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## LEGAL PROTECTION OF MIDWIVES DURING INTRANATAL CARE FOR PATIENTS WITH HIV/ AIDS BASED ON RI LAW NO 4 2019

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### Abstract

The case of HIV/AIDS in Indonesia remains one of the diseases whose transmission continues to increase. The HIV virus can be transmitted from an HIV-infected mother to her child during pregnancy, during delivery and during breastfeeding. Midwives are at high risk of contracting HIV/AIDS during delivery due to contact with blood, vaginal secretions, and other body fluids. The purpose of this study is to understand the legal protection for midwives in the delivery process for patients with HIV/AIDS from a legal perspective. The research method used in this study is normative juridical, descriptive analytical research specifications, using types and sources of secondary data, and normative-qualitative analytical methods. The results show that the form of protection for the field is by implementing the PPIA program, in addition to the completeness of personal protective equipment for midwives, and there needs to be efforts from the government in terms of planning, implementation and improvement.

Keywords: Midwife, HIV/AIDS, Legal Protection

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### Introduction

Every human being has the right to health insurance, as explained in Article 4 of the Health Law Number 36 of 2009 which reads: "Everyone has the right to health". The right to health for all is defined as the equal right to safe, quality and affordable health services as referred to in Article 5 of the Law of the Republic of Indonesia No. 36 of 2009 concerning Health.

Health is the basis for recognizing one's level, without one's health being a conditional inequality. Without health, a person will not be able to use other rights (Indar, 2019: 13)

Health services are influenced by dynamic and complex social, cultural, economic, physical and biological environmental factors. Given how widespread this is, the government will provide health through a national health system that provides comprehensive, integrated, equitable, affordable health that provides optimal health for all.

To achieve optimal health for all, special attention must be paid to implementing health that is oriented towards national development, guaranteeing health services, increasing the professionalism of health service providers, providing health services and decentralizing the health sector. These activities certainly require a complete set of medical law, with the aim of guaranteeing adequate legal certainty and protection for both health service providers and health service providers, health and the public who receive health services individually and in society. (Hetty Pangabean, 2018: 7)

The pregnancies and births infected with HIV is increasing every year globally and in Indonesia. the number of people living with HIV/AIDS in 2019 increased from the previous 30 ri, only 15% compared to 2018. According to June 2019 data, the number of people living with HIV/AIDS in Indonesia was 349,883 people. Community-acquired HIV and AIDS cases, especially women of working age, tend to increase and become a potential threat to public health in Indonesia, which can have a negative and broad impact on the nation's resilience. HIV infection in pregnant women can be life-threatening for the mother, who can pass the virus to her baby. More than 90% of HIV infections in children are transmitted through mother-to-child transmission (MTCT). The HIV virus can be transmitted from an HIV-infected mother to her baby during pregnancy, childbirth and breastfeeding.

Midwifery is a very important profession in maternal and child health services. In midwifery services, emergencies can occur which require midwives to maximize their functions and roles. Midwives are one of the health workers who have their own law, namely Law Number 4 of 2019 concerning Midwifery Practices.

Requirement for legal protection for midwives in carrying out their professional functions with pregnant women who are infected with HIV/AIDS, in addition to saving the mother and child, must also protect birth attendants from infection.

Based on descriptions, this research will discuss the legal protection of midwives during childbirth for HIV/AIDS patients in accordance with the Law of the Republic of Indonesia Number 4 of 2019 concerning Midwifery Practices. The purpose of this study was to determine the legal protection of midwives during childbirth for HIV/AIDS patients based on Law Number 4 of 2019 of the Republic of Indonesia concerning Midwifery Practices for Women.

## Research Methods

This research uses a normative juridical approach, because this research is carried out by linking existing laws and regulations as positive legal norms with their implementation in society, in this case what is meant by statutory rules are the laws of the Republic Indonesia No 4 of 2019 Concerning Midwifery.

The data used in this study are primary and secondary data which are qualitative in nature, so the method used is library research. The data analysis used is qualitative data analysis with a normative juridical approach. Normative juridical research discusses 22 doctrines or principles in the science of law. The data obtained is then arranged qualitatively to achieve clarity on the issues discussed by not describing formulas or statistical data.

