

Research Paper

Juridical Review of Delivery Practices Outside the Indonesian Health Service Facilities

Yandi Saputera¹, Fakhrudin Razy¹, Selly Hestiani Sinta¹

¹ Program of Law, Faculty of Humanities, Sari Mulia University. Banjarmasin, Indonesia.

Article History

Received:
20.12.2022

Revised:
29.01.2023

Accepted:
15.02.2023

*Corresponding Author:

Yandi Saputera
Email:
yandi_saputera@yahoo.co.id

This is an open access article,
licensed under: [CC-BY-SA](#)



Abstract: Childbirth is a process that is awaited by all pregnant women who are expected to run smoothly because the delivery process does not always run without obstacles, especially if it is not carried out by health workers and with adequate medical equipment. A delivery may be considered quite dangerous for pregnant women if in practice there are no tools and places that meet labor standards to support the delivery process for pregnant women. This study was made to find out how the legal system in Indonesia regulates the practice of childbirth carried out outside the available health service facilities such as health centers, hospitals, and midwife independent practice facilities. The method in this study is normative legal research, namely by researching library materials by analyzing the arrangements in various statutory provisions and through data contained in several literatures. Based on the discussion and research results that the practice of childbirth carried out outside the health care facility is allowed by taking into account the statutory regulations and policies of the local government.

Keywords: Health Facilities, Juridical Overview, Maternity.



1. Introduction

The factor and importance of health in general is a human right that is guaranteed by the 1945 Constitution, including pregnant women. Health is also one of the supporters of a welfare that must be realized in accordance with the ideals of the Indonesian people. Therefore, every activity in an effort to maintain and improve the degree of public health must be carried out based on non-discriminatory, participatory, protective and sustainable principles, namely for the formation of Indonesia's human resources, increasing the nation's resilience and competitiveness for national development.

Article 28.H and Article 34 paragraph (3) of the 1945 Constitution state that health is a constitutional right of every citizen and it is the government's responsibility to provide health services. In Law Number 36 of 2009 concerning Health states that health is a state of well-being starting from the body, soul, and social that enables everyone to live productively socially and economically. Health is also a guarantee as mandated by the 1945 Constitution in Article 28.H Paragraph (1) of the 1945 Constitution of the Republic of Indonesia emphasizes that "every person has the right to be physically and mentally prosperous, to have a home and to have a good and healthy environment and has the right to obtain health services" [1].

In a delivery' One aspect of the success of public health services can be measured from reproductive health services, which consist of health services before pregnancy, pregnancy, childbirth and the postpartum period, delivery of contraceptive services, and sexual health services. Maternal and infant health is a priority effort in reproductive health services, these efforts are made to achieve optimal health status in health services. Guarantee Health services for mothers are very necessary because the role of mothers in the family is very important in the growth and development of children as the next generation of the nation.

2. Literatur Review

One of the risks in the failure of the delivery process is the death of the mother and baby, therefore there must be an understanding in the community, especially for pregnant women, of the importance of the delivery process which should be carried out in a health service facility available to the community so that a delivery can be guaranteed to run smoothly, as expected by the mother, health workers providing delivery services and the patient's family.

However, in Indonesia, currently there is still a process of giving birth for pregnant women that is still carried out outside health care facilities, therefore this research will discuss about the regulation of birth practices that still occur outside health facilities in Indonesia.

Determination of service standards is carried out through the process of identifying types of services, identifying customers, identifying customer expectations, formulating service vision and missions, analyzing processes and procedures, facilities and infrastructure, time and service costs. Rangkuti stated that "The type of quality used to assess service quality is technical quality, namely the quality of the work of the service delivery itself and service quality, namely the quality of the way the service is delivered" [2].

To ensure that the service process can run consistently, SOP (Standard Operating Procedures) is required. With the existence of SOPs, processing carried out internally in service units can run according to clear references, so that it can run consistently. Quality standards in health services can be measured through health financing, in analyzing cost adequacy can be used analysis of maximum effectiveness criteria, namely after determining the highest cost allowed (usually due to limited funding), programs with the same cost can be compared. Programs that have costs that are greater than the set ceiling are excluded, while programs that match the set cost level with maximum effectiveness will be recommended [3]. Then in connection with the above stated in the Regulation concerning health service quality standards in Article 55 of Law Number 36 of 2009 concerning Health confirms that "The government is obliged to establish health service quality standards. Health service quality standards as referred to in paragraph (1) are regulated by Government Regulation" [4].

