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## Legal Protection of Military Medical Personnel in Disaster Area Assignments Under Law Number 17 of 2023 on Health

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### ABSTRACT

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In carrying out duties in disaster areas, various factors affect the rescue actions of military medical personnel assisting victims. The government and relevant agencies must ensure legal protection for these personnel in performing their professional duties. This study examines the form of legal protection for military medical and health personnel assigned to disaster areas under the enactment of Law Number 17 of 2023 on Health, focusing on both criminal and civil law. Using a normative juridical approach, the analysis explores the application of relevant laws and the conceptual understanding of legal principles related to military medical practice. The findings show that military medical personnel must possess STR and SIP and are entitled to legal protection, as medical risks may arise even when procedures comply with established SOPs. If disputes occur in criminal or civil matters, patients may file complaints with the MDP. Subsequent proceedings include an examination, a public hearing, and recommendations by the MDP to the concerned personnel. Should any personnel be found at fault, they remain entitled to redress through both military and general judiciary channels, provided their actions adhered to professional service standards and that initial resolution efforts are pursued through alternative dispute mechanisms outside the court.

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## INTRODUCTION

Indonesia is the largest archipelago in the world, with a total of 17,499 islands, a coastline of more than 81,000 miles, and a water area of about 5.8 million square kilometers. This strategic position makes Indonesia economically and geopolitically important because it is located between the Pacific Ocean and the Indian Ocean, as well as between the Asian Continent and Australia. However, its geographical conditions—situated in the Pacific Ring of Fire and at the intersection of two major tectonic plates—also make Indonesia highly vulnerable to various natural disasters (Anggraini 2022; Irhamuddin 2023; Lubis 2024; Nugraha 2020; Saputri 2010). Statistical data show that the frequency and severity of natural disasters in Indonesia continue to increase every year. Based on the UNISDR report, during the period 2005–2014, Indonesia was among the five countries with the highest number of natural disasters in the world. This condition directly impacts public safety vulnerabilities, requiring the involvement of multiple sectors, including the Indonesian National Army (TNI), in disaster management and emergency response operations (Mannas 2018; Muhlis, Nambung, and Alwy 2020; Widjaja 2020).

Law Number 24 of 2007 defines a disaster as a series of events that threaten safety and disrupt people's lives, caused by natural, non-natural, or social factors. Disaster management in Indonesia requires cross-sectoral cooperation, including community participation, the active role of the TNI, and the support of medical personnel and health facilities. Various major disasters, such as the Yogyakarta earthquake, the Merapi eruption, the Sunda Strait tsunami, and the floods in Bali, demonstrate the complexity of challenges in Indonesian disaster management (Ja'far and Asma V. 2022; Purwandi 2017; Sholikin and Herawati 2020).

The Regulation of the Head of BNPB Number 10 of 2008 emphasizes that the TNI is part of the human resources component in the disaster emergency handling command system. This aligns with Law Number 3 of 2025 concerning the TNI, which affirms two main military tasks—Military Operations for War (OMP) and Military Operations Other than War (OMSP). In the context of OMSP, the TNI is tasked with assisting in the handling of natural disasters, search and rescue operations, and maintaining security against various threats (Alfianto, Rido, and Wijaya 2024; Hadi 2018; Jainurakhma 2020; Sulistyani and Syamsu 2015).

The revision of the TNI Law provides greater opportunities for active soldiers to hold positions in ministries and state institutions, including BNPB. This strengthens the TNI's strategic role in coordinating disaster management, counterterrorism, and maritime security. However, debates regarding the dual role of the TNI in civilian affairs continue to spark concerns among the public about maintaining the balance between civilian and military authority.

In implementing OMSP, the President is authorized to deploy TNI troops under the command of the TNI Commander with the support of the Ministry of Defense. In matters of military health, administrative authority rests with the Chiefs of Staff of the Army, Navy, and Air Force. Military medical personnel are obligated to uphold professional standards, codes of ethics, and standard operating procedures (SOPs) when providing health services, including during assignments in disaster areas.

Law Number 17 of 2023 concerning Health provides legal protection for medical personnel, including military medical personnel, who perform their duties in accordance with

professional standards. They are entitled to legal protection even when working in high-risk areas. However, challenges remain when certain military medical personnel lack STR and SIP credentials as administrative requirements, leading to potential legal and medical risks in practice.

Based on this description, it is clear that legal protection for military medical personnel in disaster area assignments is crucial. The complexity of their dual role—adhering to military doctrine while complying with the provisions of health law—presents distinct challenges.

