

JUSTICE-BASED HEALTH LAW: STUDY OF PROFESSION EQUALITY-BASED JUSTICE ON SOCIAL JUSTICE^Ω

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Abstract

The realization of right to health can be achieved through several different approaches including the establishment of health policies or the implementation of programs established by World Health Organization (WHO), or the adoption of legal instruments. This research is a doctrinal normative law research by reviewing and analyzing library materials or secondary data that examines the values of justice through statutory approach. As a complement, this research also applies case approach, through field study. The discussion uses John Rawls's justice concept with fairness justice to analyze the findings of both research related to the findings of legislation and field findings. As a conclusion, justice-based health law based on profession equality on social justice is materialized through health law that reflects the values of justice, the right of professional equality as well as the value of social justice with the concept of justice as a fairness as an adaptable concept to adapt, so it needs an adaptive health law approach.

Keywords: health law, profession equality, social justice

Abstrak

Perwujudan hak atas kesehatan dapat dicapai melalui beberapa pendekatan yang beragam, misalnya; pembentukan kebijakan-kebijakan kesehatan atau pelaksanaan program-program yang dibentuk oleh *World Health Organization (WHO)*, atau adopsi instrument-instrument hukum. Penelitian ini merupakan penelitian hukum normatif doktrinal, yaitu dengan mengkaji dan menganalisis bahan pustaka atau data sekunder yang meneliti nilai-nilai keadilan melalui pendekatan perundang-undangan (*Statutory approach*). Sebagai pelengkap penelitian ini juga menggunakan pendekatan kasus (*case approach*), melalui melalui studi lapangan. Pembahasan menggunakan konsep keadilan John Rawls dengan keadilan *fairness* untuk menganalisa hasil temuan penelitian baik terkait temuan perundangan maupun temuan lapangan, dengan kesimpulan bahwa hukum kesehatan berbasis keadilan berdasar kesetaraan profesi yang berlandaskan keadilan sosial terwujud dengan hukum kesehatan yang mencerminkan nilai-nilai keadilan, hak kesetaraan profesi serta nilai keadilan sosial dengan konsep keadilan sebagai *fairnes* sebagai konsep yang mampu melakukan adaptasi, sehingga diperlukan pendekatan hukum kesehatan yang adaptif.

Kata Kunci: hukum kesehatan, kesetaraan profesi, keadilan sosial

Introduction

Health terminology is not just a physical matter, as according to the World Health Organization (WHO), health is a state of complete physical, mental and social well-being and not merely the absence of disease of infirmity. Government have responsibility for the health of their people which can be fulfilled only by the provision of adequate health and social measu-

res. The understanding of health according to WHO is adopted in the terminology of health for the State of Indonesia. The understanding is relevant to The International Committee on Economic, Social and Cultural Rights at the 22nd Assembly in Geneva held on 25 April to 12 May 2000, one of which resulted in:

That health is a fundamental and invaluable human right for the realization of other human rights. Everyone is entitled to obtain and enjoy the highest attainable and conducive standard of health to an

^Ω This paper is part of the dissertation in Post Graduate School of Law Muhammadiyah Surakarta University.

equal human life. The realization of the right to health can be achieved through several different approaches, such as; the establishment of health policies or the implementation of programs established by the WHO, or the adoption of legal instruments, in addition to this, the right to health includes some components which may be legally enforceable.