Childbirth is the process of expulsion or birth of products of conception that can live outside the uterus throughvaginato the world. This process can be said to be normal or spontaneous if the baby is born in a position behind the head and takes place without the help of tools or help, and does not injure the mother and baby. In general, this process takes less than 24 hours [5].

3. Methodology

This research is a normative legal research that focuses its study by viewing law as a complete system which includes a set of principles, norms, and legal rules, both written and unwritten.

The approach used in this study are [6]:

1. Legislative Approach which is carried out by reviewing all laws and regulations related to the Protection of Indonesian Women Workers Abroad.
2. The conceptual approach, carried out by examining certain theories, principles and definitions used as the basis for the Protection of Indonesian Women Workers Abroad.

The technique of collecting legal materials used in this research is through library research that examines relevant laws and regulations, books or reading materials and scientific works of legal experts. The analysis used is qualitative analysis which provides a descriptive description of the problems discussed.

4. Finding and Discussion

Service standards in the world of health, especially in Indonesia, have a very important meaning in public services. Service standard is a commitment of service providers in the health sector to provide services with good quality values for the community which is determined on the basis of a combination of community expectations and the ability of service providers to realize good service in every health facility.

Based on Article 16 of Law Number 61 of 2014 concerning Reproductive Health confirms that:

1. Every mother has the right to a safe and quality delivery.
2. Safe and quality delivery includes infection prevention, monitoring and early detection of risk factors and complications, delivery assistance according to standards, carrying out early initiation of breastfeeding in accordance with statutory provisions, and referring cases that cannot be handled to more capable health care facilities and on time.
3. Delivery as referred to in paragraph (2) is carried out by health workers who have competence and authority in health care facilities.
4. In the event that the health service facility referred to in paragraph (3) cannot be reached, delivery can be carried out by a health worker outside the health service facility [7].

Laws are regulations or customs that are considered legally binding, which are confirmed by the ruler or government. Law is also interpreted as laws, regulations, and so on to regulate the social life of society. In addition, the law is interpreted as a benchmark (rules, provisions) regarding certain events (nature and so on) [8].

Delivery services that are in accordance with Indonesian law are also regulated in Article 14 of Minister of Health Regulation Number 97 of 2014 concerning Health Services for Pre-Pregnancy, Pregnancy, Delivery and Postpartum Period, Implementation of Contraception Services, as well as Sexual Health Services confirms that [9]:

1. Delivery must take place in a health care facility
2. Delivery as referred to in paragraph (1) is given to mothers in the form of 5 basic aspects including:
 - a. Make clinical decisions
 - b. Fostering love for mother and love for baby
 - c. Infection prevention
 - d. Recording (medical record) of childbirth care and
 - e. Referral to cases of maternal and newborn complications.
3. The delivery referred to in paragraph (2) is carried out in accordance with the Normal Childbirth Care (APN) standards.

Safe delivery is delivery with less risk of complications, delivery carried out in the right place of delivery, and with the right birth attendants. Delivery services by health personnel cover 5 aspects, namely clinical decision making, caring for mothers who love their babies, infection prevention, registration of delivery care, referrals to cases of complications for mothers and newborns [10].

However, these services cannot be provided optimally when mothers give birth outside health care facilities. Mother's knowledge of the risks of giving birth is the reason for the formation of a mother's behavior in terms of choosing a place of delivery. Mothers who choose to give birth at home are because they do not know that complications can occur during childbirth which cannot be handled properly. Mother's knowledge of safe delivery includes mother's understanding of the selection of

birth attendants, mother's understanding of the availability of medical devices that support healthy and safe delivery and mother's knowledge of the right place to give birth [11].

The reason for choosing a place for delivery by the mother is influenced by the knowledge possessed by the mother, as well as knowledge based on the experience and level of education of the mother. Experience-based knowledge comes from the habits of the local community and the experience of mothers during previous deliveries. Increased knowledge of mothers giving birth can be done in various ways including increasing access to information through classes for pregnant women, posyandu, mass media and health workers where it is very important to bring access to information closer to mothers about the importance of giving birth in health facilities. The better the mother's knowledge of pregnancy and childbirth, the more likely the mother is to use health services [12].

With regard to the cost of childbirth, family income is important in meeting basic needs and secondary needs. Families with good economic status will more easily have their needs met than families with low economic status. Financial preparation is very necessary in preparation for the process of pregnancy, childbirth and the postpartum period and complications that may occur during the delivery process. Family income influences the utilization of health services, in this case the choice of place of delivery [13].

