

Juridical Reconstruction of Health Services and Islamic Medicine In The Development of Health Science In Indonesia

Bunga Kurnia Mastha Pribadi

Faculty of Law, Universitas Islam As-Syafi'iyah, Indonesia
bungakurnias3@gmail.com

Abstract

This research aims to analyze the juridical reconstruction of health services and Islamic medicine in Indonesia. The research method used is a descriptive-analytical approach by collecting data through literature studies, interviews and field observations. The results of the study indicate that Islamic principles in the health care system in Indonesia can be integrated and developed holistically, because a legal construction is needed that can be a legal umbrella for traditional medicine which is currently in great demand and experiencing various advances. The construction of the law must reflect justice so that it does not rule out modern medicine models including being able to protect consumers of traditional medicine from malpractice in traditional types of treatment.

Keywords: *Health Services, Islamic Medicine, Health Law*

I. INTRODUCTION

The country of Indonesia owns its objective welfare for its people as stated in the constitution. Of course, it also must consider the aspect of health for its people as well as arrange in a way clear about aspects related to health for its inhabitants in his country. Indonesia as a country level pluralism includes on customary law customs even on type and method of treatment in world health, of course that all must be accommodated in rule legislation.

One of the lots of treatment interested in Indonesian society is traditional treatment, the only one is Islamic treatment. Law of the Republic of Indonesia Number 36 of 2009 concerning Health which provides a definition of traditional health services as treatment and/or care using methods and medicines that refer to experience and skills passed down empirically that can be accounted for and applied in accordance with applicable norms in society. Same case with treatment identical to Islamic with what is taught or example of Rasulullah and keep going taught and lowered to people of Islam until now. This along with development of Islamic teaching, then treatment of Islamic This enter in category of traditional treatment although in his practice experience modernization like case of modern medicine.

Health which is one of the basic human needs in everyday life. In business Achieving health is not just through track modern medical health services such as doctor. Still very many people trust it in traditional treatments such as shamans, healers, etc. Even though modern health services have developed in Indonesia, the number of people who use traditional treatments such as massage massage, massage for the blind, broken bones, midwives, dentists and others remains high.

In West Java, based on data from the health profile of West Java Province in 2019, there are currently 675 registered Traditional Medicines and legal entities and in Majalengka only 191 are independently managed registered traditional medicine places, while in 26 sub-districts and divided into 330 villages, almost every village has traditional healing places, both licensed and unlicensed. This is due to a lack of socialization from the health service regarding the importance of opening a licensed medical practice and a lack of awareness among traditional healers due to the complexity of the licensing process.

This matter showing that interest society on treatment traditional very high, besides That proof other is data like its height import equipment medical incoming traditional to Indonesia as well the results of the 2001 National Socio-Economic Survey showed that 57.7% of the Indonesian population self-medicated, of which 31.7% used traditional medicine. Meanwhile, in 2004 the Indonesian population who self-medicated increased to 72.44% of which 32.87% used traditional medicine.

No Can denied in reality There is Also circles public which is doubtful even question as well as problematic traditional treatment methods other than because the method is still not clinically proven, traditional medicine is also prone to errors in handling the disease suffered by the patient. One example of mishandling that occurs in society can be seen from the increasing number of cases of infection from fracture wounds caused by fracture healing by traditional healers every year. According to information from Professor of the Faculty of Medicine, Padjadjaran University, Darmadji Ismono, in Bandung, during the 1998-2000 period there were 56 cases of limb disability out of 1,224 cases of fractures that were treated at the Hasan Sadikin Hospital (RSHS) Bandung polyclinic. Meanwhile, in the 2003-2007 period, the number of similar cases increased to 150 sufferers. Darmadji said, among the 150 sufferers, there were 22 patients.

On side other of course the case above No Can generalize treatment traditional in a way general remember very many methods and diversity from treatment traditional. Special related about type drugs that are down hereditary used society though not yet proven in a way clinical However has Lots utilized in society And No There is negative impact on its users of course needed protection on type drug and treatment. The need

for legal protection of this knowledge both among countries, academics, indigenous communities and among non-government organizations (NGOs) and for furthermore become material development in world treatment or modern medicine.

