

Legal Protection of Health Care Workers Regarding Workplace Violence During Pandemic COVID-19

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Abstract

Work place violence against health care workers has happened in all over the world and begun to be a global phenomenon. Due to COVID-19 pandemic, violence against health care workers increase rapidly. This was caused by many factors and unfortunately, health care workers feel helpless when this happened. Therefore, legal protection towards health care workers in case of work place violence is needed. In Indonesia legal system, there are some law

and regulations that regulated protection of health care workers. Health care workers basically will be protected by law when they carry on their duty and any violence that was made toward them during their work can be prosecuted. Beside of protection by the law, both of Government and Health Institution need to make a prevention scheme to decrease work place violence toward health care workers.

Keywords

Health Worker, Work Place Violence, Legal, Protection, Pandemic

Introduction

Health is the most fundamental basic human right; without the right to health, humans are unable to access other basic rights. The opening of the World Health Organization (WHO) Constitution states that health is not limited to not being infected with a disease but also when a person's physical, mental, and social condition is in good condition. WHO "*Health is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity.*"

In the implementation of health care, no one should experience discrimination; as stated by the WHO Constitution Preamble, "*The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic, or social condition*". Furthermore, referring to the 1945 Constitution of the Republic of Indonesia, everyone has the right to physical and spiritual prosperity, a home, a healthy living environment, and health services. This means that the Indonesian state, through its laws and regulations, ensures that everyone will get the same rights in accessing health care.

However, the COVID-19 pandemic that has plagued all corners of the world since 2020 has caused health systems in many countries to collapse. The health sector seems to be not given time to adapt; COVID-19 patients continue to arrive, and health institutions lack medical facilities and equipment, which then results in many hospitals no longer being able to accept patients, both COVID-19 patients and non-COVID-19 patients.

In Brazil, for example, the first confirmed case of COVID-19 was on February 26, 2020, and 14 days later, on May 5, 2020, it was confirmed

110,000 and about 8000 patients died, with a mortality rate of 6.9%.¹ Then countries in Europe, such as Italy, have even surpassed China and became the world's first rank with the highest number of confirmed cases of COVID-19 in March 2020 with a death toll of 3405 cases. Italy's Health System began to collapse, their country began to lack health workers to fight against the pandemic. Therefore, China then 50,000 nucleic acid test kits, 200,000 facemasks (N95) and two million surgical facemasks to the European Union and Italy became one of the recipient countries for medical aid. In addition, Beijing also sent their doctors to support its health system and share their experience in the fight against the coronavirus.²

Indonesia experienced something similar, especially when the second wave of the COVID-19 pandemic began to hit. Many referral hospitals in Java are unable to accept more COVID-19 patients. In Java, there is a scene of COVID-19 patients waiting in the hospital yard to wait for a queue of treatment rooms that will someday be empty. The vacant land in the hospital environment was transformed into an emergency room.³ Not a few patients died as a result of being denied hospitals due to full and difficulty in accessing health facilities. An ambulance driver shared his story of being devastated when a COVID-19 patient he was carrying died on the way in his ambulance car after being rejected by four hospitals around Sidoarjo, Indonesia.⁴ The large number of patients who died in the middle of their journey in search of hospitals was caused by the condition of transmission that continued to occur, symptoms that were detected too late, hospitals that collapsed due to fullness, and the exhaustion of oxygen tank.

As the frontline in the fight against the COVID-19 pandemic, it is health workers who get the biggest blow and don't even have time to feel overwhelmed by the situation. Since WHO declared the COVID-19 outbreak as a pandemic, health workers from all corners of the world have been in the same problems, such as lack of PPE, very limited rest time, physical and mental fatigue, changes in the relationship between patients, co-workers, and families, as well as dishonesty from suspected patients infected with COVID-19, to

¹ Hafrida Hafrida, Helmi Helmi, and Retno Kusniati, "Health Workers' Legal Protection Policy to the Coronavirus Disease 19 (Covid-19) Containment Measures," *Fiat Justisia: Jurnal Ilmu Hukum* 15, no. 1 (2021): 51–74, <https://doi.org/10.25041/fiatjustisia.v15no1.2101>.