Delivery costs affect the readiness of the mother to give birth, this is related to her income in connection with the costs incurred during delivery, the amount of costs to be incurred, the suitability of costs with expectations and the facilities provided. The cost of delivery is one factor in access to health services. This is the reason for mothers to prefer home as a place of delivery because home births require less money than deliveries in health facilities. They think that giving birth at home can save expenses on delivery costs and delivery fees can be diverted to pay for the services of health workers [14].

However, on the other hand, the cost of giving birth outside a facility is higher than that of giving birth at a health care facility. The cost of giving birth outside a health care facility is double the cost of giving birth at a health care facility. When giving birth at a health care facility and having a health insurance card, the patient does not pay the fee for the facilities and services. This is also the reason for mothers to prefer giving birth at health service facilities because it does not require a fee if using a health insurance card. Family income influences the family in paying for needed health services such as delivery assistance, buying medicine, paying for services, paying for transportation costs to health services and so on.

The family support factor is also important for a pregnant woman who is about to give birth. In the structure of Indonesian society that still adheres to paternalism, the role of the husband as the head of the household is very dominant and will determine the selection of birth attendants. Moral support from husband and family psychologically provides a feeling of security in undergoing the process of pregnancy and childbirth. Pregnant and giving birth women must get the maximum support from the family. This support can be shown in various ways, including providing reassurance to the mother, accompanying her to consult with health workers, helping with some of the mother's work, and even supporting her to get a safe delivery by choosing a place to give birth.

Social and material support has a big influence in determining the selection of helpers and place of delivery. Maternity mothers who receive family support tend to choose health workers and facilities for delivery assistance compared to those who do not receive family support. However, with the empowerment and independence of a woman and increasing the knowledge of a mother about the dangers and complications of childbirth, a woman can independently make good decisions for her health, especially in choosing a place for delivery.

On the other hand, access to health service facilities with very diverse geographic situations and conditions is a considerable challenge in the provision of health services evenly throughout Indonesia. Without access that is easy and inexpensive to reach, it will certainly make it difficult for people, especially people with low incomes, to obtain health services. For those who live in urban areas who have complete health facilities, both hospitals and clinics, they can easily get health services, but for those who live in rural areas, with limited facilities, not all people are able to reach health service facilities, including when they want to give birth.

Faster travel time will make it easier to reach health services, because judging from the time needed, it will be shorter, even if the distance is very close, of course, no transportation is needed. Transportation is needed when accessing health care facilities. The limited amount of transportation can result in mothers not being able to reach health service facilities when they want to give birth.

In addition to limited transportation facilities, transportation costs are also a factor influencing the decision to reach health care facilities. Transportation costs depend on the distance traveled on the way to health care facilities. Factors of transportation equipment and facilities are factors that enable and support health services. Transportation facilities will make it easier for people to reach health facilities. If these health facilities are easily accessible by available means of transportation, then these health facilities will be widely used by the community.

The age of the pregnant woman at the time of delivery is also very influential. In general, women who give birth at ages that are too young or too old have a high risk of complications during childbirth. The safest age for a mother to give birth is 20-35 years because at the age of 20, the uterus and other parts of the body are ready to accept pregnancy and at that age the woman is ready to become a mother. Pregnancy that occurs at too early age, i.e. less than 20 years of age and too old, i.e. more than 35 years, is at high risk [15].

Pregnancy at a young age will be more at risk with complications during delivery, the baby to be born will be more difficult to pass through the diameter of the mother's pelvic cavity which is not optimal. Too old age in pregnancy is also at risk of complications during delivery, such as bleeding. This has resulted in women who are pregnant too young or too old to be pressured to give birth in health care facilities and assisted by midwives or doctors.

The aspects of the laws and regulations relating to childbirth are also included in the Regulation of the Minister of Health: Permenkes No. 97 of 2014 Article 14 paragraph (1) which reads that childbirth must be carried out at a health care facility (Fasyankes), however, this does not mean that there is a prohibition on midwives from carrying out deliveries outside of the Fasyankes. Midwives can give birth outside the Health Facility if it is difficult for residents to reach the Health Facility, this is as stipulated in Government Regulation No. 61 of 2014 article 16 number 4.

Provisions that require delivery to take place in a health care facility are local government policies in maintaining maternal health and reducing maternal mortality. In addition to exceptions under certain conditions, it can be done outside the Health Facilities.

In Article 14 paragraph (2) and paragraph (3) it is explained that there are 5 basic aspects in childbirth which are part of the Normal Childbirth Care standard (APN), namely:

1. making clinical decisions
2. loving mother and baby care,
3. infection prevention,
4. recording (medical record) delivery care,
5. Referral to cases of maternal and newborn complications.

