

Analysis of Judicial Authority in Handling Medical Disputes

Dwiki Ahmad Syaafi, Redyanto Sidi, Marice Simarmata

Abstract

Medical disputes have increasingly emerged within Indonesia's healthcare system in line with the evolving legal relationship between healthcare professionals and patients. The absence of a specialized health court results in all cases involving alleged breach of contract, tort, or medical negligence remaining under the jurisdiction of the general courts. This condition presents significant challenges for judges, particularly because the assessment of medical actions requires technical expertise beyond the domain of law. On the other hand, the existence of the Indonesian Medical Disciplinary Board (Majelis Kehormatan Disiplin Kedokteran Indonesia/MKDKI), which holds the authority to determine violations of professional discipline, raises issues concerning the delineation of authority between administrative bodies and judicial institutions. Moreover, Law Number 17 of 2023 on Health reinforces the importance of mediation and restorative justice approaches, although their implementation continues to face practical obstacles. This article analyzes the authority of judges in adjudicating medical disputes by examining the absolute and relative competence of the general courts, the limitations of judicial authority in assessing medical professional standards, and the institutional relationship between judicial bodies and the MKDKI. This analysis aims to provide a more comprehensive understanding of the structural and normative challenges that shape the legal process in resolving medical disputes in Indonesia.

Keywords: Judicial Authority, Medical Dispute, MKDKI, Evidentiary Assessment, Health Law

Dwiki Ahmad Syaafi¹

¹Law Study Program, Universitas Pembangunan Panca Budi, Indonesia
e-mail: ahmadwikiki@gmail.com¹

Redyanto Sidi², Marice Simarmata³

^{2,3}Departement of Law, Universitas Pembangunan Panca Budi, Indonesia
e-mail: redysidi@gmail.com², ichesmart@yahoo.co.id³

2nd International Conference on Islamic Community Studies (ICICS)

Theme: History of Malay Civilisation and Islamic Human Capacity and Halal Hub in the Globalization Era

<https://proceeding.pancabudi.ac.id/index.php/ICIE/index>

Introduction

The development of health law in Indonesia over the past two decades has exhibited increasingly complex dynamics, particularly with regard to the growing number of medical disputes involving healthcare professionals and patients. The transformation of the doctor–patient relationship from a predominantly paternalistic model to a more egalitarian and contractual relationship has given rise to significant legal implications. In the past, patients generally accepted medical treatment with a high degree of trust in physicians; however, contemporary demands for transparency, accountability, and compliance with healthcare service standards have substantially increased the potential for disputes. When patients perceive that they have suffered harm as a result of medical treatment, avenues for initiating civil claims or criminal proceedings are broadly available within the Indonesian legal system.

One of the fundamental challenges in the resolution of medical disputes is the absence of a specialized health court. At present, all medical cases whether involving claims of breach of contract, unlawful acts (*perbuatan melawan hukum*), or alleged criminal negligence fall within the absolute jurisdiction of the general courts pursuant to Law Number 48 of 2009 on Judicial Power. Medical disputes, however, demand a comprehensive understanding of professional standards, clinical protocols, diagnostic processes, and therapeutic interventions, all of which are technical and multidisciplinary in nature. Consequently, judges face substantive difficulties, as they are required to assess medical issues that inherently lie beyond the scope of legal expertise. This condition leads to a substantial reliance on expert testimony, professional witnesses, and medical records, which in turn contributes to considerable variability in legal reasoning and judicial outcomes.

The adjudication of alleged medical negligence further requires judges to distinguish carefully among medical negligence, medical malpractice, and medical risk. In certain circumstances, adverse medical outcomes constitute inherent risks associated with medical procedures that cannot be entirely eliminated, even where physicians have acted in accordance with applicable professional standards. In other situations, however, professional conduct may amount to negligence or even malpractice. The complexity involved in delineating these categories not only poses evidentiary challenges for patients or public prosecutors but also complicates the process by which judges form their judicial conviction. Divergent interpretations of the concept of medical negligence have the potential to result in inconsistent judicial decisions and legal uncertainty.