² Jorge Valero, "EU Allocates Chinese Aid to Italy to Fight against the Pandemic," *Euractiv.Com*, 2020, <https://www.euractiv.com/section/coronavirus/news/eu-allocates-chinese-aid-to-italy-to-fight-against-the-pandemic/>.

³ Laila Afifa, "Indonesian Hospitals Collapse before the Covid-19 Peak," *Tempo*, 2021.

⁴ BBC Reporter, "Cerita Relawan Sopir Ambulans Covid-19: 'Saya Merasa Bersalah Dan Menyesal Tidak Bisa Selamatkan Nyawa Mereka,'" *BBC Indonesia*, 2021.

being expelled from their home environment due to the fears of the surrounding community.⁵

In the midst of the country's woes in managing the COVID-19 pandemic, the fate of health workers is often neglected even though as a result of carrying out their duties, health workers are a group that is vulnerable to infection. Judging from affordability, there are 5 groups that are most at risk of direct contact with the virus, namely⁶:

1. Health workers who treat patients and those who live together with COVID-19 sufferers;
2. People travelling in the same vehicle,
3. Guests who are in the same room as people with COVID-19;
4. The person who takes care of and accompanies the patient in the room;
5. Those who work together with people with COVID-19.

Considering the study above, health workers are the party with the highest level of risk. It can be concluded that during in workplace, not only healthcare workers have duty to treat patients with the virus but also highly exposed to the virus and risking their health, even their life.

In addition to having to face the threat of exposure to Sars-Cov-2, the virus that causes COVID-19 infection, medical personnel also face the threat of assault and violence from patients and patients' families. Since before the COVID-19 pandemic occurred, work place violence against health care workers had been so common that it is considered a global phenomenon. According to the International Committee of The Red Cross (ICRC), even in the first 6 months of the COVID-19 pandemic, more than 600 cases of violence against health care workers were reported.⁷ The study also showed that in the 2005-2019 time brackets, before the COVID-19 pandemic, the statistics of work place violence against healthcare workers were estimated at 10.2% and 36.4% for physical violence and non-physical violence and the overall average work place violence was about 22.3%. The statistics of workplace violence against Health care workers during the COVID-19 pandemic are at 17% and 44% for physical violence and non-physical violence with an overall average of around 47%.

The increase in work place violence's percentage of healthcare workers should be a special concern, considering that healthcare workers are the

⁵ Siti Soekiswati et al., "Perlindungan Hukum Bagi Tenaga Medis Dan Kesehatan Di Masa Pandemi Covid-19," *FISIO MU: Physiotherapy Evidences* 2, no. 3 (2021): 109–219, <https://doi.org/10.23917/fisiomu.v2i3.15210>.

⁶ Hafrida, Helmi, and Kusniati, "Health Workers' Legal Protection Policy to the Coronavirus Disease 19 (Covid-19) Containment Measures."

⁷ World Health Organization, "Guidance to Reduce COVID-19 Stigma on Health Workers and Families," *Who*, 2020, 1–8.

strongest guard of mankind in fighting the COVID-19 pandemic. Protection towards healthcare workers should not stop at limiting virus exposure and contamination, but also regarding their safety when workplace violence happen. Therefore, the State has obligation to provide legal protection for health workers related to workplace violence.

This study will discuss about: (1) how workplace violences were experienced by healthcare workers?; (2) how the State ensuring healthcare workers' safety regarding workplace violence ?

Method

This study is normative legal research that has a goal to find and fomulate law argumentations by analyzing the core problems. The methodology that used is a literature study where the author will group data from books, journals, and regulations.⁸ Then, the data will be grouped and processed with laws as an independent variable and social conditions as a dependent factor. Then, the data is analyzed to find out how workplace violences were experienced by healthcare workers and how the State ensuring healthcare workers' safety regarding workplace violence.

Health Workers Protection During Covid-19: Some Contemporary Cases and Development

Law Number 36 of 2014 concerning Health Workers defines health workers as everyone who devotes themselves to the health sector and has knowledge and / or skills through education in the health sector which for certain types requires the authority to carry out health efforts. This means that health workers are not only limited to those who work in health facilities, such as doctors, nurses, medical students, frontline healthcare workers and other healthcare workers not in direct patient contact, but also those who are members of state-funded and private organisations providing services in the following areas: disability, older persons, nursing homes, acute and non acute hospitals, community hospitals, mental health, social inclusion, palliative care, chronic illness, primary care, health and well being, hospice, rehabilitation, home care, paramedics, and community services.

