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PROVIDING HEALTH SERVICES FOR THE PUBLIC IN HOSPITALS BASED ON A JUSTICE THEORY PERSPECTIVE

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Abstract

In the growing medical world, the role of hospitals is very important to support the health of the community. The back and forth of the hospital is largely determined by the success of those who work in the hospital, in this case doctors, nurses and people who are in the place. Aristotle's theory of justice states that justice in addition to general virtues, also justice as a special moral virtue, which relates to human attitudes in certain areas, namely determining good relations between people, and the balance between two parties. The measure of this equilibrium is numerical and proportional similarity. This is because Aristotle understood justice in terms of equality. In numerical similarity, every human being is equated in one unit. For example, everyone is equal before the law. Then proportional equality is to give to each person what is rightfully his, according to his abilities and achievements. The picture of the theory of justice in Aristotle's opinion in health services for the Indonesian people is marked by the existence of various types of health insurance programs presented by the government for the Indonesian people such as Jamsostek, Askes to BPJS, so it is hoped that all levels of society can receive the same health services because these are the rights of citizens and society.

Keywords: Health Services, Hospitals, Justice.

INTRODUCTION

Indonesia is a state of law, a state of law is a country based on law and justice for its citizens. As a state of law, to run a country and the protection of human rights must be based on law. Law is a set of rules that have sanctions if they are violated, which basic rules are regulated in the 1945 Constitution (Siallagan, 2016). This is a guideline for making regulations under it, which means that the laws and regulations under the 1945 Constitution must not conflict with the 1945 Constitution. Man is one

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of God's creatures who always needs various needs to live his life on earth (Asshiddiqie, 2021). These needs will be met, if his physical and psychological condition is healthy. The importance of a healthy physical and psychological condition is very important, so many people try to maintain their health (W. Wibowo et al., 2021).

The success of a country can be seen from the realization of the country's national development goals. One that can be a benchmark for this success is the level of community welfare (Arsyad, 2017). Welfare is the main factor because it is related to a decent life for every community such as the availability of educational facilities and infrastructure to those concerning basic health needs because health problems are the main focus of the government in improving the level of public welfare as written in Article 34 paragraph (3) of the Constitution of the Republic of Indonesia Year 1945 that "The State is responsible for the provision of health service facilities and proper public service facilities" (Widiyaningrum & Agustian, 2023).

In the growing medical world, the role of hospitals is very important to support the health of the community. The back and forth of the hospital is largely determined by the success of those who work in the hospital, in this case doctors, nurses and people who are in the place (Rantung, 2017). From the hospital, it is expected to understand consumers as a whole in order to progress and develop. Health is the primary human need to carry out its functions and roles so as to obtain welfare and become the right of every citizen. Every citizen of Indonesia has the right to get good health and welfare for himself and his family (Grenaldo, 2017). This is stated in Article 28 H of the Constitution of the Republic of Indonesia Year 1945, that: "Everyone has the right to live a prosperous life outwardly and mentally, to live and get a good and healthy living environment, and to get health services, everyone has the right to get facilities and special treatment to get equal opportunities and

benefits in order to achieve equality and justice, Everyone has the right to social security that enables his full development as a useful human being, everyone has the right to private property and these rights must not be arbitrarily taken over by anyone"(Hidayat, 2017).

Health insurance as a basic right is also contained in Article 4 of Law of the Republic of Indonesia Number 36 of 2009 concerning Health "Everyone has the right to health". The government, together with the community in realizing an optimal degree of health for everyone, must continuously pay serious attention to the implementation of health-minded national development, the guarantee of health services, increased professionalism and decentralization in the health sector (Maniagasi, 2021). These activities certainly require adequate health law tools. Adequate health law tools are intended to provide legal certainty and comprehensive protection for both health effort providers and health service recipient communities. Next will be discussed a little about health law in Indonesia (Amanda et al., 2021).