Previous studies on the legal protection of military medical personnel in disaster area assignments under Law Number 17 of 2023 on Health, such as those by Finkelstein et al. (2020), explore the difficulties military personnel face when navigating legal frameworks in emergency situations. However, these studies primarily address international contexts and overlook Indonesia's unique legal landscape. Another study by Li and Zhao (2021) discusses the implementation of health law in high-risk environments but does not delve into the intricacies of military operations in Indonesia. This research addresses that gap by focusing specifically on Indonesia's legal protection framework for military medical personnel in disaster zones under Law Number 17 of 2023.

This study aims to critically examine the legal protection of military medical personnel in disaster area assignments under Law Number 17 of 2023 on Health, which provides legal safeguards for medical personnel. By analyzing the intersection between military health law and public safety, the research addresses a crucial gap in understanding how legal frameworks ensure protection and manage risks in high-risk environments. The study also contributes to clarifying the obligations, responsibilities, and legal foundations governing military medical personnel in such assignments.

## RESEARCH METHOD

The study used a normative juridical method, focusing on the analysis of applicable laws. Its application included normative case studies that examined legal behavior and products. The study viewed law as a guideline or social rule governing behavior in society. Normative legal research generally involved an inventory of positive law, legal doctrines and principles, legal discoveries, systematics, and comparative analysis to assess the harmony of legal norms.

A legislative approach was also employed by examining relevant laws and regulations still in force. In addition, a conceptual approach was used to solve problems systematically through theoretical frameworks that supported the legal analysis.

The legal materials used in this study consisted of primary and secondary sources. Primary legal materials included the 1945 Constitution of the Republic of Indonesia, Law Number 17 of 2023 on Health, Law Number 24 of 2007 on Disaster Management, Law Number 34 of 2004 on the Indonesian National Army and its amendments, as well as government regulations, ministerial decrees, and provisions in the Civil and Criminal Codes. Secondary legal materials included books, journals, research reports, and other academic works discussing the legal protection of medical personnel, particularly in disaster assignments. Relevant non-legal data were also used to support the analysis.

The processing of legal materials was carried out through a literature study consisting of collection, identification, selection, and analysis of relevant materials. The analysis applied

a normative approach to interpret the materials using legal norms, theories, and doctrines. The results were then linked to the main issue—the legal protection of military medical personnel in disaster area assignments—to provide academic and practical insights into the legal problems examined.

## RESULT AND DISCUSSION

### Laws and Regulations Regulating the Legal Protection of Military Medical Personnel in the Field of Criminal Law

Every action in health services has potential medical risks, so health workers who provide services must obtain strict legal protection. This protection is listed in the Criminal Code (KUHP) as the main source for the legal rights of all parties, including health workers, as well as the Criminal Procedure Code (KUHAP) which regulates the process of handling criminal cases in the community, while for the TNI environment, it refers to Law Number 31 of 1997 concerning Military Justice. These regulations are juridically and normatively the basis for criminal law enforcement for civilians and the military, by providing human rights protection to suspects or defendants, such as the right to be accompanied by legal counsel, provide testimony without pressure, obtain clear information about accusations, present witnesses and mitigating evidence, obtain free legal assistance, and file legal remedies. A health worker can be categorized as committing criminal malpractice if his actions meet the elements of a criminal act, either due to intentionality (*dolus*) or negligence (*culpa*) that is clearly detrimental to the patient. Articles 359 and 360 of the Criminal Code affirm the principle of *nulla poena sine culpa* which means that medical personnel who act in accordance with the law, professional standards, and with the consent of patients should not be subject to criminal charges. This provision provides legal protection by setting clear limits, namely that health workers can only be held criminally liable if proven to have committed significant deviations from applicable medical standards, so that doctors or medical personnel who have carried out procedures in accordance with the provisions cannot be punished for unexpected or unwanted events by patients.

General crimes emphasize more on the consequences caused, while crimes in the medical field focus on the causes or factors behind them, so that if an action meets the elements of violating written criminal law, it is contrary to the law in general, and is based on gross negligence (*culpa lata*), then it can be categorized as a medical crime. According to Article 42 of the Criminal Code Number 1 of 2023, a criminal act is not considered to have occurred if it is committed due to unavoidable coercion, while Article 44 emphasizes that an unauthorized official order does not remove a crime unless it is carried out in good faith and in the belief that the order is valid. This also applies to medical personnel and health workers in carrying out their profession, both in hospitals and outside the hospital. Legal protection for medical personnel is an obligation of the state as affirmed in the Preamble to the 1945 Constitution of the Republic of Indonesia and Article 28D paragraph (1) which guarantees that everyone has the right to fair legal recognition, protection, and certainty. More specifically, Article 273 of Law Number 17 of 2023 concerning Health states that medical personnel and health workers have the right to receive legal protection while carrying out their duties in accordance with professional standards, service standards, SOPs, and professional ethics. This protection is interpreted as the state's effort to provide a sense of physical and psychological security for

medical personnel in carrying out health services, including in cases of alleged medical malpractice which is specifically regulated in Articles 31 to 35 of the Criminal Code Number 1 of 2023, as long as professional actions are carried out in accordance with standard operating procedures.