## Discussion

1. Legal Protection for Midwives in the Delivery Assistance Process for Patients with HIV/AIDS in terms of the Law of the Republic of Indonesia Number 4 of 2019 concerning Midwifery

Midwives are one of the frontline health service providers who in carrying out their duties can be at risk of contracting disease from the patients they help. Nursalam). With the increase in HIV/AIDS cases among housewives, midwives are a group at high risk of infection, because the majority of midwives' patients are housewives who mainly have their health checked, especially midwives assisted by midwives. (Tietjin, Linda: 2004)

Midwives have a risk of transmitting HIV through various means, such as needles or other sharp tools contaminated with the blood of an HIV- infected person, open wounds that come in contact with the blood of an HIV- infected person, and vaginal mucous membranes. eyes or nose with HIV blood. HIV, especially during labour. Transmission of HIV to midwives during delivery carries a higher risk than surgery performed by a doctor. Therefore, midwives must protect themselves from the outset when assisting all patients they treat, even if the risk of occupational injury from exposure is always a risk to themselves as nurses, nurses and medical staff.

Because these risks may have legally protected interests, the benefits are individual or collective claims that are expected to be satisfied. Basically interest contains a power that must be guaranteed and protected by law in its implementation. All rights have four components. Legal entity, legal purpose, legal relationship that binds other parties with their obligations, and legal protection.

In the Regulation of the Minister of Health Number 21 of 2013 concerning HIV/AIDS Control, this regulation includes the PMTCT program, which in its articles includes Regulations:

Article 16 :

Prevention of HIV transmission from mother to child is carried out through four activities, including:

- a. Prevention of HIV transmission in women of childbearing age
- b. Prevention of unplanned pregnancy in women living with HIV
- c. Prevent HIV transmission from pregnant women living with HIV to the fetus.
- d. to provide psychological, social and nursing support to mothers living with HIV and their children and families Article 35 :

1. For pregnant women who confirm pregnancy, health promotion and prevention of HIV infection must be carried out.
2. Prevention of HIV transmission to pregnant women as referred to in paragraph 1 is carried out by means of HIV diagnostic tests with tests and advice.
3. Examination and examination in accordance with paragraph (2) are recommended during or as part of a routine pregnancy examination.

The 2010 Indonesian Health Records show that the majority of support for normal delivery in Indonesia is still provided by midwives, namely 71.40%, with efforts to tackle HIV/AIDS through existing laws and regulations, as well as the potential for successful HIV prevention, especially through HIV prevention programs. PMTCT in Indonesia should be closely related to assisted reproductive services provided by midwives and midwives and can be used as a guideline for midwives to protect themselves when giving birth to patients, including HIV/AIDS positive patients.

Providing care, treatment and support for health workers infected or exposed to HIV/AIDS can minimize the loss and disconnection of a qualified and experienced workforce. We also respect the rights of workers to work as much as possible, uphold their opinions and help contribute to their well-being. Where possible, employers should seek comprehensive care, treatment and support services, including special arrangements for sick workers or workers with sick families, with general social protection mechanisms. The key element of this program is Voluntary Counseling and Testing (VCT)

Regulation of the Minister of Health of the Republic of Indonesia Number 66 of 2016 concerning Occupational Health and Safety in Hospitals regulates health and safety guarantees for patient employees in their performance. of their obligations. Work. Each company must comply with these regulations in accordance with applicable law. Midwives acting in an independent function of maternity services under their jurisdiction are not as protected as the Labor Health Law mentioned above. Related to the independent function of midwifery, within the framework of human resources for health service providers, including HIV, laws and regulations form the basis of policy for every human resource in Indonesia. Problems in the world of work require integrated and coherent policies to build the necessary infrastructure, human and technical capacities.

However, based on the results of an interview with a midwife at a maternity hospital in the city of Bandung, it turns out that there are still obstacles to getting the right PPE for every employee, including midwives. There he is. The lack of PPE availability is certainly one of the factors that can increase the risk of transmission by midwives from HIV/AIDS positive patients during assisted deliveries. 52 of 2018 related to occupational health and safety in health facility services Article 7 paragraph (3) The application of standard precautions as referred to in paragraph (1) letter b is carried out by using personal protective equipment (PPE). This means that the regulation also stipulates that the use of PPE is an important point in fulfilling occupational safety and health standards in health facilities. Given the lack of sensitivity of health workers including midwives to understand the importance of using PPE in providing services to patients, this is one of the obstacles that hinders the application of the Current Rules for optimal surgery

## 2. The Government's Role in the Right to Legal Protection for Midwives in the Delivery Assistance Process for HIV/AIDS Sufferers

Prevention, control and eradication of infectious diseases is a legal responsibility and a duty of the government. Various national regulations and policies provide a framework for behavior related to HIV/AIDS and medical services. This framework includes national health and AIDS policies, labor regulations, occupational health and safety regulations and standards, non-discriminatory regulations and applicable laws and regulations, and medical use.

