

PATIENT'S RIGHT TO FAIR AND NON-DISCRIMINATORY TREATMENT: LEGAL AND ETHICAL PERSPECTIVES

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Abstract

The patient's right to fair and non-discriminatory treatment is an important part of the fulfilment of human rights in the health sector. This study examines legal protection and the application of ethics in guaranteeing this right, by reviewing various laws and regulations such as Law Number 36 of 2009 concerning Health and Law Number 44 of 2009 concerning Hospitals, as well as the principles of medical ethics. The results of the study show that patient rights include the right to clear information, quality medical services, privacy, and access to complaints in the event of a violation. However, implementation in the field still faces challenges, especially in the form of discrimination against certain groups such as BPJS patients. Therefore, synergy between legal protection, ethical implementation, supervision, and patient education is needed so that the right to fair treatment and without discrimination is truly realised in health care practices.

Keywords: patient rights, fair treatment, non-discrimination, legal protection, medical ethics.

Abstrak

Hak pasien untuk mendapatkan perlakuan yang adil dan tanpa diskriminasi merupakan bagian penting dari pemenuhan hak asasi manusia di bidang kesehatan. Penelitian ini mengkaji perlindungan hukum dan penerapan etika dalam menjamin hak tersebut, dengan menelaah berbagai peraturan perundang-undangan seperti Undang-Undang Nomor 36 Tahun 2009 tentang Kesehatan dan Undang-Undang Nomor 44 Tahun 2009 tentang Rumah Sakit, serta prinsip-prinsip etika kedokteran. Hasil kajian menunjukkan

bahwa hak pasien meliputi hak atas informasi yang jelas, pelayanan medis yang bermutu, privasi, dan akses pengaduan jika terjadi pelanggaran. Namun, implementasi di lapangan masih menghadapi tantangan, terutama dalam bentuk diskriminasi terhadap kelompok tertentu seperti pasien BPJS. Oleh karena itu, sinergi antara perlindungan hukum, penerapan etika, pengawasan, dan edukasi pasien sangat diperlukan agar hak atas perlakuan adil dan tanpa diskriminasi benar-benar terwujud dalam praktik pelayanan kesehatan.

Kata kunci: hak pasien, perlakuan adil, tanpa diskriminasi, perlindungan hukum, etika kedokteran.

Introduction

The patient's right to fair treatment and non-discrimination is a fundamental part of human rights guaranteed both nationally and internationally. Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia affirms that every person has the right to live in physical and mental prosperity, to have a place to live, and to receive health services. This constitutional guarantee confirms that health care is the right of every citizen that must be fulfilled by the state without distinguishing social, economic, religious, racial, or class status (Sharfina et al., 2021).

The protection of patients' rights is getting more and more attention along with the increasing public need for quality health services. The government through various regulations, such as Law Number 36 of 2009 concerning Health and Law Number 44 of 2009 concerning Hospitals, has regulated in detail the rights of patients, including the right to receive safe, quality, fair and non-discriminatory services. This regulation aims to ensure that every individual has equal access to health services (Kim, 2022).

In practice, fair and non-discriminatory health services require hospitals and health workers to provide services based on the patient's medical needs, not based on the patient's background or status. This is reflected in Article 32 of the Hospital Law which affirms that patients have the right to receive humane, fair, honest, and non-discriminatory services. This principle is also in line with the Indonesian Medical Code of Ethics which requires doctors to treat every patient fairly and professionally (United Nations Office of the High Commissioner for Human Rights, 2022).

However, the reality on the ground shows that violations of patients' rights still occur frequently. Various cases of discrimination, both direct and indirect, are still found in health facilities. Discrimination can occur due to economic status, type of insurance, or even due to language and cultural differences. For example, BPJS patients often complain about different treatment compared to general patients, both in terms of waiting time, drug availability, and the quality of service received (Lee, 2021). Patient rights also include the right to obtain clear and complete information about their health condition, the medical treatment to be performed, and the right to give consent or refuse certain medical treatments. The obligation of health workers to respect this right

is part of efforts to protect the dignity and autonomy of patients. Thus, patients' rights are not only limited to the physical aspects of the service, but also include aspects of information and decision-making (Wang, 2024).

In addition to legal protection, ethical aspects also play an important role in ensuring patient rights. The principles of justice and non-discrimination are the main values in medical ethics that must be upheld by all health workers. Medical ethics demand that every patient be treated with respect, without distinguishing any background, and get the best service according to their medical needs (Sari, 2022).