Justice in the development of the health sector can be pursued through various things, including starting with the legal products in the field of health that meet the sense of justice for the community. The understanding of the International Health Law and the Global Health Law has several things in common, including all (legal elements/rules) relating to public health (in general), international environmental law, international human rights and humanitarian law, international trade and labor law, laws relating to arms control and others.¹

In particular, both International Health Law and Global Health Law have some considerable differences including; *first*, the International Health Law is considered a more traditional approach that is absorbed from/refers to rules governing the relationship between countries and between states; *second*, the Global Health Law refers more to the development of international legal frameworks based on the understanding of the world as a community (group of people), not just as a collection of countries or states.²

The Preamble of the 1945 Constitution of the fourth paragraph states; later than that to establish an Indonesian State Government that protects the whole Indonesian nation and to promote the general welfare, educate the life of the nation, and participate in implementing the world order based on independence, eternal peace and social justice, then the Indonesian national independence was composed in a Constitution of Indonesian State, formed in a composition of the Republic of Indonesia sovereignty of the people based on; Believe in the one

supreme God, Just and Civilized Humanity, the Unity of Indonesian, democracy predicated on the inherent wisdom of unanimity arising from deliberation among popular representatives, Social Justice for All Indonesians people.

The issue of the right to health is emphasized in Law Number 36 year 2009 on Health, article 4 which states that everyone has the right to health, as well as in article 5 paragraph (1) Everyone has equal rights in obtaining access to resources in the health field, paragraph (2) Everyone has the right in obtaining safe, qualified and affordable health services, and paragraph (3) Everyone is entitled independently and is responsible for determining his own health services for himself. The focus of the problem in this research is; *first*, how the dimensions of justice in health law; *second*, how the justice-based health law is based on professions equality on social justice.

Research Methods

This research is a normative juridical research by studying and analyzing bibliography or secondary data covering research on the dimension of justice through statutory approach. As a complement to the study materials in this study also used a case approach, through a field study, by obtaining data directly in the field at the time when the realization of normative law was implemented; Through indepth interviews, closed ended questions and open ended questions are done to obtain concrete data from the user community as well as from the health care providers, including the nursing community that carries out Nursing practice whereby the right to obtain nursing practice financing is treated differently (unfairly) by Body of Social Security (Badan Penyelenggara Jaminan Sosial (BPJS) of Health.

The legislative approach is aimed to assess and analyze the dimensions of justice values in health law and to formulate how justice-based health laws based on profession equality on social justice.

¹ Jennifer Prah Ruger, "Normative Foundations of Global Health Law". *Georgetown Law Journal*, Vol. 96 No. 2. 2008. p. 423.

² *Ibid*, p. 423

Discussion

The Dimensions of Justice in Health Law Products

Today many nurses understand the standards and rules of health promotion yet they are not obedient in doing so. This phenomenon is considered by the medical community as a habit that ultimately leads to ineffective health promotion and result in poor health care to the community.³

In health law there is a doctrine, "Res Ipsa Loquitur, where the condition of the validity of the doctrine is that if the incident experienced by the patient and health personnel does not occur as usual. The loss is not caused by a third party and not the victim's fault. The consequence of this doctrine in health law is the imposition of health personnel on the process of proofing how the occurrence of the event is based on applicable standards.⁴

The following is one of the findings of a case of health law as one of the effects of the implications of the application of Law Number 36 Year 2009 on Health. In addition, it shows that there is a lot of negligence of justice values, both from the community as recipients of services and health workers (nurses) as providers of health services.

Kuala Semboja, Kutai Kartanegara, East Kalimantan;⁵ Misran, a nurse and Head of Sub-health Center in Kuala Semboja, Kutai Kartanegara was arrested on March 23, 2009 for alleged violations of Law No. 36 year 2009 on Health. On October 13, 2009 by the State Prosecutor Tenggarong Misran was charged 10 (ten) months in prison and a fine of Rp5,000,000,- (five million rupiah), which until finally decided by the Tenggarong District Court for 3 (three) months in prison and a fine of Rp.2,000,000,- (two million rupiah), subsiding jail for 1 (one)

month imprisonment on November 19, 2009, due to giving inappropriate medicine to the patient. This decision was made on the indictment that Misran as a nurse was found guilty of violating Law Number 36 year 2009 on Health, Article 108 paragraph (1) namely; 'Pharmaceutical practices that include the manufacture, including pharmaceutical quality control, safeguards, procurement, storage and distribution of drugs, prescription drug services, drug information services and drug development, medicinal and traditional medicines should be undertaken by skilled health personnel and appropriate authorities with the provisions of legislation.