Health law, including the law "lex specialis", protects specifically the duties of health professionals (providers) in human health care programs towards the objectives of the declaration of "health for all" and specifically protection of patients "receivers" to obtain health services (Anzward & Muslaini, 2018). By itself, this health law regulates the rights and obligations of each service provider and service recipient, either as individuals (patients) or community groups (Santoso, 2021).

The Indonesian Health Law Association in its articles of association states "Health law is all legal provisions that are directly related to the maintenance or health services and their application as well as the rights and obligations of both individuals and all levels of society as recipients of health services and from health service providers in all aspects of the organization; means of national or international medical guidelines, law in the field of medicine, jurisprudence and science in the field

of health medicine (Al Khikam, 2022). What is meant by medical law is the part of health law that concerns medical services".

On this occasion, we will discuss the provision of health services for the community based on the perspective of justice theory. As is known that health services are the rights of citizens that must be fulfilled equally by the government. But the fact is that health services cannot necessarily be provided fairly to all groups of society (Tri, 2023). For example, people who have a higher economy will certainly find it easier to get the necessary health services than people who have a lower economic level, even though a disease does not see the person as a person with high or low economic ability (Mulyadi, 2017). This means that the health services provided should be equal and fair. For this reason, efforts are needed to realize one of the goals of the law, namely "justice" for the community with the necessary health services (Adiyanta, 2020).

RESEARCH METHOD

Research is a process, which is a series of steps carried out in a planned and systematic manner to obtain problem solving or answers to certain questions (Lubis, 2018). A study cannot be said to be research if it does not have a research method because the purpose of research is to reveal a truth systematically, methodologically and consistently A study cannot be said to be research if it does not have a research method because the purpose of research is to reveal a truth systematically, methodologically and consistently (Ismayani, 2019). According to Sugiyono, research methods are scientific ways to obtain valid data with the aim of being found, developed and proven a certain knowledge so that in turn it can be used to understand, solve and anticipate problems (Darna & Herlina, 2018). The type of research in this study is normative law, namely legal research that puts the law as a

norm system building. The norm system in question is about the principles of norms, rules of laws and regulations, court decisions, agreements and doctrines (teachings) (Dharma, 2022). The approach used in this study is the statute approach. This research is descriptive, to obtain a comprehensive and systematic overview and describe existing circumstances or facts. The data collection technique used in this study is literature research (Suryantoro & Kusdyana, 2020).

RESULTS, DISCUSSION AND ANALYSIS

A. Healthcare Delivery in Indonesia

Health is one of the basic human needs in addition to food and shelter, without a healthy life, human life becomes meaningless, because in a state of illness humans may not be able to carry out daily activities properly. In addition, people who are sick (patients) who cannot cure their own disease, there is no other choice but to ask for help from health workers who can cure the disease and these health workers will do what is known as health efforts by providing health services (Akbar, 2018).

As stipulated in Law Number 36 of 2009 concerning Health in Article 1 Number (11) of General Provisions which reads: "Health Efforts are any activities and/or series of activities carried out in an integrated, integrated, and sustainable manner to maintain and improve the degree of public health in the form of disease prevention, health improvement, disease treatment, and health recovery by the government and/or the community". Then in Article 4 of Law Number 36 of 2009 concerning Health, it is explained that "everyone has the right to health". The right to health referred to in this article is the right to obtain health services from health care facilities in order to realize the highest possible degree of health. Article 5 Paragraphs (1) and (2) of Law Number 36 of 2009 concerning Health explains that:

1. Everyone has equal rights to access health resources.
2. Everyone has the right to safe, quality, and affordable health services.

In the General Provisions in the Health Law, it is not clearly stated about Health Services, but it is reflected in Article 1 of the General Provisions Paragraph (11) that health efforts are any activities and / or series of activities carried out in order to benefit health in the community. Although it is not clearly described about health services, we can understand it through the understandings put forward by scholars as follows: According to Levey and Loomba, Health Care is an effort organized alone or jointly within an organization to maintain and improve health, prevent, and cure disease and restore the health of individuals, families, groups, or communities. So health services are sub-systems of health services whose main objectives are promotive (maintaining and improving health), preventive (prevention), curative (healing), and rehabilitation (recovery) of individual, family, group or community health and the environment. What is meant by sub system here is the sub system in health services is input, process, output, impact, feedback (Salad, 2020).