⁸ Theresia Anita Christiani, "Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object," *Procedia - Social and Behavioral Sciences* 219 (2016): 201–7, <https://doi.org/10.1016/j.sbspro.2016.05.006>.

During the COVID-19 Pandemic, health care workers experienced such severe pressures that greatly drained their psychological health and even took their lives. WHO reports that around 80,000 to 180,000 Health care workers have died from COVID-19 in the period from January 2020 to May 2021. In Indonesia, as of April 2022, it has been reported that as many as 2807 health workers have died due to being infected with COVID-19.⁹

Unfortunately, these health workers not only have to work under the pressure of being infected with COVID-19 and psychic disorders, but also violence in the workplace. Workplace violence can be understood as using force against an individual or group of people in the workplace, which leads to physical and psychological injury and even death. Work place violence often has an impact on decreasing job satisfaction and productivity, sleep disorders, burnout, increased stress, and low quality of life. In the first 6 months of the Covid-19 Pandemic alone, 600 cases of bullying and stigma against nurses have been reported in 40 countries.¹⁰ Therefore, some humanitarian organizations have urged governments to protect Health care workers during the COVID-19 pandemic by enacting laws, creating safer work conditions, providing mental health assistance, and combating misinformation.

Workplace violence could be defined as intentionally using power, threatening or actual, against another person or a group, in work related circumstances that either result in or have a high degree of likelihood of resulting injury, death, prychological harm, maldevelopment, or deprivation. To understanding better of this term, there are elements that will determine wether or not an action is workplace violence¹¹:

1. Active response;
2. Action plan;
3. Bullying;
4. Individual factor;
5. Organizational factors;
6. Passive response;
7. Physical violence;
8. Psychological violence;
9. Racial discrimination;
10. Sexual harrasment;
11. Threat;

⁹ Seto Wardhana, "Indonesian Health System Might Collapse Soon," *Jakarta Post*, September 22, 2020.

¹⁰ Devi S., "COVID-19 Exacerbates Violence against Health Workers," *Laclet* 396, no. 1052 (2020): 658, <https://doi.org/10.1016>.

¹¹ James Richard Maramis, *Workplace Violence Experienced By Staff Nurses*, 1st ed. (Batu: Literasi Nusantara, 2021).

12. Verbal abuse.

Workplace violences itself could be classified to 2 (two) different groups¹²:

1. Physical violence. This type of violence includes beating, kicking, slapping, stabbing, shooting, pushing, biting, and pinching. Centers for Disease Control (CDC) also includes rape, homicide, and any use of weapons.
2. Psychological violence. Physical violence itself, if happen to healthcare workers, can cause psychological damage. This kind of violence also includes verbal abuse, threatening, and screaming.

In Pakistan, of the 8800 Health care workers who were respondents to the study, 38.4% of respondents experienced violence in April 2020. Meanwhile, the United States reported in the first 5 months of the pandemic, 68% of registered nurses reported that they experienced vision and verbal violence and 20% of respondents said they experienced more violence during the pandemic. In Egypt, a survey with physicians and nurses as respondents stated that during the first 6 months of the COVID-19 Pandemic, 43 and 10% reported exposure to psychological and physical workplace violence, respectively.¹³

National Nurse United (NNU), the largest labor union and professional association for registered nursen in the United States, reported that in 2020 and 2021 survey data show that nurses and other healthcare workers experiencing high rates workplace violence during COVID-19 Pandemic. Approximately, 82% (more than 8 in 10) healthcare workers experiencing workplace violence, 62% respondents said that they have been verbally threatened, and 33% reported being verbally harassed based on their sex or appearances during pandemic. Further, NNU also reported through it's survey that was published on September 2021, 31% nurses believe workplace violence has increased.¹⁴

¹² Maramis.

