



The Role of Prison Doctors in Guaranteeing the Right to Health Services for Prisoners A Health Law Perspective in Indonesia

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Abstract

The right to health services is a human right guaranteed by the constitution and applies to all individuals, including prisoners. In Indonesia, this right is regulated in Law Number 12 of 1995 concerning Corrections, Law Number 17 of 2023 concerning Health, and Government Regulation Number 58 of 1999 concerning Prisoner Management. Prison doctors have an important role in ensuring the right to health services for prisoners, but this role is faced with various challenges, such as limited medical facilities, shortages of health workers, and procedural obstacles stipulated in regulations. One of the main obstacles is the medical referral procedure that requires the approval of the prison head, which often slows down the handling of emergency medical cases.

This study uses a normative legal method to analyze relevant regulations and identify legal loopholes and implementation challenges. The results show that although regulations provide legal protection, structural and procedural barriers are still significant. Recommended solutions include revising regulations to speed up referral procedures, improving health facilities in prisons, adding competent medical personnel, and providing legal and ethical training for prison doctors. Psychological and legal support are also important needs to protect doctors from the pressures faced in their duties.

In conclusion, the fulfillment of the right to health for prisoners requires integrated efforts from the government, correctional institutions, and medical professional organizations. This strategic step will improve the quality of health services in prisons, while strengthening legal protection for prison doctors, so that the right to health of prisoners can be fulfilled in accordance with the principles of justice and humanity.

Keywords: Prisoners' health rights, prison doctors, health regulations

INTRODUCTION

Health is a human right guaranteed by the constitution, as stated in Article 28H paragraph (1) of the 1945 Constitution, which states that everyone has the right to obtain health services. This guarantee does not exclude individuals who are in detention or serving a sentence in a correctional institution. Prisoners and convicts still have the right to adequate health services, as regulated in Law Number 12 of 1995 concerning Corrections, and various derivative regulations. Within this framework, doctors who work in detention centers (rutan) play a strategic role in ensuring that the right to health is fulfilled for prisoners. (Lawalata, Titahelu, and Latupeirissa 2022)

However, in its implementation, the role of prison doctors often faces various complex obstacles. Limited resources, such as minimal medical facilities, lack of competent health workers, and bureaucratic administrative procedures, are the main obstacles in providing optimal health services. In addition, regulations governing the role and responsibilities of prison doctors are sometimes not specific enough, thus giving rise to the potential for overlapping authority or legal uncertainty in its implementation.

One of the crucial issues that often arises is related to the procedure for referring prisoners to outside hospitals. Government Regulation Number 58 of 1999 concerning the Management of Prisoners requires that every medical referral must obtain written approval from the head of the prison, except in emergency conditions. This provision often becomes an obstacle in handling medical cases that require quick action, because the administrative process can hinder immediate access to the health services needed. As a result, it is not uncommon for delays to occur that have the potential to worsen the health condition of prisoners and pose a risk of legal liability for the treating doctor. (Priyatna, Zarzani, and Aspan 2022)

In addition, ethical issues are also a significant challenge in medical practice in prisons. Doctors are often in a dilemma between maintaining patient medical confidentiality and fulfilling administrative obligations to report the health conditions of prisoners to authorities. This conflict can affect the quality of health services provided and create psychological pressure for doctors in carrying out their duties.

In the context of health law, the role of prison doctors is not only limited to the medical aspect, but also has a complex legal dimension. Prison doctors must ensure that the medical actions taken are in accordance with professional standards and applicable regulations, such as Law Number 17 of 2023 concerning Health. Violation of these standards can result in administrative, criminal, or even civil lawsuits. Therefore, it is important to critically examine how legal regulations in Indonesia provide protection for prison doctors in carrying out their duties, while ensuring that the right to health for prisoners can be properly fulfilled. (Iskandar 2019)

1. The Right to Health Services as a Fundamental Right

The right to health services for prisoners is an integral part of respect for human dignity. This principle is in line with international standards, such as those stipulated in the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), which emphasize that prisoners must receive the same health services as the general public. In the context of national law, Article 14 paragraph (1) letter d of Law Number 12 of 1995 concerning Corrections explicitly states that every prisoner has the right to receive treatment, both physically and mentally.