The decision of Tenggarong District Court was upheld by the High Court of Samarinda, until the Judicial Review was submitted in connection with Article 108 to the Constitutional Court of the Republic of Indonesia and the Constitutional Court granted the Judicial Review on the petitioner. Considering Article 190 paragraph (1) of Law Number 36 Year 2009 on Health, that in the perspective of rule, Article 190 paragraph (1) which provides a threat of imprisonment or fine to the health care leaders and/or health care workers who perform practice or work on health care facilities who deliberately do not provide first aid to the patient in an emergency is an appropriate provision. The consideration is that the health care leaders and/or health care workers represent the state in the fulfillment of the basic rights of citizens, namely the right to life, to maintain life and life as mentioned in Article 28A of the 1945 Constitution, as well as the right to obtain health services as guaranteed by Article 28 H Paragraph (1) of the 1945 Constitution, the state shall be obliged to respect, protect, and fulfill it as stipulated in Article 28 paragraph (4) of the 1945 Constitution. Health leaders and/or health care workers who intentionally unprovided assistance to patients in an emergency state have deliberately ignored the obligations of the state, thus the Court has the opinion that the provisions of Article 190 paragraph (1) of Law Number 36 Year 2009 on constitutional Health Or specifically is not contradictory to Article 28 H paragraph (1) and Article 28 J Paragraph (1) of the 1945 Constitution.

³ Saryono Hanadi, "Nurse's Compliance on Health Promotion Management System in Nursing Practices". *Jurnal Dinamika Hukum* Vol.17 No. 3, September 2017, p. 250.

⁴ Tedi Sudrajat, "Hak atas Pelayanan dan Perlindungan Kesehatan terhadap Ibu dan Anak". *Jurnal Dinamika Hukum* Vol. 12 No. 2, Mei 2012, p. 269.

⁵ Decision of the Constitutional Court Number 12/PUU-VIII/2010.

The provisions of Article 108 paragraph (1) of Law Number 36 Year 2009 on Health, including Article 190 paragraph (1) of Law Number 36 Year 2009 on Health poses a dilemma; on one hand, the provisions of Article 108 paragraph (1) including the explanation which provides limited authority to health workers including pharmaceutical personnel, in relation to pharmaceutical practices, whereas the provisions of Article 190 paragraph (1) of the same law are stated if they deliberately do not provide assistance to patients who are in emergency situations shall be subject to crime imprisonment of maximum 2 (two) years and a fine of not more than Rp.200,000,000,- (two hundred million rupiahs), even in Article 190 paragraph (2) if in the case of the acts as referred to in paragraph (1) resulting in the occurrence of disability or death, the head of the health service facility and/or health worker shall be liable to a maximum imprisonment of 10 (ten) years and a maximum fine of Rp1,000,000,000,- (one billion rupiah). This clearly hurts the sense of justice for health workers, especially nurses.

The Constitutional Court has the opinion that in the perspective of rule, Article 108 paragraph (1) of Law Number 36 Year 2009 on Health stating that the manufacture and processing of traditional drugs and drugs should be undertaken by pharmaceutical personnel, there is no question of constitutionality, except the phrase '... must be performed by a health worker who has the expertise and authority in accordance with the laws and regulations in which they are pharmaceutical personnel in accordance with their expertise and authority, which in the case of no pharmaceutical personnel, certain health workers can perform limited pharmaceutical practices, such as doctors and/or dentists, midwives, and nurses conducted in accordance with the laws and regulations. The provision, if being associated with Article 190 paragraph (1) of Law Number 36 Year 2009 which provides a threat of imprisonment or fines against the health care leaders and/or health workers who practice or work on health facilities that intentionally unprovided first aid to the patient in an emergency becomes a mat-

ter of constitutionality when it is associated with the condition of Indonesia in certain areas.

