

The Urgency of Regulating the Right to Strike for Medical Staff and Healthcare Workers from an Ethical and Legal Perspective

Tutri Handayani¹, Widodo², Sulthon Miladiyanto³

¹ Student of the Master's Program in Law, Master's Program in Law, Postgraduate Program, Universitas Widya Gama Malang, tutrihandayani3@gmail.com

² Master's Program in Law, Postgraduate Program, Universitas Wisnuwardhana Malang.

³ Master's Program in Law, Postgraduate Program, Universitas Widya Gama Malang.

Abstract

The rights of doctor and health workers to employment, a decent standard of living, and legal protection are guaranteed under Articles 27 and 28 of the 1945 Constitution of the Republic of Indonesia and Health Law No. 17 of 2023 on Health. In reality, however, there is inequality in the fulfillment of these rights, and strikes are carried out as a means of advocating for them. Under Law No. 13 of 2013 on Labor, strikes by doctor and healthcare workers are not yet regulated in detail, and thus the law is deemed unable to provide strong legal protection for these workers. This study aims to analyze the need for regulations on the right to strike for doctor and health workers, determine the wording of legal provisions regarding the right to strike, and analyze the types of legislation governing this right. This is a normative legal study, employing data collection through literature review and a normative-qualitative analysis method. Several conclusions were drawn from this study. First, the right to strike for medical and healthcare workers needs to be regulated in clear legal provisions to ensure legal certainty and protection. Second, an amendment to the wording of Article 139 of Law No. 13 of 2003 on Manpower specifically, the addition of implementing regulations regarding strikes by doctor and healthcare workers is necessary as the basis for implementing the provisions of the Law. Third, the Minister of Health Regulation governing strikes by doctor and healthcare workers is considered an ideal form of regulation for ensuring legal certainty and legal protection for doctor and healthcare workers, while also protecting patients' rights during strikes.

Keywords: *strike, doctor, healthcare workers, laws and regulations*

INTRODUCTION

The work carried out by medical and healthcare personnel constitutes one of the rights of citizens, namely the right to work and the right to a decent standard of living, as set out in Article 27(2) of the 1945 Constitution of the Republic of Indonesia, which states: "Every citizen has the right to work and to a livelihood that is decent and humane" and in Article 28D(2): "Every person has the right to work and to receive fair and decent remuneration and treatment in employment relations".¹ Article 273 of Health Act No. 17 of 2023 on Health stipulates the rights of medical and healthcare personnel to legal protection whilst carrying out their duties, and their right to a fair salary, remuneration and performance-related allowances.² Medical and healthcare personnel are the key players in the healthcare system in Indonesia. In carrying out their professional duties, medical and healthcare personnel are obliged to maintain their competence, performance and standards, whilst always prioritising patient safety. To this end, the right of medical and healthcare personnel to a fair salary or wage should be based on merit and a sense of justice. The right to a fair salary or wage is of paramount importance as

¹ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, pasal 27, 28

² Undang Undang Kesehatan No.17 Tahun 2023 tentang Kesehatan

it determines the welfare of medical and healthcare personnel, which in turn will influence the quality of healthcare services in Indonesia.³

In reality, medical and healthcare workers sometimes encounter inconsistencies and even injustices in the realisation of their rights regarding salaries and wages. One form of protest undertaken by these medical and healthcare workers is a strike. Under Law of the Republic of Indonesia No. 13 of 2013 on Employment, a strike is defined as an action by workers/labourers that is planned and carried out collectively and/or by a trade union to halt or slow down work. Article 137 explains that a strike is a fundamental right of workers and trade unions, to be carried out lawfully, in an orderly manner and peacefully, as a result of the failure of negotiations.⁴

The author obtained data on strikes by medical and healthcare staff in Indonesia from media reports. In 2023, there was a strike by doctors and healthcare staff at the Subulussalam City General Hospital in Aceh Singkil, Nanggroe Aceh Darussalam.⁵ and the threat of a strike by 26 specialist doctors at the I Lagaligo District General Hospital in East Luwu Regency, South Sulawesi, the cause of which is the non-payment of incentives.⁶ In 2024, there were several strikes, including a strike by healthcare workers at the Raja Ampat Regency General Hospital⁷, Tanduale District General Hospital, Bombana Regency⁸, Ir Soekarno Regional General Hospital, Morotai Island, North Maluku. The reason for this strike is that incentives, honoraria and salaries have not yet been paid.⁹ In 2025, there was a doctors' strike in Mamasa due to unpaid salaries, incentives and claims for medical services¹⁰, Two specialist doctors at Tjokronegoro District General Hospital in Purworejo Regency, Central Java, have gone on strike because they consider their medical fees to be too low¹¹, and a strike by two anaesthetists at the TC Hillers Maumere Regional General Hospital, in Sikka Regency, East Nusa Tenggara, because the fees they were receiving were too low. This was followed by a threat that the Governor would revoke their licences to practise on the grounds of a lack of humanitarian responsibility.¹² Another strike also took place at Merauke Regional General Hospital in Papua

³ Pengurus Besar Ikatan Dokter Indonesia. (2023). Pedoman Remunerasi Dokter Indonesia - Apresiasi atas Integritas Profesi.