Problems related treatment traditional especially in Indonesia makes I interested For analyze reconstruction juridical service health and treatment Islamic in development knowledge health in Indonesia with consider aspect religious in-service effective health and sustainable.

II. LITERATURE REVIEW

A. Treatment Traditional

The Indonesian Constitution has emphasized the mandate regarding the fulfillment of health as regulated in Article 28 H and Article 34 paragraph (3) of the 1945 Constitution which states that every citizen has the right to obtain health services and the state is obliged to provide them. Currently, various forms of health services have developed in Indonesia, including those provided by the private sector or individual communities in the form of traditional or alternative medicine.

Traditional medicine is a method of treatment or care using traditional methods. Both from knowledge, experience, skills passed down from generation to generation based on traditions in a particular area of society. Traditional medicine is the sum total of knowledge, skills and practices based on the theories, beliefs and experiences of people who have different cultural customs, whether explained or not, used in the maintenance of health as well as in the prevention, diagnosis, improvement or treatment physical and mental illnesses.¹

In addition, traditional medicine is a branch of alternative medicine which is defined as a treatment method chosen or combined by a person if conventional treatment methods do not provide effective results in therapy. The meaning of traditional medicine is stated in the Decree of the Minister of Health No. 1076/MENKES/SK/VII/2003 article (1.1) which explains that: "Traditional medicine is treatment and/or care using methods, medicines and treatments that refer to experience, inherited skills, and/or education/training, and implemented in accordance with the norms applicable in society.

Currently, the development of traditional medicine and traditional medicine is growing very rapidly. Various forms or methods of treatment are increasingly varied and this is attracting public interest, especially in Indonesia, traditional or

¹Riskesdas. (2010). Basic Health Research (Riskesdas) 2010.

alternative medicine is in great demand by people from various circles, both in economic strata and in the category of living environment in villages or cities.

One form of treatment that is in great demand is *tibun nabawi* which is a treatment inherited and taught by the prophet Muhammad SAW as the last prophet who was an example, especially for Muslims. This is of course a special attraction where people undergo treatment and at the same time carry out *sunnah* worship. This type of treatment is certainly a treatment medium that has received a very good response from the public because the majority of Indonesian people are Muslim, especially now that the practice of *Tibunnabawi* medicine has undergone modernization and has even received a touch of modern medicine.

Apart from *Tibun Nabawi*, there are still many types of traditional medicine that have developed in Indonesia, ranging from those that still fall within scientific reasoning and logic to those that are mystical, and it is not uncommon because there are so many practices or types of traditional medicine that there are cases of malpractice which result in victims of the treatment. Many cases have occurred such as the practice of fake shamans and so on.

B. Treatment *Tibun Nabawi*

Thibbun Nabawi is the Prophet's source of treatment from the words, teachings and actions of the Prophet related to health and medicine. A number of the types of *Thibbun Nabawi* are herbal treatment, cupping, *gurah* and *ruqyah*. The aim of designing the *Thibbun Nabawi* clinic is so that people, especially those who are Muslim, can receive treatment which is the *sunnah* of the Prophet.²

According to Rinanto³ *Thibbun Nabawi* These are all the words, teachings and actions of the Prophet SAW related to the treatment or cure of an illness. As for the types of treatment from *Thibbun Nabawi*, some of those recommended by the Prophet Muhammad SAW were herbal treatment (honey, black seed [black cumin], dates, olive oil), *hijamah* (cupping), *gurah* and *ruqyah*.

III. METHODOLOGY

A. Types of Research: This research uses a type of normative legal research. In this research, library materials are basic research data which is classified as secondary data. The nature of this research is descriptive analysis, namely describing the

²Fatahilah, M. (2016). *Thibbun Nabawi* treatment clinic in Pontianak City. *JMARS: Journal of Architectural Mosaics*, 4 (2).

³Rinanto, Joko. 2015. *The Miracle of the Prophet's Medicine Recipes according to Classical & Modern Science*. Qisthi Press. Jakarta

applicable laws and regulations linked to legal theories and the practice of implementing positive law regarding problems.⁴

Done also comparative normative research, namely research that discusses doctrines or principles in legal science that are related to the problems to be discussed, as well as comparing the provisions of one legal regulation with another. Apart from that, the author will try to analyze the regulations regarding the negligence of traditional healers in matter This specifically Tibunnabawi.

B. Method Approach and Data Sources: The research approach used is the statutory approach. The statutory approach is carried out by reviewing all laws and regulations relating to theme study This. As for secondary data in this research consist of:

1. Primary legal materials, namely library materials that have binding legal force, such as:
 - a. The 1945 Constitution of the Republic of Indonesia;
 - b. Law Number 29 of 2004 concerning Medical Practice.
 - c. Law Number 36 of 2014 concerning Health Workers
 - d. Law no. 17 of 2023 concerning Health
 - e. And other laws and regulations that regulate traditional medical and healing practices
2. Secondary legal materials, namely library materials that provide explanations of primary legal materials, consisting of: books, scientific writings, results of previous research, as well as other materials related to the title of this research.
3. Tertiary legal materials, namely materials that provide instructions and explanations for primary and secondary law, such as: legal dictionaries, encyclopedias, and other legal materials that can support this research.

Study This carried out in the Indonesian Legal Territory with set a number of agency or area as a sample and place obtain data.

IV. RESULT AND DISCUSSION

Indonesia has many tribes and nations with customs and rich traditions, both written traditions and traditions passed down from generation to generation orally. or practice habit in family. This indicates that Indonesian people have known science since

⁴Ronny Hanitijo Soemitro, *Legal Research Methods and Jurimetry*, Ghalia Indonesia, Jakarta, 1988, Pp. 35.

ancient times based on their daily experiences. This knowledge includes astrology, architecture, traditional medicine, literature, and so on.⁵

Treatment traditional who have Lots method and the shape One side is riches Indonesian people, will but on side others, practice treatment traditional moment This need supervision and more rules clear. That thing remember Lots negative things that result by exists practice treatment traditional ones are not responsible.

In response to these developments, of course the Government or related agencies need to make laws and regulations that regulate and supervise the production and distribution of traditional medicinal products so that people can avoid unwanted things, especially health problems.

Same like treatment on medical on generally, when Wrong One type developing treatment in treatment traditional is Thibun Nabawi. So case with clinic treatment Thibun Nabawi too start Lots develop in the environment society in Indonesia, Law of the Republic of Indonesia no. 28 of 2011 concerning Clinics article 2, Based on the type of service it is divided into Pratama Clinics and Main Clinics. According to this law, a Pratama clinic is a clinic that provides basic medical services, while a Primary clinic is a clinic that provides specialist medical services. And if see category This so Thibbun Nabawi enter in categorization main clinic.

By general, treatment system in world medical can grouped become two, namely: system treatment scientific (modern) which is results development knowledge knowledge and system treatment traditional.⁶ Of many type There are many alternative treatments develop especially in Indonesia, development practice Tibunnabawi already _ very Lots accept response Good from Indonesian people already should get attention Serious from government, esp can legalized as A treatment too can help government in operate trustworthy guard health public for reach desired prosperity Indonesian nation. Lots experiencing society despair in treatment medicine Thank God I feel suitable and find solution from treatment Tibunnabawi.

On the other hand, development knowledge medical so far This has showing great progress significant Good from science Also from equipment increasingly medical advanced. Discussion And study to something disease and method the healing as well as application healthy life become material study and research that does not There is it's finished. Research, experiment scientific as well as making technology medical intense done. That matter done simply for find system the best treatment.⁷ However

⁵ Parwata, IMO (2016). Traditional medicine. *Organic Chemistry Laboratory, Faculty of Mathematics and Science, Udayana University. Bali* .

⁶ Feby Diah Lestari, "Medicine Medical vs Treatment Alternatives", Thesis, 2018, 1

⁷ Benjamin Lumenta, *Service Medical Image, Conflict and Hope* (Yogyakarta: Kanisius 1989).

matter that's exactly what it is make forget on spiritual aspects and religious values that are often abandoned. Whereas in draft *Tibun Nabawi* spiritual or religious principles are the main capital, that actually every disease There is the medicine.⁸ By because of that need for exists reconstruction juridical service health and treatment Islamic so you can more integrated in system health national very needed especially in Indonesia as country religious.

In treatment *Tibunnabawi* very tightly, that Islamic principles in system service health in Indonesia can be integrated and developed in a way *holisti*, by Because required A construction the law can become umbrella law for treatment traditional of the times This Lots interested and experience various progress. Construction law the must reflect justice so that No setting aside modern models of medicine incl can protect consumers treatment traditional from the practice mall on type treatment traditional. That matter Also needed remember that in traditional healing activities as well has the potential for criminal acts of negligence to occur. Responsibility of traditional medicine for criminal acts of negligence that cause victims, although Can just used a number of device rule existing legislation such as the Criminal Code, Health Law and Consumer Protection Law. However, specification still will far better and give guarantee certainty and protection law.

Research conducted by Roring, D. Putting it forward that the criminal liability of traditional healers for their negligence which causes death and serious injury in Indonesian positive law is still regulated by the Criminal Code, which is *lex generalis*, in article 359 of the Criminal Code to article 361 of the Criminal Code. Meanwhile, in the future criminal law, a new Criminal Code could be used or a special health criminal law could be formed as a step towards harmonization of the health law, the Consumer Protection Law and the Criminal Code.⁹

V. CONCLUSION

After carrying out the discussion in the previous chapter, the conclusion of this research is that the integration of Islamic principles in health services can increase patient satisfaction (especially Muslim patients) in Indonesia with the assumption that patients receive health services and treatment that are based on these principles. Islamic religious principles will have a higher level of satisfaction compared to patients who do not receive this service. Apart from that, juridical reconstruction of Islamic health services and medicine can make a significant contribution to advancing the

⁸ Ibn Qayyim al Jauziyyah, *No Title, Al- Thib Al- Nabawy* (Riyadh: Al Salaam, Daar, 2014).

⁹ Roring, D. (2014). *Criminal Liability for Traditional Healers for Their Negligence Which Causes Injury or Death of People in Positive Law in Indonesia* . Brawijaya University.

development of Islamic-based health sciences in Indonesia. By carrying out juridical reconstruction, it is hoped that we can develop knowledge and a deeper understanding of the integration of Islamic principles in medical practice.

ACKNOWLEDGEMENT

Study This Lots supported by Husband And family big, by therefore be spoken Thank You to him, hopefully family We still God bless happiness good in the world and in the afterlife later. Saying Thank You Also delivered to the lecturers And UIA Jakarta Community.

REFERENCES

- Hadinata, D. (2021). Legal Protection for Consumers Victims of Alternative Traditional Medicine in the Majalengka Regency Area in 2020. *Medisina* , 7 (1), 53-63.
- Idward, How Great are the Benefits of Alternative Medicine? (online), <http://www.gizikia.depkes.go.id>, (23 November 2013)
- Roring, D. (2014). *Criminal Liability for Traditional Healers for Their Negligence Which Causes Injury or Death of People in Positive Law in Indonesia* . Brawijaya University.
- Daulay, Z. (2012). The concept of legal protection for the traditional knowledge of indigenous people about medicine in Indonesia. *Legal Media Journal* , 19 (2).
- Riskesdas. (2010). Basic Health Research (Riskesdas) 2010.
- Fatahilah, M. (2016). Thibbun Nabawi treatment clinic in Pontianak City. *JMARS: Journal of Architectural Mosaics* , 4 (2).
- Rinanto, Joko. (2015). The Miracle of the Prophet's Medicine Recipes according to Classical & Modern Science. Qisthi Press. Jakarta
- Ronny Hanitijo Soemitro, (1988), *Legal Research Methods and Jurimetry* , Ghalia Indonesia, Jakarta.
- Parwata, IMOA (2016). Traditional medicine. *Organic Chemistry Laboratory, Faculty of Mathematics and Science, Udayana University. Bali* .
- Feby Diah Lestari, (2018), "Medicine Medical vs Treatment Alternatives", Thesis Benjamin Lumenta, (1989), *Service Medical Image, Conflict and Harapan*, Yogyakarta: Kanisius.

- Ibn Qayyim al Jauziyyah. (2014). *No Title, Al- Thib Al- Nabawy*. Riyadh: Al Salaam, Daar
- Roring, D., (2014), *Criminal Liability for Traditional Healers for Their Negligence Which Causes Injury or Death of People in Positive Law in Indonesia*. Brawijaya University.