However, in practice, the implementation of this right is often not optimal. One of the main causes is the minimal budget allocated for health facilities in detention centers, which results in limited access for prisoners to adequate medical services. This raises questions about the state's responsibility in fulfilling its constitutional obligation to provide adequate health services, including for prisoners.

2. Obstacles in Medical Referral Procedures

One significant legal issue is the procedure for medical referral of prisoners to outside hospitals. Article 20 of Government Regulation Number 58 of 1999 requires written approval from the head of the detention center before a prisoner is referred, except in emergency conditions. This provision aims to ensure administrative control over prisoner mobility, but in practice often becomes an obstacle in situations that require rapid treatment.

For example, in the case of a prisoner with a critical illness, such as a heart attack or kidney failure, delays in referral due to bureaucratic processes can lead to fatal health risks. Doctors who do not immediately perform medical treatment can also face lawsuits for alleged negligence. In such conditions, doctors are often in a dilemma, where quick action taken without the approval of the prison head can be considered a violation of procedure, but on the other hand, delaying medical treatment can be considered a violation of professional obligations.

3. Legal Implications for Prison Doctors

Prison doctors have a big legal responsibility to ensure that every medical action taken is in accordance with professional standards. Article 440 of Law Number 17 of 2023 concerning Health provides legal protection for medical personnel who have carried out their duties in accordance with professional standards and in good faith. However, this protection is not absolute, especially if there are complaints from prisoners or their families who believe that the doctor has made a medical error.

In some cases, prison doctors can also be the subject of civil lawsuits if the detainee or his family feels that the health care provided is inadequate. This shows the importance of complete and transparent medical documentation as a legal defense tool for doctors. In addition, the need for legal guidance and regular training for prison doctors to understand their legal rights and obligations is very relevant.

4. The Role of Government and More Comprehensive Regulation

The government has a responsibility to ensure that regulations governing health services for prisoners can be implemented effectively. Revision of PP Number 58 of 1999 needs to be done to accommodate medical emergency situations that often require flexible procedures. In addition, a larger budget allocation to improve health facilities in prisons is a strategic step to support the role of prison doctors. Furthermore, integration between the prison administration system and health services needs to be improved to reduce bureaucracy that can hinder services. For example, the use of digital technology to

speed up the referral approval process can be an innovative solution that supports the efficiency of medical services in prisons.(Purba and Tanjung 2022)

The role of prison doctors in guaranteeing the right to health services for prisoners cannot be separated from the legal and ethical aspects of the profession. Challenges faced in practice, such as procedural constraints and limited facilities, require serious attention from various parties. Through strengthening regulations, legal education, and adequate resource allocation, it is hoped that prison doctors can carry out their duties optimally, so that the right to health for prisoners can be fulfilled in accordance with the principles of justice and humanity.

METHOD

This study uses a normative legal method that aims to analyze laws and regulations, legal principles, and doctrines relevant to the role of prison doctors in guaranteeing the right to health services for prisoners. This approach focuses on the study of primary legal materials, such as Law Number 12 of 1995 concerning Corrections, Law Number 17 of 2023 concerning Health, and Government Regulation Number 58 of 1999 concerning Prisoner Management, as well as secondary legal materials, including scientific journals, legal literature, and international documents such as the Nelson Mandela Rules.(Prasetyo 2015)

The data obtained were analyzed qualitatively using a descriptive-analytical approach to understand how legal regulations are applied in practice, as well as to identify challenges and legal loopholes in their implementation. This analysis is expected to be able to produce applicable recommendations for stakeholders, especially in improving the health service system in detention centers, so that the right to health of prisoners can be optimally fulfilled in accordance with the principles of justice and humanity.