⁴ Undang-Undang Republik Indonesia Nomor 13 Tahun 2003 tentang Ketenagakerjaan.

⁵ Ali Hasmi, 2 Januari 2024 Dokter Spesialis RSUD Subulussalam Sepakat Mogok Kerja, Sebelum Insentif Dibayarkan

⁶ Syahdan Nurdin, "26 Dokter Spesialis RSUD I Lagaligo Ancam Mogok Kerja, Uang Insentif 8 Bulan Belum Dibayar", 4 Oktober 2024, <https://www.viva.co.id/berita/nasional/1758182-26-dokter-spesialis-rsud-i-lagaligo-ancam-mogok-kerja-uang-insentif-8-bulan-belum-dibayar>, diakses pada tanggal 23 Oktober 2025.

⁷ Felix Adidati, Hak Belum Dibayarkan, Nakes RSUD Waisai Raja Ampat Kembali Gelar Aksi Mogok Kerja, 10 September 2024". <https://sorongraya.inews.id/read/491111/hak-belum-dibayarkan-nakes-rsud-waisai-raja-ampat-kembali-gelar-aksi-mogok-kerja>, diakses pada tanggal 20 November 2025

⁸ AnoaNews.com, Ratusan Nakes RSUD Tanduale Bombana Mogok Kerja, Layanan IGD dan Poli Terpaksa ditutup, 15 November 2024. <https://www.anoanews.com/ratusan-nakes-rsud-tanduale-bombana-mogok-kerja-layanan-igd-dan-poli-terpaksa-ditutup/>, diakses pada tanggal 20 November 2025

⁹ Beritadetik.id, Nakes Morotai Mogok Kerja, Pelayanan Kesehatan Terancam Lumpuh Total, 19 Desember 2024. <https://beritadetik.id/2024/12/19/nakes-morotai-mogok-kerja-pelayanan-kesehatan-terancam-lumpuh-total/>, diakses pada tanggal 20 November 2025

¹⁰ Hamsah Sabir, "Dokter di Mamasa Mogok Kerja Gegara Gaji, Insentif dan Klaim Jasa Medik Tak Dibayar", 13 Februari 2025, <https://sulbar.tribunnews.com/2025/02/13/dokter-di-mamasa-mogok-kerja-gegara-gaji-insentif-dan-klaim-jasa-medik-tak-dibayar>. Diakses pada tanggal 23 Oktober 2025.

¹¹ Bayu apriliano, Ihsanudin, "Protes Upah Terlalu Murah, Dua Dokter RSUD Tjokronegoro Purworejo Mogok Kerja", 18 Maret 2025, <https://regional.kompas.com/read/2025/03/18/125830878/protes-upah-terlalu-murah-dua-dokter-rsud-tjokronegoro-purworejo-mogok>. Diakses pada tanggal 23 Oktober 2025.

¹² Guche Montero, "Ingatkan Dokter Anestesi yang Mogok Kerja Karena Honor Kecil, Gubernur NTT: Utamakan Dedikasi untuk Kemanusiaan", 11 April 2025, <https://indonesiasatu.co/detail/ingatkan-dokter-anestesi-yang-mogok-kerja-karena-honor-kecil--gubernur-ntt--utamakan-dedikasi-untuk-kemanusiaan>. Diakses pada tanggal 23 Oktober 2025.

¹³, RSUD LM Baharuddin, Muna, Southeast Sulawesi ¹⁴, Kotapinang District General Hospital, South Labuhanbatu Regency, citing unpaid salaries and incentives and the issue of incentive cuts.¹⁵ In 2026, strikes by medical and healthcare staff were still taking place, namely strikes by civil service and contract doctors at the Regional General Hospital. Mgr Gabriel Manek, SVD, Atambua, NTT ¹⁶ and a doctors' strike in Siak Regency over incentives that were not paid as they should have been.¹⁷

In the United States, data from the Bureau of Labour Statistics between 1993 and 2021 show that there were 96 large-scale work stoppages in the healthcare sector, the vast majority of which (88 per cent) took place in hospitals. The largest strike on record occurred in 1996 in New York, involving a total of 272,000 days of lost work and 5,800 participants.¹⁸ Research by Giuliano Russo et al. (2018) on healthcare workers' strikes in developing countries revealed that there were 70 strike actions carried out by healthcare workers in 23 countries, totalling 875 days of strike action. Strikes involving more than one professional category were the most common, with 32 incidents, whilst strikes carried out solely by doctors totalled 22 incidents. The most frequent cause was dissatisfaction with pay, followed by protests against sectoral governance or policy and working conditions.¹⁹

The strike action taken by medical staff has drawn a great deal of negative reaction, as it is felt that by going on strike, doctors are disregarding patients' rights, neglecting patients and breaching their moral and professional duty to protect patients' lives and safety and to provide high-quality care to all patients.²⁰ Viewed from one perspective alone, this strike by medical and healthcare staff appears to breach professional ethics, as set out in the Code of Medical Ethics ²¹, Code of Ethics for Nursing ²² and the Code of Ethics for Midwives.²³ However, viewed from another perspective, a strike is a fundamental right of medical and healthcare staff who are workers in Indonesia to make their voices heard, express their opinions and fight for their right to a decent livelihood. The assumption that the medical profession is one based on humanitarian principles is often misinterpreted to mean that doctors' rights to a salary or wage

¹³ Jesica A.H, "Dokter Spesialis RSUD Merauke Mogok Kerja, Ini Alasannya", 23 Mei 2025, <https://rri.co.id/daerah/1535910/dokter-spesialis-rsud-merauke-mogok-kerja-ini-alasannya>. Diakses pada tanggal 23 Oktober 2025.

