



HOSPITAL RESPONSIBILITY FOR MEDICAL MALPRACTICE IN THE PERSPECTIVE OF INDONESIAN CRIMINAL LAW

TANGGUNG JAWAB RUMAH SAKIT ATAS MALPRAKTIK MEDIS DALAM PERSPEKTIF HUKUM PIDANA INDONESIA

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Abstract

This study aims to analyze the concept and application of hospital criminal liability in cases of medical malpractice in the Indonesian criminal law system, as well as examine the relationship between the individual responsibility of medical personnel and the responsibility of hospital institutions. This study uses a qualitative approach with case study methods and a juridical-normative approach enriched with empirical data. Data was collected through in-depth interviews with legal practitioners, medical personnel, and hospital managers, accompanied by a documentary study of laws and regulations, court rulings, and related literature. The results of the study show that criminal liability in cases of medical malpractice is generally still focused on individual medical personnel as direct perpetrators, while the accountability of hospital institutions has not been optimally applied in criminal law enforcement practices. In addition, it was found that there is a complex relationship between the professional responsibilities of medical personnel and the institutional obligations of hospitals in ensuring health service standards, including aspects of supervision, risk management, and medical service systems. This study concludes that it is necessary to strengthen the concept of corporate criminal liability for hospitals in cases of medical malpractice in order to create legal certainty and more balanced protection for patients, medical personnel, and health service institutions. The findings of this study contribute to the development of health law studies and become a basis for consideration for policymakers in formulating more effective regulations and law enforcement mechanisms.

Keywords : Responsibility, Hospital, Malpractice, Medical, Criminal Law.

Abstrak

Penelitian ini bertujuan untuk menganalisis konsep dan penerapan pertanggungjawaban pidana rumah sakit dalam kasus malpraktik medis dalam sistem hukum pidana Indonesia, serta mengkaji hubungan antara tanggung jawab individu tenaga medis dan tanggung jawab institusi rumah sakit. Penelitian ini menggunakan pendekatan kualitatif dengan metode studi kasus dan pendekatan yuridis-normatif yang diperkaya dengan data empiris. Data dikumpulkan melalui wawancara mendalam dengan praktisi hukum, tenaga medis, serta pengelola rumah sakit, disertai dengan studi dokumentasi terhadap peraturan perundang-undangan, putusan pengadilan, dan literatur terkait. Hasil penelitian menunjukkan bahwa pertanggungjawaban pidana dalam kasus malpraktik medis pada umumnya masih difokuskan pada individu tenaga medis sebagai pelaku langsung, sementara pertanggungjawaban institusi rumah sakit belum diterapkan secara optimal dalam praktik penegakan hukum pidana. Selain itu, ditemukan bahwa terdapat hubungan yang kompleks antara tanggung jawab



profesional tenaga medis dengan kewajiban institusional rumah sakit dalam menjamin standar pelayanan kesehatan, termasuk aspek pengawasan, manajemen risiko, dan sistem pelayanan medis. Penelitian ini menyimpulkan bahwa diperlukan penguatan konsep pertanggungjawaban pidana korporasi bagi rumah sakit dalam kasus malpraktik medis agar tercipta kepastian hukum dan perlindungan yang lebih seimbang bagi pasien, tenaga medis, dan institusi pelayanan kesehatan. Temuan penelitian ini memberikan kontribusi terhadap pengembangan kajian hukum kesehatan serta menjadi dasar pertimbangan bagi pembuat kebijakan dalam merumuskan regulasi dan mekanisme penegakan hukum yang lebih efektif. Penelitian ini bertujuan untuk menganalisis konsep dan penerapan pertanggungjawaban pidana rumah sakit dalam kasus malpraktik medis dalam sistem hukum pidana Indonesia, serta mengkaji hubungan antara tanggung jawab individu tenaga medis dan tanggung jawab institusi rumah sakit. Penelitian ini menggunakan pendekatan kualitatif dengan metode studi kasus dan pendekatan yuridis-normatif yang diperkaya dengan data empiris. Data dikumpulkan melalui wawancara mendalam dengan praktisi hukum, tenaga medis, serta pengelola rumah sakit, disertai dengan studi dokumentasi terhadap peraturan perundang-undangan, putusan pengadilan, dan literatur terkait. Hasil penelitian menunjukkan bahwa pertanggungjawaban pidana dalam kasus malpraktik medis pada umumnya masih difokuskan pada individu tenaga medis sebagai pelaku langsung, sementara pertanggungjawaban institusi rumah sakit belum diterapkan secara optimal dalam praktik penegakan hukum pidana. Selain itu, ditemukan bahwa terdapat hubungan yang kompleks antara tanggung jawab profesional tenaga medis dengan kewajiban institusional rumah sakit dalam menjamin standar pelayanan kesehatan, termasuk aspek pengawasan, manajemen risiko, dan sistem pelayanan medis. Penelitian ini menyimpulkan bahwa diperlukan penguatan konsep pertanggungjawaban pidana korporasi bagi rumah sakit dalam kasus malpraktik medis agar tercipta kepastian hukum dan perlindungan yang lebih seimbang bagi pasien, tenaga medis, dan institusi pelayanan kesehatan. Temuan penelitian ini memberikan kontribusi terhadap pengembangan kajian hukum kesehatan serta menjadi dasar pertimbangan bagi pembuat kebijakan dalam merumuskan regulasi dan mekanisme penegakan hukum yang lebih efektif.

