

HUMAN RIGHTS-BASED LEGAL PROTECTION FOR HEALTH WORKERS IN CONFLICT ZONES

Perlindungan Hukum Berbasis HAM bagi Tenaga Kesehatan di Wilayah Konflik

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Abstract

Background: One of the human rights issues in the health sector is legal protection for Health Workers in conflict areas. The obstacles include the limited number of security personnel on guard and the considerable distance between the location of the security post and the location of the conflict.

Aims: This study aims to determine the extent of legal protection for health workers in conflict areas.

Methods: The method employed in this study is a literature review. The nature of this study is descriptive. The data collection method used is the literature study method, involving the collection of secondary data related to the issues raised.

Results: The results of this study reveal that both the central and regional governments have not been maximally effective in protecting health workers in conflict areas.

Conclusion: Based on the results and discussion of this study, the recommendations are to create a comprehensive plan for the security and occupational safety of health workers, particularly in conflict areas, and to establish standard operating procedures for handling cases of attacks on health workers in conflict areas.

Keywords: human rights, legal protection, health workers.

Abstrak

Latar Belakang: Salah satu permasalahan HAM di bidang kesehatan yaitu terkait perlindungan hukum bagi Tenaga Kesehatan di wilayah konflik. Kendala yang dihadapi adalah terbatasnya aparat keamanan yang berjaga, jauhnya jarak antara lokasi pos keamanan dengan lokasi konflik, dan belum adanya SOP penanganan kasus di wilayah konflik.

Tujuan: Tujuan kajian ini untuk mengetahui bagaimana perlindungan hukum bagi tenaga kesehatan di wilayah konflik.

Metode: Metode dalam tulisan yaitu dengan melakukan tinjauan literatur. Sifat kajian ini adalah deskriptif. Metode pengumpulan data yang digunakan yaitu metode studi kepustakaan, dengan mengumpulkan data sekunder terkait permasalahan yang diajukan.

Hasil: Hasil kajian ini menunjukkan bahwa pemerintah pusat dan daerah belum maksimal dalam melakukan perlindungan bagi tenaga kesehatan yang berada di wilayah konflik.

Kesimpulan: Berdasarkan hasil dan pembahasan kajian ini, rekomendasi yang diberikan yaitu sebagai berikut: Menyusun grand design kesehatan, keamanan, dan keselamatan kerja tenaga kesehatan dan membuat SOP terkait penanganan kasus penyerangan terhadap tenaga kesehatan di wilayah konflik dengan bekerja sama bersama TNI/Polri. Langkah-langkah tersebut perlu dilakukan untuk meningkatkan keamanan dengan SOP yang jelas bagi tenaga kesehatan maupun aparat keamanan.

Kata kunci: HAM, perlindungan hukum, tenaga kesehatan.



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Introduction

Health workers have the right to receive legal protection from the state, especially those serving in special areas, such as conflict zones. The government determines the deployment of health workers to remote or conflict-prone areas to ensure equitable healthcare services throughout Indonesia. Legal protection for health workers is governed by Health Law Number 36 of 2014, which is specific to health workers. One of the primary objectives of this law is to provide legal certainty to health workers, and it mandates the government and local authorities to ensure the protection of health workers during their practice.

A sense of security is a fundamental requirement for all health workers while performing their duties in conflict areas. This security encompasses the need for protection from physical and non-physical threats, as articulated in Article 28G of the 1945 Constitution. Moreover, legal protection and human rights are inherently interconnected; they cannot be separated. The existence of legal protection is a crucial function of the law, as it directly benefits legal subjects and demonstrates the state's commitment to providing legal protection for its citizens.

Numerous regulations have addressed the protection of health workers. However, violations of these protections continue to occur each year, primarily due to the inadequate implementation of existing regulations. Discriminatory acts against these human rights constitute human rights violations, with some even classified as gross human rights violations.

Health workers, like all citizens, possess human rights that must be safeguarded during the fulfillment of their professional duties. Article 57 of Law Number 36 of 2014 regarding Health Workers explicitly states that health workers are entitled to legal protection while performing their duties. In practice, the implementation of legal protection for health workers has fallen short of the desired standard. Health workers, as legal entities seeking protection in the execution of their duties, still encounter significant

obstacles, especially in conflict areas of Indonesia.