¹⁴ Defriatno Neke, Ihsanudin, "Belasan Dokter Mogok Kerja di RSUD Muna, Ratusan Pasien Terlantar", 2 Juni 2025, <https://regional.kompas.com/read/2025/06/02/175004778/belasan-dokter-mogok-kerja-di-rsud-muna-ratusan-pasien-terlantar>. Diakses pada tanggal 23 Oktober 2025.

¹⁵ Johan P, "Dokter Spesialis RSUD Kotapinang Mogok Kerja Dua Hari Tuntut Remunerasi", 15 September, <https://sumutpos.jawapos.com/sumatera-utara/2376574716/dokter-spesialis-rsud-kotapinang-mogok-kerja-dua-hari-tuntut-remunerasi>. Diakses pada tanggal 23 Oktober 2025.

¹⁶ Ombudsman Perwakilan Nusa Tenggara Timur 13 April 2026 mbudsman NTT Minta Pemda Belu Tanggapi Aksi Mogok Kerja Dokter Spesialis di RSUD Gabriel Manek <https://ombudsman.go.id/perwakilan/news/r/pwkmedia--ombudsman-ntt-minta-pemda-belu-tanggapi-aksi-mogok-kerja-dokter-spesialis-di-rsud-gabriel-manek>

¹⁷ Eko Faizin, Puluhan Dokter Spesialis di RSUD Siak Ancam Mogok Kerja, Kenapa? 17 Maret 2026 <https://riau.suara.com/read/2026/03/17/155602/puluhan-dokter-spesialis-di-rsud-siak-ancam-mogok-kerja-kenapa>

¹⁸ US Bureau Of Labour Statistic, <https://www.bls.gov/wsp/factsheets/summary-of-work-stoppages-in-healthcare-and-social-assistance-industry.htm>

¹⁹ Giuliano Russo. (2019). *Health workers' strikes in low-income countries: The available evidence*, Bull World Health Organ 2019;97:460–467H | doi: <http://dx.doi.org/10.2471/BLT.18.225755> . hlm. 462

²⁰ Ombudsman RI - Perwakilan: Sumatera Utara , "Mogok Kerja Dokter Spesialis Berpotensi Mengganggu Layanan Kesehatan Dan Mengabaikan Hak-Hak Pasien", 17 September 2025, <https://ombudsman.go.id/perwakilan/news/r/pwkmedia--mogok-kerja-dokter-spesialis-berpotensi-mengganggu-layanan-kesehatan-dan-mengabaikan-hak-hak-pasien>. Diakses pada tanggal 23 Oktober 2025.

²¹ Kode Etik Kedokteran Indonesia, 2012

²² Kode Etik Keperawatan Indonesia, 2020

²³ Kode Etik Bidan Indonesia, 2023

in the form of money are unimportant, and are therefore frequently overlooked. A strike is one way of balancing the bargaining power of medical staff or workers in the health sector.²⁴

Against this background, the author formulates the following research questions: 1. What is the urgency of regulating the right to strike for medical and healthcare personnel? 2. How should legal provisions regarding the right to strike for medical and healthcare personnel be drafted so as not to contravene ethical standards and legislation? 3. What types of legislation govern the right to strike for medical and healthcare personnel? The objectives of this study are: 1. To analyse the need for regulations governing the right to strike of medical and healthcare personnel. 2. To analyse how legal provisions regarding the right to strike of medical and healthcare personnel should be drafted so as not to contravene ethical standards and legislation. 3. To analyse the types of legislation governing the right to strike of medical and healthcare personnel.

RESEARCH METHODOLOGY

This study is a normative legal study as it refers to the legal norms contained in the applicable legislation, which constitutes positive law. This study employs several mutually supportive research approaches, namely: the legislative approach is used to systematically examine all legislation relating to strikes by medical and healthcare personnel; the conceptual approach is used to understand legal concepts relevant to the study, such as the concepts of employment, healthcare facilities, and the rights and obligations of medical and healthcare personnel, and legal protection; and a comparative approach, which involves comparing other similar studies, both in Indonesia and in other countries, including legislation relating to strikes by medical and healthcare personnel. Data collection for this study was carried out through a literature review, and the data analysis method employed was normative-qualitative analysis.

RESULTS AND DISCUSSION

The Urgency of Regulating the Right to Strike for Medical and Healthcare Workers

Philosophically speaking, a strike is a fundamental right of workers, aimed at enhancing their bargaining power vis-à-vis employers, the state and society, so that greater attention may be paid to workers' welfare. In the cooperative relationship between workers and employers, one party may dominate the other due to possessing greater power or resources. Employers can be said to have greater power and resources, enabling them to dominate or hold stronger bargaining power within the framework of employment contracts, whilst workers, conversely, find themselves in a position of weaker bargaining power.