The government ensures a coordinated approach across sectors to promote and support the highest standards of health service delivery in healthcare, particularly with regard to work requirements and patient care, while allocating resources and funds appropriately. Extensive consultation between medical professionals, workers and their representatives, trade unions, people living with HIV, and other stakeholders is effective in planning and implementing national policies and laws successfully. Law enforcement system needed.

Efforts to improve health as much as possible are carried out at all levels of society in connection with the recognition that health development is an integral part of national development. This effort is supported by the laws and regulations

that underlie its implementation. Within the Indonesia Health Development Initiative, the HIV/AIDS and the World of Work Principles and some key ILO principles that apply to all aspects of work and all workplaces, including the medical sector. The government's role and responsibility is to ensure a coordinated cross-sectoral approach that promotes and supports the highest standards of healthcare in the health sector, with the appropriate allocation of resources and resources, particularly with regard to employment and patient care. Establishes labor laws and development policies and administers the national health system for HIV/AIDS prevention. Health policy works with all relevant organizations, including university hospitals and clinics, local and private hospitals, occupational health services, public health authorities, pharmacies and home health associations. Therefore, at all levels of the national health system, governments need to provide and maintain the continuity of effective services through coordination of services, sharing of resources, including information and training, and existing institutional capacity of health services. Development planning and management should be enhanced by component design functionality and reformed human resource development methods for medical services. This includes workforce requirements including planning, training, skills requirements, accreditation and certification requirements, rapid development and implementation of human resource development plans, and strategies to support the medical system in service delivery.

The Governments should implement occupational health and safety programs based on ILO guidelines for occupational health and safety management systems. This includes the following steps:

1. Develop policies based on the principles of health and safety and worker participation to identify key program elements
2. Provide a structure for implementing policies, including accountability and accountability, capacity and training, event recording and communications.
3. Planning and implementation including goal setting, review, planning, system development and implementation
4. Assessment monitoring and measurement of performance, accidents, health problems, illnesses, and business-related incident investigations, audits, and management reviews.
5. Continuous update and revision of policies, systems and technology to prevent and manage corrective actions, accidents, health problems, diseases and hazardous events related to the implementation of preventive and corrective actions

Health policy includes collaboration between all relevant organizations, including universities and clinics, local and private hospitals, occupational health services, community public health authorities, pharmacies and family medicine associations as well as national and international CDO's, so it should be encourage

## Conclusion

The form of legal protection for midwives in the process of delivering assistance to patients with HIV/AIDS in terms of the law is by implementing the PMTCT program, besides that another form of protection for midwives is the availability of complete personal protective equipment. The existing legal instruments are sufficient to provide legal certainty for legal protection for midwives who provide assistance to HIV/AIDS patients.

The government's role in providing legal protection to midwives is by making a policy, organizing structurally, planning and implementing, evaluating and monitoring as well as corrective actions through collective prevention efforts.

There is a need for legal protection for independent practicing midwives in the form of laws and local regulations that are more applicable to midwives in providing services to mothers with HIV/AIDS. And there are efforts to encourage policies that should be made to form a common understanding of the importance of implementing HIV/AIDS prevention guidelines as an effort to protect midwives in the process of helping deliveries to patients with HIV/AIDS. Regulations are needed in the form of government responsibility related to health insurance as protection for midwives in public health service providers, one of which is in maternity care which is vulnerable to exposure to various viruses/diseases from patients including patients with HIV/AIDS. The government's attention is very important regarding training programs to increase midwifery awareness about the need to provide midwifery services in

accordance with professional standards such as conducting HIV/AIDS screening tests on each patient, as well as using PPE properly as an effort to prevent disease transmission from patients to midwives when childbirth assistance.

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