Kata Kunci : Tanggungjawab, Rumah Sakit, Malpraktik, Medis, Hukum Pidana.

1. INTRODUCTION

Health services are one of the fundamental sectors in people's lives that are directly related to the fulfillment of human rights, especially the right to health. Hospitals as health service institutions have the responsibility to provide safe, professional, and professional medical services in accordance with professional standards and applicable operational standards. However, in practice, there are still often medical errors or negligence by health workers that can cause losses to patients. This phenomenon is known as medical malpractice, which in some cases can have legal consequences both civilly, administratively, or criminally. Globally, the increasing complexity of health services, the development of medical technology, and increasing public awareness of patients' rights have also increased the number of medical disputes in various countries (Purwaningrum, 2021).

In Indonesia, the issue of medical malpractice has become a serious concern along with the increasing public access to health services and the development of the national health legal system. The case of alleged malpractice not only causes conflicts between patients and medical personnel, but also raises questions about the extent of the responsibility of hospital institutions as health service providers (Ahmad & Kamri, 2025a). Hospitals not only function as a place to practice medical personnel, but also as a legal entity that has the obligation to ensure patient safety and supervise medical practices carried out by health workers in it (Ibrahim, 2022). In this context, hospital liability is an important issue in the health legal system in Indonesia.

Empirically, a number of reports and studies show that medical disputes in Indonesia have continued to increase in recent years. Several reported cases show negligence of medical personnel in the diagnosis process, medical procedures that are not in accordance with standards, and medication



administration errors that are fatal to patients. In some cases, the dispute resolution process not only involves individual medical personnel, but also involves hospitals as institutions that provide these health care facilities and systems (Herningtyas et al., 2025). This condition shows that medical malpractice is not always a sole fault of the individual, but can also be related to the hospital management, supervision, and governance system.

From a criminal law perspective, liability for medical malpractice is a complex issue because it is related to proving the elements of error, negligence, and the causal relationship between medical actions and losses suffered by patients. In the Indonesian legal system, the provisions regarding criminal liability in malpractice cases are often associated with the provisions regarding negligence causing injury or death as stipulated in the Criminal Code (KUHP). However, in practice, there is often a debate about whether criminal liability is only imposed on individual medical personnel or can also be imposed on hospitals as institutions (Wijaya & Irhamdesetya, 2025).

In addition, the development of health regulations in Indonesia, including through Law Number 17 of 2023 concerning Health, further emphasizes the importance of legal protection for patients and the regulation of the responsibilities of medical personnel and health service institutions. This regulation places hospitals as an important part of the healthcare system that is responsible for the quality of service and patient safety. Thus, when medical malpractice occurs, hospitals can be held legally liable through certain mechanisms, including through the concept of vicarious liability or responsibility for the actions of medical personnel working under the supervision of the institution (Sari & Udiana, 2025).

A number of previous studies have discussed legal liability in medical malpractice cases, both from the perspective of civil law and health law in general. Several studies emphasize the importance of legal protection for patients as well as mechanisms for resolving medical disputes through litigation and non-litigation channels (Dwike et al., 2025). Other research also examines the legal relationship between doctors and patients and the professional responsibilities of medical personnel in providing health services (Arrisman & Widjaja, 2025). However, most of the research still focuses on the individual responsibilities of medical personnel, while studies on the criminal liability of hospitals as institutions are still relatively limited.

In addition, some studies use a normative or doctrinal approach in analyzing applicable laws and regulations. This approach is important for understanding the legal framework that governs medical malpractice, but it often does not describe in depth how hospital liability practices are applied in real cases as well as how experiences and dynamics occur in the resolution of malpractice cases in the field (Amiati et al., 2024). Therefore, a qualitative research approach is needed that is able to delve deeper into the process, experience, and perspectives of the parties involved in medical malpractice cases.

