



Fakultas Hukum Universitas Riau, Jalan Pattimura Nomor 9 Gobah, Kel. Cinta Raja, Kec. Sail, Pekanbaru, Riau,
Kode Pos 28127. Telp: (+62761)-22539, Fax : (+62761)-21695
E-mail: melayunesialaw@lecturer.unri.ac.id
Website: <https://myl.ejournal.unri.ac.id>

The Government's Legal Responsibility in Fulfilling Personal Protective Equipment for Doctors during the Covid-19 Pandemic.

Derma Bahari Putri^a, Ardiansah^b, Sudi Fahmi^c

^a Fakultas Hukum, Universitas Lancang Kuning, Indonesia, Email: dermabahari1984@gmail.com

^b Fakultas Hukum, Universitas Lancang Kuning, Indonesia, Email: ardiansah@unilak.ac.id

^c Fakultas Hukum, Universitas Lancang Kuning, Indonesia, Email: sudifahmi@unilak.ac.id

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Abstract

The high rate of Covid-19 infection that occurs today requires the fulfillment of health facilities for doctors and health workers, especially Personal Protective Equipment (PPE) in handling patients during the Covid-19 pandemic. PPE shortages were widely reported in some health care facilities in various regions. Not only in privately owned health service facilities, government hospitals and community health centers are also not spared from experiencing limited PPE. This Study discusses how the Government's Legal Responsibility Arrangements in Fulfilling PPE for Doctors amidst the Covid-19 Pandemic. This study used normative legal as its research method. The results of this study indicated that there are no specific arrangements that regulate the government's responsibility in providing PPE for Doctors during the Covid-19 period. The government's responsibility for providing PPE for Doctors amidst the covid-19 period was a form of main responsibility. But it was still not done well. Ideally, the government's responsibility in fulfilling physicians' rights to health has emerged in accordance with the standards set by WHO in the form of providing appropriate personal protective equipment. It was important to Special monitoring is needed regarding the availability of existing PPE in the form of quantity and quality so that the safety and health rights of doctors can be fulfilled.

INTRODUCTION

Currently, the world is facing the COVID-19 pandemic. *Coronavirus Disease 2019* (COVID-19) is an infectious disease caused by *Severe Acute Respiratory Syndrome Coronavirus 2* (SARS-CoV-2) and it has never been previously identified in humans¹. WHO declared COVID-19 as Public Health Emergency of International Concern (PHEIC) on January 30, 2020. As of August 9, 2020, 19,847,798 confirmed cases were reported in 72 countries worldwide, with 730,371 deaths (CFR 3.4%). Some of the countries with the highest number

¹ PB IDI Mitigation Team, "Standard Guidelines for Protecting Doctors in the Covid-19 Era", August 2020.

of confirmed cases are the United States (5 million cases, 160,000 deaths), Brazil (3 million cases, 100,000 deaths), India (2 million cases, 43 thousand deaths), Russia (800 thousand cases, 14,000 deaths), South Africa (500 thousand cases, 10 thousand deaths). Indonesia is ranked 23rd for the highest number of confirmed cases².

Indonesia reported the first COVID-19 case on March 2, 2020. Since then, incidents have increased rapidly and continued to spread throughout Indonesia until Presidential Decree No. COVID-19 was declared a national disaster. As of September 1, 2020, the government's COVID-19 Task Force reported 174,796 confirmed cases of COVID-19, the highest in Asia, with 7,417 deaths (CFR 4.24%) in 34 provinces.

One of the most influential aspects of this pandemic is the healthcare sector. With the spread of this disease, health problems are becoming more prominent. Some of the key issues are the lack of medical facility infrastructure due to the lack of intensive care units and ventilator availability for COVID-19 patients, the lack of COVID-19 testing capabilities, especially personal protective equipment. This is a limitation on the availability of (PPE). health care worker. All of this definitely affects the risk of transmission and increases the exposure of medical staff.³

Although the Indonesian government has issued several policies to suppress the spread of the Covid-19 outbreak, the boom in Covid-19 patients has caused doctors and a number of hospital and health center infrastructures to be in a state of chaos. Doctors are a profession that is at the forefront of dealing directly with Covid-19. They work hard to help heal Covid-19 patients. Sometimes doctors have to sacrifice their lives to protect the society from this virus⁴.