An additional layer of complexity in medical dispute resolution arises from the role of the Indonesian Medical Discipline Honorary Council (*Majelis Kehormatan Disiplin Kedokteran Indonesia/MKDKI*), an administrative body vested with the authority to determine whether violations of professional discipline by doctors and dentists have occurred. This authority encompasses assessments of professional standards, service standards, and standard operating procedures. In practice, however, debate persists as to whether proceedings before the MKDKI must constitute a prerequisite prior to criminal investigation by law enforcement authorities, or whether both processes may proceed concurrently. The absence of clear normative guidance regarding the allocation of authority between the MKDKI and the general courts creates the risk of institutional overlap, normative ambiguity, and procedural inconsistency. This condition underscores the urgency of establishing a coherent legal framework governing the relationship between judicial institutions and professional bodies in order to ensure proportional legal protection for medical practitioners while simultaneously safeguarding patients' rights to justice.

Furthermore, regulatory developments introduced through Law Number 17 of 2023 on Health reaffirm the state's preference for resolving medical disputes through non-litigation mechanisms, particularly mediation and restorative justice approaches. From a theoretical standpoint, mediation is regarded as advantageous because it enables the parties to reach resolutions that are more flexible, humane, and oriented toward the restoration of relationships. Nevertheless, empirical practice demonstrates that mediation does not always yield effective

outcomes. A significant number of mediation processes fail to achieve agreement, ultimately necessitating the continuation of disputes through litigation. Once cases enter the judicial process, judges are once again confronted with challenges relating to evidentiary complexity, limitations in medical technical expertise, and conflicting expert opinions that frequently stand in opposition to one another.

From the foregoing analysis, it may be concluded that the resolution of medical disputes in Indonesia continues to encounter structural, normative, and technical challenges. Issues relating to judicial competence, the scope of judicial jurisdiction, institutional relations with the Indonesian Medical Discipline Honorary Council (Majelis Kehormatan Disiplin Kedokteran Indonesia/MKDKI), the complexity of evidentiary processes, as well as the implementation of mediation as a dispute resolution mechanism constitute matters that warrant in-depth examination. Accordingly, an analysis of judges' authority in adjudicating medical disputes becomes essential in order to assess the extent to which the Indonesian legal system is capable of ensuring legal certainty, justice, and legal protection for both patients and healthcare professionals.

Research Methodology

This study employs a normative juridical research method. This method is conducted by examining legal materials, such as statutory regulations, legal doctrines, and the results of previous studies. These legal materials are then analyzed critically and systematically in order to address the research problems formulated in this study. The normative juridical research method is an appropriate approach for studies that examine legal issues. The data used in this research consist of secondary data, namely data obtained from legal materials. Such secondary data are collected through library research by reading and reviewing statutory regulations, legal doctrines, and the findings of prior studies.

Results

The Authority of Judges of the General Courts in Handling Medical Disputes

The authority of judges of the general courts in handling medical disputes is fundamentally constructed upon the concepts of absolute jurisdiction and relative jurisdiction as regulated within the Indonesian judicial system. Absolute jurisdiction refers to the authority of a court to examine and adjudicate cases based on the type or subject matter of the dispute. According to Mertokusumo, absolute jurisdiction is related to the distribution of judicial power among different types of courts.

In the context of medical disputes, Law Number 48 of 2009 on Judicial Power affirms that the general courts have the authority to adjudicate both civil and criminal cases, including disputes between healthcare professionals and patients. The absence of a specialized court for medical disputes results in the general courts functioning as a residual forum for the resolution of such cases, whether civil or criminal in nature (Harahap).

From a civil law perspective, medical disputes may be classified as cases of breach of contract (*wanprestasi*) or unlawful acts (*perbuatan melawan hukum*), particularly when the therapeutic contract between a doctor and a patient is deemed to have been violated. This is consistent with the provisions of Article 1365 of the Indonesian Civil Code, which stipulate that any unlawful act causing harm obliges the perpetrator to compensate for the loss suffered (*Isfandyarie*). The therapeutic contract establishes a reciprocal legal relationship, the failure of which to be performed in a professional manner may give rise to civil liability.