In Article 722 of Government Regulation Number 28 of 2024, it is explained that legal protection aims to provide legal certainty for medical personnel and health workers when carrying out health services in accordance with the provisions of laws and regulations. This protection also ensures that they can work without pressure or threats from other parties and in accordance with their professional authority and competence. Meanwhile, Article 723 states that medical personnel and health workers who face legal problems—whether in the form of dispute resolution, professional ethics enforcement, scientific discipline, or law—can obtain protection, as long as they have previously carried out practices in accordance with professional standards and service standards, as well as operational procedure standards, norms, procedures, and criteria, aiming to ensure that medical personnel and health workers have a Registration Certificate (STR) and Practice License (SIP).

These two documents serve as a guarantee of legal certainty for people who need health services, so that they feel more confident and encouraged to take advantage of available health facilities. With the existence of STR, health workers are considered to have met the requirements to provide optimal services. In addition, it ensures that medical personnel carry out professional practices in accordance with their clinical authority and have obtained the consent of the patient or family before taking action, except in an emergency. The agency where medical personnel and health workers work is obliged to protect and provide legal assistance that carries out their duties in the form of legal consultation and/or assistance in dispute resolution, in this case is a military agency and in accordance with article 310 mentioned in the event that Medical Personnel or Health Workers are suspected; making mistakes in carrying out their profession that cause losses to patients, disputes arising from these mistakes are resolved primarily through alternative dispute resolution outside the court.

Medical personnel are subject to special legal regulations (*lex specialis*) and not to general law (*lex generalis*). If medical personnel violate the criminal law, then what happens is a special criminal act, not a general criminal act, so they are regulated by special provisions, not general criminal provisions contained in the Criminal Code. This kind of violation is known as a medical crime. Regulations that govern certain behaviors or apply to certain groups are included in special criminal law, which is part of criminal law as a whole.

Crimes committed by members of the Indonesian National Army (TNI) can be processed through criminal, administrative, or disciplinary channels. Violations committed by TNI soldiers can be handled through disciplinary measures, disciplinary sanctions, or military courts. The provisions that regulate, encourage, and enforce the discipline and procedures of military life are known as military discipline laws. Indonesian military courts are governed by the Military Criminal Code (KUHPM) and other regulations related to military authority and discipline. The Criminal Code is a collection of regulations that specifically stipulate criminal offenses and sanctions for members of the military, including detailed guidelines on disciplinary violations, procedures for handling them, and the rights of military personnel in the legal system.

Judicial power in Indonesia is divided into five types of judiciaries, namely the General

Court, the Religious Court, the State Administrative Court (TUN), the Military Court, and the Constitutional Court. Article 24 Paragraph (2) of the 1945 Constitution states that judicial power is exercised by the Supreme Court and its judicial bodies, which include the general court, religious court, military court, and state administrative court, as well as by the Constitutional Court. Each judicial environment has different subjects, objects, and characteristics. The Military Court has the authority to examine and prosecute criminal cases involving defendants from the military, both related to violations of general criminal law and military criminal law

Based on the Law of the Republic of Indonesia Number 25 of 2014 concerning the law of military discipline, the application of the military discipline law aims to prevent abuse of authority by Ankum, ensure legal certainty, provide protection for military personnel, and enforce order in the implementation of the duties and responsibilities of all military members, including medical and health personnel. Article 21 explains that Ankum has full authority to impose various military disciplinary sanctions on members under its command. However, there are exceptions for the detention of severe discipline against officers who commit serious offenses, especially if it poses a risk to health or goes against the medical and military health professional codes of conduct. to carry out or order execution. Before the sentence is imposed, a member of the military is examined under his own command and has the right to be accompanied by an officer as a professional adviser at each stage of the examination, so as to avoid being brought to a general court. Article 37 paragraph 4 regulates the type and duration of military disciplinary punishment, the principle of justice, and the obligation to seek guidance. In determining internal punishment, the suspect's personality, daily behavior, and conditions surrounding violations of military discipline are considered. If the wrongdoing committed by health workers or medical staff is particularly serious, or if civilians resist internal military punishment, authority may be transferred or coordination between general and special military courts may be carried out. However, before the punishment is carried out, the recommendations of the MDP must be complied with by the relevant parties.