An example of such a case occurred at the Kiwirok Health Center in Papua, which was targeted by the Papua Armed Criminal Group (KKB). The Kiwirok Health Center, established in 2019, houses an inpatient facility, making its infrastructure and medical equipment vital. During the KKB attack in Kiwirok, at least five health workers became victims. Gabriella Meilani, one of the health workers, tragically lost her life after being assaulted and thrown into a ravine, while others sustained injuries (Detikcom, 2021).

These incidents underscore the challenges faced by health workers in the course of their healthcare responsibilities. The state, as the guardian of its citizens' well-being, is obligated to uphold, protect, and fulfill their human rights.

Some of the obstacles encountered in providing legal protection to health workers in conflict areas include the limited number of security forces stationed at each conflict point, the considerable distance between the security posts and conflict zones, making response times longer, the absence of dedicated communication channels for security forces accessible to health workers, and suboptimal Standard Operating Procedures (SOPs) for handling cases of attacks on health workers in conflict areas (tvone, 2021).

Research conducted by Ramuttulah, titled "Protection of Voluntary Health Workers in Armed Conflict Areas According to International Law," has found that security measures and facilities for health workers have not been optimally implemented in accordance with humanitarian law due to ongoing violations by conflict parties (Rahmatullah, Wattimena, and Anwar, 2022). Another study, titled "Protection of Medical Volunteers in Conflict Countries Based on Humanitarian Law," concluded that medical volunteers in conflict zones are neutral parties and have civilian status. The conflict parties are obligated to respect and provide protection to medical volunteers carrying out their duties, as stipulated in the Geneva Convention I of 1949, Article 24 (Wardani, Anzward, and Aprina, 2020).

This paper seeks to identify practical guidelines that foster collaboration between healthcare agencies and security forces in ensuring the protection of health workers in conflict areas, given Indonesia's adherence to the 1949 Geneva Convention I.

Based on the context provided above, the research questions are: "How is the legal protection of health workers in conflict areas viewed from a human rights perspective?" and "How do security facilities in Papua contribute to the protection of health workers?"

Methods

The chosen methodology for this study is a literature review. The nature of this study is descriptive, as defined by Prof. Djiwandono and Yulianto, which describes the characteristics of an object in detail (Djiwandono and Yulianto, 2023). Data collection was accomplished through a literature study method, specifically by gathering secondary data related to the identified issues. The literature review process for this study was conducted in a focused and targeted manner, involving digital searches on platforms such as Google Base, Google Scholar, e-journals, and the websites of accredited government and non-government organizations.

The primary objective of this paper is twofold: firstly, to examine the legal protection extended to health workers in conflict areas, specifically in Papua, from a human rights perspective, and secondly, to assess the security facilities available for health workers in Papua. The theoretical foundation for this study is grounded in the relevant regulations pertaining to health workers, including those that will be expounded upon in the subsequent discussion: Law Number 29 of 2004 on Medical Practice (Medical Practice Law), Law Number 36 of 2009 concerning Health Workers, and Law Number 36 of 2014 concerning Health Workers, and Human Rights.

Results and Discussion

Health Workers in Papua

Papua Province continues to grapple with challenges in the distribution of health workers, resulting in a notably high workload for those in the region. The shortage of health workers in Papua Province is a significant concern, with data from the Papua Provincial Health Office indicating that approximately 60% of the needed health workers are absent. This leaves only 40% of health workers to serve across the 270 health centers located in districts and cities within Papua Province, leaving approximately 100 health centers without a doctor's presence (Afrida and Wulandari, 2022).

According to data from the Papua Central Statistics Agency (BPS) in 2021, the number of health workers in Papua Province is outlined in Table 1.

