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# A Judicial Analysis of the Need for Medical Dispute Court in Resolving Health Disputes

Dita Annisa Ramadhanti<sup>1\*</sup>, Arman Lany<sup>1</sup>

<sup>1</sup> Universitas Islam Nusantara, Bandung, Indonesia

\* Corresponding author: Dita Annisa Ramadhanti ([ditaannisa92@gmail.com](mailto:ditaannisa92@gmail.com))

## Abstract

Medical disputes in Indonesia are handled through fragmented mechanisms such as disciplinary bodies, mediation, and general courts, resulting in overlapping authority, lengthy procedures, and legal uncertainty due to the absence of a specialized forum with integrated legal and medical expertise. This study aims to analyze the legal basis and urgency of establishing a Medical Dispute Court following the enactment of the Health Law of 2023. Using a normative juridical method with statutory, conceptual, and case approaches, this research examines relevant constitutional provisions and the new health legislation. The findings reveal that the establishment of a Medical Dispute Court has a strong foundation in the 1945 Constitution and the Health Law of 2023, and is urgently needed to ensure legal certainty, substantive justice, and balanced protection of rights. These findings imply that the establishment of a specialized Medical Dispute Court is a strategic policy instrument to integrate fragmented dispute resolution mechanisms, enhance legal certainty, and ensure balanced legal protection for patients and medical professionals within Indonesia's health law system.

## Keywords

Health Law, Juridical Analysis, Legal Certainty, Medical Dispute Court, Special Court.

## 1. Introduction

Health is a fundamental human right guaranteed by the 1945 Constitution of the Republic of Indonesia. Article 28H paragraph (1) clearly states that every person has the right to obtain proper health services and legal protection when receiving such services. This right imposes an obligation on the state to provide a fair, equitable, and quality health system (Sofian et al., 2023). However, the legal relationship between medical personnel and patients often leads to complex disputes, especially when there are allegations of negligence or malpractice that cause physical, psychological, or financial harm. These disputes are not only legal in nature but also involve professional ethics and medical standards, creating the need for a dispute resolution mechanism that can ensure legal certainty, justice, and protection for all parties (Supeno, 2019; Herniawati et al., 2020; Al Rajab, 2020).

Currently, medical disputes in Indonesia are resolved through several separate mechanisms. The Indonesian Medical Disciplinary Honorary Council (*Majelis Kehormatan Disiplin Kedokteran Indonesia*/MKDKI) handles disciplinary violations, mediation offers a non-litigation path, and general courts deal with civil or criminal claims. This fragmentation causes overlapping authorities, lengthy processes, and legal uncertainty for both patients and medical personnel (Lintang et al., 2021; Pramesuari, 2024). Patients often feel their rights are not adequately protected, while medical personnel frequently face the threat of criminalization even when they have followed professional standards (Windayani & Adipradana, 2020; Sulistini, 2021). The absence of a specialized institution that truly understands the technical and ethical aspects of medical practice has weakened public trust in health services and the judicial system (Agustina, 2015; Wiyanto, 2022).

Previous studies have examined various aspects of medical dispute resolution, yet a clear research gap remains. According to Azmi et al. (2021), Malaysia has successfully implemented a semi-judicial tribunal using a restorative justice approach, while Lee et al. (2020) highlight the effectiveness of specialized mediation bodies in South Korea. In Indonesia, scholars such as Herningtyas et al. (2022) and Noviriska and Atmoko (2022) focus primarily on the role of MKDKI and mediation, but few analyze the potential of a dedicated Medical Dispute Court after the enactment of Law Number 17 of 2023 concerning Health. Moreover, existing literature rarely discusses how Article 24 paragraph (2) of the 1945 Constitution and the new Health Law can serve as a strong legal basis for establishing such a specialized court (Atikah, 2022; Rifa'i et al., 2023; Hermanto & Aryani, 2023; Siregar, 2025). This gap leaves unanswered questions about integrating legal norms with medical professionalism in a single judicial forum.