One of the main differences between MDP and MKDKI (Indonesian Medical Discipline Honorary Council) lies in their authority. MKDKI was previously formed based on Law Number 29 of 2004 concerning Medical Practice, while MDP has the authority to provide recommendations related to legal processes. Medical personnel or health workers who are suspected of violating the law in the implementation of health services that have the potential to be subject to criminal sanctions must first obtain a recommendation from the MDP (Article 29 paragraphs 1 and 2 of the Minister of Health Regulation Number 3 of 2025). Recommendations related to this criminal act were given after the investigation process by the Employee Investigator. The Civil Estate or investigators of the National Police of the Republic of Indonesia submit a written application (Article 29 (3) of Permenkes Number 3 of 2025).

Therefore, all institutions need to agree on the placement of MDP strictly as an advisory body in the process of investigating medical personnel. This means that any investigation related to alleged violations committed by medical personnel should begin with a professional recommendation from MDP. Thus, there are several benefits, namely: first, legal protection for medical personnel who work according to standards becomes more guaranteed; Second, the investigation process becomes more efficient and effective because it avoids duplication of authority. Third, the quality of legal decisions will also improve because it is based on thorough

considerations, not solely based on formal procedural aspects. Finally, this reconstruction will support the enforcement of procedural justice by engaging professional experts to assess alleged violations before legal proceedings proceed. The role of ethics institutions, such as the Professional Discipline Council (MDP), is crucial in maintaining a balance between law enforcement and protection of legitimate professional actions.

MDP is not part of the criminal law enforcement apparatus. MDP is an autonomous institution formed to maintain the quality and discipline of the medical profession regulated through professional standards and medical service standards, so that recommendations from MDP are professional and not based on criminal law. Thus, it can be concluded:

1. Investigators are authorized to conduct investigations of medical personnel who are suspected of committing criminal acts in accordance with the provisions of the Criminal Code.
2. MDP has the authority to assess and provide recommendations related to alleged violations of professional discipline by medical personnel based on the Health Law.
3. MDP recommendations are not binding on investigators, but can be an important consideration in the investigation process.
4. MDP does not have the authority to conduct investigations like investigators.;

There are several new articles in the Health Law proposed by the government and are considered to be able to provide legal protection for medical personnel and health workers, including:

- a) Out-of-court dispute resolution as stipulated in Article 306 paragraph (3) states that: if medical personnel or health workers who have undergone disciplinary sanctions as intended in paragraph (1) are suspected of committing criminal acts, law enforcement officials should prioritize dispute resolution through restorative justice mechanisms in accordance with applicable laws and regulations. This article emphasizes that for medical personnel or health workers who have undergone disciplinary sanctions, if there is an allegation of a criminal act, law enforcement officials are expected to resolve the problem through a restorative justice approach, so law enforcement officials are obliged to prioritize the use of restorative justice mechanisms in handling disputes.
- b) Anti-Bullying as stated in Article 273 paragraph (2) which reads: "Medical Personnel and Health Workers may terminate Health Services if they receive treatment that is not in accordance with human dignity and dignity, morals, morality, and socio-cultural values as referred to in paragraph (1) letter f, including acts of violence, harassment, and bullying".
- c) Protection in an emergency contained in Article 393 paragraph (1) which reads: "Medical Personnel and Health Workers who carry out efforts to overcome KLB and Outbreak are entitled to legal protection and security as well as health insurance in carrying out their duties.

The rules of Criminal Law that intersect with or are related to Medical Crimes in Health Law number 17 of 2023 are as follows:

1. Article 304 paragraph 3 of the Health Law reads that the Assembly as referred to in paragraph 2 determines whether there is a violation of professional discipline committed by Medical Personnel and Health Workers.
2. Article 304 paragraph 2 of the Health Law: In the context of the enforcement of professional discipline as intended in paragraph (1), the Minister establishes an assembly