According to data released by the Indonesian Medical Association, on January 6, 2021, during a Covid-19 pandemic, 242 doctors died, 15 dentists and 187 nurses were Covid-19. Died from exposure to. 19. This is certainly ironic, and healthcare professionals, whether doctors, dentists or nurses, perform standard professions, standard services, professions, and standard procedural tasks. Thus, they must get legal protection from the government. One of the rights that the government must fulfill is the fulfillment of the right to obtain personal

²Adityo Susilo, et al, "Coronavirus Disease 2019: Recent Literature Review", *Indonesian Journal of Internal Medicine* 7, no. 1, (March 2020): 46.

³ Ibid

⁴Dian Rosita, "Legal Protection for Doctors Against Treatment of Covid-19 Patients in Hospitals". *Journal of Legal Studies* 4, no.2 (September 2020): 224-231.

protective equipment (PPE) according to the standards of health care workers.⁵

Not only hospitals in the regions, hospitals in big cities on the island of Java are also forced to be frugal in using PPE and sometimes have to use PPE that is not up to standard. The soaring price of PPE is also the cause of health care facilities not being able to provide adequate PPE for medical workers. Surgical masks and N95 masks are examples of PPE whose prices have soared by up to 700%. Another obstacle is the non-standardized quality of PPE, as indicated by the findings of the PPE quality test conducted by the UGM Faculty of Pharmacy. Waste or inappropriate use of PPE also contributes to the shortage of PPE in several health care facilities, especially hospitals⁶.

The following are examples of the consequences of negligence by office holders in providing protection for health workers; Quoted from the news in Sumatra Bisnis.com on September 12, 2020, medical personnel who were at the forefront of handling Covid-19 patients died one by one. Doctor Okki Alfin breathed his last that day at the Regional General Hospital (RSUD) Arifin Achmad was the first case of a doctor dying in Riau. Previously, Doctor Okki Alfin served at the Gunung Sahilan Community Health Center, Kampar Regency⁷.

These examples are some of the problems doctors and healthcare professionals face in performing their healthcare operations, and perhaps there are even more undisclosed issues in facing healthcare professionals in this area.

PATHOPHYSIOLOGY OF COVID-19 TRANSMISSION

SARS-CoV-2 belongs to the same group of viruses as the SARS and MERS viruses that also caused epidemics several years ago⁸. The average incubation period for COVID-19 is 5 to 6 days, ranging from 1 to 14 days, but can be as long as 14 days. The highest risk of infection is in the first few days of the disease due to the high levels of virus in the secretions. Infected individuals can be directly transmitted up to 48 hours before the onset of symptoms (before onset) and up to 14 days after the onset of symptoms.

⁵ibid

⁶Aris, Anita, Safitri, and Ary, "Legal Protection of Health Workers in Group Task Acceleration Handling Covid-19 reviewed from Corner Look Law Administration country", *Seminar Nasional & call for Papers, Hubisintek* (2020): 275-285.

⁷Eko Permadi. "First Case of Doctor Dies of Covid-19 in Riau". 12 September 2020, <https://sumatra.bisnis.com/read/20200912/533/1290794/case-pertama-dokter-meninggal-due-covid-19-di-riau>

⁸ PB IDI Mitigation Team, "Standard Guidelines for Protecting Doctors in the Covid-19 Era", August 2020.