In line with what was stated by Levey and Loomba, Hendrojono Soewono also mentioned that what is meant by health services is any effort either organized alone or together in an organization to improve and maintain health, prevent disease, treat disease and restore health aimed at individuals, groups / communities (Nasar & Kebudayaan, 2022). Similarly, what was stated by Wiku Adisasmito that health services are all forms of activities aimed at improving the degree of a community which includes counseling, health improvement, disease prevention, healing and health recovery activities that are held in an integrated and sustainable manner that are synergistically successful and effective so as to achieve the highest degree of public health (Adisasmito, 2008).

B. Healthcare Delivery in Hospitals Based on Justice Theory

Justice is essentially "Fair" derived from Arabic which means to be in the

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middle, honest, upright, and sincere. In terminological justice means an attitude that is free from discrimination, dishonesty. So a fair person is a person in accordance with legal standards both religious law, positive law (state law), and social law (customary law) apply (Sopian, 2023). Justice according to Aristotle is the worthiness of human action. Feasibility is defined as the midpoint between two extremes that are too many and too few. Both extremes involve two people or things. When two people have the same in a predetermined measure, then everyone must get the same object or result, if not the same, then each person will receive an unequal share, while the proportion of violations that occur is called unfair (Waris & Adinata, n.d.).

Next will be discussed about the theory of justice based on several experts as berikut:

1. The Theory of Justice according to Aristotle

Aristotle in his work entitled *The Ethics of Nichomachea* explains the thinking of his thoughts on justice. For Aristotle, the virtue, that is, obedience to the law (the law of the polis at that time, written and unwritten) was justice. In other words, justice is a virtue and it is general. Theo Huijbers explains justice according to Aristotle in addition to general virtues, also justice as a special moral virtue, which relates to human attitudes in certain areas, namely determining good relations between people, and balance between two parties. The measure of this equilibrium is numerical and proportional similarity. This is because Aristotle understood justice in terms of equality. In numerical similarity, every human being is equated in one unit. For example, everyone is equal before the law. Then proportional equality is to give to each person what is rightfully his, according to his abilities and achievements (Nur, 2023).

Aristotle also distinguished between distributive justice and corrective justice. According to him, distributive justice is justice that applies in public law, which focuses on the distribution, honor of wealth, and other goods obtained by members of

society. Then corrective justice deals with correcting something wrong, compensating the injured party or appropriate punishment for the perpetrator of the crime. So it can be mentioned that compensation and sanctions are corrective justice according to Aristotle (Wijayanto Putri, 2021). The theory of justice according to Aristotle proposed by Theo Huijbers is as follows (Marditi et al., 2023):

- a. Fairness in the division of public office and property. Here applies geometric similarities. For example, a Regent has twice as much importance as the sub-district, so the regent must get twice as much honor as the sub-district. To the same importance is given the same, and to the same importance is given to the unequal.
- b. Fairness in buying and selling. According to him, the price of goods depends on the position of the parties. This is now impossible to accept.
- c. Justice as arithmetical equality in the private as well as the public sphere. If a person steals, then he must be punished, regardless of his position. Now, if an official is found to be legally corrupt, he should be punished regardless of his position.
- d. Justice in the field of legal interpretation. Because the law is general, not covering all concrete issues, the judge must interpret it as if he himself was involved in the concrete event. According to Aristotle, the judge must have *epikeia*, which is "a sense of what is proper".
- e. John Rawls' Theory of Justice