that carries out duties in the field of professional discipline

3. Article 306 paragraph (3): Medical Personnel or Health Workers who have implemented disciplinary sanctions in paragraph (1) that are imposed there are suspected criminal acts, law enforcement officials prioritize dispute resolution with restorative justice mechanisms in accordance with the provisions of the law.
4. Article 308 paragraph (1): Medical Personnel or Health Workers who are suspected of committing unlawful acts in the implementation of health services that can be subject to criminal sanctions must first be asked for a recommendation from the panel as intended in Article 304
5. Article 308 paragraph (3): The recommendation from the panel as intended in paragraph (1) is given after the Civil Servant Investigator or the investigator of the National Police of the Republic of Indonesia submits a written application.
6. Article 308 paragraph (5): Recommendations as intended in paragraph (3) in the form of recommendations that may or may not be investigated due to the implementation of professional practices carried out by Medical Personnel or Health Workers, in accordance with or not in accordance with professional standards, service standards, and operational procedure standards.
7. Article 308 paragraph (7): Recommendations as intended in paragraph (5) and paragraph (6) shall be given no later than 14 (fourteen) working days from the date of receipt of the application.
8. Article 308 paragraph (8): In the event that the panel does not provide recommendations within the period as intended in paragraph (7), the panel is considered to have given recommendations to be able to conduct an investigation into criminal acts.
9. Article 308 paragraph (9): The provisions as intended in paragraph (1), paragraph (3), paragraph (5), and paragraph (7) do not apply to the examination of Medical Personnel or Health Workers who can; be held accountable for alleged criminal acts that are not related to the implementation of Health Services.
10. Article 440 paragraph (1): Every Medical Personnel or Health Worker who commits negligence that results in serious injury shall be sentenced to imprisonment for a maximum of 3 (three) years or a maximum fine of Rp. 250,000,000.00 (two hundred and fifty million rupiah).
11. Article 440 paragraph (2): If the negligence as intended in paragraph (1) results in death, each Medical Worker or Health Worker shall be sentenced to imprisonment for a maximum of 5 (five) years or a maximum fine of Rp500,000,000.00 (five hundred million rupiah).

### **Criminal Liability of Military Medical Personnel Due to Medical Risks**

Criminal liability is a normal state of psychic and proficiency that brings three kinds of abilities, namely, first, being able to understand the meaning and real consequences of one's own actions. Second, to be able to understand that these acts are contrary to public order. Third, being able to determine the will to act.

The settlement of criminal acts within the scope of the TNI requires regulations to achieve unity in acting between officials who are given authority in resolving cases in the military environment. In the event of a criminal act that has been committed by a member of the TNI, the military police are obliged to carry out investigative actions in accordance with the procedures

stipulated in the Criminal Procedure Code (hereinafter abbreviated as the Criminal Procedure Code) and Law Number 31 of 1997 concerning Military Justice (hereinafter abbreviated as the Military Justice Law). In terms of law, members of the military have the same status as ordinary people, which means that all applicable legal rules both criminal and civil law and criminal and civil proceedings apply to all citizens. The difference is that regulations that are more specific to military members are needed, this is because there are some acts that can only be done by soldiers that are military in nature and do not apply to the public, for example: refusing service orders, going against superiors' orders, and desertion.

The duties of health workers include various forms of health services, as stipulated in Article 1 number 3 of Law Number 17 of 2023 concerning health, health services are defined as any form or series of service activities provided directly to individuals and communities with the aim of maintaining and improving the degree of health. This service includes promotive (health improvement), preventive (disease prevention), curative (disease treatment), rehabilitative (health recovery), and palliative (treatment to improve quality of life). The success of a medical procedure cannot always be guaranteed. Healthcare workers and medical staff face medical risks, the levels of which can vary from mild or harmless to fatal.

Doctors are obliged to convey comprehensive information to patients in clear and easy-to-understand language, and pay attention to the context of the conversation so that there is no misunderstanding about risks that can harm the patient. In the process of therapeutic communication, the patient must give consent to the medical measures that the doctor will take to treat his disease. This shows that the application of medical professional standards is closely related to the potential for negligence, where negligence is a major factor in determining the likelihood of a doctor facing a lawsuit (Astuti 2022; Nugroho 2016; Ridwan 2021; Suryani 2017).

Article 17 of the Indonesian Medical Code of Ethics emphasizes that every doctor has a humanitarian obligation to provide emergency assistance at a disaster site, regardless of their beliefs towards other parties. Every medical personnel, both military and non-military, are obliged to be willing and able to provide emergency assistance in disaster areas. Emergency aid in question is a medical procedure that, according to medical science, must be taken immediately to save a life, prevent disability, or reduce severe pain. A doctor is considered to have committed a disciplinary violation if he fails to provide such help. In accordance with Article 3 paragraph (2) letter o of the Regulation of the Indonesian Medical Council Number 4 of 2011 concerning Professional Discipline of Doctors and Dentists, one form of disciplinary violation is not to provide emergency help on humanitarian grounds, even though it does not endanger him, unless he is sure that there are other people on duty and able to help. This confirms that helping people in need is the main obligation of everyone, especially for medical personnel, and this obligation can be excluded if it endangers oneself, if there are other parties willing and able, or if there are special provisions in the applicable health care facilities'.

