

Legal Protection of Midwives Based on Professional Justice in Midwifery Practices

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Legal Protection of Midwives Based on Professional Justice in Midwifery Practices

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Abstract

Introduction: The authority of a midwife is limited in carrying out health service practices. Midwives in childbirth assistance may only handle physiological labor without complications, and there are some regions that have determined that childbirth must be handled at the Community Health Centers (*puskesmas*) with the midwife of Community Health Centers (*puskesmas*). In Semarang City, there are only 7 public health centers with the *PONED* Community Health Center (Basic Essential Obstetrics Service) which is the place of birth delivery. This is not comparable with the number of births each year totaling 26,337 people. In addition, for family planning services and immunization services, midwives are only allowed to deal with government health care facilities and in carrying out government duties.

Material and Methods: Sampling was done by non-probability sampling technique with snowball technique. The sample used was Respondents determined by snowball sampling technique of a number of respondents 17 people.

Findings: Indicators of professional justice consisted of equal rights and opportunities. Equity rights were obtained which met as much as 25%. And that didn't meet as much as 75%. The same opportunity was obtained which met as much as 40%. And that didn't meet as much as 60%. From the results of an interview with the Head of the Indonesian Midwives Association (*IBI*) Semarang City, it was stated that professional justice in midwifery regulations did not yet exist, because midwifery regulations were still being fought for in the midwifery law. In addition, the results of interviews with the Health Department of Semarang City on professional justice in midwifery regulations stated that there were no equal rights in midwifery regulations.

Conclusion: Legal protection of midwives based on professional justice in midwifery practices based on professional justice must fulfill the conditions reflected in the values of justice, namely having equal opportunities and equal rights. The step to realize professional justice is by understanding that legal protection for midwives is not merely a positive norm in legislation but must be understood that social behavior in interaction is legal terminology that does not only fulfill legal certainty requirements but also benefits and justice as law.

Keywords: *Legal Protection, Midwives, Professional Justice.*

Introduction

The authority of midwives is limited in carrying out health service practices. Midwives in childbirth assistance may only handle physiological labor without complications, and there are some regions that have determined that childbirth must be handled at the *puskesmas* with the *puskesmas* midwife. In Semarang City, there are only 7 public health centers with the *PONED* Community Health Center (Basic Essential Obstetrics Service) which is the place of birth delivery. This is not comparable with the number of births each year totaling 26,337 people¹.

The number of independent practice midwives in Central Java in 2016 was 40,000 midwives. Whereas, the number of independent practice midwives in Semarang City in 2016 was 192 midwives. In each Subdistrict, there is only one Community Health Center and that is not yet a *PONED* Community Health Center. So far, independent practice midwives are considered as one of the causes in the high maternal mortality rate and infant mortality rate.

Midwives are demanded for higher education, but in reality, midwifery professional education, midwifery education, midwifery master's education are only available at certain institutions. It is difficult to get the education establishment permit. Even though the number of midwives in Indonesia in 2016 was 448,783 and not all were able to continue their education with the difficulty of institutions that had further education². This is very ironic with midwives as the spearhead in maternal and child health services.

The injustice in the risk of maternal mortality has been inseparable from the increasing issue surrounding most health policy debates. Even so, a law is needed for legal protection of health workers³. The political product of midwives does not yet have a specific law

regulating midwifery. The regulation is only still a regulation of the health minister who has not yet had consistency between the competence and authority of the midwife to realize the professionalism of professional justice-based midwives⁴.

Material and Methods

Sampling was done by means of non-probability sampling technique with snowball technique¹. The samples used were respondents determined by snowball sampling technique of a number of respondents 17 people consisting of the Head of the Indonesian Midwives Association (*IBI*) Semarang City, the Health Department of Semarang City, and the Independent Practice Midwives. The data analysis technique used was the analysis of qualitative data.