RESULTS AND DISCUSSION

The Right to Health Services for Prisoners in the Perspective of Health Law in Indonesia

The right to health services is one of the fundamental rights guaranteed in national and international legal systems. For individuals who are in detention centers (rutan) or correctional institutions, this right is not lost even though they are in a situation of restricted freedom. The state, as a protector of human rights, has an obligation to ensure that every prisoner has access to adequate health services, in accordance with applicable standards. This discussion reviews the legal basis for the right to health services for prisoners in Indonesia, the challenges in its implementation, and the legal responsibilities inherent in prison doctors as the vanguard in fulfilling this right.(Alfina 2019)

In the Indonesian legal system, the right to health services for prisoners is guaranteed through various laws and regulations. Article 14 paragraph (1) letter d of Law Number 12 of 1995 concerning Corrections explicitly states that prisoners have the right to receive health care, both physical and mental. This provision is in line with Article 28H paragraph (1) of the 1945 Constitution, which emphasizes that every citizen has the right to live in physical and mental prosperity, including obtaining health services.(Hasna, Laila, and Andri 2023)

In addition, Article 7 paragraph (2) of Law Number 17 of 2023 concerning Health states that every individual, including prisoners, has the right to equal health services without discrimination. This reflects a universal approach to health as a human right that should not be limited based on a person's social, economic, or legal status. In the international context, this principle is also emphasized in the Nelson Mandela Rules, which state that prisoners must have access to health services equal to the general public.

However, despite this strong legal basis, the implementation of the right to health services in detention centers often faces various obstacles that affect the quality of services. Budget constraints, minimal health facilities, and a lack of competent medical personnel are the main obstacles that need to be overcome to ensure that this right can be realized effectively. Prison doctors have a strategic role in ensuring that prisoners' rights to health services are fulfilled. As medical personnel who work in an environment full of limitations, prison doctors are not only responsible for providing health services, but must also ensure that the medical actions taken are in accordance with professional standards and applicable regulations.(Hasna, Laila, and Andri 2023)

In practice, prison doctors are faced with major challenges, one of which is handling complex health conditions of prisoners, such as infectious diseases, mental disorders, or chronic diseases. According to the Ministry of Law and Human Rights, the prevalence of infectious diseases, such as tuberculosis (TB) and HIV/AIDS, in prisons and correctional institutions is higher compared to the general population due to

crowded environmental conditions and poor sanitation. This requires prison doctors to have adequate competence in handling various medical cases, while also carrying out an advocacy role to improve the quality of the health environment in prisons.

In addition, prison doctors must also ensure that every medical action taken has received the patient's approval through informed consent. Article 439 and Article 440 of Law Number 17 of 2023 concerning Health stipulate that medical personnel who act in accordance with professional standards and have obtained patient approval cannot be sued for results that do not meet expectations. This is an important basis for prison doctors to protect themselves from potential lawsuits, especially in conditions that are full of legal risks such as in prisons.

Although the regulation has provided a clear legal framework, the implementation of the right to health services in detention centers still faces various obstacles. One of the main problems is the limited health facilities in detention centers, which are often not equipped with adequate medical equipment to handle complex medical cases. In many cases, prisoners who require intensive care must be referred to outside hospitals, a process that is often hampered by bureaucracy. Article 20 of Government Regulation Number 58 of 1999 concerning the Management of Prisoners stipulates that referrals of prisoners to outside hospitals must obtain written approval from the head of the detention center, except in emergency conditions. This provision is intended to maintain administrative control over prisoner mobility, but in practice, it often becomes an obstacle in situations that require rapid treatment. Delays in medical referrals due to bureaucratic processes can have fatal consequences for prisoners, as well as pose a risk of legal liability for prison doctors.

In addition, the limited number of medical personnel in prisons is also a significant problem. According to data from the Directorate General of Corrections, the ratio of doctors to the number of prisoners in Indonesia is far below the standards recommended by the World Health Organization (WHO). This results in a high workload for prison doctors, which affects the quality of services provided. Prison doctors have complex legal responsibilities, including administrative, criminal, and civil responsibilities. In the administrative context, prison doctors must ensure that every medical action taken is in accordance with the procedures established by laws and regulations. Violation of these procedures can result in administrative sanctions, such as reprimands or revocation of practice permits. (Prince 2024)

In a criminal context, prison doctors can be subject to sanctions if proven to have committed medical negligence resulting in death or serious injury to prisoners. Article 46 of Law Number 17 of 2023 concerning Health stipulates that medical personnel who are negligent in carrying out their duties can be subject to criminal sanctions in accordance with applicable legal provisions. This requires prison doctors to always act in accordance with professional standards and carry out complete medical documentation as evidence that the actions taken are in accordance with procedures.