In accordance with Article 308 paragraph 1, health workers or medical personnel who are suspected of committing unlawful acts in providing health services that can result in a mandatory criminal offense must first ask for recommendations from the assembly. The Professional Discipline Council is the assembly in question. The recommendation was given after a written request from an investigator from the National Police of the Republic of Indonesia or a Civil Servant Investigator. Within 14 (fourteen) working days from the date of receipt of the request, the recommendation will be submitted. The panel is considered to have given recommendations

for the investigation of criminal acts if it does not provide recommendations within the period mentioned in paragraph (7).

The mechanism for patient complaints to MDP regarding alleged criminal acts is as follows. First, the patient or the patient's family reports the alleged criminal violation to the police. Second, criminal investigators ask for written recommendations from the MDP. Third, MDP conducts an examination of complaints to assess whether there are violations of professional discipline based on professional standards, service standards, and standard operating procedures. Fourth, the MDP provides recommendations to criminal investigators regarding the results of their findings, then an open hearing is held that allows the presence of complainants, complainants, witnesses, and experts for transparency. Finally, based on the MDP's recommendations, criminal investigators can continue the investigation process if violations are found that can be subject to criminal sanctions. In Article 466 of the Criminal Code number 1 of 2023, criminal sanctions are mentioned

- a) A person who commits persecution may be sentenced to a maximum of two years and six months in prison or a fine of up to category III.
- b) If the persecution causes serious injury, the perpetrator may be sentenced to five years in prison.
- c) If the persecution results in death, the perpetrator may be sentenced to imprisonment for up to seven years. However, if it is only in the form of an attempt to commit persecution that causes death, the perpetrator is not subject to punishment.

The main principle in criminal law states that an act can only be subject to criminal sanctions or legal action through the application of criminal regulations listed in the law. Thus, every individual in the jurisdiction of Indonesia can be held criminally responsible for his actions. However, this provision does not directly apply to the practice of medicine. The activities carried out by doctors are always related to the aspects regulated in the Criminal Code. In the context of health services, criminal law recognizes the possibility of the elimination of criminal acts based on certain reasons or justifications explained through jurisprudence; However, this does not necessarily exempt medical personnel from criminal offenses. The justification for the actions of doctors is only applied to certain situations, so the existence of relevant jurisprudence does not make the medical profession complete; free from criminal liability. Based on Article 5 of the Criminal Code Number 1 of 2023, a person who deliberately commits an act that has the potential to remove criminal sanctions still bears criminal legal responsibilities.

According to criminal law, sanctions are basically in the form of deprivation of liberty or torture for the perpetrators of crimes. The application of criminal punishment is expected to deter perpetrators or serve as a warning to others in the community listed in the Criminal Code, namely:

- 1. a) Article 474 of the Criminal Code paragraph (1) every person who, due to his forgetfulness, other wounds until illness arises or obstacles to carrying out departments, eyes livelihood, or profession for a certain period of time, is punishable by imprisonment for a maximum of 1 year or a maximum fine of category II.
- b) Every person who, due to his negligence, causes serious injury to another person, shall be sentenced to imprisonment for a maximum of 3 (three) years or a maximum fine of category III."
- c) Every person who, due to his negligence, causes the death of another person, shall be sentenced to imprisonment for a maximum of 5 years or a maximum fine of category V."

2. a) Article 475 paragraph (1) If the Criminal Act as intended in Article 474 is committed in the exercise of a position, livelihood, or profession, the crime may be increased by 1/3 (one-third).

b) Each person as intended in paragraph (1) may also be sentenced to an additional penalty in the form of an announcement of the judge's decision as intended in.

Criminal liability carried out by medical personnel and health workers in accordance with Health Law number 17 of 2023 contains several articles, namely:

1. Article 438 paragraph (1) states that the Leader of Health Service Facilities, Medical Personnel, and/or Health Personnel who do not provide first aid to Patients in an emergency at Health Service facilities. (2) In the event that the act as intended in paragraph (1) results in disability or death, the head of the Health Service Facility shall be sentenced to imprisonment for a maximum of 10 (ten) years or a maximum fine of Rp2,000,000,000.00 (two billion rupiah).
2. Article 440 paragraph (1) Any Medical Personnel or Health Personnel who commit negligence that results in serious injury shall be sentenced to a maximum of 3 (three) years in prison or a maximum fine of Rp. 250,000,000.00 (two hundred and fifty million rupiah). If the negligence as intended in paragraph (1) results in death, each Medical Worker or Health Worker shall be sentenced to imprisonment for a maximum of 5 (five) years or a maximum fine of Rp500,000,000.00 (five hundred million rupiah).
3. Article 442 states that every person who employs Medical Personnel and/or Health Workers who do not have a SIP as referred to in Article 312 hur uf c shall be sentenced to imprisonment for a maximum of 5 (five) years or a maximum fine of Rp500,000,000.00 (five hundred million rupiah).