Such rules are appropriate and fair when health-care facilities are met with infra structure, and adequate human resources are available throughout Indonesia, in the sense that all types of competence and professionalism required by the requirements of good health facilities exist. Real conditions indicate that existing health facilities are very difficult. This is due to various factors; the size and width of the territory of Indonesia, so that there are still many remote and disadvantaged areas, the difficulties of terrain due to topographical problems, the financial capacity for infrastructure development, the limited number of human resources in the field of health with various specializations, etc. Thus it all becomes a sentence '... shall be performed by a health worker who has the expertise and authority in accordance with the laws and regulations of Article 108 paragraph (1) with its explanation when being associated with (juncto) Article 190 paragraph (1) of Law Number 36 Year 2009 on health is inappropriate to apply in all places throughout Indonesia.

The application of judicial review is granted for the part contained in the Decision of the Constitutional Court Number 157 Year 2009, supplementing the State Gazette number 5076 stating; to grant the petition of the petitioners in part; Article 108 paragraph (1) of Law Number 36 Year 2009 concerning Health (State Gazette of the Republic of Indonesia 2009 number 144, supplement to the State Gazette of Indonesia number 5063) throughout the sentence, '... shall be carried out by health personnel with appropriate expertise and authority with laws and regulations contrary to the 1945 Constitution to the extent that it is not understood that the health worker is a pharmaceutical worker, and in the absence of a pharmaceutical health worker, certain health personnel may engage in limited pharmaceutical practice, including doctors and/or dentists, midwives and nurses who perform their duties in an emergency that threatens the safety of the soul and immediate medical action is needed to save the patient.

Explanation of Article 108 Paragraph (1) of Law Number 36 Year 2009 on Health (State Gazette of the Republic of Indonesia number 5063) has no binding legal force.

The impact of the criminal penalty for health personnel in the Health Law that everyone is considered to know the law (*een ieder wordt geacht de wet/het recht te kennen*). Ignorance of the law cannot be the excuse of forgiving or relieving the person of the lawsuit (*ignorantia iuris neminem excusat*/ignorance of the law excuse no man). It appears that there is a dilemma for nurses in remote and difficult areas to provide very limited authority to health workers, in addition to pharmaceutical personnel associated with pharmaceutical practices. While on the other hand there is the threat of criminal sanctions imprisonment or fines if they deliberately do not provide assistance to patients who are in an emergency resulting in legal uncertainty and injustice.⁶

Research on the dimension of fairness in some health law products covering 7 (seven) laws against nurses working in hospitals in the three cities (Batang District, Pekalongan District, Pekalongan City), consisting of 2 (two) government hospitals with 410 nurses (obtained sample of 62 nurses) and 2 (two) private hospitals with 142 nurses (obtained samples of 21 nurses). The results of the study at the government hospital, 54 nurses (87%) stated unfair, 8 nurses (13%) stated fair, whereas in private hospital, 20 nurses (96%) stated unfair and 1 nurse (4%) stated fair.

Related to profession equality, several provisions related to the position of the head of community health center, among others; Regulation of Ministry of Health of the Republik of Indonesia (Permenkes) Number 971 Year 2009, Government Regulation (PP) Number 29 Year 1997, Government Regulation Number 47 Year 2005, and Regulation of Ministry of Health Number 75 Year 2014, broadly stated the same thing, that the position of the head of the com-

munity health center, at least is Bachelor of Health. Researcher obtained field data as follows; Batang District; 24 position of the head of Puskesmas are held by 23 doctors (96%) and 1 position of the head of community Health centers (*Puskesmas*) is held by a nurse (4%), Kabupaten Pekalongan; 27 position of the head of *Puskesmas* are held by 19 doctors (71%), 8 positions of the head of *Puskesmas* are not held by doctors (29%), Pekalongan City; 14 position of the head of *Puskesmas* are held by doctors (100%). The real condition mentioned above at least illustrates that the value of justice in health law is true and tends to occur systematically and comprehensively.