Security Conditions in the Papua Region

The available data from BPS Papua reveals fluctuations in crime statistics in Papua. In 2017, there were 85 reported cases, which decreased to 43 cases in 2018. However, the numbers rose again in 2019, reaching 53 cases, before declining to 31 cases in 2020. An essential element of security in any region involves the accessibility of facilities and the presence of an adequate number of security forces. When these resources are not proportionate to the population and area size, the effectiveness of the security system can be compromised. The data from BPS Papua concerning security facilities in Papua Province during the last four years is as follows:

Over the last four years, only 46 police posts were established in Papua. Furthermore, there has been no change in the number of Polsek/Polsekta (local police offices) in Papua over the past three years, with a consistent count of 126 Polsek/Polsekta offices, despite there being 576 sub-districts in Papua. The number of Polsek/Polsekta offices showed a slight increase in 2019, with 28 such offices, compared to 24 in 2017 and 2018 (BPS Papua, 2022).

Table 1: Amount of Health Workers in Papua Province 2020

District/ City	Number of Health Workers (Personnel)				
	Doctor	Nurse	Midwife	Pharmacy	Nutritionist
Merauke	42	202	54	24	3
Jayawijaya	51	214	132	30	24
Jayapura	65	363	168	39	51
Nabire	23	436	152	31	19
Kepulauan Yapen	12	183	91	11	13
Biak	36	418	191	42	29
Paniai	17	159	37	4	2
Puncak	19	105	31	29	11
Mimika	114	868	389	97	49
Boven	15	99	95	8	11
Mappi	16	172	90	16	9
Asmat	8	80	70	10	7
Yahukimo	21	119	40	3	3
Pegunungan Bintang	17	145	69	19	5
Tolikara	32	97	81	11	2
Sarmi	19	171	118	16	11
Keerom	16	128	73	10	22
Waropen	4	72	43	10	8
Supiori	13	119	42	11	9
Mamberamo Raya	20	129	55	13	8
Nduga	5	32	9	6	1
Lanny Jaya	8	115	71	9	5
Mamberamo Tengah	1	19	20	1	1
Yalimo	10	74	31	4	4
Puncak	11	74	40	5	-
Dogiyai	1	-	-	-	-
Intan Jaya	11	66	22	10	-
Deiyai	2	20	6	-	-
Kota	195	833	201	117	81
Provinsi Papua	804	6	2	586	388

Source: BPS Papua, 2021

The necessity for police posts must, of course, be adjusted to the available number of human resources within the police force. If Papua has an adequate number of human resources, it would be feasible to accommodate the required number of police posts. However, according to data from the Papua Regional Police (Polda), over the past two years, there has still been a shortage of 12,855 personnel to be deployed across 28 police stations (Evarukdijati, 2021). The placement of personnel in these 28 police stations is essential to meet the demand for police posts, considering the total number of districts and cities in Papua, which stands at 29 in Papua Province.

Based on BPS Papua data, the number of police personnel in Papua

Province from 2017 to 2020 is as follows: The count of police personnel on duty in the Papua region consistently increased from 2017 to 2019 but experienced a decline in 2020. In 2020, the number of police serving in the Papua region decreased by 2.61 percent compared to 2019, with male police officers being particularly affected (BPS Papua, 2022).

Legal Protection of Health Workers

Indonesia has implemented various policies related to legal protection for health workers, including Law Number 29 of 2004 concerning Medical Practices (Medical Practices Law), Law Number 36 of 2009 concerning Health (Health Law), and Law Number 36 of 2014 concerning Health Workers (Health Workers Law). The

conflicts in the Papua region, from Manokwari to Wamena, in 2019 resulted in casualties, including both civilians and medical personnel. The incident in Wamena tragically claimed the life of Dr. Soeko Marsetiyo, a dedicated healthcare professional who had served in Papua for many years (Indira, 2019).

In September 2021, there was another attack in the Papua region, specifically at the Kiwirok Health Center in Pegunungan Bintang, Papua Province. This attack left nine health workers from the Kiwirok district in need of medical and psychological treatment to address the trauma they experienced. One of the victims, Dr. Restu Pamanggi, sustained a hand fracture and required medical attention and psychological support. Tragically, one nurse lost her life during the incident.

As a result of this incident, health services in the Kriyok, Oksibil, and Pegunungan Bintang areas were temporarily halted until the government could guarantee the safety of health workers (Syambudi, 2021).

Harif Fhadillah, the Chairman of the Indonesian National Nurses Association (PPNI), stressed the importance of the central and regional governments, along with the TNI and Polri, collaborating to establish a comprehensive security system for health workers in conflict areas. This system should ensure both their physical and psychological well-being (Puspa, 2021).

