Legal Regulations Regarding the Placement of Medical Personnel on Domestic Civil Passenger Aircraft in Indonesia Reviewed from Law Number 1 of 2009 Concerning Aviation

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Abstract

Airplanes are one of the main choices of air transportation for Indonesian people. During the flight, passengers sometimes experience various health problems that require the assistance of medical personnel. This study aims to analyze the legal regulations for the placement of medical personnel on domestic civil passenger aircraft based on Law No. 1 of 2009 concerning Aviation at this time, and to analyze future legal regulations regarding the placement of medical personnel on domestic civil passenger aircraft in Indonesia. This research method is normative juridical, using a statutory regulatory approach. From the results of this study, the placement of medical personnel on domestic civil passenger aircraft in Indonesia has not been regulated in Law No. 1 of 2009 concerning Aviation. For future legal regulations, regarding the placement of medical personnel on domestic civil passenger aircraft in Indonesia, legal regulations must be immediately stipulated. These legal regulations can be added to Law No. 1 of 2009 concerning Aviation. The government, the Indonesian House of Representatives, airlines and related parties must immediately stipulate these legal regulations to fill the legal gap and provide legal certainty to medical personnel and airlines

I. Introduction

With the development of the global era, activities are needed effectively by the community supported by air transportation. One of the modes of air transportation that has an effective value is an airplane. An airplane is an aircraft that is heavier than air, has permanent wings, and can fly using its own power. Some Indonesian people like to use air transportation, because it is considered more affordable and saves more time on the trip. (Tanjung & Sudiro, 2022) With the advantages of passenger aircraft compared to other means of passenger transportation, airline owners can realize flights that are orderly, orderly, safe, secure and comfortable for their passengers. (Sinaga, 2023) Safety is not only avoiding plane crashes that are given priority attention, but patient safety from the aspect of passenger health which is their responsibility must be a concern for airline entrepreneurs in Indonesia. (Khunaini et al., 2023) The health safety of patients or passengers is an effort to ensure that all actions and activities related to passengers are carried out comfortably and do not cause adverse effects on passengers through a series of activities that have been regulated by law . (Ulumiyah, 2018) In order to obtain safe and quality health services is one of the rights of every citizen as stipulated in the 1945 Constitution, Article 28 H and Article 4 "Law Number 17 of 2023 concerning Health. Safe health services must be provided throughout the territory of the Republic of Indonesia, including domestic flights that serve routes between regions or between cities that are still within the country. (Besse Novariani Amri, 2022)

In order for safe health services to be provided to airplane passengers, it should be carried out by someone who has competence in their field, namely a Medical Personnel, who is anyone who devotes himself to the health sector and has professional actions, knowledge, and skills through medical or dental professional education that requires the authority to act to ensure health. ("Law of the Republic of Indonesia No. 17 of 2023 concerning Health, State Gazette of the Republic of Indonesia of 2023 Number 105, 2023) Legally, those who have the competence and authority to provide health services are medical personnel, however, in domestic commercial passenger flights, medical assistance is still provided by non-medical personnel, as occurred in several cases of the following incidents; On Wednesday, June 9, 2021, a Lion Air plane with the code JT-740 flying from Bali to Makassar via Manado, at that time the plane carrying the Deputy Regent of Sangihe, Mr. Helmud Hontong, died on the plane. (Wahyuni & Bayu, 2021)On Tuesday, June 27, 2023, a Pelita Air plane with the code IP208 diverted from Soekarno-Hatta Airport to Juanda Airport, Surabaya. In the middle of the flight, one of the flight attendants made an announcement asking for someone who works as a medical worker to help a mother who was about to give birth. However, none of the passengers were medical workers. Finally, a mother named Mrs. Yulia Maria who works as a make-up artist dared to help with the delivery process. Incidentally, the birth process of

the mother and baby was safe after the plane landed at Juanda Airport, Surabaya and received further assistance. (Detiknews, 2023)