Meanwhile, in the civil context, prison doctors can be sued by prisoners or their families if they are considered to have violated the right to health services. These lawsuits are usually related to allegations of negligence or violations of service standards, which can result in prison doctors having to provide compensation to the injured party.

To overcome the various obstacles faced in implementing the right to health services in prisons, strategic steps are needed, including:

1. **Strengthening Referral Regulations and Procedures:** Revision of PP Number 58 of 1999 needs to be done to speed up the referral procedure for prisoners to outside hospitals in emergency situations. New regulations also need to pay attention to the flexibility of procedures without ignoring the security aspect.
2. **Improving Facilities and Resources:** The government must increase budget allocation to improve health facilities in prisons and increase the number of competent medical personnel.
3. **Legal Training and Education for Prison Doctors:** Prison doctors need to receive regular training on legal aspects and professional ethics to improve their understanding of legal rights and obligations.
4. **Technology Integration in Administrative Systems:** The use of digital technology to speed up administrative processes, such as medical referral approvals, can be a solution to reduce bureaucratic barriers.

The right to health services for prisoners is the responsibility of the state which must be realized through effective regulations and consistent implementation. Prison doctors, as the spearhead in fulfilling this right,

require adequate support, both in terms of regulations, facilities, and training. With the right strategic steps, it is hoped that the right to health for prisoners can be fulfilled in accordance with the principles of justice and humanity.

Challenges and Solutions in the Implementation of the Right to Health Services for Prisoners

Although legal regulations in Indonesia have provided a strong foundation to guarantee the right to health services for prisoners, its implementation in the field still faces many challenges. Various obstacles, ranging from limited facilities and medical personnel to procedural and bureaucratic obstacles, are the main obstacles in fulfilling this right. In addition, prison doctors as the main implementers of health services in the detention center environment face great pressure to balance professional, ethical, and legal responsibilities. This chapter discusses the challenges faced in implementing the right to health services for prisoners, as well as solutions that can be applied to overcome these problems.(2019 Driving License)

a. Limited Health Facilities

One of the main challenges in implementing the right to health services in prisons is the limited medical facilities. Many prisons in Indonesia do not have adequate clinics or the necessary medical equipment to treat serious medical conditions. Most prisons only have basic facilities for minor care, while more complex cases must be referred to outside hospitals. This condition not only limits the ability of prison doctors to provide optimal services but also increases the risk to the health of prisoners.

For example, in the case of infectious diseases such as tuberculosis (TB) or HIV/AIDS, which are more prevalent in prisons than in the general population, limited facilities can exacerbate the spread of disease. This raises questions about how states can fulfill their obligations to ensure adequate health standards for prisoners.

b. Shortage of Medical Personnel

The ratio of doctors and other health workers to the number of prisoners in detention centers is far from adequate. According to data from the Directorate General of Corrections, one doctor in a detention center can serve hundreds or even thousands of prisoners. This high workload causes the quality of service to decline and affects the ability of doctors to carry out their duties optimally.

In addition, the lack of medical personnel with special competence to handle prisoners' health, including mental health, is also an obstacle. Many prisoners experience psychological disorders due to detention conditions, but the lack of health workers trained to handle these problems means that these needs are not met.

c. Procedural and Bureaucratic Obstacles

The medical referral procedure stipulated in Government Regulation Number 58 of 1999 often becomes an obstacle in handling medical cases in detention centers. The provision that every referral must obtain written approval from the head of detention center, except in emergency conditions, often slows down the referral process, especially when there is an urgent situation that requires immediate action.

In some cases, this slow bureaucratic process has caused detainees' conditions to deteriorate before they receive the necessary treatment. It also places prison doctors in a dilemma, where they must choose between following administrative procedures or taking immediate, potentially life-saving medical action.

d. Psychological and Ethical Pressures on Prison Doctors

Prison doctors often face ethical dilemmas and psychological pressures in carrying out their duties. For example, prison doctors have an obligation to maintain the confidentiality of prisoners' medical records, but on the other hand, they must also report the prisoners' health conditions to the prison administration. This conflict can affect the relationship between doctors and prisoners and affect patients' trust in medical services.