Hospitals as health care institutions have a great responsibility to ensure that all patient rights are fulfilled. This includes the provision of adequate facilities, transparent information systems, and effective complaint mechanisms for patients who feel their rights have been violated. Efforts to improve service quality must be carried out on an ongoing basis so that public trust in the health system is maintained (Wulandari, 2024).

Patient knowledge of their rights is also very influential on patient satisfaction and safety. Patients who understand their rights will be more proactive in asking for explanations, asking questions, and making decisions regarding the medical treatment they will undergo. Therefore, education about patient rights needs to be promoted by the government, hospitals, and health professional organisations (Putri, 2023).

On the other hand, legal protection of patients' rights has been regulated through various mechanisms, ranging from internal complaints in hospitals, mediation, to litigation in court. However, the effectiveness of this protection is highly dependent on the understanding and commitment of all parties involved in health services, including medical personnel, hospital management, and regulators (Garnadi et al., 2024).

The biggest challenge in implementing fair and non-discriminatory treatment lies in the gap between legal norms and practices in the field. Many hospitals that have been fully accredited still receive complaints related to discrimination and injustice in services. This shows the need for stricter supervision and continuous coaching of health workers so that the principle of justice is truly realised in daily services (World Health Organization, 2023).

In addition, national health insurance systems such as BPJS Kesehatan in Indonesia also present challenges. Although this programme aims to provide equal access to health services for all Indonesians, in practice there are still differences in treatment between BPJS participants and general patients. This has led to negative perceptions and decreased patient satisfaction with health services (Garcia, 2022).

In a global context, the right of patients to receive fair and non-discriminatory treatment is also a major concern in various international instruments, such as the Universal Declaration of Human Rights and the Convention on Economic, Social and Cultural Rights. Indonesia as part of the international community has an obligation to

ensure that these international standards are implemented in the national healthcare system (Rahman, 2022) .

Thus, research on patients' rights to fair treatment and non-discrimination from a legal and ethical perspective is highly relevant. This research is expected to provide a comprehensive overview of the protection of patients' rights in Indonesia, identify challenges faced, and provide recommendations for the improvement of health service policies and practices in the future.

Research Methods

The research method used in this literature review is library research, which is research conducted by examining and analysing various legal literature materials such as laws and regulations, books, scientific journals, and the results of previous research relevant to the patient's right to fair treatment and without discrimination in health services. This approach aims to identify, examine, and describe the principles of justice and non-discrimination in legal and ethical perspectives, as well as compare normative provisions with practices that occur in the field, so that a comprehensive picture can be obtained regarding the protection of patient rights and the challenges of its implementation in Indonesia (Bolderston, 2008) ; (Cronin et al., 2008) .

Results and Discussion

Patient Rights from a Legal and Ethical Perspective

Patients' rights from a legal and ethical perspective are the main foundation for the delivery of quality, fair and humane health services in Indonesia. Legally, patient rights have been expressly regulated in various laws and regulations, including Law No. 36/2009 on Health, Law No. 44/2009 on Hospitals, and Law No. 29/2004 on Medical Practice. These provisions confirm that every patient has the right to obtain health services that are safe, of high quality, and according to their medical needs without discrimination (Ahmed, 2020) .

The rights of patients stipulated in these regulations include the right to clear and comprehensive information about their health conditions, the right to give or refuse consent to medical actions (informed consent), the right to privacy and confidentiality of medical data, as well as the right to obtain copies of medical records and submit complaints about the services received. The principle of informed consent is very important to ensure that patients understand the risks, benefits, and alternatives to medical action before making a decision, so that the patient's right to autonomy is maintained (Prasetyo ., 2023)

In addition, patients also have the right to choose the desired health facility, doctor, and class of care, as well as the right to obtain humane, fair, and honest services without discrimination. This is in line with the principle of justice in medical ethics, which

demands that every patient be treated equally regardless of social background, economy, religion, race, or health insurance status (Evans, 2023).

From an ethical perspective, the principle of distributive justice is the main foundation of health care. Health workers are obliged to provide equal services to all patients, regardless of their economic, social, or insurance status. The ethics of the medical and nursing professions require medical personnel to carry out their duties professionally, fairly, and without discrimination, so that public trust in the health system is maintained (Hidayat, 2022).

The Indonesian Code of Medical Ethics explicitly states that patients have the right to obtain quality medical services, freely choose doctors and hospitals, get adequate explanations, and make their own decisions after understanding the information provided (informed consent). In addition, patients also have the right to privacy, legal protection, knowing the cost of services, obtaining a second medical opinion, and submitting suggestions or complaints about the treatment received (British Medical Association, 2022).