Findings

A. Professional Justice

1. Equality of Rights

Table. 1

Frequency Distribution of Respondents' Answers Regarding the Indicator of Justice on Equality of Rights in the Independent Practice of Midwives

The Data on Equality of Rights		
Equality of Rights	Respondents	
	n	%
Fulfilled	4	25
Not fulfilled	11	75
Total	15	100

Source: Primary data processed in 2018

From the data on the frequency distribution of respondents' answers to the equality of rights in the independent practice of midwives, it was found that stated equal rights fulfilled as much as 25%. And those who did not fulfill the midwife's independent practice were 75%. From the results of interviews with the Head of the Indonesian Midwives Association (*IBI*) in Semarang City and with the Health Department of Semarang City, on equality of rights in midwifery regulations stated that there were no equal rights in midwifery regulations⁶.

Equality of rights in the health profession is part of human rights. This is contained in the charter of Medina (*Piagam Madinah*) which is a constitution that was formulated by the Prophet Muhammad which contained human rights. Some of the human rights provisions include: Recognition of the right to life, the right to freedom, equality rights, justice rights⁷. In Law No. 39 of 1999 concerning Human Rights, arrangements regarding human rights are determined based on the United Nations Declaration of Human Rights, United Nations Convention on the Elimination of All Forms of Discrimination against Women, United Nations Convention on the Rights of the Child, and various other international instruments governing human rights⁸.

Human rights to health are recognized in international devices. The Universal Declaration of Human Rights (UDHR), article 5 paragraph 1 states that every human being has sufficient standard of living, for the health of himself and his family, there is no single profession more important than other professions, there is no superior profession and inferior profession⁹.

However, at present, the pressure on midwives is very strong, because of the fewer professional midwives who practice midwifery services. Midwives struggle and mobilize to maintain and strengthen professions that can make an important contribution in the quality of midwifery services for women and children⁹.

Apart from obstacles, midwives continue to try to maintain and strengthen the profession. They sought support for the passing of the midwifery law. An important role needs to be done by midwife professional organizations, whose central axis is the work of keeping midwives engaged and active in professional matters. Organizations are more effective because they become more organized the better, the more likely the action is for their professionals¹¹.

In Law Number 36 of 2009 concerning Health in article 4 paragraph 1 states that everyone has the right to health¹². In Law No. 36 of 2014 concerning Health Workers in article 57 states that health workers in carrying out the right practice¹³ obtaining legal protection as long as carrying out duties in accordance with professional standards.

Minister of Health Regulation Number 28 of 2017 concerning Permission and Implementation of Midwife Practices in article 29 states that in implementing midwifery practices, midwives have the rights¹⁴ obtaining legal protection as long as carrying out its services in accordance with professional standards.

2. Equal Opportunities

Table. 2

Frequency Distribution of Respondents' Answers Regarding the Indicator of Justice about Equal Opportunities in the Independent Practice of Midwives

The Data about equal opportunities		
Equal Opportunity	Respondents	
	n	%
Fulfilled	6	40
Not Fulfilled	9	60
Total	15	100

Source: Primary data processed in 2018

From the data on the frequency distribution of respondents' answers about the same opportunity in the independent practice of midwives, it was found that in an independent practice the midwife stated that the same opportunity fulfilled as much as 40%. And those who did not fulfill the midwife's independent practice were 60%. From the results of interviews with the Head of the Indonesian Midwives Association (*IBI*) in Semarang City and with the Health Department of Semarang City, it was stated that the value of justice in midwifery regulations did not yet exist, because midwifery regulations were still being fought for in the midwifery law.

The same opportunity is someone who has the same opportunity of one individual with the others. Please note that the same opportunity as one whole. That is, the value of an opportunity depends on the specifications of other opportunities and must be considered in preparing the constitution and legislation in general¹⁵.

In the development of health personnel, it essentially has equal opportunities and focuses on career development, namely a continuous process that consists mainly of career planning¹⁶. In the Regulation of the Minister of Health No. 28 of 2017 article 18 concerning authority, the authority of midwives is very limited. It is supposed to be a professional midwife between the competence and authority of midwives arranged in harmony.