The positive law (as a coercive order) as the law of nature (the non-compelling order) are both the order and the norm system which can only be expressed by thought. The contradiction between reality and norm (in fact and should be), must be understood as a relative contradiction. The emergence of the claim that a positive law is good and bad, probably comes from this relation. A certain positive law, the law of a particular historical community, has just emerged as something good or bad, just or unjust, after being judged by the standards of natural law whose validity is taken for granted.⁷

Health services are not always able to deliver the results expected by the patient. This gap often makes dissatisfaction (feeling unfairly treated) causing health disputes, including disputes in hospitals. Law Number 44 Year 2009 on the Hospital ordered the establishment of the Hospital Supervisory Board. However, the government regulation on the matter is only issued in August 2013 and in its implementation, the Hospital Supervisory Board has not been able to perform its duties because the complaints and mediation procedures have not yet been established by the Central Hospital Supervisory Agency. Law Number 44 Year 2009 on medicine has no synchronization in its arrangement with

⁶ Winda Wijayanti, "Eksistensi Hukum Perawat sebagai Tenaga Kesehatan selain Tenaga Kefarmasian terhadap Hak atas Pelayanan Kesehatan", *Jurnal Dinamika Hukum*, Vol. 13 No. 3, September 2013, p. 516.

⁷ Kelik Wardiono and Khudzaifah Dimiyati, "Basis Epistemologis Paradigma Rasional dalam Ilmu Hukum: Sebuah Deskripsi tentang Asumsi-asumsi Dasar Teori Hukum Murni-Hans Kelsen", *Jurnal Dinamika Hukum*, Vol. 14 No. 3, September 2014, p.382.

Law Number 29 Year 2004.⁸ Abandonment of the above values of justice at least illustrates that it occurs systematically and allows to design deliberately with the inner attitude (*mens rea*) of the regulators to protect certain groups by providing special privileges.

The essence of justice is an assessment of a treatment or action by examining it through norms that, in subjective view, exceed other norms. The law should contain justice, but the law itself is not synonymous with justice because there are norms that do not contain justice.⁹ Jhon Austin defines the law as 'A rule laid down for guidance of an intelligent being by an intelligent being having power of him'. Thus the law is completely separated from justice and is based on ideas about good and bad and based on higher powers too.¹⁰

Rawls states that every individual has equal rights to the most extensive system of fundamental freedoms similar to a system of equal freedom for all. Related to the concept of justice in Rawls's view, some of the findings of the above problems are clearly against to the concept of justice as fairness, in which this justice must meet several conditions, namely; a balanced distribution of rights and obligations; Each person obtains the same benefits and burdens earned through a fair deal; All parties must be in the original position; Neutral and able to guarantee the interests of all parties.

Justice-based Health Law Based on Profession Equality on Social Justice

Legal protection of health services especially for the poor is directed to apply a comprehensive, integrated, equitable, acceptable and affordable principle. Observing the sorting in the arrangement, there are 3 (three) classifications in applying legal protection and health

services covering the regulation of the essence of health development, funding and health service delivery.¹¹

The problem of social justice arises in the circumstances that John Rawls calls 'circumstances of justice', where social cooperation is needed. The requirement is the need of the principle of justice that regulates the distribution of rights and obligations, benefits and burdens of the results of social cooperation in a fair and equitable to the wider community. Rawls explains in 'Justice as Fairness', that the condition of justice as a historical reflection in which modern society exists. This condition can be categorized into two; objective and subjective. The main subject of the principle of social justice is the basic structure of society namely the order of institutions or major social institutions in a cooperation scheme. The institution in question here is a collection of organized individuals.¹² The reason why John Rawls placed the basic structure as the main subject of social justice is because there is already a variety of social positions in society's structures. Man is born with a different position of hope and partly determined by the political system, social and economic conditions. It means here that social institutions and social conditions affect the rights of people's obligations, as well as to differentiate people's expectations. In other words, the main institutions of society becomes one of the triggers of inequality, from the starting point of luck to the other and misfortune for others.