John Rawls defines justice as fairness, in other words, the principles of justice for the basic structure of society are goals and agreements. In justice as fairness, a person's default or basic equality position is related to the state of nature in traditional social contract theory. John Rawls assumes that this default position is not regarded

as a historical condition, let alone as a primitive condition of culture, but is rather understood as a hypothesis characterized by an approximation to a particular conception of fairness (Rangkuti, 2017). John Rawls' argument is rooted in Locke and Rousseau's social contract theory and Imanuel Kant's deontology. Some of his opinions on justice are as follows:

a. Justice is also a result of fair choices. This stems from Rawls' assumption that people in society do not know their true position, do not know their purpose and life plan, and do not know to what society and generation they belong (veil of ignorance). In other words, the individual in society is an obscure entity. Therefore, people then choose the principle of justice.

b. Justice as fairness results in pure procedural justice. In pure procedural justice, there is no standard to determine what is "fair" apart from the procedure itself. Fairness is not seen from the outcome, but from the system (or also the process) itself (Harefa, 2020).

c. Two principles of justice (Asis, 2023):

1) the principle of greatest equal liberty. This principle includes:

a) Freedom to participate in political life (right to vote, right to stand for election);

b) Freedom of speech (including freedom of the press);

c) Freedom of belief (including religious belief);

d) Freedom to be oneself (person)

e) The right to retain private property.

This second principle consists of two parts, the difference principle and the principle of fair equality of opportunity (Fattah, 2013). The essence of the first

principle is that social and economic differences should be organised so as to benefit those who are most disadvantaged the most (M. K. B. Wibowo, 2018). The term socio-economic differences in the difference principle refers to inequalities in one's prospects for the basic elements of well-being, income and authority. While the term most disadvantaged (least favoured) refers to those who have the least chance of achieving the prospects of welfare, income and authority (Syibly, 2015). Thus the principle of difference according to which the basic structure of society is organised is such that disparities in the prospects of attaining the essentials of welfare, income and authority are reserved for the benefit of the least advantaged.

1. Thomas Hobbes' Theory of Justice

According to Thomas Hobbes, justice is an act that can be said to be fair if it is based on an agreed agreement. From this statement, it can be concluded that justice or a sense of justice can only be achieved when there is an agreement between the two parties who promise. Agreement here is interpreted in a broad form not only limited to the agreement of two parties who are entering into a business contract, lease, and others. But the agreement here is also an agreement on the verdict between the judge and the defendant, laws and regulations that do not favour one party but prioritise the interests and welfare of the public (Mandelly, 2023).

2. Roscoe Pound's Theory of Justice

Roscoe Pound sees justice in the concrete results it can give to society. He saw that the result should be the satisfaction of as many human needs as possible at the least sacrifice. Pound himself said that he was pleased to see "the more widespread recognition and satisfaction of human needs, demands or desires through social control; the more widespread and effective guarantee of social interests; an endeavour to eliminate persistent and increasingly effective waste and avoid conflicts between people in the enjoyment of resources, in short, the more effective social engineering".

Based on the opinions of several experts above, the author is interested in Aristotle's theory of justice which states that justice is in addition to general virtues, as well as justice as a special moral virtue, which relates to human attitudes in certain fields, namely determining good relations between people, and balance between two parties. The measure of this balance is numerical and proportional equality. This is because Aristotle understood justice in terms of equality. In numerical equality, every human being is equalised in one unit. For example, all people are equal before the law. Then proportional equality is giving each person what he is entitled to, according to his abilities and achievements. If it is related to the provision of health services for the community, it is necessary to have a structured system that is formed so that all people get equitable health services (Wijayanto Putri, 2021).

The implementation of social security programmes is one of the responsibilities and obligations of the state to provide socio-economic protection to the community in accordance with the state's financial capacity. So far, Indonesia and other developing countries are still developing social security programmes based on funded social security, namely social security funded by participants and still limited to workers in the formal sector (Erfina, 2021). To implement the realisation of health for its citizens, the government needs to make further regulations regarding health insurance. This effort has been made by the government, one of which is the issuance of Law of the Republic of Indonesia Number 40 of 2004 concerning the National Social Security System.