It is important to know the pre-symptomatic stage, as the virus can spread through droplets and come into contact with contaminated objects. Although the risk of infection is very low, there are confirmed cases of asymptomatic, but the likelihood of infection is still low.⁹

Dealing with the current epidemiological and virological studies, COVID-19 has been shown to infect other people in the immediate vicinity, primarily from symptomatic people, via droplet infection. Droplets are particles which filled with water that are over 5-10 µm in diameter. Respiratory droplets occur when you are near (within 1 meter) a person who has breathing problems (such as coughing or sneezing). Therefore, the droplets may come into contact with the mucous membranes (mouth and nose) and conjunctiva (eyes). It can also be transmitted through objects and surfaces contaminated with droplets near the infected person. Therefore, COVID-19 virus infection can result from direct contact with the infected person and indirect contact with surfaces and objects used by the infected person (such as stethoscopes and thermometers). Airborne propagation can occur under special circumstances.

1. Protection for Doctors and First Level Health Service Officers.

The leading healthcare providers in primary health care are at the forefront of treating health problems in Indonesia. The World Health Organization (WHO) declared the condition of coronavirus disease 19 (COVID-19) as a pandemic, first-level healthcare facilities have become very important for breaking the chain of spread.¹⁰

The role of first-level health facilities, especially those owned by the government (Community Health Centers) is very crucial in managing and breaking the chain of spread of COVID-19 where Community Health Centers as the first line must be able to become health facilities that screen community members and determine the status of community members including people under supervision and patients under surveillance. Community Health Centers must also be able to monitor community members who are included in the people under supervision criteria. In addition, the Community Health Centers in coordination with the health office must be able to make appropriate referrals to referral health facilities. Community Health Centers must also be able to provide education, provide correct information about preventing and breaking the chain of transmission to the community with various limitations found in every region in Indonesia.

⁹ Ibid

¹⁰ PERDOKI, *Worker Protection Guide In Health Care Facilities In time Pandemic Covid-19* (April 2020) 36-42.

2. Recommendations for optimizing the availability of PPE.

The protection of doctors as our front-line healthcare professionals is very important and is a PPE including medical masks; respirators; gloves; gowns; and eye protection should be prioritized for medical staff and other people who care for patients. Strategies to optimize the availability of Personal Protective Equipment and the adjustment of the PPE supply chain management mechanism are shown (Figure 1).

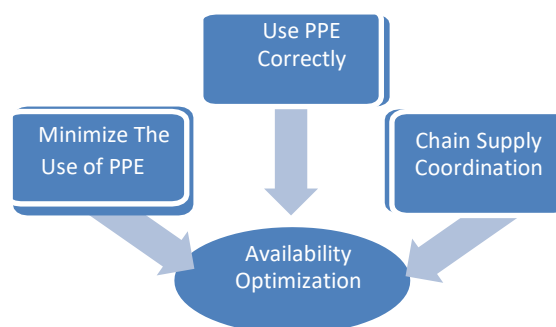


Figure 1. Strategies to optimize the availability of Personal Protective Equipment (PPE).

a. Regulation of the Government's Legal Responsibilities in Fulfilling Personal Protective Equipment for Doctors During the Covid-19 Pandemic.

In state and government administration, accountability also involves authority. From a public law point of view, the existence of this authority provides accountability based on general principles; “*geenbeveegdheid zonder verantwoordelijkheid*; there is no authority without responsibility.¹¹

The 1948 United Nations Universal Declaration of Human Rights (Indonesia is the signatories) and the 1945 Constitution of the Republic of Indonesia states in Article 28H that health is the fundamental right of all individuals and all citizens. Therefore, to realize the fundamental rights to societies' health, the government is responsible for ensuring that all citizens have reasonable access to appropriate and optimal medical services. In order to respect, protect and enforce the obligation to implement human rights norms related to its right to health, we must comply with the following principles:

- 1) Availability of health services;

¹¹ Ibid, 352.

- 2) Accessibility;
- 3) Reception ; and
- 4) Quality.¹²

On the other hand, the state's obligation to fulfill its right to health is internalized in the form of government policy with the following principles: (a) Respecting the right to health; (b) Protecting the right to health; and (c) Fulfilling the right to health.