Legally speaking, a strike is closely linked to every person's right to freedom of association, assembly and expression, as set out in Article 28E(3) of the 1945 Constitution. A strike is a democratic instrument for workers to demand their statutory rights. These rights are set out in Article 27(2) of the 1945 Constitution, which states: "Every citizen has the right to work and to a standard of living that is decent for human beings", and in Article 28D(2): "Every person has the right to work and to receive fair and decent remuneration and treatment in employment relations."²⁵ Under Law No. 13 of 2003 on Labour, a strike is defined as an action by workers/labourers that is planned and carried out collectively and/or by a trade union to halt or slow down work. Article 137 explains that a strike, as a fundamental right of workers and trade unions, is carried out lawfully, in an orderly manner and peacefully as a result of failed negotiations.²⁶ The right to strike, as a fundamental right of workers, is also guaranteed by the ILO (International Labour Organisation). A strike is defined as a right of workers and workers'

²⁴ Op. Cit. Guliano Rusho. (2019). hlm. 464.

²⁵ Undang-Undang Dasar Negara republik Indonesia 1945

²⁶ Undang-Undang Republik Indonesia Nomor 13 Tahun 2003 tentang Ketenagakerjaan

organisations (trade unions, federations and confederations), undertaken for the purpose of promoting and defending the economic and social interests of workers.²⁷

A strike is carried out as one of the means of fulfilling workers' normative rights, which constitute basic human needs: namely, the right to work and a decent standard of living, as well as the right to work and to receive fair and decent remuneration and treatment within the employment relationship. In Abraham Maslow's Hierarchy of Needs theory, which divides human needs into five basic levels, the rights mentioned above fall within these categories: physiological needs, safety needs, the need for belonging and love, the need for esteem, and the need for self-actualisation.²⁸

A strike by medical and healthcare staff will have serious consequences, unlike strikes in other sectors. A strike can not only disrupt employers, but can also have serious consequences for the health of patients and the public, as well as for the provision of healthcare services in general.²⁹ The strike action taken by medical and healthcare staff has also drawn a great deal of negative reaction from the public, as by going on strike, they are seen as disregarding patients' rights, neglecting patients and breaching their moral and professional duties to protect patients' lives and safety.³⁰ Medical and healthcare staff who go on strike usually face a moral dilemma because of a conflict of interest between adherence to the principles of professional ethics, the right to campaign for fair pay, and their moral obligations to patients and society.³¹ In this regard, Ryan Essex argues that rational consideration is needed to address the dilemma faced by medical and healthcare staff in carrying out this strike. A strike can be justified on the basis of several considerations, namely: 1. To make demands or voice complaints regarding a form of injustice, inequality or threat to health, for example concerning inadequate pay and working conditions, racism or economic inequality, as well as for broader objectives such as patient safety and improving the healthcare system. 2. The risks involved in going on strike must be proportionate to the demands. If there is a risk of harm to patients or to the staff taking part in the strike, it is better not to go on strike. Risks to healthcare workers may include violence from the authorities, a loss of income, or damage to their professional reputation. 3. The social and political context of the strike, namely the social and political environment in which the strike takes place, the healthcare system affected, and whether the strike is legal or illegal. 4. The characteristics of the strike: it is important to consider who will be taking part in the strike, the number of staff involved, the professions represented, and staff seniority in order to assess the potential impact of the strike.³²

Looking at cases of strikes in the health sector that have occurred in many countries around the world with diverse triggers and varying durations, demands and impacts the consequences are more severe in low- and middle-income countries. This is due to a lack of infrastructure and resources, weak institutional frameworks, inefficient organisational codes of conduct and practices, and a lack of available and affordable healthcare alternatives. Those

²⁷ Bernard Gernigon, et al. (2002), *ILO Principles Concerning The Right To Strike*, Geneva, 2000, hlm. 11

²⁸ Siti Muazaroh, et al. (2019). *Kebutuhan Manusia Dalam Pemikiran Abraham Maslow (Tinjauan Maqasid Syariah)*. Jurnal Al-Mazaahib, Vol.7 No.1. hlm 17-33. Diakses dari <https://ejournal.uin-suka.ac.id/syariah/almazahib/article/view/1877>

²⁹ Ryan Essex, *A deliberative framework to assess the justifiability of strike action in healthcare*, Nursing Ethics 2024, Vol. 31(2-3), hlm 149

³⁰ Sylvester C Chima *Global medicine: Is it ethical or morally justifiable for doctors and other healthcare workers to go on strike?*, Chima BMC Medical Ethics 2013, 14(Suppl 1):S5

³¹ Zhong Ning Leonard Goh et al, *The ethics of a work strike*, Med J Malaysia Vol 77 No 1 January 2022, hlm 1, 2

³² Op. Cit. Ryan Essex (2024). hlm. 153-156

with lower incomes will be disproportionately affected by the disruption to healthcare services during a strike.³³