¹³ Shiraz Shaikh et al., "The Magnitude and Determinants of Violence against Healthcare Workers in Pakistan," 2020, 1–13, <https://doi.org/10.1136/bmjgh-2019-002112>.

¹⁴ NNU, "Workplace Violence and Covid-19 in Health Care How the Hospital Industry Created," 2021, 36.

Violence experienced in past year	Health care workers reporting (n=1,340)
Objects thrown at you	35%
Pinched or scratched	38%
Slapped, punched, or kicked	35%
Spat on or exposed to other bodily fluids	28%
Verbally threatened	64%
Physically threatened	34%
Groped or touched inappropriately	18%
Verbally harassed based on your sex or appearance	33%
I have not experienced workplace violence	19%
Other	18%

FIGURE 1. Workplace Violence and Covid-19 in Health Care How the Hospital Industry Created,” 2021, 36.

Meanwhile, in Indonesia, the media repeatedly reported cases of violence against health care workers. On April 9, 2020, a nurse at the Pratama Dwi Puspita Clinic in Semarang, named Hidayatul Munawaroh, was hit by a man who did not accept it because he was reminded to wear a mask. On May 3, 2020, violence occurred against nurses at Inche Abdoel Morris Samarinda Hospital. The nurse was hit by a COVID-19 patient because her request to go home was not fulfilled. Furthermore, on June 28, 2020, there was an attack on a nurse at Dr. M Haulussy Ambon Hospital by the family of a patient who died of COVID-19. The victim was beaten by the patient's family for no apparent reason, and it is suspected that there was one-sided information that developed that the patient when he entered the hospital was not properly treated. On July 25, 2020, violence happened to a nurse at The Sayang Cianjur Regional Hospital. The beating of the nurse in the ICU room was allegedly carried out by the perpetrator because he did not accept the nurse's explanation. Then on April 15, 2021, there was also a mistreatment of a nurse at Siloam Sriwijaya Hospital in Palembang by the patient's family who did not receive the actions and treatment carried out on the patient.¹⁵

The rapidly spreading COVID-19 pandemic has succeeded in fostering fear and confusion in the community, making many of them do more

¹⁵ Irwan Syambudi, “Kekerasan Pada Nakes Yang Terus Berulang Saat Pandemi COVID-19,” *Tirto.Id*, 2021.

irrationally than ever before. There are several factors that can be behind the occurrence of work place violence against Health care workers¹⁶:

1. Long waiting time
 Many health facilities have collapsed due to the increasing number of patients infected with COVID-19 and the unavailability of beds or treatment rooms to accommodate them. In addition, administrative processes that are indeed time consuming can trigger emotions from the perpetrator.
2. Both the patient and those accompanying the patient come in a state of anger.
 Often the person who restrains the anger is not able to think rationally so that, when faced with something that they think is a little incompatible with their wishes, the anger then breaks out and hurts others, including the health care workers.
3. Dissatisfaction with the behavior of the handling staff
 In complicated conditions such as the COVID-19 Pandemic, both health care workers and patients alike feel the sensation of rushing. Patients want to get treatment immediately while staff want to complete their work immediately and as much as possible in accordance with the applicable SOP. If there is friction between the two, no matter how small, it can trigger fights to workplace violence.
4. Lack of security
 In the midst of the health facilities that were about to collapse, the security of the hospital became more caught off guard. This can then become a gap in conflicts arising down to physical assault with weapons.
5. Public Fear and Distrust of the government and the national health system regarding the handling of the COVID-19 Pandemic.
 In the implementation of handling the COVID-19 Pandemic, there is often an overlapping of information to fake news that is spread. As a result, the perpetrators no longer respected health care workers and eventually fought back.
6. Stigma
 Health care workers must not only fight the stigma that they are an entity that must be avoided from being infected with COVID-19 but also fight the stigma that health care workers are a group of people who want to take great advantage during the COVID-19 Pandemic.

¹⁶ World Health Organization, "Coronavirus Disease (Covid-19) Outbreak : Rights , Roles and Responsibilities of Health Workers , Including Key Considerations for Occupational Safety," *World Health Organization (WHO)*, 2019, 1–3, https://www.who.int/docs/default-source/coronaviruse/who-rights-roles-respon-hw-covid-19.pdf?sfvrsn=bcabd401_0.