According to Hart, being fair and unfair is a form of moral criticism that is more specific than good or bad, it is clear that logically it could be claimed law either because it is fair, or bad because it is unfair, actually it cannot be like that¹⁷. Law is

seen as unfair if the burden of distribution and the benefits of both are discriminated against among people by referring to any characteristics, including the dominant profession ego¹⁸.

B. Legal Protection of Midwives Based on Professional Justice

Health is needed for human welfare, providing intrinsic value for comfort and satisfaction. Justice refers to the idea of creating an egalitarian culture or institution, respecting human rights, and recognizing the dignity of every human being¹⁹. Human rights guarantee the most basic rights of all rights possessed by humans solely directed to the interests of the man himself in a narrow sense and by recognizing and respecting the dignity of humanity²⁰.

The emphasis for Rawls is that justice for this equality does not merely distribute primary values fairly, but also how this principle of justice is positioned for cooperation in a well-ordered society. The point is that Rawls accommodates the principle of equality as a basic value of justice. Also accepting inequality²¹.

Professional values of justice not only belong to law enforcers but in carrying out their professionalism, midwives also have a value of justice. Midwives must uphold morals and legal principles, client molarity and integrity²². The principles of justice state that every person has the right to carry out all aspects of his life to the fullest. The injustice of midwives will have a negative impact on women, babies, and families. This gap is not in accordance with the principle of justice²³. Injustice in midwives often occurs. It must close the health gap where all health workers can build consensus and where individuals accept personal responsibility. However, at present, there are always values of injustice in midwives²⁴. In justice there are two indicators of achieving the value of justice, namely equal rights and equal opportunities²⁵.

In midwifery services, the midwife's independent practice must also fulfill the patient's rights. This is a legal relationship between midwives and patients called a therapeutic agreement²⁶. The relationship between the patient and midwife is a business engagement (inspannings verbintenia) that is where in carrying out their duties the midwife strives to cure or restore the patient's health²⁷.

In a relation arising from an agreement, the fulfillment or violation of the points of the agreement can result in a violation of the therapeutic agreement. This right arises from the party being promised a loss in the form of costs that have actually been incurred, losses incurred and expected profits (wintsderving) that were not received due to the breach of the promise²⁸. It is necessary to establish education criteria in accordance with the competence and authority of midwives in midwifery services. In order to avoid midwife discrepancies between authority, competence, regulation and midwife education²⁹. Midwife education professionals will provide quality services for the community. The regulation of midwives is currently not in accordance with the regulations that exist in nursing and medicine³⁰.

Legal protection of midwives based on professional justice in midwifery practice based on professional justice must fulfill the conditions reflected in the values of justice, namely having equal opportunities and equal rights. Everyone has equal opportunities for the broadest basic freedoms, as broad as the same freedom for everyone. Legal protection with professional justice can be realized through hamonious cooperation between the ministries of health, professional organizations, legislators, and related institutions or agencies in synergy by prioritizing the values of justice and respecting the right to professional equality by ignoring sectoral ego interests as a profession. One step to realizing it is by understanding that legal protection for midwives is not merely a positive norm in legislation but must be understood that social behavior in interaction is legal terminology that does not only fulfill legal certainty requirements but also benefits and justice as law.

Conclusion

Indicators of professional justice consisted of equal rights and equal opportunities. Equity rights were obtained which met as much as 25%. And that didn't meet as much as 75%. The same opportunity was obtained which met as much as 40%. And that didn't meet as much as 60%. Legal protection of midwives based on professional justice in midwifery practice based on professional justice must fulfill the conditions reflected in the values of justice, namely having equal opportunities and equal rights. The step to realizing professional justice was by understanding that legal protection for midwives was not merely a positive norm in legislation but must be understood that social behavior in interaction was a legal terminology that did not only fulfill legal certainty requirements but also benefits and justice as law.

Conflict of Interest

There is no

2**Ethical Clearance**

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