If a member of the military commits a criminal act, the military criminal law listed in the Criminal Code will apply as material law. This is because the military justice system is intended for military personnel or individuals who have ties to the military. Examination and trial process Criminal cases involving civilian defendants, including members of the National Police of the Republic of Indonesia as well as civilian and military populations, are under the authority of the military courts. Military courts are tasked with investigating and prosecuting criminal acts committed by members of the military that violate general criminal law and military criminal law. The handling process is through the military justice subsystem, including Ankum, Papera, Military Police, Military Auditors, Military Judges, and Military Correctional Officers. As a form of disciplinary punishment, soldiers can be subject to warnings, light detention for up to 14 days, or hard confinement for up to 21 days.

If a TNI soldier commits a minor disciplinary violation, then the person concerned may be subject to disciplinary action or sanctions. This disciplinary action can be in the form of verbal reprimands or physical actions that do not cause administrative consequences. The settlement of minor disciplinary violations is carried out through an examination by the provost with the preparation of a Disciplinary Case File (BPD). After the examination was completed, the BPD was handed over to Ankum. Based on the BPD from the provost, Ankum then instructed the examiner to make a Minutes of Examination Results (RHP) which became the basis for the implementation of the disciplinary hearing. The decision of the disciplinary judge is recorded in the Disciplinary Sentence Decree (Skepkumlin) or the Minutes which states that

the disciplinary sentence is not imposed'.

Violation of the law of impure discipline is a criminal act that is so light in nature that it can be resolved according to disciplinary law. The meaning of what is meant to be so light in nature is contained in the Explanation of Article 5 Paragraph (3) of Law Number 26 of 1997 is that:

1. Criminal acts that are threatened with imprisonment for a maximum of 3 (three) months or imprisonment for a maximum of 6 (six) months or a maximum fine of Rp 6,000,000.00 (six million rupiah).
2. Simple and simple things to prove; and (c) the criminal act that occurs will not result in the disruption of the interests of the Armed Forces of the Republic of Indonesia and/or the public interest."

If a soldier commits a criminal act, the case will be investigated by Military Police (PM) investigators. The investigators in question include superiors who are authorized to impose punishments, members of the Military Police, and the Inspectorate. The results of the investigation from the PM were then stated in the Criminal Case File (BPP) and submitted to the Inspector. The Inspector will review the BPP, and if it considers that the criminal case is relatively minor and can be resolved through disciplinary law, the Inspector will submit a Legal Opinion Advice (SPH) to Papera so that the case is handled in accordance with the law of soldier discipline. Based on the SPH from the Inspector, Papera will issue a Decree on Settlement of Cases According to Disciplinary Law (SKEPPKUMLIN) which is then submitted to Ankum, and Ankum, based on the document, the Skeppkumlin will carry out a disciplinary hearing to impose disciplinary punishment.

Disciplinary hearings can be held due to the transfer of cases from the Military Court or the transfer of the Pomal or Provos investigators due to disciplinary violations. Based on Article 189 of Law Number 31 of 1997, if a soldier on trial will be free from all charges or is decided to be free from prosecution but according to the judge's assessment the act is not fit to be carried out by a TNI soldier, the judge decides to return the case to Papera to be resolved through disciplinary law. On the basis of the return of the case from the Military Court to Papera, Papera subsequently issued Skeppera. On the basis of Skeppera from Papera, Ankum will then process the case through a disciplinary hearing to impose a disciplinary sentence and issue Skepkumlin.

In the realm of military law, there are military criminal law and military criminal procedural law which belong to special legal categories. This law is categorized as special because it is different from the General Criminal Law and the General Criminal Procedure Law which applies to all citizens. Military criminal law contains provisions that are different from general criminal law and only apply to certain groups, namely members of the military or parties associated with the military. Because the laws and regulations are subject to him (the military). The existence of military criminal law does not mean that general criminal law does not apply to the military, but for the military it still applies both general and military crimes.

### **Legal Protection of Military Medical Personnel in the Field of Criminal Law**

At the forefront of health services, there are medical personnel and health staff who play a crucial role, but also face high risks. Therefore, to maintain the quality of health services, legal protection for medical personnel and health staff is very important. This is realized through the obligation to have an STR and SIP and carry out duties according to professional standards set

by the Council and Collegium and set by the Minister. Article 273 of the Health Law Number 17 of 2023 guarantees protection related to occupational safety, health, and security. This protection includes actions that protect health workers from treatment that degrades human dignity, contrary to morals, ethics, socio-cultural values, and the right to refuse requests from patients or other parties that are contrary to professional standards, service standards, standard operating procedures, codes of ethics, or legal provisions. When faced with treatment that violates these values, they have the right to act of aggression, harassment, or bullying of medical personnel and health staff may stop providing health services.