Responsibility in the legal dictionary can be termed as *liability* and *responsibility*, the term *liability* refers to legal responsibility, namely accountability due to mistakes made by legal subjects, while the term *responsibility* refers to political responsibility¹³.

The Covid-19 pandemic certainly encourages the government with order, security, comfort, and public welfare. The responsibility of the state is the fourth paragraph of the preamble of the 1945 Constitution of the Republic of Indonesia, that is, the protection of the entire Indonesian people and the entire Indonesian homeland, the promotion of the public interest, the formation of the lives of the people, independence and lasting peace. Participate in the realization of a world order based on social justice¹⁴.

Law Number 32 Article 11 of 2004 concerning Regional Government stipulates that the health sector is the business of the Central Government, Provincial Government and Regency/City Government¹⁵. In Law No. 32 article 22 of 2004, it is explained that the Regional Government (Province / Regency or City) has an obligation to improve the quality of people's lives; realizing justice and equity, providing health service facilities, providing appropriate social and public facilities, developing a social security system¹⁶.

In this Covid-19 pandemic, the state is obliged to be responsible for the health of its citizens in Law number 23 of 1992 concerning health, Article 9 which asserts that the Government is responsible for improving the health status of the community¹⁷.

¹² Dedi Afandi, "Right to Health in Human Rights Perspective", *Journal of Medical Sciences* 2, no. 1 (March 2008).

¹³ HR. Ridwan, *State Administrative Law*, (Jakarta: Raja Grafindo Persada, 2006), 337.

¹⁴ Muhamad Beni Kurniawan, "Government Legal Politics in Handling the Covid-19 Pandemic From the Perspective of Human Rights to Health", *Journal of Human Rights* 12, no. 1, April 2021.

¹⁵ Article 11 of Law Number 32 of 2004 concerning Regional Government

¹⁶ Article 22 of Law Number 32 of 2004 concerning Regional Government

¹⁷ Article 9 of Law Number 23 of 1992 concerning Health.

The government's obligation to provide PPE for doctors and health workers tasked with fighting Covid-19 is a fair legal protection and the state's responsibility for proper health facilities. The current high rate of transmission of Covid-19 requires the fulfillment of health facilities for doctors and health workers, especially PPE which is the main thing that doctors and health workers must obtain in handling patients in this pandemic.

The state provides personal protective equipment (PPE), information, training, and appropriate, quality psychosocial support in accordance with the rights of health care workers to provide physicians, nurses, midwives, and all medical care. It is obliged to provide full support to the workers.

Referring to Law no. 36 of 2014 article 4, it reflects the government's responsibility towards health workers, namely:

“The Government and Regional Governments are responsible for:

- a. regulation, guidance, supervision, and quality improvement of Health Workers;
- b. planning, procurement, and utilization of Health Personnel in accordance with the needs; and
- c. protection for Health Workers in carrying out their practice.”¹⁸

The obligation to fulfill the rights of doctors is also regulated in Article 50 of Law Number 29 of 2004 concerning Medical Practice:¹⁹

"Doctors or dentists in carrying out medical practice have the right to:

- a. obtain legal protection as long as they carry out their duties in accordance with professional standards and standard operating procedures;
- b. provide medical services according to professional standards and standard operating procedures;
- c. obtain complete and honest information from patients or their families; and
- d. receive service fees".

Governments need to ensure the safety of physicians and healthcare professionals in dealing with this pandemic, including ensuring the availability of PPE. Personal protective equipment should be available to physicians and medical staff when

¹⁸ Article 4 of Law Number 36 of 2014 Regarding Health Workers.