The enactment of Law Number 17 of 2023 concerning Health marks a new paradigm in the national health legal system. This law not only reaffirms citizens' right to quality health services but also opens the possibility of creating a Medical Dispute Court as a specialized judicial body. Such a court is expected to provide swift, objective, and fair decisions by combining legal expertise with input from medical professionals (Bagnasco et al., 2020; Emilia et al., 2023; Linlin & Shimeng, 2024). It will reduce overlapping authorities, shorten resolution time, and balance the protection of patients' rights with the professional security of medical personnel (Yanto, 2023).

Although medical dispute resolution in Indonesia has been widely discussed through mechanisms such as MKDKI, mediation, and general courts, existing studies remain fragmented and have not sufficiently examined the need for an integrated judicial forum that accommodates both legal norms and medical professionalism, particularly in the post-Law Number 17 of 2023 context. This gap leaves unresolved issues of overlapping authority, legal uncertainty, and imbalanced protection for patients and medical personnel, highlighting the urgent need for a

normative analysis of the legal basis and institutional design of a specialized Medical Dispute Court grounded in the 1945 Constitution and the new Health Law.

Therefore, this study aims to analyze the legal basis and urgency of establishing a Medical Dispute Court in Indonesia based on Law Number 17 of 2023 concerning Health and Article 24 paragraph (2) of the 1945 Constitution. Using a normative juridical approach, the research seeks to offer a structured model for resolving medical disputes that upholds the principles of legal certainty, justice, and benefit. The findings are expected to contribute recommendations for health law reform and strengthen public confidence in both the judicial system and healthcare services in Indonesia.

## **2. Methods**

This research employs a normative juridical method, which is suitable for examining legal issues related to the establishment of a Medical Dispute Court within the framework of the Indonesian legal system. The focus lies on analyzing applicable legal provisions, particularly Law Number 17 of 2023 concerning Health, in conjunction with the 1945 Constitution and other relevant regulations. A statutory approach is used to interpret the norms explicitly or implicitly contained in these laws, while a conceptual approach is applied to construct arguments regarding the need for a specialized judicial institution that integrates legal and medical professional perspectives. Additionally, a case approach is adopted by reviewing patterns of medical dispute resolution in Indonesia before and after the enactment of the new Health Law, allowing the identification of practical gaps that justify the creation of a dedicated court.

Primary legal materials consist of the 1945 Constitution (especially Article 24 paragraph (2) on judicial power), Law Number 17 of 2023 concerning Health, and related legislation governing the judiciary and medical practice. Secondary materials include books, journal articles, and scholarly works discussing medical dispute resolution, professional ethics, and the development of specialized courts in Indonesia and abroad. Tertiary materials such as legal dictionaries and official reports from the Ministry of Health and the Supreme Court are also utilized to support the analysis. All materials were collected through literature study conducted both in physical libraries and online databases, ensuring the use of the most recent and authoritative sources available up to 2025.

The collected legal materials are analyzed qualitatively through a descriptive-analytical technique. This involves systematically describing the current condition of medical dispute resolution, interpreting relevant legal norms, and evaluating their adequacy in providing legal certainty and justice. The analysis further employs legal reasoning to propose the establishment of a Medical Dispute Court as a concrete solution, while comparing Indonesia's situation with international practices where similar specialized institutions have proven effective. Through this structured process, the research seeks to produce clear, objective, and applicable recommendations for reforming the national mechanism for resolving disputes in the health sector.

## **3. Results and Discussion**

### **3.1. Legal Basis for the Establishment of a Medical Dispute Court**

The results of the study show that before the enactment of the Health Law, the settlement of medical disputes in Indonesia was still carried out through fragmented mechanisms that were not systematically integrated (Pramesuari, 2024). Dispute resolution could be pursued through various mechanisms, one of which was through the Indonesian Medical Disciplinary Honorary Council, which had the authority to handle violations related to discipline in the practice of medicine. Mediation is a non-

litigation channel that seeks to reach an amicable agreement, while the general court handles civil and criminal cases arising from alleged malpractice or medical negligence. The fragmentation of these mechanisms has resulted in overlapping authorities between institutions and has created significant legal uncertainty for both parties, patients and medical personnel (Lintang et al., 2021).

Research has found that the dispute resolution process tends to be time-consuming, non-standardized, and unresponsive to the needs of the parties involved. The lack of clarity regarding the procedures and authority of each institution causes dispute cases to often drag on, leading to dissatisfaction and disappointment both for patients who feel that their rights have not been fulfilled and for medical personnel who feel that their authority is being questioned or threatened with criminalization (Sulistini, 2021). This situation confirms that the previous medical dispute resolution system was unable to provide balanced legal protection and substantive justice, and did not meet professional standards in handling the complex legal relationship between patients and medical personnel (Tan & Chen, 2019). This study shows the need to establish a special court that is capable of effectively resolving medical disputes in a professional, proportional, and integrated manner.

The fundamental weakness of the current medical dispute resolution system lies in the absence of a specialized court that is capable of understanding the complexity of the legal relationship between patients and medical personnel. The difference in perspective between formal law and medical practice often causes difficulties in determining the form of liability, standards of proof, and assessment of alleged malpractice. This situation causes medical personnel to feel threatened by the potential for criminalization, while patients often feel that their rights to compensation for damages are not being fulfilled. This phenomenon demonstrates the urgent need to develop a more structured and professional dispute resolution mechanism, in which legal protection can be provided in a balanced manner to all parties (Thahir et al., 2024). These findings confirm that the absence of a specialized court in the health sector has resulted in weak legal certainty in the enforcement of justice between patients and medical personnel. The lack of clarity regarding the competent authority has led to disparities in decisions and inconsistencies in legal practice, which ultimately undermine public trust in the national health law system.

The enactment of Law Number 17 of 2023 concerning Health provides a new direction for the national health law system. This law not only affirms the right of every citizen to fair and quality health services, but also opens up space for strengthening medical dispute resolution mechanisms. One important innovation introduced is the establishment of a Medical Dispute Court, a special judicial institution authorized to handle disputes between patients and medical personnel with a proportional, professional approach based on legal standards and medical ethics (Rahman et al., 2025). The establishment of this court is expected to provide legal certainty, substantive justice, and balanced legal protection between the rights of patients and the professional obligations of medical personnel, thereby addressing the weaknesses of the dispute resolution system, which has been fragmented and inadequate.

### **3.2. Urgency of Establishing a Medical Dispute Court and Proposed Model**

The discussion of the research results confirms that the establishment of a Medical Dispute Court is a very urgent step and has a solid legal basis within the framework of the national legal system. Article 24 paragraph (2) of the 1945 Constitution on Judicial Power opens up opportunities for the judiciary to handle certain types of cases, which require expertise and understanding. The existence of this special judicial institution is important because medical cases often involve a complex combination of formal legal aspects and professional medical considerations (Jackson, 2013). The urgency of establishing this institution is also closely related to practical needs in the field, namely the increasing number of public complaints

related to health services and medical disputes. Existing resolution mechanisms have not been able to provide comprehensive solutions, so the establishment of a Medical Dispute Court will be a breakthrough that bridges legal norms, professional ethics, and social interests.

The existence of a Medical Dispute Court is expected to realize three basic principles of law, namely legal certainty, justice, and benefit. Legal certainty is achieved through clear procedures, authority, and governance, so that the dispute resolution process becomes structured and predictable. Justice can be realized because each case is handled by judges who have legal competence and are supported by medical experts who understand professional practice and medical ethics. The benefits of the law are reflected in the protection of the rights of patients who have suffered losses while providing a sense of security for medical personnel, thereby minimizing the potential for conflict and injustice (Putri, 2024). The establishment of the Medical Dispute Court not only strengthens the legal framework for medical dispute resolution, but also increases public trust in the judicial system and ensures a balance between legal protection for patients and the professional obligations of medical personnel. This institution is expected to be a strategic instrument in creating a professional, efficient, and substantively fair dispute resolution mechanism, in accordance with national legal principles and relevant international legal practices.

International practices provide important lessons for the development of medical dispute resolution mechanisms in Indonesia. Several countries, such as the United Kingdom, Malaysia, and the United States, have implemented more integrated and professional systems for handling disputes between patients and medical personnel. For example, the Medical Practitioners Tribunal Service (MPTS) in the United Kingdom functions specifically to handle disputes and violations of medical professional ethics. The existence of this institution makes the dispute resolution process more efficient, reduces the burden on the general courts, and ensures that each case is handled properly (Gomes & Adiyaryani, 2025).

This international experience provides strategic direction for Indonesia in designing the structure, authority, and working procedures of the Medical Dispute Court. By adapting the principles of international practice, it is hoped that specialized courts in Indonesia will be more adaptive to the complexities of modern medical practice, including developments in health technology, the latest professional standards, and public expectations of medical services (Hutauruk et al., 2022). This approach also enables the creation of a professional, transparent, and standardized dispute resolution mechanism, thereby increasing public trust in the national health law system and protecting the rights of patients and the obligations of medical personnel in a balanced manner. The establishment of a Medical Dispute Court can also be a means of increasing the capacity of law enforcement officials and medical personnel in understanding the interdisciplinary aspects of law and health. This integration is important so that dispute resolution does not only emphasize legal aspects, but also considers the ethical, social, and humanitarian dimensions inherent in medical practice.

The discussion emphasized that the establishment of a Medical Dispute Court is an urgent need in the national health law system. This institution is expected not only to be able to overcome the overlap of authority between institutions, which has often caused legal uncertainty, but also to accelerate the dispute resolution process in a more efficient and structured manner. Through clear procedures and the involvement of medical experts, this special court is expected to increase professionalism and public trust in the judicial system. The Medical Dispute Court is expected to strengthen legal protection that is balanced between patients and medical personnel, thereby creating substantive justice that is impartial, while still upholding standards of professionalism and medical ethics. This institution is a

strategic step towards a more equitable, transparent, and legally certain health law system, while adapting to developments in modern medical practice. The Medical Dispute Court is not limited to its role as a dispute resolution mechanism, but also functions as an important instrument in national health law reform, which guarantees the protection of rights, the security of the medical profession, and the sustainability of quality health services for the community.

#### 4. Conclusion

The settlement of medical disputes in Indonesia has not been optimal due to the absence of a specialized court dedicated to health-related cases. The existing mechanisms, including MKDKI, mediation, and general courts, suffer from overlapping authorities, lengthy processes, and limited understanding of complex medical and ethical issues. Law Number 17 of 2023 concerning Health has opened a new direction by providing space for the establishment of a Medical Dispute Court. This specialized institution is urgently needed to achieve legal certainty, substantive justice, and balanced protection between patients and medical personnel.

The creation of a Medical Dispute Court will integrate legal and medical professional perspectives, produce faster and fairer decisions, and restore public trust in both the judicial system and health services. Based on these findings, policymakers should immediately formulate implementing regulations under Law Number 17 of 2023 to formally establish a Medical Dispute Court with clear jurisdiction, procedures, and coordination mechanisms to replace fragmented dispute resolution pathways. Institutionally, the court should be designed as a specialized judicial body supported by multidisciplinary panels involving legally trained judges and medical experts to ensure consistent, professional, and balanced adjudication that strengthens legal certainty and public trust in the health law system. However, this study is limited to normative analysis and has not yet examined the technical design or organizational structure of the proposed court. Future research should focus on drafting the procedural law for this court, calculating the required budget and human resources, and conducting empirical studies on the readiness of judges and medical experts to serve in such a specialized institution. With strong political will and comprehensive preparation, the Medical Dispute Court can become a strategic instrument for genuine reform in Indonesia's national health law system.

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The authors declare that there is no conflict of interest.

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Ethical approval was obtained for this study. The manuscript represents original work and has not been previously published, nor is it under consideration by another journal.

### ***Data Disclosure Statement***

The data that support the findings of this study are available from the corresponding author upon reasonable request.



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