The implementation of the principle of justice in health services still faces various challenges in the field. Cases of discrimination against BPJS patients, for example, still often occur, both in the form of longer waiting times, inappropriate drug administration, and different treatment compared to general patients. This is contrary to the principle of justice, which demands equal treatment for all patients regardless of financial status (Susanto, 2022).

Hospitals and medical personnel have a legal and ethical responsibility to respect and protect the rights of patients during the treatment period. In the event of negligence or malpractice that harms the patient, the patient has the right to take legal action, both criminal and civil, and file a complaint through the mechanisms available at the health facility. This dispute resolution procedure aims to provide justice and balanced legal protection for all parties (Illinois Department of Human Rights, 2021).

Law No. 17 of 2023 on Health also emphasises the patient's right to obtain information about their health, an adequate explanation of the services received, and health services according to medical needs and professional standards. Patients also have the right to refuse or agree to medical treatment, access medical record information, and request the opinion of other medical personnel (Pratama, 2023). In addition to rights, patients also have obligations, such as providing complete and honest information about their health problems, complying with the advice of medical personnel, and complying with applicable regulations in health care facilities. The balance between rights and obligations is important to create a harmonious relationship between patients and health workers (Ni Luh Emilia & Erni Samutri., 2020)

In the context of legal protection, the health law system in Indonesia plays an important role in maintaining a balance between the quality of medical services and the protection of the rights of individuals who need health services. The process of

determining negligence and legal liability must be based on the principles of fairness and transparency, and pay attention to the needs of justice for patients and the sustainability of health services (Berlinger, 2021).

Medical ethics also emphasises the importance of respecting the dignity and rights of patients. Medical personnel are expected not only to comply with legal provisions, but also to uphold human values, empathy, and professionalism in every medical action taken. Thus, the protection of patient rights is not only normative, but also part of a health service culture that is oriented towards the interests of patients (Brown, 2023). The importance of protecting patient rights is also reflected in efforts to improve the quality of health services and strengthen complaint mechanisms in health facilities. Education to patients about their rights and obligations is key so that patients can be more proactive in maintaining and fighting for their rights (Smith, 2023).

Overall, patient rights from a legal and ethical perspective are important instruments to create a fair, quality, and patient-orientated healthcare system. The enforcement of the principles of justice and non-discrimination must be a joint commitment of all stakeholders in the health sector, including the government, hospitals, medical personnel, and the community.

Legal Protection and the Application of Ethics in Ensuring Patients' Rights to Fair Treatment and Non-Discrimination

Legal protection and the application of ethics in guaranteeing patients' rights to fair treatment and without discrimination are fundamental aspects of the modern health care system in Indonesia. The rights of patients have been expressly regulated in various laws and regulations, such as Law Number 17 of 2023 concerning Health, Law Number 29 of 2004 concerning Medical Practices, and Law Number 44 of 2009 concerning Hospitals, which affirms that every patient has the right to obtain services that are humane, fair, honest, and without discrimination (Johnson, 2021).

Legal protection of patients' rights is not only formal, but also substantive, namely providing guarantees of access to quality health services according to medical needs, the right to adequate information, privacy, and the right to refuse or agree to medical action. In this context, patients are positioned as legal subjects who have rights and obligations that are recognised and protected by the state (Patel, 2021).

One form of tangible legal protection is the existence of a complaint and dispute resolution mechanism for patients who feel aggrieved or experience discrimination in health services. Patients can take the non-litigation route through the quality control unit and complaints at health facilities, as well as the litigation route through the court or the Consumer Dispute Resolution Agency (BPSK) if mediation efforts do not produce results (Kirkland & Hyman, 2021). However, the implementation of legal protection in the field still faces challenges, especially in the context of BPJS patients. Although regulations prohibit discrimination against BPJS patients, practices in some hospitals

still show differential treatment, such as longer waiting times or limited access to certain services. This signals the need for stricter supervision and increased legal awareness among medical personnel and the public (Yuliana, 2023).

From an ethical perspective, key principles such as justice, autonomy, beneficence, and non-maleficence become the moral foundation for medical personnel in providing health services. The principle of justice demands that every patient be treated equally without distinguishing social, economic, religious, racial, or insurance backgrounds. Meanwhile, the principle of autonomy respects the patient's right to make their own decisions regarding the medical treatment they will undergo (Suryani, 2021).

