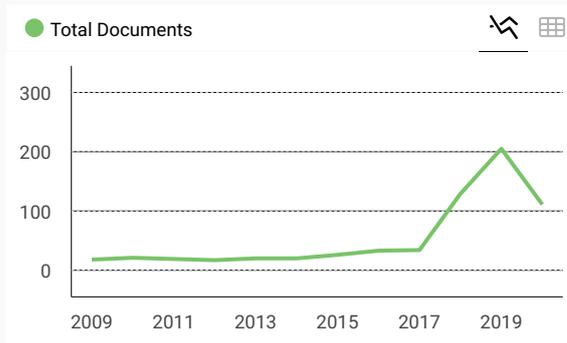
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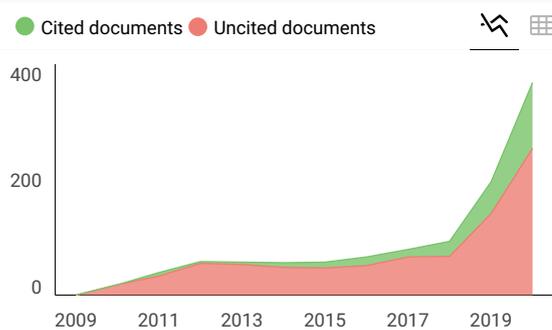
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