Equity is implemented as equality. Equality is the attitude of recognizing equality, equality of rights, and equality of obligations. Related to the health profession, the physician-nurse-pharmacist-midwife-health analyst-nutritionist- radiographer-physiotherapist and others are equal, that is to feel equal to each other for the same purpose, the safety of the recipient of

⁸ Nayla Alawiya, et.al, "Hospital Supervisory Board Role in Medical Dispute Settlement in Hospital". *Jurnal Dinamika Hukum*. Vol. 15 No. 3 September 2015, p. 265.

⁹ Tata Wjayanta, "Asas Kepastian Hukum, Keadilan dan Kemanfaatan dalam Kaitannya dengan Putusan Kepailitan Pengadilan Niaga" *Jurnal Dinamika Hukum*, Vol. 14 No. 2, May 2014, p. 221

¹⁰ Khudzafah Dimiyati, 2010, *Teorisasi Hukum: Studi tentang Perkembangan Pemikiran Hukum*, Yogyakarta: Gentha Publishing, p. 71.

¹¹ Sri Hartini, Tedi Sudrajat and Rahadi Wasi Bintoro, "Model Perindungan Hukum terhadap Kebijakan Pelayanan Kesehatan Masyarakat Miskin di Kabupaten Banyumas". *Jurnal Dinamika Hukum*, Vol. 12 No. 3, September 2012, p. 523.

¹² Thomas Poge, 2008, *John Rawls : His Life and Theory of Justice*, New York: Oxford University, p. 28.

health services (patient). There is no superior-inferior, superiors-subordinate, most important-unimportant, special-ordinary relationship. The occurrence of injury to the principle of partnership will certainly harm the quality of service received by patients. As a result, patients become the victims of principle of equality negligence in the profession as a result of dissatisfaction by injustice between the health professions.

John Rawls's social justice principle is not directly related to so many social practices, but the principle is applied to the major social institutions that support social structures like political constitutions, economic principles and social order. The principle of social justice regulates how primary social institutions distribute primary values. Primary values include: freedom and opportunity, income and wealth. The point is that the main issues of social justice are; Politics (power), economy (money), and social (status).

Besides as an institution of integration of various interests, according to Parsons system analysis, the law should also serve as a means of engineering the desired circumstances or to be achieved. For this purpose, the law not only reinforces patterns but also tries to create new things or relationships. Because the change to be achieved is only possible by designing the decisions to be taken and directing them to the desired objectives.¹³

Justice in the context of health services is to obtain good health services. The government has an obligation to provide facilities and not only limited to the facilities alone but also provides a legal tool in favor of social justice values, which puts the equality of the relationship between Government as health care providers, communities as recipients of health care services and professional communities as health care providers. Health is a system, and it is understood that the system is strongly influenced by various elements, all three (government, service recipient community and professional community) should be synergistic. If one ele-

ment ignored the value of justice, it would affect on the treatment of injustice on other elements.

The principle of expediency for all and the guaranteed right of every inherent as the responsibility of the state to meet the socio economic basic needs of every citizen to achieve a minimum standard of living as the welfare state's minimalist goal. Developmental paradigm or developmental welfare model is a conception of social welfare system based on social justice values. This paradigm is based on a democratic social perspective. In this case the role of government becomes more proactive and is anti-thesis from residual perspective that is more reactive. The government plays a dominant role to the welfare of its citizens. The position of the state should be strengthened within the framework of realizing the welfare, one of which is reinforced by the reflection of fairness value in its health law product. Hence, it is more effective in carrying out its related role as provider and provider of health care facilities and services for its citizens.