Based on this description, this study aims to analyze "Hospital Responsibility for Medical Malpractice in the Perspective of Indonesian Criminal Law". The focus of the research is directed at how the concept of hospital criminal liability is applied in cases of medical malpractice, as well as how the relationship between the individual responsibility of medical personnel and the responsibility of hospital institutions in the Indonesian criminal law system. This research also seeks to examine the dynamics of the application of legal norms that regulate the responsibility of hospitals in the practice of resolving medical disputes.

2. RESEARCH METHOD

The methodology of this research uses a qualitative approach with a *case study design* that was chosen because it is able to provide an in-depth understanding of the practice and dynamics of hospital accountability for medical malpractice from the perspective of Indonesian criminal law, especially related to how legal norms are applied in health institutional practice (Ahmad & Kamri, 2025). The research was carried out in several hospitals and law enforcement institutions in Indonesia during the January-June 2025 period. The research subjects consisted of informants selected by *purposive*



sampling, namely individuals who have direct knowledge and experience related to the issue of medical malpractice, such as doctors, hospital management, health law practitioners, and law enforcement officials. The data collection technique was carried out through semi-structured interviews to explore the experiences and views of informants in depth, limited observation of administrative or procedural practices in hospitals against laws and regulations, court decisions, and internal hospital policy documents.

3. RESULT AND DISCUSSION

Based on the results of data analysis obtained through in-depth interviews with legal practitioners, medical personnel, and hospital managers, coupled with a review of legal documents and related literature, this study found several main themes that illustrate how the concept of hospital criminal liability in medical malpractice cases is understood and applied in the Indonesian criminal law system. The findings suggest a complex relationship between the individual responsibilities of medical personnel and the responsibilities of hospital institutions.

1. The Dominance of Individual Accountability of Medical Personnel in Law Enforcement Practice

The first findings show that in criminal law enforcement practices in Indonesia, accountability for alleged medical malpractice is more often directed to individual medical personnel, especially doctors, than to hospital institutions. From the results of an interview with one of the health law practitioners, it was revealed that law enforcement officials tend to focus investigations on the professional mistakes of individual medical personnel because they are considered as direct perpetrators in medical actions.

An informant who is a Health Advocate stated:

"In many cases, doctors are always the first party to be held criminally accountable. Hospitals are often only seen as the place where events occur, not as subjects who have direct legal responsibility."

This shows that the construction of criminal liability is still dominated by *the Individual liability* approach, where mistakes are seen as personal actions of medical personnel.

a. The Role of Hospital Systems and Management in The Occurrence of Malpractice

Although criminal liability is more often directed to individual medical personnel, the results of the study show that hospital system and management factors also have a significant role in the occurrence of alleged medical malpractice. Some informants emphasized that the failure of the health care system, such as the lack of clear standard operating procedures (SOPs), limited medical facilities, or administrative pressure on medical personnel, can contribute to the occurrence of medical errors. A doctor who was a participant in the study revealed:

"Sometimes doctors work in conditions that are not ideal, for example limited equipment or the number of medical personnel that is not proportional to the number of patients. In such a situation, the risk of error is certainly higher."

These findings show that medical malpractice is not always solely caused by individual negligence, but can also be influenced by institutional factors and suboptimal health care systems.

b. Regulatory Ambiguity Regarding Hospital Criminal Liability

The third theme that emerged from the data analysis was the ambiguity in the regulations governing hospital criminal liability. Although various laws and regulations, such as the Law on Hospitals and the Law on Medical Practice, have regulated the obligations of hospital institutions in providing safe and quality health services, the mechanism of criminal liability of hospitals as corporations is not yet fully clear in practice.

One of the criminal law academics interviewed explained:

"Theoretically, hospitals can be held criminally liable as a corporation, but in practice they are still rarely applied because the legal construction is not yet fully operational."



This condition shows that there is a gap between legal norms that recognize the possibility of corporate accountability and law enforcement practices that are still oriented towards individuals.

c. The Relationship Between Individual and Institutional Liabilities

Other findings from this study suggest that the individual responsibilities of medical personnel and the responsibilities of hospital institutions should be understood as interrelated relationships. In some cases, the negligence of medical personnel cannot be separated from the policies of hospital institutions, such as the surveillance system, risk management, and provision of medical facilities.

A hospital manager who was the research informant stated:

"Hospitals have the responsibility to ensure that medical personnel work according to standards and are supported by a good system. If the system is weak, then individual mistakes can also occur."