Meanwhile, from a criminal law perspective, allegations of medical negligence or medical malpractice may be processed under Articles 359 and 360 of the Indonesian Criminal Code, as well as under the provisions of Law Number 17 of 2023 on Health, which regulates criminal sanctions for healthcare professionals who commit negligence (Yunanto & Helmi). Accordingly, the absolute jurisdiction of the general courts encompasses two legal avenues simultaneously civil and criminal depending on the legal construction of the events in question.

Relative jurisdiction determines which court has geographical authority. In civil cases, Article 118 of the *Herzien Inlandsch Reglement (HIR)* provides that a lawsuit shall be filed with the district court having jurisdiction over the defendant's domicile or the place where the legal event occurred, which in medical disputes generally refers to the location of the healthcare facility where the alleged negligence took place (Supriadi). In criminal cases, Article 84 of the Indonesian Criminal Procedure Code (*Kitab Undang-Undang Hukum Acara Pidana / KUHAP*) stipulates that the competent district court is the court within whose jurisdiction the criminal offense was committed (Harahap). These provisions ensure forum certainty while simultaneously clarifying the authority of judges to examine medical cases.

In practice, however, the exercise of such theoretical authority encounters various substantive obstacles. One of the primary problems is judges' limited understanding of medical technicalities. Medical science is characterized by a high degree of complexity and specificity, whereas judges generally do not possess medical training. As a result, judges often experience difficulties in assessing medical negligence or technical errors committed by physicians, leading to a heavy reliance on recommendations from medical professional organizations or expert medical testimony (Supriadi).

This dependence raises concerns regarding judicial independence and objectivity, particularly when judges are required to distinguish among medical negligence, medical risk, and medical malpractice. These concepts carry significant implications for the determination of legal liability; therefore, any misunderstanding of their distinctions may result in unjust judicial decisions (Isfandyarie; Yunanto & Helmi).

The burden of proof constitutes a fundamental aspect that also influences the exercise of judicial authority. In criminal cases, the public prosecutor bears the burden of proving the criminal offense; in civil cases, the patient, as the plaintiff, carries the burden of substantiating the claim, including demonstrating the existence of medical negligence, the damage suffered, and the causal relationship between the two (Guwandi). Nevertheless, evidentiary processes in medical disputes often face considerable difficulties due to informational asymmetry between doctors and patients. Judges encounter challenges in evaluating medical actions without possessing medical expertise. In this context, medical records, medical documentation, and expert testimony become crucial as scientific evidence (Supriadi).

The development of health law through Law Number 17 of 2023 emphasizes a restorative justice approach, namely the resolution of medical disputes through mediation prior to litigation. Supreme Court Regulation (PERMA) Number 1 of 2016 reinforces this mechanism by mandating mediation in all civil cases, including medical disputes (Harahap). In this context, judges play a strategic role as facilitators of mediation and may even appoint mediators who possess an understanding of medicolegal aspects (Sistini). This approach enables the restoration of the doctor-patient relationship through open communication before the dispute proceeds to formal court proceedings.

Limits of Judicial Authority and Its Relationship with the MKDKI

The limits of judges' authority in resolving medical disputes essentially arise from the fundamental characteristics of the medical profession, which is highly technical and rooted in applied science. In every medical intervention, doctors operate on the basis of professional standards, standard operating procedures, clinical judgment, and empirical experience elements that are not always comprehensible to individuals outside the medical profession. Judges, on the other hand, operate within a legal framework that demands certainty, normative rationality, and structured evidentiary rules. When these two distinct epistemic domains intersect in medical disputes, a boundary of judicial authority emerges: judges possess legal authority, but they do not hold technical authority to independently assess the quality of medical actions. It is from this premise that the relationship between judges and professional bodies such as the MKDKI finds its justification.