The fact that there has been a global rise in the incidence of strikes by medical and healthcare staff³⁴, including in Indonesia, as outlined in the introduction, clear legal provisions regarding strikes by medical and healthcare staff are therefore essential as a form of legal protection for both medical and healthcare staff and for patients as recipients of healthcare services. This legal protection must fulfil the three fundamental values of law, namely justice, utility and legal certainty, as articulated by Gustav Radbruch. A law that is not based on justice is considered flawed and will be arbitrary. The existence of legislation is preferable to its absence because it creates legal certainty. The law serves the interests of society. This means that utility within the law is realised when the interests of society are served.³⁵

Legislation in the field of labour aims to strike a balance in legal treatment in order to achieve welfare and reasonable justice for both employers and employees.³⁶ The purpose of labour law is to achieve and implement social justice in the field of labour and to protect workers against the unchecked power of employers. The provisions of the Labour Act are legally intended to maintain a balance in the employment relationship between workers and employers, so that they may maintain a good working relationship in the course of business activities, thereby enhancing the welfare of both parties.³⁷

The regulations concerning industrial action are set out in Law No. 13 of 2003 on Labour. Article 139 states that: “The conduct of industrial action by workers employed by companies serving the public interest and/or companies whose activities endanger human life shall be regulated in such a way as not to disrupt the public interest and/or endanger the safety of others”. The explanatory notes to Article 139 state that “workers employed by companies serving the public interest and/or companies whose activities endanger human life” include workers employed in hospitals, the fire service, railway level crossing guards, sluice gate operators and air traffic controllers. In this regard, medical and healthcare staff working in hospitals fall within the scope of this article. Furthermore, regarding “strikes organised in such a manner”, the only explanation provided is “strikes carried out by workers who are not on duty”; there is no further detail on this matter. As explanations of laws in Indonesia constitute valid and binding legal norms because they are promulgated in the Supplement to the State Gazette (TLN),³⁸ On this basis, the author considers that Article 139 and its explanatory notes contain legal ambiguity. Meanwhile, in his research, Rama argues that the legal ambiguity in Article 139 of the Labour Law arises because there is a discrepancy with the purpose of a strike, namely that it does not fulfil the element of ‘hindering’ or ‘stopping’ work.³⁹

The regulation under the Labour Act governing industrial action is the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia No. Kep.232/Men/2003 concerning the Legal Consequences of Unlawful Industrial Action. Article 3 states that a strike is unlawful if it is carried out not as a result of failed negotiations; and/or without notice to the employer and the relevant labour authority; and/or with less than 7 (seven) days’ notice prior to the strike; and/or the content of the notice does not comply with the provisions of Article 140(2)(a), (b), (c) and (d) of Law No. 13 of 2003 on Labour. The consequences of such an unlawful strike are classified as absence from work, and the

³³ Frontiers in Public Health, DOI 10.3389/fpubh.2024.1209201

³⁴ Op. Cit. Ryan Essex (2024). hlm. 149

³⁵ Muh. Afif Mahfud. (2024). Buku Ajar Pengantar Ilmu Hukum. Semarang: Yoga Pratama. hlm 49-63

³⁶ Arifuddin Muda Harahap, Pengantar Hukum Ketenagakerjaan (Batu, 2020), hlm. 17

³⁷ Ibid, hal 35

³⁸ Ilham Fajar Septian, Status Hukum Penjelasan Undang-Undang Berdasarkan Sistem Peraturan Perundang-Undangan Indonesia, Jurnal Hukum & Pembangunan Volume 51 Number 3 Article 16 9-25-2021

³⁹ Rama Agung, Mogok Kerja Tenaga Medis: Problematika pada UU Ketenagakerjaan dan Pilihan Model Pengaturannya, Jurnal Hukum & Pembangunan Volume 54 Number 4, hlm. 13

consequence for the workers involved is resignation, as stipulated in Article 6. Furthermore, Article 5, which regulates strikes in companies serving the public interest and/or companies whose activities endanger human life, states that if a strike is carried out by workers on duty, it shall be classified as an unlawful strike. Article 7 further states that an unlawful strike, as referred to in Article 5, is classified as an absence from work; and if such an unlawful strike, as referred to in paragraph (1), results in the loss of human life in connection with the worker's duties, it is classified as a serious offence. This Ministerial Decree does not contain more detailed provisions regarding strikes by medical and healthcare personnel. The author therefore considers that specific legislation ('lex specialis') is required concerning strikes by medical and healthcare personnel to ensure legal certainty and legal protection for such personnel, including the protection of patients' rights.

Drafting of Legal Provisions on the Right to Strike for Medical and Healthcare Workers to Ensure Compliance with Ethical Standards and Legislation

Amendments to clauses or articles in a law may be made to meet the legal needs of society. This process is carried out by amending, inserting or repealing specific articles within a regulation.

To meet the legal requirements relating to industrial action involving medical and healthcare personnel, the author proposes amending Article 139 of Law No. 13 of 2003 on Labour, as follows:

Article 139 is amended to consist of two clauses, where clause (1) retains the text of the previous Article 139, namely: "The conduct of industrial action by workers employed by companies serving the public interest and/or companies whose activities endanger human life shall be regulated in such a way as not to disrupt the public interest and/or endanger the safety of others".