When the state is managed in a modern way it will arise the idea of socialism. This idea idealizes the role and responsibility of the larger state to deal with poverty, especially to pay attention to people's welfare. This concept is also called the welfare state, which dreams of the welfare of the people by means of dominance or the enormous role of the state.¹⁴

Synchronization of social justice and welfare state concepts are in harmony with the value of social justice stipulated in Pancasila as the ideological foundation and the 1945 Constitution as the constitutional basis of Indonesia. Welfare is a benchmark for the purpose of the state, also a proof of the fulfillment of a sense of social justice for all Indonesian people. Health law that reflects the value of justice means able to adapt the surrounding variables and this is one element of the successful realization of social welfare. Social justice serves as a basis for health law products, as well as the va-

¹³ Bernard L Tanya, 2011, *Hukum, Etika dan Kekuasaan*, Yogyakarta: Genta Publishing, p.103.

¹⁴ Zulkarnain Ibrahim, "Eksistensi Hukum Pengupahan yang Layak Berdasarkan Keadilan Substantif". *Jurnal Dinamika Hukum* Vol. 13 No. 3, September 2013, p. 525.

lue of justice that must be embedded in it. Justice will be materialized when the value of equality and balance of benefits and burdens are used as the basis for the preparation of health law products. These values of social justice are the foundation for a country to be more effective in realizing the welfare state.

Rawls asserts that in the context of the welfare state as the implementation of social justice, the values of justice must be reflected in each of its legal products. These values indicate that everyone should have equal rights over the most widespread basic freedom, equal freedom for all. Socioeconomic inequalities should be arranged in such a way to benefit the most disadvantaged and all positions and positions open to all.

Laws in the macro context are idealized to integrate other sub-systems such as economics, politics and so on. The welfare state paradigm is used as a guide for tracking norms as well as testing the legal consequences therein.¹⁵ Thus, we arrive at a place where the dominant protective body is obliged to protect all the inhabitants of its territory and claim a monopoly over the whole territory for the legitimate use of power. These are the two conditions needed for the minimal state, and this is how we come to the minimal state.¹⁶ Dominance and dominant claims become constructive in order to realize the welfare state with the notion that substantial values of justice are manifested in every provision in its legal products, including health laws.

The principles and values of justice are effectively accepted by society as regulated parties if the principle is able to guarantee and accommodate the interests of all parties. A prosperous country can be realized as an implementation of social justice as a state goal, one of which is the adaptive health law product, a health law that reflects the values of equality, freedom, equity and solidarity so as to ensure

the social integrity, stability and sustainability of a community activity.

Conclusion

Health law in Indonesia, in fact in some respects reflect the value of justice, but in this study, some provisions that have not fully reflect the values of justice are still found. They are related to the unequal distribution of rights and obligations, the same benefits and burdens to everyone, fair dealings of impartiality procedures, the unwarranted interests of all parties as a legal requirement as a just law.

Justice-based health law based on profession equality on social justice is realized through adaptive health law approach, that is health law based on equality values, freedom, equality and solidarity so that able to adaptation to social condition, economy, geography and culture of society as well as accommodate all interests by considering the right of professional equality and prioritizing the interests of the most disadvantaged people as the manifestation of social justice.

Suggestion

To reflect the value of justice, the health law must fulfill the values that become the realization of justice itself, that is fairness as fairness, so that a fair agreement is needed on all parties as the key of justice which is obtained from impartial procedure, in the process of complying with justice pure procedure, all parties must be in the original position and all parties are not interested and neutral.

To realize justice-based health law based on profession equality on social justice, health law must use adaptive approach by entering condition of justice values with the understanding that health law is not merely a positive norm in legislation or just the judge's decision in concrete, but it should be understood that social behavior and the surrounding factors as empirical variables in interaction is a legal terminology that not only fulfills the full assurance of law but also benefit and justice.

¹⁵ Juli Eka Dila Prasetya and Isharyanto, "Legal Instrumentalism to Law Number 6 Year 2014 on Villages in Welfare State Paradigm". *Jurnal Dinamika Hukum*. Vol. 17 No.3, September 2017, p. 328.

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