Medical actions cannot be understood in a purely mechanical manner, as each intervention involves clinical variables, individual patient conditions, inherent risks, and therapeutic choices that are often professional and subjective in nature. Nevertheless, the law requires certainty as to whether a particular medical action was properly performed or constituted negligence. This tension between the demand for legal certainty and the complex nature of medical practice explains why judges cannot fully exercise their authority without expert assistance. Judges may assess the existence of negligence from a legal perspective; however, to determine what ought to have been done according to professional standards, judges require explanations from those possessing medical competence. This constitutes a natural limit to judicial authority that cannot be judged due to epistemological constraints: judges are not medical professionals and must not position themselves as such within the courtroom.

It is at this juncture that the role of the MKDKI becomes critically important. The MKDKI is a professional body established to assess whether a doctor has committed a violation of professional discipline. It operates from a medical, rather than a legal, perspective. The MKDKI evaluates physicians' conduct based on the professional standards applicable at the time the medical action was performed, examines clinical decision-making processes, reviews the adequacy of medical assessments, and determines whether such actions fall within the bounds of professional reasonableness. Accordingly, the MKDKI operates within the technical-professional sphere, whereas judges operate within the normative-juridical sphere. These two domains must not encroach upon one another, although they must interact in a proportional and coordinated manner.

The relationship between judges and the MKDKI is not subordinative, but rather coordinative and complementary in nature. MKDKI decisions do not bind judges; however, they possess significant explanatory value. Judges remain obligated to render decisions based on evidence, legal principles, and rational judicial conviction.

Nevertheless, an understanding of complex medical actions can only be obtained through expert testimony, disciplinary decisions, or technical documentation originating from the medical profession. If judges decide cases without a solid technical foundation, judicial decisions may become disproportionate and may even risk subjecting the medical profession to the criminalization of conduct that in fact complies with professional standards. Conversely, if judges entirely defer their assessment to professional bodies, the judicial function of law enforcement would be undermined. It is this balance that ultimately delineates the limits of judicial authority in medical disputes.

The issue of these limits becomes particularly apparent in debates concerning whether proceedings before the MKDKI should precede criminal or civil processes. Some scholars argue that the MKDKI should be involved at an early stage in order to provide a strong technical foundation, thereby preventing investigators from hastily concluding the existence of negligence solely on the basis of adverse medical outcomes. This view is grounded in concerns that professional criminalization may occur when law enforcement authorities fail to distinguish between medical complications, inherent medical risks, and negligence. Conversely, other perspectives maintain that legal processes must remain independent, as public law should not be contingent upon the administrative decisions of professional bodies. This duality of views illustrates the complexity of the limits of judicial authority, which are not merely technical in nature but also implicate the philosophical relationship between law and professional expertise.

Another limitation of judicial authority becomes evident in matters concerning medical records. Medical records constitute documents that comprehensively describe the entire clinical process and the rationale underlying medical decision-making. Judges rely heavily on medical records to understand the steps taken by physicians. However, judges remain unable to interpret medical records independently without expert assistance, as such documents are written in clinical language that can only be fully understood by medical professionals. Accordingly, although judges possess the authority to order the submission of medical records, their

interpretation does not fall within the scope of judicial authority. This once again illustrates a clear boundary: control over the documents lies with the judge, whereas the interpretation of their contents lies with the expert.

Amid this complexity, courts are also vested with the authority to facilitate mediation as an initial mechanism for resolving medical disputes. The role of judges in mediation is not to interpret medical actions, but rather to act as facilitators in creating an open dialogue between doctors and patients. Mediation provides an opportunity to seek more humane solutions, to avoid adversarial litigation that may damage the doctor–patient relationship, and to reduce the risk of unnecessary criminalization. Nevertheless, judges must not exceed their role; they are required to ensure that the mediation process proceeds honestly and fairly without dictating technical or clinical substance.

Ultimately, the limits of judicial authority in medical disputes should not be regarded as a weakness of the legal system. On the contrary, they reflect a healthy division of roles between law and professional expertise. Law provides legal certainty, while professional bodies provide technical competence. Judges safeguard justice, whereas the MKDKI safeguards professional standards. When both operate in parallel while respecting their respective boundaries, the resolution of medical disputes becomes more objective, proportional, and reflective of a balance between patient protection and the protection of the medical profession.