Article 729 paragraph (1) states that medical personnel and health workers who carry out health service duties in disadvantaged areas, borders, islands, including remote areas, very remote areas, conflict-prone areas, and conflict areas and areas prone to health problems are obliged to obtain security and safety protection from the Central Government and Regional Governments in accordance with their duties, functions, and authorities. In addition, it is also mandatory to obtain health insurance and employment insurance.

In a safe and supportive work environment, legal protection provided by the Central Government, Regional Governments, and leaders of health facilities includes reporting or complaint mechanisms, information and education exchange between medical personnel and the government, and compliance with applicable legal provisions. To avoid violations and ensure legal protection for medical personnel who face legal problems, it is very important for them to have a Certificate of Registration (STR) and a License to Practice (SIP). In addition, for medical and military health personnel serving in hospitals, it is important to get to know trained personnel, including the Hospital Medical Committee, who have a preventive role to anticipate and handle possible medical disputes must monitor and ensure that the Standard Operating Procedures (SOPs) in the Hospital are carried out effectively and according to their functions. As a solution step, the Hospital Medical Committee needs to be strengthened with the presence of competent mediators and negotiators and a deep understanding of the applicable laws in Indonesia, in order to handle medical disputes or disputes between hospitals and/or medical personnel and patients and/or their families. It is hoped that medical disputes can be resolved through a mediation process, as regulated by laws and regulations in the health sector, so that they do not go through the court. Although for example a person can file criminal and civil charges can be filed at the same time as article 98 of the Criminal Code, it can take a very long time with a tiered judicial system.

Legal protection provided by the government is realized through various efforts, including dispute resolution between operators and patients or patients' families, the application of professional ethics, supervision of scientific disciplines, and law enforcement. The head of the military agency where Medical and Health Personnel are assigned is obliged to provide protection and legal assistance to them, including through legal consultation. Power; military medical personnel can consult with Ankum units where they are on duty, as well as receive assistanceIn order to resolve cases or disputes, every medical personnel need to feel safe when carrying out their practice. For this reason, in addition to providing protection in handling conflicts in the medical field, the Central Government, Regional Governments, and leaders of health service facilities also guarantee protection for medical personnel and health workers who stop services if they experience treatment that violates dignity, morals, decency, and social and cultural values. This includes acts of violence, harassment, and bullying, in accordance with

their respective duties, functions, and authorities.

Medical personnel and health workers have the right to refuse requests from patients or other parties if such requests are contrary to professional standards, service standards, standard operating procedures, codes of ethics, or applicable laws and regulations. Examples include refusing to perform an abortion that is not in accordance with the law, assisting suicide, providing surrogate services or renting a uterus for legal partner-assisted reproduction, providing false information, committing fraud, or committing other acts that violate professional terms, procedures, codes of conduct, or legal regulations.

In the world of the army there is a slogan that there is no wrong soldier, but the officer is wrong. Mistakes made by its members, Commander

They must also be responsible. Criminal acts committed by its members will also have an impact on the assessment that the Commander is unable to direct and guide his subordinates. However, the application of the law in the military environment in some ways does not always succeed in achieving the legal goal, which is to uphold justice, welfare, and stability of life. The principle of equality before the law or justice for all is difficult to realize and is more idealized. In practice, the opposite often happens, namely justice is not enjoyed by all parties, which is a challenge for law enforcement officials.

## CONCLUSION

Military medical personnel involved in disaster response and military operations are entitled to legal protection, provided they hold valid STR and SIP licenses and comply with SOPs. Both military and government institutions bear responsibility for safeguarding these personnel, especially when uncontrollable factors in emergencies lead to patient complaints. Such disputes are first addressed by the Medical Disciplinary Panel (MDP), which evaluates adherence to professional standards and may impose sanctions ranging from training to license suspension or revocation. Article 310 of the 2023 Health Law prioritizes out-of-court resolution, though civil cases can proceed in general courts, if necessary, while criminal matters are addressed under military law. Accurate medical documentation is essential to prevent lawsuits and ensure transparency during MDP proceedings, which determine whether investigations should advance. Future research could explore the effectiveness of current legal mechanisms in balancing operational urgency during disasters with the protection of medical personnel's legal rights, including comparative studies with international practices.

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