These findings suggest that a more comprehensive approach is needed to understand liability in cases of medical malpractice, taking into account both individual and institutional aspects.

d. Legal Analysis

The results of this study show that criminal liability in medical malpractice cases in Indonesia is still dominated by *the individual liability* approach, where medical personnel are positioned as the main parties who are held legally accountable. These findings are in line with views in classical criminal law theory that place the individual as the primary subject of criminal liability.

However, the development of modern criminal law theory has expanded the concept of criminal liability to include corporate liability. In the context of health services, hospitals as health service providers have a legal obligation to ensure that the service system runs according to patient safety standards. Therefore, conceptually hospitals can be seen as legal subjects that can also be held criminally liable (Gunawan et al., 2023).

The findings of this study are also in line with several previous studies that showed that in many cases of medical malpractice, health care system factors have a significant contribution to the occurrence of medical errors. Studies in the field of health and patient safety law show that medical errors are often the result of system failure rather than individual negligence.

In this perspective, an approach that places too much emphasis on individual faults has the potential to ignore the structural factors that actually play a role in the occurrence of malpractice events. Therefore, the findings of this study support a more integrative approach, namely by recognizing the relationship between the individual responsibilities of medical personnel and the responsibilities of hospital institutions (Retnowati & Sundari, 2021).

In addition, the regulatory ambiguity found in this study shows that the legal framework governing hospital criminal liability still needs strengthening. Although normatively Indonesian criminal law has recognized the concept of corporate criminal liability, its implementation in the context of health services still faces various obstacles, both in terms of legal interpretation and law enforcement practices.

These findings provide a new perspective that strengthening the concept of hospital criminal liability is not only related to legal aspects, but also to health service governance and risk management systems in hospital institutions. Thus, a more comprehensive approach is needed to ensure that the health care system is able to protect patient safety while providing legal certainty for medical personnel.

In terms of practical implications, the results of this study show the importance of strengthening the hospital's internal supervision system, implementing consistent operational standards of procedures, and improving patient safety culture (Haryadi et al., 2024). These measures can reduce the potential for medical errors while clarifying the division of responsibility between individual medical personnel and hospital institutions.

Theoretically, this study contributes to enriching the study of health criminal law by highlighting the relationship between individual accountability and corporate accountability in the context of health services. This study also shows that the analysis of medical malpractice cases cannot



be carried out solely through the classical criminal law approach, but it is necessary to consider the institutional dimension and the health service system (Putri et al., 2023).

However, this study has limitations, especially in terms of the scope of empirical data which is still limited to a certain number of informants and documents. Therefore, further research is recommended to conduct a broader study, for example with a socio-legal approach or a more comprehensive analysis of court cases, in order to obtain a more in-depth picture of the application of hospital criminal liability in judicial practice in Indonesia.

4. CONCLUSION

This study shows that the concept of hospital criminal liability in the case of medical malpractice in the Indonesian criminal law system is no longer understood narrowly as the individual responsibility of medical personnel alone, but can also involve the liability of hospital institutions as corporations. Hospitals as health service providers have a legal obligation to ensure the implementation of medical services in accordance with professional standards, operational procedure standards, and patient safety principles. In the event of medical malpractice caused by system failure, negligence in supervision, unavailability of adequate facilities, or institutional policies that are not in accordance with health service standards, the hospital can be held criminally liable as a subject of corporate law.

The findings of the study also show that the relationship between the individual responsibilities of medical personnel and the responsibilities of hospital institutions in the Indonesian criminal law system is complementary and does not negate each other. Medical personnel still bear personal responsibility for their professional actions based on professional standards and medical codes of ethics. However, hospitals as institutions can also be held accountable if it is proven that there is a structural or institutional contribution that causes medical malpractice. Thus, criminal liability in medical malpractice cases can be simultaneous, involving individual liability of medical personnel as well as the liability of hospital corporations.

Theoretically, this study enriches the study of corporate criminal liability in the field of health services by emphasizing that hospitals as legal entities have a strategic role in ensuring the quality of medical services and patient safety. In practical terms, these findings confirm the importance of strengthening risk management systems, internal supervision, and compliance with health service standards in the hospital environment to prevent the occurrence of medical malpractice. Meanwhile, from a policy perspective, this study shows the need to strengthen regulations and clearer law enforcement mechanisms related to the criminal liability of hospitals as a corporation, in order to create legal certainty and more effective protection for patients.

Further research is recommended to expand the study through a more in-depth empirical approach to law enforcement practices in medical malpractice cases in various regions, including an analysis of court decisions related to hospital criminal liability. Comparative studies with other countries' legal systems can also be carried out to enrich perspectives on the model of corporate criminal liability in the health service sector. Thus, the understanding of hospital responsibilities in cases of medical malpractice can be more comprehensive and contribute more broadly to the development of health law in Indonesia.

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