A new paragraph (2) has been added, which reads: "Further regulations concerning strikes as referred to in paragraph (1) shall be laid down, amongst others, by the ministers responsible for health, home affairs, transport and public works".

Types of Legislation Governing the Right to Strike for Medical and Healthcare Workers

To ensure legal protection for medical and healthcare workers in the event of a strike, provisions are required to regulate and provide legal certainty for such workers when undertaking a strike. The ambiguity of the provisions contained in Article 139 of Law No. 13 of 2003 on Manpower can be resolved by amending the wording as explained above, following which a Ministerial Regulation may be issued as referred to in paragraph (2). The minister responsible for administering government affairs in the field of health in this context is the Minister of Health.

Article 8 of Law of the Republic of Indonesia No. 12 of 2011 on the Formation of Legislation states that a Ministerial Regulation is a form of legislation whose existence is recognised and which has binding legal force provided that it is mandated by higher-ranking legislation or issued in accordance with the minister's authority. A Ministerial Regulation is a regulation issued by a minister based on its substantive content for the purpose of administering specific government affairs.⁴⁰ Ministerial Regulations, including Implementing Regulations, are issued by the executive (the government) or other bodies for the purpose of implementing legislation. Ministerial Regulations may be issued due to the urgency of implementing a rule, the need for detailed regulations, or the requirement for specialist expertise. As implementing regulations, Ministerial Regulations can be issued more quickly, as the process does not require

⁴⁰ Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan

lengthy deliberation in the House of Representatives. Ministries tend to be better placed to draw up effective regulations as this falls within their area of expertise.⁴¹

To compare the rules governing strikes by medical and healthcare staff in other countries, the researchers examined the legal framework in countries that follow the civil law system. In Asia, they took South Korea as an example. The Labour Standards Act⁴², and its health legislation, namely the Medical Service Act. Neither of these Acts contains provisions regarding industrial action, whether for workers in general or for medical and healthcare staff.⁴³

Workers' right to strike is regulated under the Trade Union and Labour Relations Adjustment Act. Article 42-2 sets out provisions regarding restrictions on strikes in essential services or businesses, whereby in paragraph (1) "essential services" in this Act are defined as services whose suspension or cessation could seriously endanger human life, public health and the daily lives of the community, as stipulated by a Presidential Decree; Paragraph (2) states that the actions referred to in paragraph (1) constitute prohibited industrial action.

The essential services referred to in paragraph (1) are: 1. Railway services, urban underground railway operations, and air transport operations; 2. Drinking water services, electricity supply, gas supply, petroleum refining operations, and petroleum supply operations; 3. Hospital services and blood supply operations; 4. Services of the Bank of Korea; 5. Telecommunications services. Article 42-3 sets out the Agreement on Essential Services, whereby the parties to an employment relationship are obliged to draw up a written agreement specifying the minimum level of maintenance and operation of essential services required, the duties and the number of workers required, amongst other matters, so that essential businesses may be lawfully maintained and operated during a period of industrial action (hereinafter referred to as the 'agreement on essential businesses'). Article 42-4 then sets out provisions regarding the Decision on the Level of Maintenance and Operation of Essential Businesses, whereby this article stipulates that both parties or either party to an employment relationship, should no agreement on essential businesses have been reached, are obliged to submit a request to the Labour Relations Commission to determine the minimum level of maintenance and operation of essential businesses required, the applicable duties, and the number of workers required, amongst other matters. It is the Labour Relations Commission that may determine the minimum level required for the maintenance and operation of essential businesses, the applicable duties and the number of workers required, etc., taking into account the characteristics and nature of essential services according to the type of business or place of business. The decision made by the Labour Relations Commission will then be implemented by a special arbitration committee. Should the parties concerned disagree on the interpretation or manner of implementation of the decision made by the Labour Relations Commission, the interpretation of the special arbitration committee shall prevail. In such cases, the interpretation of the special arbitration committee shall have the same force as that of the Labour Relations Commission.⁴⁴

Regulations on industrial action in other countries: according to research by Rama Agung, the right to strike in South Africa is guaranteed by the constitution. The right to collective bargaining, as an integral part of the right to strike, is regulated under the Labour Relations Act (LRA), also known as Act No. 66 of 1995. Section 65 sets out the limitations on the right to strike and lockouts, prohibiting those employed in essential services from taking

⁴¹Purnomo Sucipto, Mengapa Undang-Undang Perlu Peraturan Pelaksanaan? Sekretariat Kabinet RI. 11 Maret 2015 diakses dari <https://setkab.go.id/mengapa-undang-undang-perlu-peraturan-pelaksanaan/>

⁴² *Labor Standard Act*, Korea Legislation Research Institute

⁴³ *Medical Service Act*, Korea Legislation Research Institute

⁴⁴ Trade Union And Labor Relations Adjustment Act, Korea Legislation Research Institute

industrial action. Provisions in the LRA allow workers in essential sectors to enter into collective agreements whilst continuing to provide a minimum level of service within those sectors designated as essential services. Rama's research also highlights the right to strike in the healthcare sector in Canada. The legislation governing strikes is the Canadian Labour Code 1985, which was amended in 2021. It regulates collective bargaining in the private sector, stipulating that in the event of a strike or lock-out that is not prohibited, employers, trade unions and workers must continue to provide services, operate facilities or produce goods to the extent necessary to prevent danger to public safety and health.⁴⁵