¹⁹ Article 50 of Law Number 29 of 2004 concerning Medical Practice

caring for and treating Covid-19 patients. Obtaining occupational health and safety protection is the right of doctors and health care workers. This statement is described in Article 57 of Law No. 36 of 2014 on Healthcare Professionals.²⁰

- a. Gain Professional Standards, Professional Services Standards, and Standard Operating Procedures.
- b. Get accurate information from healthcare recipients or their families.
- c. Receive a service fee.
- d. The protection of occupational health and safety must be treated according to human dignity, morality, dignity and religious values.
- e. Get the opportunity to further develop their profession.
- f. Reject the demands of recipients or professionals of medical services, ethical codes, standards of service, standard operating procedures, or other parties that violate the provisions of laws and regulations.
- g. Get other rights which acquired in accordance with the provisions of law.

WHO and the Ministry of Health have issued guidelines regarding the correct use of PPE in accordance with risk factors, both for doctors, health workers and the general public. The PPE recommended by WHO and the Ministry of Health for health workers when handling Covid-19 patients requires the use of PPE that is in accordance with its level, including eye or face protection, head protection, N95 masks or equivalent, gloves, all-cover gowns or gloves, apron and boots²¹.

On the contrast, many hospitals and health centers have complained about the lack of Personal Protective Equipment according to standards. Therefore, doctors and health workers are forced to buy their own and accept donations from the public.

b. The Ideal Legal Responsibilities of the Government in Fulfilling Personal Protective Equipment for Doctors During the Covid-19 Pandemic

The government is responsible for providing medical facilities for doctors and healthcare professionals to work. Central and local governments are responsible for

²⁰ Article 57 of the Law of the Republic of Indonesia Number 36 of 2014 concerning the Rights and Obligations of Health Workers.

²¹ Indonesian Ministry of Health. Guidelines for the Prevention and Control of Coronavirus Disease. Issue 27 March 2020.

making medical facilities available within the framework of achieving the highest levels of health. This is regulated and is described in Article 6 of Decree No. 47 of 2016 on Medical Institutions²²:

"The Central Government and Regional Governments are responsible for the availability of Health Service Facilities in the context of realizing the highest degree of health"

The obligations that should be fulfilled by this government include²³:

1. Supporting the availability of medical equipment in the field;
2. Ensuring the fulfillment of the rights of the community and medical personnel;
3. Information transparency to the public;
4. Making policies that pay attention to the values of human rights and democracy;

The handling of the Covid-19 pandemic as an infectious disease outbreak is not only the authority and responsibility of the Ministry of Health, but is a shared responsibility. Therefore, in the implementation of the mitigation requires linkages and cooperation from various cross-sector government and society.

The linkage of various sectors to cope Covid-19 pandemic is in accordance with their duties, authorities and responsibilities in efforts to overcome the outbreak. With the linkage of various sectors, the government needs to act to coordinate and maintain that efforts to provide PPE and other necessities can be carried out properly and correctly. Accurate data is needed regarding the number of PPE available in the field and the amount of PPE needed in handling COVID-19.

CONCLUSION

Government cannot set a policy without knowing the responsibility of physicians to fulfill their basic rights in practicing their profession in accordance with standard operating procedures amidst this pandemic, including the provision of personal protective equipment in accordance with WHO standards.

Laws already exist that regulate the state's responsibility to fulfill its rights to safety and health in performing the work of physicians, however, the technical implementation is not yet optimal.

²²Article 6 of Government Regulation Number 47 of 2016 concerning Health Service Facilities

²³Isdiana Syafitri, Analysis of Legal Protection for Health Workers for Occupational Safety and Health during the Covid-19 Pandemic in Indonesia, Juripol, volume 4 number 2 September 2021.

There are no specific regulations outlining the government's responsibility to provide PPE to physicians during the Covid-19 period. However, it is not undertaken properly and can therefore pose a risk to working physicians as contact with Covid-19 patients can lead to illness. Ideally, the government's responsibility to provide appropriate personal protective equipment, based on the standards established by WHO. The availability of PPE in terms of both quantity and quality requires special oversight to ensure that physicians' rights to safety and health can be met.

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