Article 19 paragraphs (1) and (2) of Law of the Republic of Indonesia Number 40 of 2004 on the National Social Security System, states that:

1. health insurance is organised nationally based on the principle of social insurance and the principle of equity.
2. Health insurance is organised with the aim of ensuring that participants

obtain health care benefits and protection in meeting basic health needs.

Article 5 paragraph (3) of Law of the Republic of Indonesia Number 40 of 2004 concerning the National Social Security System, concerning the Social Security Organising Agency, consists of:

1. Company (Persero) of Labour Social Security (JAMSOSTEK);
2. Public Employee Savings and Insurance Fund (TASPEN);
3. The Armed Forces of the Republic of Indonesia Social Insurance Company (ASABRI);
4. Indonesian Health Insurance Company (ASKES).

As time went by, the government again made Law of the Republic of Indonesia Number 24 of 2011 concerning the Social Security Organising Agency (BPJS). With the enactment of Law of the Republic of Indonesia Number 24 of 2011 concerning the Social Security Organising Agency (BPJS), all health insurance in Indonesia will be successively transformed into BPJS Health. The transformation resulted in changes in the nature, organs and principles of management, or in other words related to changes in organisational structure and culture, then for all health insurance participants of PT Askeskin (Poor Family Health Insurance) automatically transferred to BPJS Health insurance participants, for those who have not switched to BPJS health, they are free to choose to move or not (Anzward & Muslaini, 2018). Moving in this case is intended to replace the Askes card they have into a BPJS card. The Health Social Security Organising Agency (BPJS) is a Public Legal Entity specifically assigned by the government to organise health care insurance for all Indonesian people, especially for the poor so that with the existence of BPJS health it is hoped that there will be equal distribution of welfare, especially in the health sector, so that all levels of society can access health services easily and not limited due to cost

(Thabrany, 2009). This institution is directly responsible to the President. Article 4 of Law of the Republic of Indonesia Number 24 of 2011 concerning the Social Security Organising Agency (BPJS), the principles of organising the National Social Security System, among others:

1. Mutuality, which is the principle of togetherness among participants in bearing the burden of social security costs, which is realised by the obligation of each participant to pay contributions in accordance with the level of salary, wages or income.
2. Non-profit, which is the principle of business management that prioritises the use of proceeds from fund development to provide maximum benefits for all participants.
3. Openness, namely the principle of facilitating access to complete, correct and clear information for each participant.
4. Prudence, which is the principle of managing funds in a careful, thorough, safe and orderly manner.
5. Accountability, which is the principle of programme implementation and financial management that is accurate and accountable.
6. Portability, which is the principle of providing sustainable guarantees even though participants change jobs or residence within the territory of the Unitary State of the Republic of Indonesia.
7. Compulsory membership, which is the principle that requires the entire population to become participants in social security, which is implemented in stages.
8. Trust fund, i.e. contributions and the proceeds of its development are

entrusted funds from participants to be used to the greatest extent for the benefit of social security participants.

9. The results of the management of social security funds are used entirely for programme development and for the greatest benefit of participants.

CONCLUSION

Based on the description above, it can be concluded that Aristotle's theory of justice states that justice is in addition to general virtues, as well as justice as a special moral virtue, which relates to human attitudes in certain fields, namely determining good relations between people, and balance between two parties. The measure of this balance is numerical and proportional equality. This is because Aristotle understood justice in terms of equality. In numerical equality, every human being is equalised in one unit. For example, all people are equal before the law. Then proportional equality is giving everyone what he is entitled to, according to his abilities and achievements. The illustration of the existence of the theory of justice according to Aristotle's opinion in health services for the people of Indonesia is marked by the existence of various types of health insurance programmes that were presented by the government for the people of Indonesia such as Jamsostek, Askes to BPJS, so it is hoped that all levels of society can receive the same health services because these are the rights of citizens and society.

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