Pembentukan Peraturan Menteri yang mengatur mogok kerja tenaga medis dan tenaga kesehatan, dinilai dapat memberi kepastian hukum dan perlindungan hukum bagi tenaga medis dan tenaga kesehatan dalam melaksanakan mogok kerja yang merupakan hak warga negara dan pekerja, sekaligus dapat melindungi hak pasien, sehingga tidak melanggar etika dan peraturan perundang-undangan.

CONCLUSION

The right to strike for medical and healthcare personnel, which is a constitutional right of citizens, needs to be regulated by clear legal provisions in order to meet the legal needs of society, namely to guarantee legal protection for medical and healthcare personnel as well as the protection of patients' rights. An amendment to the wording of Article 139 of Law No. 13 of 2003 on Employment, in the form of the addition of implementing regulations concerning strikes by medical and healthcare personnel, is required as the basis for the implementation of the provisions of the Law. Implementing regulations in the form of a Minister of Health Regulation governing strikes by medical and healthcare personnel are considered the ideal form of regulation to ensure legal certainty and legal protection for medical and healthcare personnel, whilst also safeguarding patients' rights during the course of a strike.

REFERENCES

- Ali Hasmi. (2024). "Dokter Spesialis RSUD Subulussalam Sepakat Mogok Kerja, Sebelum Insentif Dibayarkan." *Serambi Wahana News*. 2 Januari 2024. <https://serambi.wahananews.co/utama/dokter-spesialis-rsud-subulussalam-sepakat-mogok-kerja-sebelum-insentif-dibayarkan-u00Zx2X0IS>
- AnoaNews.com. (2024). "Ratusan Nakes RSUD Tanduale Bombana Mogok Kerja, Layanan IGD dan Poli Terpaksa Ditutup." 15 November 2024. <https://www.anoanews.com/ratusan-nakes-rsud-tanduale-bombana-mogok-kerja-layanan-igd-dan-poli-terpaksa-ditutup/>
- Bayu Apriliano. (2025). "Protes Upah Terlalu Murah, Dua Dokter RSUD Tjokronegoro Purworejo Mogok Kerja." 18 Maret 2025. <https://regional.kompas.com/read/2025/03/18/125830878/protes-upah-terlalu-murah-dua-dokter-rsud-tjokronegoro-purworejo-mogok>

⁴⁵ Op. Cit. Rama Agung (2024). hlm. 15-18

- Beritadetik.id. (2024). “Nakes Morotai Mogok Kerja, Pelayanan Kesehatan Terancam Lumpuh Total.” 19 Desember 2024. <https://beritadetik.id/2024/12/19/nakes-morotai-mogok-kerja-pelayanan-kesehatan-terancam-lumpuh-total/>
- Chima, Sylvester. (2013). “Global medicine: Is it ethical or morally justifiable for doctors and other healthcare workers to go on strike?” *BMC Medical Ethics*, 14(Suppl 1), S5.
- Defriatno Neke. (2025). “Belasan Dokter Mogok Kerja di RSUD Muna, Ratusan Pasien Terlantar.” 2 Juni 2025. <https://regional.kompas.com/read/2025/06/02/175004778/belasan-dokter-mogok-kerja-di-rsud-muna-ratusan-pasien-terlantar>
- Eko Faizin. (2026). “Puluhan Dokter Spesialis di RSUD Siak Ancam Mogok Kerja, Kenapa?” 17 Maret 2026. <https://riau.suara.com/read/2026/03/17/155602/puluhan-dokter-spesialis-di-rsud-siak-ancam-mogok-kerja-kenapa>
- Essex, Ryan. (2022). “The justification for strike action in healthcare: A systematic critical interpretive synthesis.” *Nursing Ethics*, 29(5), 1152–1173.
- Essex, Ryan. (2024). “A deliberative framework to assess the justifiability of strike action in healthcare.” *Nursing Ethics*, 31(2–3), 148–160.
- Felix Adidati. (2024). “Hak Belum Dibayarkan, Nakes RSUD Waisai Raja Ampat Kembali Gelar Aksi Mogok Kerja.” 10 September 2024. <https://sorongraya.inews.id/read/491111/hak-belum-dibayar-nakes-rsud-waisai-raja-ampat-kembali-gelar-aksi-mogok-kerja>
- Gernigon, Bernard. (et al.). (2000). *ILO Principles Concerning The Right To Strike*. Geneva: ILO.
- Goh, Zhong. (et al.). (2022). “The ethics of a work strike.” *Med Journal Malaysia*, 77(1), January 2022.
- Guche Montero. (2025). “Ingatkan Dokter Anestesi yang Mogok Kerja Karena Honor Kecil, Gubernur NTT: Utamakan Dedikasi untuk Kemanusiaan.” 11 April 2025. <https://indonesiasatu.co/detail/ingatkan-dokter-anestesi-yang-mogok-kerja-karena-honor-kecil-gubernur-ntt-utamakan-dedikasi-untuk-kemanusiaan>
- Hamsah Sabir. (2025). “Dokter di Mamasa Mogok Kerja Gegara Gaji, Insentif dan Klaim Jasa Medik Tak Dibayar.” 13 Februari 2025. <https://sulbar.tribunnews.com/2025/02/13/dokter-di-mamasa-mogok-kerja-gegara-gaji-insentif-dan-klaim-jasa-medik-tak-dibayar>
- Harahap, AM. (2020). *Pengantar Hukum Ketenagakerjaan*. Batu: Literasi Nusantara.
- Jesica A.H. (2025). “Dokter Spesialis RSUD Merauke Mogok Kerja, Ini Alasannya.” 23 Mei 2025. <https://rri.co.id/daerah/1535910/dokter-spesialis-rsud-merauke-mogok-kerja-ini-alasannya>

