



A Juridical Analysis of Compensation Rights for Patient Victims of Medical Malpractice

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Abstract

Introduction: Medical malpractice represents a critical intersection between healthcare delivery and legal accountability, where errors often result in severe patient injury or death. This study addresses the legal ambiguities surrounding the fulfillment of compensation rights for patient victims under Indonesian medical and civil law. **Methods:** Utilizing a normative juridical research method, this study analyzes primary, secondary, and tertiary legal materials, including statutory legislation, judicial precedents, and legal doctrines. **Results:** The findings reveal that while the Indonesian Civil Code, Health Law, and Medical Practice Law theoretically guarantee patient rights, the actual mechanism for securing compensation remains complex, costly, and heavily burdened by the onus of proof placed on the patient. **Discussion:** The discussion highlights a significant gap between statutory intent and judicial enforcement, emphasizing the need for a shift toward a strict liability or no-fault compensation system in medical disputes. Literature reviews further demonstrate that existing dispute resolution mechanisms,

such as mediation, often fail due to unequal bargaining power between patients and medical institutions. **Conclusions:** This study concludes that comprehensive legal reforms are essential to streamline the compensation process, ensuring equitable protection for victims. **Keywords:** Medical Malpractice, Patient Rights, Compensation, Juridical Analysis, Normative Law.

Introduction

The intersection of medicine and law has become increasingly complex as healthcare systems evolve alongside heightened public awareness of legal rights. Medical malpractice, broadly defined as the failure of a healthcare professional to adhere to prevailing professional standards, often leads to severe physical, psychological, and financial harm for patients. In Indonesia, the legal framework governing healthcare seeks to balance the protection of medical practitioners with the fundamental rights of patients. However, the legal reality often leaves patient victims of medical errors in a vulnerable position when seeking redress. The background of this issue is rooted in the inherent asymmetry of information and power between healthcare providers and patients, which complicates the realization of justice. This research addresses two primary problem formulations: first, how does the current Indonesian legal framework regulate the rights of compensation for patients affected by medical malpractice, and second, what are the primary legal obstacles that prevent these victims from successfully claiming their compensation? The primary objective of this research is to evaluate the adequacy and efficacy of existing statutory regulations in protecting the economic and non-economic rights of malpractice victims. Furthermore, this study aims to provide actionable recommendations for legislative reform to bridge the gap between legal theory and practice. The significance of this research lies in its potential to serve as a theoretical baseline for legal scholars studying medical law and as a practical guide for policymakers aiming to draft more equitable healthcare legislation.

Hypothetically, this study posits that the current legal framework is overly reliant on fault-based liability, which inadvertently burdens the victim with a nearly insurmountable standard of proof, thereby rendering statutory compensation rights largely illusory. The research gap identified in current literature is that most studies

focus either purely on the criminal liability of doctors or on the procedural aspects of medical ethics committees, largely neglecting the holistic private law implications of financial compensation for victims. The novelty of this paper lies in its integrated juridical analysis that contrasts traditional tort law concepts with modern consumer protection principles within the specific domain of medical negligence, offering a fresh perspective on strict liability adaptation.

Methods

This study employs a normative juridical research methodology, which centers on the analysis of written law and legal doctrines. The approach is entirely qualitative, focusing on statutory provisions, case law, and conceptual frameworks rather than empirical or statistical data. The primary legal materials utilized include the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata*), particularly provisions concerning tort liability under Article 1365, as well as specific healthcare legislations such as the Medical Practice Law and the comprehensive Health Law. Secondary legal materials consist of legal textbooks, peer-reviewed law journals, and authoritative commentaries regarding medical malpractice and consumer protection. Tertiary materials, including legal dictionaries and encyclopedias, are used to clarify specific terminology. The data collection technique involves a rigorous literature review and documentary study of relevant legal texts. The collected materials are then analyzed using qualitative legal analysis, applying deductive reasoning to draw logical conclusions from general statutory principles to the specific context of patient compensation rights.

Results

The results of this juridical analysis demonstrate that the legal basis for claiming compensation for medical malpractice in Indonesia is rooted in both contractual liability (*wanprestasi*) and tort liability (*perbuatan melawan hukum*). Under Article 1365 of the Indonesian Civil Code, a patient seeking compensation must prove four distinct elements: the presence of an unlawful act by the medical practitioner, fault or negligence on the part of the practitioner, a quantifiable injury or loss suffered by the patient, and a direct causal link between the negligence and the injury. Statutory healthcare laws reinforce the patient's right to seek compensation through

both alternative dispute resolution mechanisms, such as mediation, and formal litigation. However, the analysis reveals that the implementation of these statutory rights is severely hindered by procedural bottlenecks. Medical ethics committees often operate with low transparency, and courts frequently struggle to interpret highly technical medical standards, leading to inconsistent rulings and a low success rate for plaintiffs seeking financial restitution.

Discussion

The discussion of patient compensation rights requires a deep examination of existing legal doctrines and a thorough literature review of medical jurisprudence. Scholars like Black and Honoré have long argued that tort law serves a dual purpose: deterrence of negligent behavior and the restoration of the victim to their original state prior to the injury. In the realm of medical malpractice, achieving restoration is exceptionally difficult due to the irreversible nature of many medical injuries. The literature indicates that the traditional fault-based liability system, which forms the bedrock of Indonesian civil law, is fundamentally unsuited for medical disputes. In a standard tort case, proving negligence is straightforward, but in a medical context, the patient rarely possesses the technical expertise to identify exactly where the protocol breach occurred. This phenomenon, described in legal literature as the conspiracy of silence or information asymmetry, heavily disadvantages the patient because the medical records and expert witnesses are controlled by the healthcare industry.

Furthermore, a detailed review of contemporary legal literature suggests that the introduction of consumer protection principles into the healthcare sector could redefine the physician-patient relationship. Under the Consumer Protection Law, a service provider can be held strictly liable for damages resulting from defective services. However, the medical community consistently resists this classification, arguing that medicine is an art with inherent risks and uncertainties, not a standard commercial service. This ideological conflict creates a major legislative impasse. The discussion reveals that while statutory law grants the right to compensation, the procedural hurdles, such as the high cost of medical expert testimony and the length of litigation, create an access-to-justice barrier. To resolve this, some jurisdictions

have moved toward a no-fault compensation system, where a specialized state fund compensates victims based on the severity of the injury rather than the proof of negligence, a model that Indonesian legislators should closely evaluate to ensure genuine victim protection.

Conclusion

Based on the comprehensive juridical analysis, it can be concluded that while the theoretical framework for patient compensation exists within Indonesian civil and health law, its practical application remains highly ineffective. The current fault-based system places an unfair and unrealistic burden of proof on the victim, who lacks the technical medical knowledge to easily demonstrate negligence. Consequently, the right to compensation remains largely unfulfilled for the majority of malpractice victims. To remedy this systemic deficiency, it is strongly recommended that the legislature amend existing health laws to introduce a modified strict liability standard or a dedicated no-fault compensation fund for medical injuries. Additionally, the establishing of independent, transparent, and specialized medical tribunals is urgently needed to expedite dispute resolutions, thereby ensuring that patient victims receive fair, timely, and accessible financial restitution.

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