Several countries have developed models of medical tribunals or specialized health courts staffed by judges with medicolegal competence and supported by panels of medical experts capable of providing independent technical assessments (Guwandi, 2004). Indonesia may consider the establishment of a specialized chamber or division within the general courts specifically tasked with handling medical disputes, staffed by judges who have received specialized training in medicolegal aspects and supported by medical assessors who can assist judges in understanding technical medical issues during proceedings (Sistini, 2023).

Enhancing judicial capacity in handling medical disputes may also be pursued through continuous education and training on medicolegal aspects, professional medical standards, and recent developments in the health sector. The Supreme Court may cooperate with medical professional organizations and medical education institutions to organize training programs for judges adjudicating medical dispute cases (Harahap, 2008). In addition, it is necessary to develop technical guidelines for judges in handling medical disputes, encompassing criteria for assessing medical negligence, procedures for examining expert witnesses, and appropriate standards of proof within the context of medical disputes (Yunanto & Helmi, 2010).

Conclusion

The absolute competence of the general courts encompasses the authority to adjudicate claims of breach of contract and unlawful acts within the realm of civil law, as well as criminal acts of medical negligence under the Criminal Code and the Health Law within the context of criminal proceedings. Relative competence is determined based on the domicile of the defendant or the location where the legal event occurred, in accordance with the applicable procedural law. However, in practice, judges of the general courts encounter fundamental challenges, particularly limitations in technical competence in understanding complex medical aspects, difficulties in distinguishing between medical negligence and medical risk, and a high degree of reliance on medical expert testimony in the evidentiary process. These conditions have the potential to give rise to inconsistent judgments and legal uncertainty in the resolution of medical disputes.

The limitation of judicial authority in assessing medical professional standards lies in judges' lack of technical medical knowledge, thereby requiring reliance on expert testimony and medical evidence to form judicial conviction in deciding cases. The relationship between judicial authority and the authority of the Indonesian Medical Discipline Honorary Council (Majelis Kehormatan Disiplin Kedokteran Indonesia/MKDKI) is complementary yet independent, in which MKDKI decisions concerning violations of professional discipline may

serve as considerations for judges but are not legally binding in judicial proceedings. MKDKI exercises administrative authority to assess violations of professional standards and impose disciplinary sanctions, whereas judges exercise judicial authority to determine doctors' civil and criminal legal liability. To strengthen this system, it is necessary to enhance judges' medicolegal capacity, develop uniform guidelines for the examination of medical disputes, and establish structured coordination between judicial institutions and professional bodies.

References

- [1] Guwandi, J. (2004). Hukum medik (medical law). Fakultas Kedokteran Universitas Indonesia.
- [2] Harahap, M. Y. (2008). Hukum acara perdata tentang gugatan, persidangan, penyitaan, pembuktian, dan putusan pengadilan. Sinar Grafika.
- [3] Hatta, G. R. (2013). Pedoman manajemen informasi kesehatan di sarana pelayanan kesehatan (Edisi Revisi). Universitas Indonesia Press.
- [4] Hiariej, E. O. S. (2021). Prinsip-prinsip hukum pidana (Edisi Revisi). Cahaya Atma Pustaka.
- [5] Isfandyarie, A. (2005). Malpraktek dan risiko medik dalam kajian hukum pidana. Prestasi Pustaka.
- [6] Mertokusumo, S. (2009). Hukum acara perdata Indonesia (Edisi Kedelapan). Liberty.
- [7] Sistini, F. N. (2023). Problematika penyelesaian sengketa medis di Indonesia: Perluakah pengadilan khusus kesehatan? *Jurnal Hukum dan Peradilan*, 12(1), 45-62
- [8] Supriadi, W. (2001). Hukum kedokteran. Mandar Maju.
- [9] Yunanto, R. A., & Helmi. (2010). Hukum pidana malpraktik medik: Tinjauan dan perspektif medikolegal. Andi Offset.
- [10] Undang-Undang Nomor 29 Tahun 2004 tentang Praktik Kedokteran.
- [11] Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman.
- [12] Undang-Undang Nomor 36 Tahun 2009 tentang Kesehatan.
- [13] Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan
- [14] Peraturan Mahkamah Agung Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan.