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THE INDONESIAN MEDICAL DISCIPLINE HONOUR COUNCIL (MKDKI) AS THE DEVELOPMENT OF A MEDICAL DISPUTE RESOLUTION MODEL IN THE PERSPECTIVE OF DEMOCRATIC LAW

Nur Husein Amrah[1], Hotma P. Sibuea[2], Ika Dewi Sartika Saimima[3]

[13]Faculty of Law, Universitas Bhayangkara Jakarta Raya, Jakarta, Indonesia
[2]Law Doctoral Program, Faculty of Law, Universitas Bhayangkara Jakarta Raya, Jakarta, Indonesia
Email korespondensi: amrahhusein8@gmail.com

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Abstract

Law Number 17 of 2023 concerning health has regulated the position of MKDKI in resolving medical disputes. The MKDKI's authority in the Health Law has been expanded to relate to violations of doctor's discipline, enforcing decisions regarding unlawful acts that can be subject to criminal sanctions, and enforcing accountability for actions/deeds that cause civil harm to patients. Based on this authority, MKDKI is similar to an institution that acts on the principles of fast, simple and low-cost justice. To study the MKDKI model, normative juridical research or doctrinal research is used. The study that will be discussed concerns the interpretation of the legal principles of law enforcement regarding alleged medical malpractice which contains violations of criminal law. The results of the research state that the MKDKI's authority, which is based on the process of resolving medical disputes using the principles of fast, simple and low cost, is less effective. Supreme Court Decision Number: 890K/Pid.Sus/2017 is an example of a legal solution that actually harms doctors. It is necessary to transform MKDKI into a strong institution, with a pattern of resolving medical disputes using fast, simple and low-cost principles. A medical dispute resolution model based on the principles of fast, simple and low cost will only emerge if a Medical Court is established. MKDKI as Medical Justice aims at enforcing acts that violate criminal law and enforcing responsibility for actions/deeds that cause civil harm. The MKDKI's independence, such as independent judicial power, to the MKDKI's objection filing system which adopts an appeals filing system within the judiciary, further emphasizes the need to transform the MKDKI as a judicial institution.

I. INTRODUCTION

The form of the Indonesian state of law is also related to the implementation of professional disciplinary procedures for doctors. Doctors and dentists in principle in carrying out their profession must be based on professional standards, service standards, and standard operating procedures.[1] This is to guarantee health services based on Article 28H paragraph 1 of the 1945 Constitution of the Republic of Indonesia (UUD NRI Tahun 1945), which states "Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and the right to obtain health services".

The composition of health services must be maintained by professional standards. In the event that there is a practice that does not follow professional standards, it will lead to malpractice. Malpractice is an error in carrying out the profession that arises as a result of the obligations that should be carried out by doctors.[2]

Actions of doctors suspected of fulfilling criminal elements must be sought for law enforcement at the Indonesian Medical Discipline Honour Council or MKDKI. Article 304 of Law Number 17 of 2023 concerning Health states that in the context of enforcing the professional discipline of doctors, the minister forms an assembly that carries out the task of professional discipline. This institution can be permanent or ad hoc. However, the procedural law for enforcing doctor discipline is not regulated in the legislation. The absence of MKDKI procedural law causes a legal vacuum.

The establishment of the assembly by the Minister of Health is actually a form of delegation of authority to lower government organisations. Every government organisation in carrying out government duties, there must be a basis for regulating the authority of its procedural law. Delegated authority is the delegation of authority from a government organ/body and/or official to a responsible government organ/body or official as well as full accountability transferring to the recipient of the delegation. The delegation is carried out through government regulations, Presidential Decrees (KEPRES) and or Regional Regulations (PERDA) is the delegation of authority and has previously existed.[3] The authority obtained by MKDKI to adjudicate the professional discipline of doctors must be followed by further regulation. The absence of regulation causes a legal vacuum. In a state of law, this should not happen. The history of the rule

[1] Pasal 291 ayat 1 Undang Undang Nomor 17 Tahun 2023 tentang Kesehatan.
[2] D. Veronika Komaladewi., Hukum dan Etika Dalam Praktek Dokter, Jakarta: Pustaka Sinar Harapan, 1989, hlm. 87.
[3] Moh Gandara., Kewenangan Atribusi, Delegasi Dan Mandat, *Jurnal Khazanah Hukum*, Volume 2, Nomor 3, hlm. 94.

of law has shown that actions without legal precedence will lead to arbitrariness of the authorities. There must be a regulation before the ruler takes action.

At this point, it needs to be examined that there is a vacuum in MKDKI's procedural law in exercising the authority to enforce professional discipline. Although the actions taken only result in administrative sanctions, such as revocation of the registration certificate, it also needs to be regulated. STR as the legality of doctors to be recognised as medical personnel, has vital legal force and is given with steps regulated by the applicable laws and regulations. Similarly, the enforcement of discipline must also be based on applicable laws and regulations. In order to avoid the arbitrariness in the regulation.

Administrative sanctions are closely related to Article 313 paragraph 1 of Law Number 17 of 2023 concerning health, which relates to the requirement that the medical profession must have a Registration Certificate (STR) and a Practice Permit (SIP). Furthermore, it states that "every medical or health worker who practices without having an STR and / or SIP is subject to administrative sanctions in the form of administrative fines". Doctors in conducting health services, especially medical, must be based on medical professional standards. These standards are formed by the minister based on proposals from the Council together with the Collegium.[4]

The main professional standard for doctors is the obligation for medical personnel to have STR and SIP. The requirements that must be met in obtaining an STR, at least, must have a diploma of education in the field of medicine and / or a professional certificate; and have a certificate of competence.[5] In the event that a doctor does not have or even neglects to take care of the STR and/or SIP, he/she is subject to administrative sanctions.[6]

The existence of Law Number 17 Year 2023 on health does not guarantee the avoidance of the complexity of resolving medical malpractice disputes.[7] The existing norms do not clearly regulate the form of the recommendation in question using what kind of procedural law. Whether the recommendations given by the panel can be in the form of peaceful efforts between the complainant and the reported party. On the other hand, if there is a disagreement, the police will follow up on the recommendation.

[4] Pasal 291 ayat 2 Undang Undang Nomor 17 Tahun 2023 tentang Kesehatan.
[5] Pasal 260 ayat 3 Undang Undang Nomor 17 Tahun 2023 tentang Kesehatan.
[6] Pasal 313 ayat 1 Undang Undang Nomor 17 Tahun 2023 tentang Kesehatan.
[7] Astutik., Standar Pelayanan Medis Nasional sebagai Bentuk Pembatasan Otonomi Profesi Medis, *Halu Oleo Law Review*, Volume 1, Issue 2, hlm. 254.

Actually, the Supreme Court Decision Number: 890K/Pid.Sus/2017 is still enforced based on the provisions of Law Number 29 of 2004 concerning Medical Practices. The law has been revoked and declared invalid after the enactment of Law Number 17 of 2023 on health. There is a blurring of procedural law norms in the recommendation given by the panel to the police that suspected malpractice raises a criminal law violation. For this reason, it is necessary to examine the practice of procedural law in resolving the recommendations of the medical council for malpractice that causes criminal law violations in Article 308 paragraph 1 of Law Number 17 of 2023 concerning Health.

II. METHODS

The research used is normative juridical or doctrinal research. Soerjono Soekanto revealed that the scope of normative juridical research is to examine legal principles, examine legal systematics, research on vertical and horizontal legal synchronisation, comparative legal research, and research on legal history.[8] Researchers interpret the legal principles of law enforcement of alleged doctor malpractice that contains criminal law violations. Therefore, the research will conduct and search for legal principles formulated in existing legislation and customs (explicit).[9] To support the research, secondary legal data is used with primary legal materials, namely the 1945 Constitution of the Republic of Indonesia, Law Number 17 of 2023 concerning Health, and Supreme Court Decision Number: 890K/Pid.Sus/2017.

III. DISCUSSION

The position of MKDKI in resolving medical disputes based on the principles of fast, simple and low cost justice

The position of MKDKI in resolving medical disputes based on the principles of fast, simple, and low-cost justice must depart from the notion of the rule of law. The existence of the rule of law guarantees that every state administration and every action of its citizens is based on applicable laws and regulations. One important aspect of the existence of the rule of law is health. The Constitution has stipulated that the right of citizens to obtain health is part of human rights. Article 28H paragraph 1 of

[8] Soerjono Soekanto dan Sri Mahmudji, Penelitian Hukum Normatif, Suatu Tinjauan Singkat, Jakarta: Raja Grafindo Persada, 2003, hlm. 14.
[9] Bambang Sunggono, Metodologi Penelitian Hukum, (Jakarta: Raja Grafindo Persada, 2003), hlm. 27-28.

the 1945 Constitution of the Republic of Indonesia (UUD NRI Tahun 1945) states that "every person has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy environment, and to receive health services". The right to health is part of the right to life of every person. In obtaining the right in question, there is an obligation from state administrators to guarantee access to a healthy life. Article 34 paragraph 3 of the 1945 Constitution states that "The State is responsible for the provision of health care facilities and proper public service facilities".

The existence of a healthy life must be supported by actions that ensure that this right is obtained. A healthy environment must be established through the provision of health facilities such as health centres, pharmacies, and hospitals, even including medical personnel and health workers. In addition to these services, the state must also provide all public services to fulfil the standards of a healthy environment. The principles contained in efforts to respect, protect and fulfil the state's obligation to provide the right to health include:[10] availability of health services, accessibility, acceptance, and quality of health.

The derivation of the right to health in Article 28H paragraph 1 of the 1945 Constitution covers this. So that the state is obliged to provide the availability of health services, access to health, acceptance, and the quality of health services. The existence of a state of law, all community affairs must be guaranteed by the state, including health. In classical times the purpose of the state was none other than to gain power and how to maintain it. It is different in a modern state of law that the purpose of the state is none other than to guarantee regulations that contain legal protection of the rights of everyone[11] as much as possible, so as to achieve welfare for him. The provisions of Article 28H paragraph 1 and Article 34 paragraph 3 of the 1945 Constitution of the Republic of Indonesia as a demand in the rule of law that there is a guarantee of obtaining the right to health.

As one of the characteristics of a state of law that has been previously stated by Freidrich Julius Stahl, that there is protection of human rights. Protection of human rights cannot be avoided in a state of law, because individual interests often conflict

[10] Fheriyal Sri Isriawaty., Tanggung Jawab Negara Dalam Pemenuhan Hak Atas Kesehatan Masyarakat Berdasarkan Undang Undang Dasar Negara Republik Indonesia Tahun 1945, *Jurnal Ilmu Hukum Legal Opinion*, Edisi 2, Volume 3, 2015, hlm. 5.
[11] Eko Hidayat., Perlindungan Hak Asasi Manusia Dalam Negara Hukum Indonesia, *ASAS : Jurnal Hukum Ekonomi Syariah*, Volume 8, Nomor 2, 2016, hlm. 86.

with the interests of certain people and even community groups. The function of a state of law in this case is to guarantee, respect, and even avoid friction between individuals, groups, and even the state itself.

The combination of the provisions of Article 28H paragraph 1 and Article 34 paragraph 3 of the 1945 Constitution of the Republic of Indonesia is derived from Law Number 17 of 2023 concerning Health. The Health Law as the implementer of the regulation of the right to health is more detailed. When viewed in the section considering the Health Law, it is stated that the state guarantees the right of every citizen to realize a good, healthy, and prosperous life physically and mentally in order to achieve the national goal of protecting the entire Indonesian nation and all of Indonesia's bloodshed to advance public welfare.[12] To achieve the goal of the state to advance public welfare, an unavoidable prerequisite is the right to a healthy life.

In order to support the right to health, the state's responsibility in guaranteeing the right to health is regulated. This responsibility is regulated starting from Article 6 to Article 14 of Law Number 17 of 2023 concerning Health. The responsibilities in question are divided into several aspects. The government as a regulator is obliged to plan, regulate, organize, foster, and supervise the implementation of quality, safe, efficient, equitable, and affordable health services. Even in it, it prepares quality health human resources. Every community is also guaranteed easy access to health, in the event of physical or mental health degradation. There are so many community interests that must be met by the state, making the government in a state of law make various regulations and policies.

One of the state's responsibilities for the implementation of quality, safe, efficient, equitable, and affordable health services is supported by the existence of the MKDKI in the Health Law. There is an expansion of the MKDKI competence in the Health Law, namely: a). enforcement of violations of doctor discipline; b.) enforcement of alleged unlawful acts that can be subject to criminal sanctions; and c). enforcement of civil liability for actions/deeds that harm patients.

The Health Law has added the authority of the Council (read: MKDKI) which also includes enforcing alleged unlawful acts that can be subject to criminal sanctions; as well as enforcing accountability for actions/deeds that harm Patients civilly, so that MKDKI becomes a complex institution in handling medical disputes. The comparison between the Medical Practice Law and the Health Law gives rise to the position of

[12] Diktum Menimbang UU Nomor 17 Tahun 2023 tentang Kesehatan.

MKDKI as a central institution in resolving medical disputes. In fact, MKDKI almost resembles a judicial institution that resolves medical disputes.

Supreme Court Decision Number: 890K/Pid.Sus/2017 is an example that the wording "intentionally practicing medicine without having a practice license" is equated with the deadline for the extension application process. The evidence provided in court by the public prosecutor was not proven to violate Article 76 of the Medical Practice Law. Information provided by only one witness without any other evidence is not sufficient and basic to be used to state whether or not there is a person's mistake or negligence.[13]

Based on the Regulation of the Indonesian Medical Council Number 32 of 2015, it has used the resolution of medical disputes with the "adjudication" model or judicial process. However, this has not been regulated in the Health Law. The burden of duties on the MKDKI after the formation of the Health Law must be made an MKDKI institution in the form of a judicial institution that adheres to the principles of speed, simplicity, and low cost. So that the process of examining unlawful acts that can be subject to criminal sanctions by the MKDKI will be carried out carefully using judicial principles. It should not happen again as in the Supreme Court Decision Number: 890K / Pid.Sus / 2017. Changing the MKDKI model to a court will bring all legal consequences and strengthen the institution in question.

The Health Law provides additional authority to the MKDKI, without forming the MKDKI as a strong institution to resolve cases of violations of doctor discipline, resolution of cases of unlawful acts that can be subject to criminal sanctions, and responsibility for compensation for civil cases. At the end of the dispute resolution process at the MKDKI is the decision stage. The decision stage is the end of all existing processes that have been passed. At the decision stage, of course, the decision in the examination of the doctor's disciplinary hearing is different. If the violation of disciplinary decisions regulated in Article 306 paragraph 1 of the Health Law includes:

a) written warning;
b) obligation to attend education or training at the nearest Health education provider or teaching hospital that has the competence to conduct such training;
c) temporary deactivation of STR; and/or

[13] Abdul Rokhim., Rekam Medis Sebagai Alat Bukti Dalam Penyelesaian Sengketa Layanan Medis, *Jurnal Yurispruden*, Volume 3, Nomor 1, hlm. 74.

d) recommendation to revoke SIP.

Meanwhile, decisions regarding unlawful acts that can be subject to criminal sanctions as regulated in Article 308 paragraph 5 of the Health Law only contain 2 (two) things, namely:

a) an investigation can be carried out; or
b) an investigation cannot be carried out because the implementation of professional practices carried out by Medical Personnel or Health Personnel is in accordance with or not in accordance with professional standards, service standards, and operational procedure standards.

There is a fundamental difference between the decision on a doctor's disciplinary violation and the decision on an unlawful act that can be subject to criminal sanctions. This is because the objects that are part of the examination are different. The MKDKI decision will later be used as the basis for investigation by Civil Servant Investigators or Police investigators.

The existence of the Health Law as a lex specialis of the Criminal Code makes it so central, it is very necessary to design the MKDKI with the principle of fast, simple and low-cost justice. Including the formation of implementing regulations must require regulations based on the principle of fast, simple and low-cost justice. Although it is contained in the Regulation of the Indonesian Medical Council Number 32 of 2015, it is not enough to form the MKDKI into a medical court.

The urgency of strengthening the MKDKI institution into a model judicial institution to its implementing regulations, later using the principle of fast, simple and low-cost justice. So there is still a lot of homework that needs to be fixed for the MKDKI at this time which tends to be placed only as an intermediary for resolving unlawful acts that can be subject to criminal sanctions.

The principle of fast, simple and low-cost justice of the MKDKI also needs to be analyzed in the case of a request for Enforcement of Accountability for actions/deeds that harm Patients in a civil manner, there is no examination procedure regulated by the MKDKI. Regarding the proof, it is also an important note, because in civil law the judge only decides based on sufficient evidence.[14] The minimum evidence that is fulfilled is 2 (two) pieces of evidence to be able to determine that the case in question meets the elements of a civil case. Meanwhile, the decision on the

[14] Risdiana, dkk., Penerapan Asas Batas Minimal Pembuktian Dalam Perkara Hukum Perdata (Studi Putusan Pengadilan Negeri Selong Nomor : 55/Pdt.G/2020/Pn.Sel), *Jurnal Ilmiah Mandala Education*, Volume 7, Nomor 2, hlm. 268.

enforcement of accountability for actions/deeds that harm patients in a civil manner as regulated in Article 308 paragraph 6 of the Health Law alternatively contains 2 (two) recommendations, namely:

a) Recommendations for the implementation of professional practices carried out by medical personnel (read: doctors) in accordance with professional standards, service standards, and standard operating procedures.
b) Recommendations for the implementation of professional practices carried out by Medical Personnel (read: doctors) not in accordance with professional standards, service standards, and standard operating procedures.

The basis for patients or patient families to file a complaint regarding actions/deeds that harm patients civilly is 3 (three) parts, namely: professional standards, service standards; and operational procedure standards. For the three standards in question and if they cause harm to the patient, a request for recommendation must be made to the MKDKI. There are no implementing regulations for the requirements of professional standards, service standards and operational standards. In fact, if reviewed further regarding the limitations of the three standards, it certainly requires longer proof. Meanwhile, Article 308 paragraph 7 of the Health Law states that:

> "…Recommendations for accountability for actions/deeds related to the implementation of Health Services that are detrimental to Patients in civil law are given no later than 14 (fourteen) working days from the time the application is received".

The time period given by the legislators indicates that the examination process of professional standards, service standards and operational standards carried out by doctors must be shortened. Meanwhile, the existing procedural law has not yet directed at this. In addition, the request for recommendations is different from the process of enforcing disciplinary violations and decisions on unlawful acts that can be subject to criminal sanctions.

Based on the analysis above, there is indeed a development in the authority of the MKDKI not only enforcing disciplinary violations by doctors, but also including decisions on unlawful acts that can be subject to criminal sanctions, and enforcing accountability for actions/deeds that harm patients in civil law. Settlement of medical disputes against unlawful acts that can be subject to criminal sanctions and enforcement

of accountability for actions/deeds that harm patients in civil law, is certainly different from violations of doctor's discipline.

Settlement of medical disputes against unlawful acts that can be subject to criminal sanctions and enforcement of accountability for actions/deeds that harm patients in civil law is a legal dispute. Not a disciplinary dispute that usually leads to ethics. For that, the resolution must also be placed in a different position. Unlawful acts that can be subject to criminal sanctions and enforcement of accountability for actions/deeds that harm patients in civil matters must be resolved based on the principles of fast, simple and low-cost justice.

The importance of using the principle of Fast, Simple, and Low-Cost Justice for medical disputes with criminal and civil content, because the settlement of MKDKI which so far has tended not to produce a sense of justice in society, including doctors themselves. Supreme Court Decision Number: 890K / Pid.Sus / 2017 is one example of a legal settlement that is actually detrimental to doctors. This is the importance of using MKDKI based on the settlement of medical disputes with the principle of fast, simple, and low cost.

Furthermore, the results of the analysis obtained that the authority of the recommendation is binding or does not have sanctions for the reported party. Indeed, recommendations in practice are usually less than optimal in practice, meaning they can be carried out or they can not. As happened to the Ombudsman institution in providing recommendations that were considered less appropriate and on target. Adnan Buyung Nasution stated that the Indonesian Ombudsman only expected awareness from the relevant agencies that were given warnings or recommendations for committing maladministration and so on.[15] It was even said that the Ombudsman's recommendations that were not binding and did not have any sanctions were a weakness for an institution that was formed with the authority of recommendations.[16]

Therefore, the institution of MKDKI needs to be strengthened not only in terms of its authority with a fast, simple and low-cost trial method. Recommendations usually do not appear in a fast, simple and low-cost trial process. Recommendations also tend to be disobeyed and the sanctions are not very binding. Recommendations at the state institution level tend to be independent or quasi-judicial institutions. Meanwhile, the

[15] Adam Setiawan., Pelaksanaan Fungsi Rekomendasi Ombudsman Republik Indonesia Kepada Kepala Daerah, *Jurnal Ilmu Hukum Veritas et Justitia,* Volume 6, Nomor 2, hlm. 285.
[16] *Ibid.,* hlm. 286.

idealized trial process at MKDKI uses the principles of fast, simple and low-cost as used in judicial institutions.

Medical Dispute Resolution Model of MKDKI as a Judicial Institution in the Perspective of the Rule of Law

The medical dispute resolution model carried out by the MKDKI based on the principle of fast, simple, and low-cost justice is the ideal form. The MKDKI model in carrying out its complex authority as regulated in the Health Law is still considered inappropriate. This is because doctors and patients have a complex legal relationship that not only targets discipline enforcement, but also enforcement of unlawful acts that can be subject to criminal sanctions, and enforcement of accountability for actions/deeds that harm patients in civil law. The MKDKI should be formed based on the general judicial institution model.

The MKDKI dispute resolution model that follows the courts starts from the idea of a state of law. As previously explained, in a state of law there must be at least 4 (four) elements that should exist. The four elements in question are: First, protection of human rights; Second, separation of powers to protect human rights; Third, every government administration is based on the provisions of applicable laws and regulations (legality); and Fourth, there is an administrative court.

Based on this, the prerequisite in a state of law is the existence of a judicial institution. In a state there are also health affairs and all its parts which are the responsibility of the state. A state of law guarantees the implementation of justice based on the principles of fast, simple, and low-cost justice. The judicial institution must be separate from other powers in the state. This functions as a judicial institution to try all issues by prioritizing law and human rights. Every dispute that occurs in a state of law, ideally must be resolved in accordance with the law (due process of law) and through an independent and impartial judicial institution.[17] Not through institutions outside of that.

MKDKI as explained above, its authority is not only to enforce violations of doctor discipline, including enforcing unlawful acts that can be subject to criminal sanctions, and enforcing accountability for actions/deeds that harm patients civilly. It is said that the entry of MKDKI resolves aspects of criminal and civil law related to medical disputes, it should also be a dispute resolution model based on law.

[17] Fitri Suciyani., Kedudukan Pengadilan Pajak Dalam Sistem Peradilan Di Indonesia, Dharmasisya *Jurnal Program Magister Hukum Fakultas Hukum Universitas Indonesia*, Volume 2, Nomor 1, hlm. 377.

The form of a state of law requires every resolution of legal problems using a judicial institution that upholds the principle of justice. The judicial institution or judicial power has one inherent principle, namely an independent and independent judicial power. It is firmly stated in Article 24 paragraph 1 of the 1945 Constitution of the Republic of Indonesia which states that: "... the judicial power is an independent power to administer justice in order to uphold law and justice."

To produce justice in resolving legal problems, it should be resolved in an independent court. This aims to ensure that the trial can be carried out honestly and fairly (to ensure a fair and just trial) and so that the court is able to play a role in supervising all government actions (to enable the judges to exercise control over government action).[18] MKDKI as a judicial institution resolving medical disputes must be presented in the Health Law. This is intended to protect the human rights of patients and doctors in the series of resolving medical disputes based on the principles of speed, simplicity, and low cost.

The principle of fast, simple, and low cost is actually almost the same as the model regulated in the Regulation of the Indonesian Medical Council Number 3 of 2011 concerning the Organization and Work Procedures of the Indonesian Medical Discipline Honorary Council and the Medical Discipline Honorary Council at the Provincial Level, stating that the MKDKI is independent in carrying out its duties. Furthermore, it is stated in Article 13 paragraph 2 and paragraph 3 of the Regulation of the Indonesian Medical Council Number 3 of 2011 concerning the Organization and Work Procedures of the Indonesian Medical Discipline Honorary Council and the Medical Discipline Honorary Council at the Provincial Level, as follows:

Paragraph 2	MKDKI / MKDKI-P is independent in carrying out its duties.
Paragraph 3	This independence means that the MKDKI / MKDKI-P in carrying out its duties is not influenced by anyone and/or other institutions.

Every judicial institution, whether in the civil, criminal, or state administrative realm, must be independent, which is interpreted as an institution that is not influenced by any party. Therefore, what is meant by the independence of the MKDKI is included

[18] *Ibid.,* hlm. 384

in the independent judicial power. In general, judicial institutions or Judicial Powers that are often known in general, include:[19]

a. the authority to judicial review of laws and regulations;
b. the authority to examine government administration;
c. judicial authority over the freedoms possessed by the people;
d. the appeal system, and
e. contempt/subpoena/enforcement.

In this section, the elements of the appeal system have been grouped as characteristics inherent in the judicial institution. The same thing is also found in the concept of the MKDKI. Article 56 of the Regulation of the Indonesian Medical Council Number 32 of 2015 concerning Procedures for Handling Cases of Alleged Disciplinary Violations by Doctors and Dentists, states that if the defendant does not agree with the decision of the MKDKI, he can file an objection to the MKDKI. Based on the procedural law, the desired model of the MKDKI is to resemble the Court. The term objection to the decision of the MPD is the same as the use of the wording of the appeal system in the judicial institution. In fact, the objection in question must also be carried out at a re-examination hearing. Furthermore, it is stated in article 57, namely "The submission of the objection in question, then the MPD then conducts a disciplinary examination hearing on the objection". Moreover, in the trial, the opportunity is given to submit witnesses or experts, very thick with the model of the judicial system. Appeals in the judicial system are indeed allowed to use statements from witnesses or experts.

Based on the description above, it can be concluded that the ideal model for resolving medical disputes in a state of law is based on the medical justice system. The reasons are:

1) MKDKI not only resolves disciplinary violations of doctors, but also enforces unlawful acts that can be subject to criminal sanctions and enforces accountability for actions/deeds that harm patients civilly;
2) MKDKI's independence in carrying out its duties is a characteristic of an independent judiciary;
3) MKDKI uses an objection submission system in disciplinary hearings, which adopts the appeal submission system in judicial institutions;

[19] Ahmad Fadlil Sumadi., Independensi Mahkamah Konstitusi, Jurnal Konstitusi, Volume 8, Nomor 5, hlm. 640.

4) Objection submission applies to Witnesses and Experts, as is done in the judicial system in general.

With the above description, it is appropriate that the institutional strengthening of MKDKI, for the enforcement of violations of doctor discipline, enforcement of unlawful acts that can be subject to criminal sanctions, and enforcement of accountability for actions/deeds that harm patients civilly, must be carried out using the judicial system. This model should be adopted and regulated in the Health Law.

IV. CONCLUSION

The position of the MKDKI in resolving medical disputes in the Health Law does not yet reflect the principle of fast, simple and low-cost justice, even though its authority is so broad, namely enforcing violations of doctor discipline, enforcing decisions against unlawful acts that can be subject to criminal sanctions, and enforcing accountability for actions/deeds that harm patients civilly. Supreme Court Decision Number: 890K/Pid.Sus/2017 is one example of a legal settlement that actually harms doctors. This is the importance of using the MKDKI based on the resolution of medical disputes with the principles of fast, simple and low cost.

V. SUGESTIONS

The medical dispute resolution model based on the principles of speed, simplicity, and low cost will only emerge if a Medical Court is formed. MKDKI as a Medical Court leads to the enforcement of criminal law violations and the enforcement of accountability for actions/deeds that are detrimental to civil law; MKDKI's independence such as an independent judicial power; MKDKI's objection submission system that adopts the appeal submission system in the judicial institution; and the submission of objections to the application of witnesses or experts, as is done in the judicial system in general.

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