One specific form of protection provided for health workers who were victims of the KKB attack was the direct protection offered to eight health workers. This protection was administered by the Witness and Victim Protection Agency (LPSK), which had been monitoring the situation from the beginning. The LPSK collaborated with various stakeholders, including the Papua Police, Komnas HAM Representative of Papua, LBH Papua, and others, to assess the protection needs of witnesses and victims. The LPSK team also devised effective measures to enable witnesses and victims to provide testimony with a sense of security and comfort (Antara, 2021).

Furthermore, the Papua government, being one of the conflict areas, has made efforts to ensure the protection of health workers through Papua Regional Regulation No. 7/2010 on Health Services. Article 6 of this regulation establishes that "the Provincial Government is responsible for providing legal protection to health workers in the performance of their duties." Article 10 specifies that health workers have the right to receive protection while carrying out their health service responsibilities, obtain legal protection from the local government, and receive compensation for grievances. The regulation underscores the prioritization of health services in Papua Province (Papua Regional Regulation No. 7/2010 on Health Services).

Based on these regulations, the Papua Regional Government possesses the authority to coordinate with the TNI/Polri to provide protection for health workers assigned to conflict areas. This coordination is particularly significant given the frequency of KKB attacks in the region. However, the number of security forces (TNI/Polri) stationed in Papua's conflict areas is limited, which makes it challenging to secure all 28 districts and cities effectively. Additionally, the considerable distance between police stations or security force locations and the positions of health workers poses a significant logistical obstacle in the event of an attack, hindering the prompt response to safeguard health workers (tvone, 2021).

In conclusion, the government, through both governmental and community institutions, has provided protection for health worker victims. Nevertheless, sustainable protection, encompassing both physical and psychological aspects, remains lacking. Protection in the form of prevention in Papua's conflict areas is mainly governed by Papua Regional Regulation Number 7 of 2010 concerning Health Services, which, currently, does not comprehensively address all the protection requirements of health workers in conflict areas. Given the high vulnerability to violence in conflict areas, there is a compelling need for technical regulations to

ensure the protection of health workers from all forms of violence.

The legal protection for health workers is enshrined in several Indonesian laws, including the Medical Practice Law, the Health Law, and the Health Workers Law. These laws grant health workers the right to legal protection while they perform their duties in accordance with professional standards and standard operational procedures (Medical Practice Law). Health workers are also entitled to compensation and legal protection for fulfilling their professional responsibilities (Health Law). Furthermore, the Health Workers Law stipulates that health workers have the right to legal protection as long as they adhere to professional standards, professional service standards, and standard operational procedures. They are also entitled to protection for occupational safety and health and treatment that upholds human dignity, morals, decency, and religious values.

The rights of health workers are clearly outlined in Article 57 of the Health Workers Law. These rights include the right to legal protection in accordance with professional standards, professional service standards, and SOPs. They also have the right to access information from recipients of health services or their families, receive compensation for their services, and enjoy protection for their occupational safety and health while being treated in a manner consistent with human dignity, morals, decency, and religious values. Additionally, health workers have the opportunity to develop their profession, refuse involvement in activities that conflict with professional standards, codes of ethics, service standards, or laws and regulations, and obtain any other rights as provided by applicable laws and regulations.

The existence of legal protection and legal certainty for health workers, especially in conflict areas, offers an opportunity and motivation to deliver the highest quality healthcare services to communities across the Republic of Indonesia. The role of these legal standards is to ensure that they are followed and implemented, thereby

guaranteeing the utmost dedication of health workers (Sundoyo, 2019). Health workers, in their daily responsibilities, require government support to ensure access to healthcare facilities. As such, both the central government and local governments must actively fulfill their responsibilities to realize the highest possible standards of healthcare (Pesulima and Hetharie, 2020).

Legal protection for health workers can be categorized into two main types: preventive measures, which enable health workers to practice their profession freely, professionally, and without threats of violence or intimidation, as long as they adhere to professional standards and SOPs; and repressive measures, which provide legal assistance and the opportunity to defend themselves if they are suspected of making mistakes (tvone, 2021).