Another study shows that healthcare employers or the hospital industry, prioritizing profits more than their employees safety, especially regarding workplace violence. NNU survey about workplace violence 2021 reported that healthcare employers kept neglecting even the most basic of workplace prevention measures.¹⁷ Moreover, indifference that was showed by healthcare employers and hospital industry toward workplace violence leading to higher rates of workplace violence during COVID-19 pandemic. People tend to vent their frustration of COVID-19 toward healthcare workers and the employers put them to be punching bag.

However, COVID-19 pandemic is not the only factor why workplace violence to healthcare workers happen. Surely, the pandemic cause many casualties and damages, and even destroy healthcare system. Nonetheless, the pandemic is only a trigger to push this issue to surface so that people can see the suffering of healthcare workers because of workplace violence. Being a healthcare workers is already high risk job, moreover during pandemic. As how other professions, healthcare workers should be respected and protected especially by legal protection.

Legal Protection for Health Workers During Covid-19 in Indonesia: A Proposal for Better Arrangements

Legal protection is a description of the work of legal functions to realize the goals of the law, namely justice, expediency and legal certainty. Legal protection is a protection provided to legal subjects in accordance with the rule of law, both preventive (*prevention*) and in a repressive form (*countermeasures*), both in writing and unwritten in order to enforce legal regulations. According to Satjipto Rahardjo, the law protects a person's interests by allocating power to him to act in the framework of his interests in a measured manner. Interests are the object of rights, because rights contain elements of protection and recognition. Then legal protection is contributed as a form of service, and a protected subject.¹⁸

In regard to legal protection for the citizen, there are two means of legal protection¹⁹:

¹⁷ NNU, "Workplace Violence and Covid-19 in Health Care How the Hospital Industry Created."

¹⁸ Siti Nur Umayah Zainuddin, Muhammad; Febriyanti, "Perlindungan Hukum Terhadap Relawan Uji Klinis Vaksin Covid-19," *Jurnal Ilmiah Dunia Hukum* 5 (2015): 134–42.

¹⁹ Gerardus Gegen and Aris Prio Agus Santoso, "Perlindungan Hukum Tenaga Kesehatan Di Masa Pandemi COVID-19," *QISTIE* 14, no. 2 (2021): 28–42.

1. Preventive legal protection, this category was given by the Government in order to prevent violations;
2. Repressive legal protection, this is the last protection in the form of sanctions such as fines, imprisonment, and additional penalties given if a dispute has occurred or a violation has been committed.

The concept of legal protection is a universal effort of the rule of law. Basically, legal protection consists of two forms, namely preventive legal protection and repressive legal protection, namely: Preventive Legal Protection which is basically preventive is defined as prevention. Preventive legal protection is very meaningful for government actions based on freedom of action because with the existence of preventive legal protection the government is encouraged to be careful in making decisions. The form of preventive legal protection is contained in the legislation in order to prevent a violation from occurring and to provide limitations in carrying out obligations. Repressive Legal Protection serves to resolve disputes that have arisen due to violations. This protection is the final protection in the form of sanctions for violations that have been committed.

WHO as the world organization responsible for the sector states that, the protection and safety of health care workers includes:

1. Development of norms and standards for prevention of occupational risks in the health sector;
2. Advocacy and networking for strengthening the protection of health and safety of health workers;
3. Supporting countries to develop and implement occupational health programmes for health workers at the national level and in all healthcare facilities.

In Indonesia, the problems of health workers have been regulated through the Health Law and Law Number 29 of 2004 concerning Medical Practice. The protection of Health care workers has been regulated in the Health Law in Article 57: "In carrying out the practice, the health worker has the right:

1. Obtaining legal protection as long as carrying out tasks under Professional Service Standards and Standard Operating Procedures;
2. Obtaining complete and correct information from Health Care Recipients or their families;
3. Receiving fees for services;
4. Obtaining protection for occupational safety and health, treatment under human dignity, morals, morals, and religious values;
5. Getting the opportunity to develop their profession;
6. Refusing the wishes of Health Service Recipients or other parties that are contrary to Professional Standards, code of ethics, service standards, Standard Operating Procedures, or provisions of laws and regulations, and

7. The other rights under the provisions of the Laws and Regulations.

Furthermore, The provisions of Article 50 of Law Number 29 of 2004 concerning Medical Practice explains that :

1. In practising medicine, a doctor or dentist has the right to obtain legal protection as long as he carries out his duties following professional standards and standard operating procedures;
2. In practising medicine, a doctor or dentist has the right to provide health services according to professional standards and standard operating procedures.