In addition, prison doctors also face pressure from the families of prisoners or the community who demand the best health services, even though the facilities and resources available are very limited. This pressure, if not managed properly, can affect the performance and psychological well-being of prison doctors.(Astuti and Sh 2009)

To overcome the various challenges faced in implementing the right to health services for prisoners, integrated efforts are needed from all parties, including the government, correctional institutions, and medical professional organizations. Here are some solutions that can be implemented.

a. Improving Health Facilities in Prisons

The government needs to increase budget allocation to improve health facilities in detention centers. Health clinics in detention centers should be equipped with basic medical equipment and adequate medicines to handle common medical cases. For more complex cases, a fast and efficient referral system should be provided so that prisoners can immediately receive treatment at outside hospitals.

b. Medical Personnel Addition and Training

Increasing the number of medical personnel in prisons is a top priority to reduce the workload of prison doctors and improve the quality of services. In addition, prison doctors and other medical personnel need to receive special training on prisoner health management, including the management of infectious diseases and mental health. This training should also cover legal and ethical aspects relevant to their duties in prisons.

c. Revision of Procedural Regulations

Regulations on medical referrals for prisoners need to be revised to speed up the referral process, especially in emergency situations. Alternatively, the use of digital technology can be implemented to speed up the administrative process, such as submitting online referral approvals. This system can reduce bureaucratic obstacles without sacrificing the security of prisoners.

d. Psychological and Legal Support for Prison Doctors

Prison doctors need psychological support to help them cope with the stress they face in carrying out their duties. In addition, legal assistance from medical professional organizations or government agencies is also needed to protect doctors from potential unfounded lawsuits.

e. Legal and Health Education for Prisoners

Education for prisoners about their rights and obligations in receiving health services can improve understanding and reduce conflict with medical personnel. This program can be carried out through routine socialization or provision of educational materials in detention centers.

Real-life cases often provide a clear picture of the challenges faced in prison health services. For example, in a case in one of the prisons in Indonesia, a prisoner with chronic heart disease experienced an emergency but was not immediately referred because he was waiting for the head of the prison to approve it. As a result of the delay, the prisoner's condition worsened and he died. This case shows the need for flexibility in medical referral procedures, especially in emergency situations. Conversely, there are also cases where prison doctors took the initiative to immediately refer prisoners without waiting for administrative approval in order to save lives. Although this action succeeded in saving the prisoner, the doctor faced legal problems because he was considered to have violated procedures. This case shows the need for regulations that better support emergency medical actions. (Naili et al. 2022)

The challenges in implementing the right to health services for prisoners reflect the complexity that involves various aspects, such as facilities, medical personnel, regulations, and ethics. By addressing these challenges through integrated strategic steps, it is hoped that health services in prisons can be improved, so that the right to health for prisoners can be fulfilled in accordance with the principles of justice and humanity. Prison doctors, as the main implementers of this right, need full support from the government and society to carry out their duties optimally.

CONCLUSION

The right to health services for prisoners is a human right guaranteed by the constitution and various national and international regulations. In the Indonesian legal system, Law Number 12 of 1995 concerning Corrections, Law Number 17 of 2023 concerning Health, and Government Regulation Number 58 of 1999 provide the legal basis for the fulfillment of this right. However, its implementation in detention centers still faces various challenges, such as limited facilities, shortage of medical personnel, and procedural and bureaucratic obstacles. Prison doctors play a strategic role as the main implementers in ensuring that prisoners' health rights are fulfilled, but they also face great pressure from an ethical, legal, and operational perspective.

To overcome these challenges, strategic steps are needed such as strengthening health facilities, adding and training medical personnel, revising regulations that accelerate medical referral procedures, and legal and psychological support for prison doctors. With these steps, it is hoped that health services in prisons can be improved, so that prisoners' rights to health can be fulfilled in accordance with the principles of justice, humanity, and professionalism. This will also strengthen legal protection for prison doctors in carrying out their duties safely and effectively.

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