Human Rights Perspective

In the context of human rights, the Universal Declaration of Human Rights emphasizes the fundamental rights of all individuals to attain freedom, justice, and global peace (United Nations, 2021). From a human rights perspective, the state assumes a key role in ensuring compliance with human rights obligations. Human rights constitute an inherent set of rights that stem from the nature and existence of individuals as creatures created by a higher power. These rights are gifts that must be respected, upheld, and protected by the state, the law, the government, and every individual for the sake of human dignity and honor (Jasin, 2019). Traditionally, the state serves as the primary subject of international law and human rights law. As such, the state bears the primary responsibility for protecting, upholding, and promoting human rights for all its citizens without exception (Dewi and Widyaningsih, 2021)

The government, in its role as a legislative body, is responsible for ensuring that the laws it formulates are consistent with human rights values. Judicial responsibility, on the other hand, entails delivering fair and just decisions (Dewi and Widyaningsih, 2021). The government has

a duty to combat human rights violations against health workers, as such violations can result from various factors, including social disparities, low tolerance among individuals, a lack of understanding and enforcement of human rights, and inadequate law enforcement agencies investigating human rights violations (United Nations, 2021).

From a human rights perspective, human rights violations come in different forms, including gross human rights violations and minor human rights violations. Gross human rights violations encompass acts such as genocide and crimes against humanity. Genocide involves actions by individuals or groups with the aim of eliminating an ethnicity, race, or group, while crimes against humanity pertain to offenses against civil society. The form of legal protection for health workers in conflict areas, from a human rights perspective, extends beyond physical security to include medical protection, psychosocial and psychological rehabilitation, and compensation for being victims of attacks or violations of the law.

International law sources on the protection of health workers include the Universal Declaration of Human Rights, the Geneva Convention, and International Humanitarian Law. With reference to international regulations and the specific context in Indonesia, health workers performing services in conflict areas should receive optimal protection due to the challenging nature of their work and the threats they face.

Stakeholder Mapping

The stakeholders involved in this study include the Indonesian Doctors Association (IDI), Health Workers, the Papua Regional Government, TNI/Polri, the Ministry of Health, the Community, and the Media.



Figure 1. Stakeholder Mapping (LAN-RI, 2022)

The stakeholder map depicts four categories: Crowd (low in power and interest), Context Setter (high power but low direct interest), Subject (high interest with low power), and Player (high interest and high power) (LAN-RI, 2022).

IDI Indonesia and IDI Papua, along with health workers, fall into the category of stakeholders with high interest but limited power. IDI plays a significant role in providing feedback, expressing aspirations, and consulting with the Papua Regional Government, TNI/Polri, and the Ministry of Health to address the issue of legal protection for health workers in the Papua conflict area.

On the other hand, the local government, in collaboration with the TNI/Police and the Ministry of Health, are stakeholders with both high power and high interest. They are the central decision-makers and key actors in crafting appropriate policies regarding legal protection for health workers in conflict areas. Their responsibility involves designing programs and formulating policies that can effectively address the prevailing issues.

The community also plays a role in supporting IDI and health workers in advocating for improved legal protection for health workers. However, the community's power and interest levels are relatively low due to certain constraints. Similarly, the media has a role similar to that of the community but holds greater influence compared to the community in advocating for legal protection for health workers.

Building upon the preceding discussion, there is a need for several alternative policy recommendations. These recommendations are geared towards addressing the issue of legal protection for health workers in conflict areas and encompass four primary alternatives:

Alternative 1: Develop a comprehensive framework for the occupational health, security, and safety of health workers, specifically tailored to conflict areas.

Alternative 2: Collaborate with the local government and TNI/Polri to consolidate data concerning the number of security