This means, Health care workers are entitled to legal protection based on their duties and as long as they meet the ethic code. Article 4 of Act Number 36 of 2014 on Health Workers regulates the responsibility of local governments for the protection of health workers in carrying out their practices. Furthermore, the protection of health workers is regulated in Article 75 of Act Number 36 of 2014 on Health Workers , which stipulates that in carrying out their practice health workers are entitled to legal protection in force. Furthermore, legal protection is also given especially for nurses through Act Number 38 of 2014 on Nursin, that both the community receiving nursing services and nurses as nursing service providers, are guaranteed of legal protection.

Further arrangements are regulated through Government Regulation Number 67 of 2019 on Management of Health Workers in Article 87 and Article 88. This law explains that health workers are entitled to legal protection and rewards as long as theythey carry out their duties under professional standards, professional service standars, and standard operating procedures. Legal protection is intended for:

1. Providing legal certainty to Health Workers in providing health services by the provisions of laws and regulations;
2. Guaranteeing to work without coercion and threats from other parties; and
3. Guaranteeing work by authority and professional competence.

Therefore, in cases of work place violence against Health care workers, the government and the sheltering health facilities must provide legal protection for their health care workers. Offenders must be held accountable for their actions and prosecuted adequately. This is done to provide a deterrent effect as well as a reminder to the public that no one is able to justify criminal acts to anyone, including Health care workers.

On the other hand, Government and Health institutions need to find crisis oriented solutions, other than prosecuting the offenders. One of the biggest factors of work place violence towards Health care workers worldwide is widespread misinformation about the disease, coupled with already heightened

fear and anxiety within the community. Some examples of actions taken to counter misconceptions during this pandemic include 'Stop the Spread' campaign by WHO in conjunction with the UK government and removal of unsubstantiated content from social media giants like Facebook and Twitter.

In addition, there are several steps that can be taken to reduce violence against health care workers²⁰:

1. Individually-Focused Interventions

At this stage, health care workers will be given training on de-escalation recognition of potential perpetrators, and self-defense. In addition, encouraging health care workers to immediate reporting of any incident among staff members.

2. Pre-Event Interventions

This stage is carried out to reduce the possibility of work place violence on Health care workers by starting from handling the factors causing violence, such as countering misinformation by educating the public, communicating scientific basis of health policies; spreading awareness regarding consequences of violence.

3. Enviromental Interventions

This stage involves the work environment of health care workers, such as installation of security measures (security cameras and metal detectors), from leass areas accessible to public via door locks, and cautions checking of weapons. Health institution also have obligation to formulate an action plan if conflict or violence occurs and educating it on the Health care workers.

4. Post Event Interventions

This step is taken when a conflict has occurred. Actions that can be taken are: prosecution of perpetrators even if Law Enforcement Personnel; policies and protection law against offenders; public condemnation of attacks bia media outlets; and maintanang a detailed database of incidents of violenceviolence.

Organisational interventions. This intervention is carried out by health organisations or health institutions. The actions that could be taken are: forme agression management teams, enforce zero-tolerance attitudes; proper incident reporting procedures; counselling or therapy for the victims, and educate patients about code of conduct.

²⁰ Namrah Aziz and Javid A Khan, "Violence against Healthcare Workers during the COVID-19 Pandemic: A Review of Incidents from a Lower-Middle-Income Country" 87, no. 1 (2021): 1–11, <https://doi.org/10.5334/aogh.3203>.

Conclusion

Health workers have an important role in handling the COVID-19 pandemic. Workplace violence experienced by health workers should receive important attention by the Government, especially when this phenomenon has occurred globally. The legal protections afforded to health workers provide not only guaranteed protection but also assistance when they experience violence in the workplace. In addition, preventive measures are also needed to reduce cases of violence against health workers.

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