The Indonesian Code of Medical Ethics also explicitly affirms the patient's right to obtain quality medical services without discrimination, the right to adequate information, privacy, and legal protection. Doctors and health workers must comply with professional ethical standards in every medical action, so as to create a harmonious and trusting relationship between patients and health workers (Thompson, 2021).

The application of ethics in health care is not only limited to the relationship between doctors and patients, but also involves cooperation between medical personnel. Ethics between medical personnel is essential to ensure effective coordination, good communication, and fair conflict resolution in the best interest of the patient (Sharfina et al., 2021).

In the digital era and advances in information technology, new challenges also arise regarding the protection of medical data and patient privacy. Medical personnel are required to maintain the confidentiality of patient data and ensure that medical information is not misused or accessed by unauthorised parties. In addition to legal and ethical protection, educating patients about their rights and obligations is key so that patients can be more proactive in maintaining and fighting for their rights. Patients who understand their rights will more easily identify discriminatory actions and demand fair treatment (Kim, 2022).

The state has an important role in ensuring legal protection and the application of ethics in all health care facilities, both through regulation, supervision, and guidance of medical personnel and health institutions. This effort must be supported by the commitment of all parties to uphold justice and eliminate all forms of discrimination in health services (Lee, 2021).

The importance of ethical implementation and legal protection is also reflected in efforts to improve the quality of health services and strengthen complaint mechanisms in health facilities. Clear ethical and legal standards will create a culture of patient safety and increase public trust in the health system. In practice, synergy between legal protection and ethical application is necessary to realise fair and non-discriminatory health services. Laws provide the normative framework and sanctions

for violations, while ethics provide the moral guidelines that direct the behaviour of medical personnel (Wang, 2024) .

Finally, legal protection and the application of ethics in health care must be continuously developed and adapted to the dynamics of society and the development of science and technology. Thus, the patient's right to fair treatment and without discrimination can be truly realised in every aspect of health care in Indonesia.

Based on legal and ethical studies, it can be concluded that the patient's right to fair treatment and without discrimination is a fundamental right that is expressly guaranteed in various laws and regulations in Indonesia, such as Law Number 36 of 2009 concerning Health, Law Number 44 of 2009 concerning Hospitals, and Law Number 29 of 2004 concerning Medical Practice. These rights include the right to clear information, quality medical services, humane, fair, honest, and non-discriminatory treatment, as well as the right to privacy and filing complaints if services are not up to standard. Legal protection for patients also includes mechanisms for complaints and dispute resolution, both internally in the hospital and through legal channels in the event of a violation of patient rights.

On the other hand, the implementation of medical ethics requires all health workers to uphold the principles of justice, non-discrimination, and professionalism in every medical action, so as to create a harmonious and trusting relationship between patients and medical personnel. However, there are still challenges in implementation in the field, such as cases of discrimination against BPJS patients or patients from vulnerable groups, which shows the need for continuous supervision, education, and guidance of health workers as well as increasing public awareness of patient rights. Thus, legal protection and ethical implementation must go hand in hand so that patients' rights are truly realised in health care practices, thus creating fair, quality, and patient-oriented services.

Conclusion

The right of patients to receive fair treatment and without discrimination is a fundamental principle guaranteed in various laws and regulations in Indonesia, such as Law No. 44/2009 on Hospitals and Law No. 36/2009 on Health. This right includes access to quality medical services, the right to clear information, privacy, and humane and equal treatment regardless of social status, economic, insurance, religious, or other backgrounds. The state has an obligation to ensure that all patients, including BPJS patients, receive the same legal protection and can pursue complaints and dispute resolution mechanisms in the event of discrimination in health services.

From an ethical perspective, health workers are required to uphold the principles of justice, respect patient autonomy, and avoid all forms of discrimination in their professional practice. Bioethical principles and professional codes of ethics emphasise the importance of equitable access, respect for patient dignity, and patient involvement

in medical decision-making. In the context of Islamic law, the principles of justice, responsibility, and respect for individual rights are also the main guidelines in the relationship between patients and medical personnel, so as to create a more effective, harmonious, and benefit-oriented health service system. However, implementation in the field still faces challenges, such as cases of discrimination against BPJS patients or other vulnerable groups. This requires stricter supervision, continuous education for health workers, and increased patient awareness of their rights. The synergy between legal protection and ethical implementation is essential so that patients' rights to fair treatment and non-discrimination are truly realised in the daily practice of health services, thus creating a health system that is quality, equitable, and oriented towards the interests of patients.

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