All of these aspects can only be done at Health Facilities. However, the stipulation that deliveries must take place at a Health Facility does not prohibit health workers who have the competence and authority to perform deliveries to assist deliveries outside the Health Facility, so that this is in line with the provisions of Article 16 paragraph (4) PP No. 61 of 2014 concerning Reproductive Health.

In Article 16 PP No. 61 of 2014 concerning Reproductive Health some of them stated:

1. Every mother has the right to safe and quality childbirth.
2. Safe and quality delivery as referred to in paragraph (1) includes:
 - a. infection prevention
 - b. monitoring and early detection of risk factors and complications;
 - c. standard delivery assistance;
 - d. carry out early initiation of breastfeeding in accordance with the provisions of laws and regulations; and
 - e. refer cases that cannot be handled to health care facilities that are more capable and timely.
3. Delivery as referred to in paragraph (2) is carried out by health workers who have competence and authority in health care facilities.
4. In the event that the health service facilities referred to in paragraph (3) cannot be reached, delivery can be performed by health workers outside health care facilities.

5. Conclusion

Based on From the results of the discussion above, the authors can conclude that choosing a place to give birth for pregnant women is the right of pregnant women to choose it, although it is still found

that pregnant women carry out the delivery process outside health service facilities due to several factors including the level of knowledge of pregnant women about the risk of deliveries carried out outside of health care facilities, then also because of an emergency situation so that the patient does not have time to go to a health care facility.

Juridically, the laws and regulations regarding childbirth outside health service facilities are not specifically regulated, which means that if there is a birth process outside a health service facility, there are no sanctions for pregnant women and also for health service workers and this is in line with the provisions in Article 16 paragraph (4) PP No. 61 of 2014.

Based on the results of the discussion and conclusions above, the authors provide suggestions related to the delivery process for pregnant women, namely to related parties, especially the local regional government, to make a socialization program for its citizens related to suggestions for carrying out the process of giving birth to pregnant women or giving birth at the health facility services provided by Government to reduce maternal and infant mortality.

References

- [1] Sekretariat Negara, "The 1945 Constitution of the Republic of Indonesia" [Online]. Available <https://jdih.setneg.go.id/Produk> [Accessed: Dec.12, 2022].
- [2] Z. Arif Fakhruddin, *Indonesian Law in Various Perspectives*. Jakarta: PT Rajagrafindo Persada, 2014.
- [3] W. Dunn, *Introductory Public policy analysis*, Yogyakarta: Gadjah Mada University Press, 2013.
- [4] Sekretariat Negara, "Law Number 36 of 2009 Concerning Health", 2019 [Online]. Available <https://jdih.setneg.go.id/Produk> [Accessed: Dec.12, 2022].
- [5] J. Sondakh. *Midwifery Care for Childbirth & Newborns*. Jakarta: Erlangga, 2013.
- [6] Sugiyono, *Qualitative Quantitative Research Methods and R&D*. Bandung: CV Alfabeta, 2014.
- [7] Sekretariat Negara, "Government Regulation Number 61 of 2014 Reproductive Health", 2014 [Online]. Available <https://jdih.setneg.go.id/Produk> [Accessed: Dec.12, 2022].
- [8] A. S Utama, "Law and Social Dynamics of Society", *International Journal of Law and Public Policy*, vol. 3, no. 2, pp. 107-112, Sept. 2021.
- [9] Sekretariat Negara, "Minister of Health regulation Number 97 of 2014 concerning Health services," 2014 [Online]. Available <https://jdih.setneg.go.id/Produk> [Accessed: Dec.12, 2022].
- [10] Z. Ashhadie, "Aspects of Health Law in Indonesia." Depok, 2017.
- [11] Bustami. *Health Service Quality Assurance & Acceptability*. Jakarta: Erlangga, 2011.
- [12] D. Zulvadi. *Midwifery Ethics & Management*. Yogyakarta: Jaya of Science, 2015.
- [13] E. A. Prasetyawati, *Community Health Sciences for Holistic Midwifery (Integration of Community Oriented KE family Oriented)*. Yogyakarta: Nuha Medika, 2011.
- [14] F. S. Sutarjo. *General Guidelines for Healthy Indonesia with a Family Approach*. Jakarta: Ministry of Health of the Republic of Indonesia. 2016.
- [15] Ministry of Health of the Republic of Indonesia, Aturan Kemenkes Tentang Kelahiran Bayi. [Online] Available: <https://www.kemkes.go.id/article/print/17072400010/-iniaturan-kemenkes-about-childbirth>. [Accessed: Dec.12, 2022].