Johan P. (n.d.). “Dokter Spesialis RSUD Kotapinang Mogok Kerja Dua Hari Tuntut Remunerasi.” 15 September. <https://sumutpos.jawapos.com/sumatera-utara/2376574716/dokter-spesialis-rsud-kotapinang-mogok-kerja-dua-hari-tuntut-remunerasi>

Kode Etik Bidan Indonesia. (2023).

Kode Etik Keperawatan Indonesia. (2020).

Labor Standard Act, Korea Legislation Research Institute.

Mahfud, Muh. Afif. (2024). *Buku Ajar Pengantar Ilmu Hukum*. Semarang: Yoga Pratama.

Ombudsman Perwakilan Nusa Tenggara Timur. (2026). “Ombudsman NTT Minta Pemda Belu Tanggapi Aksi Mogok Kerja Dokter Spesialis di RSUD Gabriel Manek.” 13 April 2026. <https://ombudsman.go.id/perwakilan/news/r/pwkmedia--ombudsman-ntt-minta-pemda-belu-tanggapi-aksi-mogok-kerja-dokter-spesialis-di-rsud-gabriel-manek>

Ombudsman RI - Perwakilan Sumatera Utara. (2025). “Mogok Kerja Dokter Spesialis Berpotensi Mengganggu Layanan Kesehatan dan Mengabaikan Hak-Hak Pasien.” 17 September 2025. <https://ombudsman.go.id/perwakilan/news/r/pwkmedia--mogok-kerja-dokter-spesialis-berpotensi-mengganggu-layanan-kesehatan-dan-mengabaikan-hak-hak-pasien>

Pengurus Besar Ikatan Dokter Indonesia. (2012). *Kode Etik Kedokteran Indonesia*.

Pengurus Besar Ikatan Dokter Indonesia. (2023). *Pedoman Remunerasi Dokter Indonesia - Apresiasi atas Integritas Profesi*.

Purnomo Sucipto. (2015). “Mengapa Undang-Undang Perlu Peraturan Pelaksanaan?” *Sekretariat Kabinet RI*. 11 Maret 2015. <https://setkab.go.id/mengapa-undang-undang-perlu-peraturan-pelaksanaan/>

Rama Agung. (n.d.). “Mogok Kerja Tenaga Medis: Problematika pada UU Ketenagakerjaan dan Pilihan Model Pengaturannya.” *Jurnal Hukum & Pembangunan*, 54(4), 15–18.

Rusho, Guliano. (et al.). (2019). “Health Worker’s Strikes in Low Income Countires: The Available Evidence.” *Jurnal Bull Health Organ*, 97(7), Juli 2019.

Septian, Ilham F. (2021). “Status Hukum Penjelasan Undang-Undang Berdasarkan Sistem Peraturan Perundang-Undangan Indonesia.” *Jurnal Hukum & Pembangunan*, 51(3), Article 16, 9–25.

Siti Muazaroh, et al. (2019). “Kebutuhan Manusia Dalam Pemikiran Abraham Maslow (Tinjauan Maqasid Syariah).” *Jurnal Al-Mazaahib*, 7(1), 17–33. <https://ejournal.uin-suka.ac.id/syariah/almazahib/article/view/1877>

Syahdan Nurdin. (2024). “26 Dokter Spesialis RSUD I Lagaligo Ancam Mogok Kerja, Uang Insentif 8 Bulan Belum Dibayar.” 4 Oktober 2024.

<https://www.viva.co.id/berita/nasional/1758182-26-dokter-spesialis-rsud-i-lagaligo-ancam-mogok-kerja-uang-insentif-8-bulan-belum-dibayar>

Trade Union And Labor Relations Adjustment Act, Korea Legislation Research Institute.

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan.

Undang-Undang Republik Indonesia Nomor 13 Tahun 2003 tentang Ketenagakerjaan.

Undang-Undang Republik Indonesia Nomor 17 Tahun 2023 tentang Kesehatan.

US Bureau of Labour Statistic. (n.d.). "Work Stoppages In Healthcare And Social Assistance."
<https://www.bls.gov/wsp/factsheets/summary-of-work-stoppages-in-healthcare-and-social-assistance-industry.htm>