Table 2. Gryd Analysis

Alternative	Acceptability (15%)	Effectiveness (30%)	Accessibility (15%)	Legal Suitability (40%)	Total
Develop a comprehensive plan for occupational health, security, and safety tailored to health workers, especially in conflict areas.	9 (1.35) All stakeholders are likely to accept the implementation of this policy.	7 (2.1) It will require time, effort, and financial resources.	9 (1.35) Accessible to health workers, local government, military, or police.	9 (3.6) - Law No. 1 of 1970 on Occupational Safety - Minister of Manpower Regulation No. 5 of 1996 on Occupational Health and Safety Management System - Government Regulation No. 50 of 2012 on the Implementation of an Occupational Safety and Health Management System - OHSAS 18001 is an international standard for implementing the OHS Management System.	8.4
Consolidate data on the number of security forces with the local government and TNI/Polri to reinforce the requirement for an adequate number of security personnel manning police posts.	9 (1.35) All stakeholders are likely to accept the implementation of this policy.	8 (2.4) It will require time, effort, and financial resources.	8 (1.2) Data related to the number and needs of security forces can be accessed to a limited extent by health workers, local governments, and communities.	8 (3.2) There are no specific rules for consolidating data, but it can be done without contradicting existing regulations.	8.15
Provide dedicated contact channels with security forces for health workers in conflict areas.	8 (1.2) This alternative is acceptable to all stakeholders, but precautions must be taken to ensure that the special contact is not misused.	7 (2.1) Requires budget planning.	9 (1.35) Easily accessible to health workers and security personnel.	7 (2.8) There is a need for robust data protection.	7.45
Develop SOPs concerning the handling of cases involving attacks on health workers in conflict areas in coordination with the TNI/Polri.	8 (1.2) This alternative is acceptable to stakeholders.	7 (2.1) It necessitates planning in terms of time, budget, and human resources but is achievable.	9 (1.35) Accessible to all stakeholders.	9 (3.6) - Health Law Number 36 of 2014 on Health Workers - Law No. 1 of 1970 on Occupational Safety	8.25

forces responsible for staffing police posts. This effort aims to reinforce the necessity for an adequate number of security personnels to effectively man these posts. Alternative 3: Establish specialized security contacts for health workers operating in conflict areas.

Alternative 4: Formulate Standard Operating Procedures (SOPs) relevant to handling cases of attacks on health workers in conflict areas.

To determine the most suitable alternative, certain criteria are required. The chosen criteria from the aforementioned alternative recommendations include acceptability, effectiveness, accessibility, and legal suitability. The analysis of these alternatives and criteria was conducted using Grydal analysis (Table 2).

The Grydal Analysis results suggest that out of the four policy alternatives considered, creating a Grand Design for the Occupational Health, Security, and Safety of Health Workers, specifically in conflict areas, and developing Standard Operating Procedures (SOPs) for handling cases of attacks on health workers in conflict areas in coordination with the TNI/Polri are the most likely alternatives to be implemented. These alternatives stand out due to their strong legal foundation, acceptability, and accessibility, even though they may necessitate careful budget planning, allocation of human resources, and time during the implementation process.

Conclusion

One crucial aspect of upholding human rights for health workers is ensuring their protection when performing their duties in conflict areas. As part of the efforts to uphold these rights, the state has enacted various laws and regulations. Nevertheless, real-world incidents, such as the recent attacks on health workers by the KKB in Papua, indicate that both central and local governments have not maximized their endeavors to safeguard health workers, particularly in conflict areas. Challenges encountered in the field include

a shortage of security personnel in conflict areas, considerable distances between safety posts and health facilities, and the absence of dedicated security contacts for health workers.

Based on the results and discussion presented in this study, the following recommendations are offered: Develop a comprehensive Grand Design for the occupational health, security, and safety of health workers, specifically tailored to conflict areas and create SOPs concerning the handling of cases involving attacks on health workers in conflict areas in close coordination with the TNI and Polri. The establishment of the Grand Design and SOPs related to health worker protection in conflict areas should be followed by further research to ensure their proper formulation and direct involvement of relevant stakeholders.

Abbreviations

Human Rights; KKB: Armed Criminal Group; SOP: Standard Operating Procedure; Health Worker: PPNI: Indonesian National Nurses Association; LPSK: Witness and Victim Protection Agency; LBH: Legal Aid Organization.

Declarations

Ethics Approval and Consent Participant
Not applicable.

Conflict of Interest

The authors declare no conflicts of interest with any party in this paper.

Availability of Data and Materials

The data used in this study is sourced from journals available at relevant institutions.

Author's Contribution

MLBG was responsible for drafting the entire manuscript, conceptualizing the article, conducting literature searches, and editing the manuscript until it was accepted.

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