Passengers or patients on board an aircraft will be well protected against safe and quality health services if provided by people who have the competence and authority from the state. Regarding aviation in Indonesia, "Law No. 1 of 1999 concerning aviation" was stipulated. The purpose of this research is, firstly, to find out and analyze the legal regulations for the placement of Medical Personnel on domestic civil passenger aircraft based on "Law No. 1 of 1999 concerning current aviation, secondly, to find out and analyze future legal regulations so that Medical Personnel can provide safe and quality medical services on domestic civil passenger aircraft in Indonesia. With the legal regulation of the placement of Medical Personnel on domestic civil passenger aircraft, it will realize the rights of every human being to obtain safe and quality health services, provide legal certainty for Medical Personnel and airlines can also realize safe, secure flights for airplane passengers in Indonesia. (Agus Pramono, Joko Setiono, 2020) So, How is the legal regulation for the placement of Medical Personnel on domestic civil passenger aircraft in Indonesia based on Law No.1/2009, Concerning Aviation currently? And how should the legal regulation be in the future, regarding the placement of Medical Personnel on domestic civil passenger aircraft in Indonesia ?

II. Research Method

This Peter Mahmud Marzuki defines legal research as a structured work based on certain methods, systematics, and opinions that aim to find out something or several certain regulatory phenomena by analyzing them. This legal research is a process to obtain legal rules, regulatory principles, legal principles, or legal doctrines used to answer legal problems in society. In legal research, it is required to use legal research methods, this research is a normative legal research. Normative methods are closely related to practical work and legal professionals to solve certain legal problems. (Yanova et al., 2023) Normative legal assessment must assess the law from an internal perspective with the object of research, which must be legal norms, theories, legal principles, and regulations.

This study uses secondary data that focuses on research with a statutory regulatory approach. (Nurhayati et al., 2021) The statutory regulatory approach will be used to analyze the legal regulations for the presence of Medical Personnel on domestic passenger aircraft in Indonesia today, as well as future legal regulations regarding the placement of Medical Personnel on aircraft. Data is analyzed qualitatively using normative methods by interpreting and constructing statements in documents or statutory regulations to establish conclusions. (Miharja, 2020)

III. Result and Discussion

Legal Regulations For The Placement Of Medical Personnel On Domestic Civil Passenger Aircraft In Indonesia Are Based on Law 1/2009 concerning Aviation.

Controlling community groups in an area to create public order so that people can interact with their environment is often referred to as legal regulation. That legal regulations are beneficial for all aspects of human life which are very broad, for example in public needs, in the business world, social procedures, state, etc. In general, a regulation will represent the application of rules in a society that they believe in to organize community life, for the benefit of state development and the interests of citizens and provide protection and legal certainty. (Silalahi, 2020)

In an act that refers to the legal regulations written in the law is a legality principle which is the basic foundation in implementing a regulation, from this principle it can have an impact on society regarding legal certainty and equal treatment before the law that applies in a certain area. (Parikesit, 2021)

One of the objectives of legal regulation in aviation is to maintain safety, security, comfort for passengers while providing justice, certainty and bringing legal benefits. According to M. Solly Lubis, regulations are considered good if the following requirements are met: (Tunjung Seta, 2020)

1. Regulations can provide justice for those who have needs, for example workers, farmers, fishermen, traders, MSMEs, women, teachers and lecturers feel that the existence of legal regulations can protect their interests well.
2. Regulations can guarantee legal certainty, with the implementation of regulations, the limits of rights (*recht, right*) and obligations (*plicht, duty*) of all parties who have an interest in a legal relationship (*rechtsbetrekkingen*) will be very clear, for example in labor relations, work relations, and so on.
3. The regulation provides definite benefits for those in need with the regulation. Usually if the provisions in the first and second requirements are met automatically the third point will also be met.

The public or airplane passengers as airline consumers have the right to safety, security, comfort in using flight services and also have the right to be served properly, honestly and without any differences according to article 4 in Law. No. 08 of 1999. ("Law of the Republic of Indonesia No. 08 of 1999 concerning Consumer Protection. LN. Republic of Indonesia22, nd)

In the need for health services or medical assistance on domestic aircraft, passengers have the right to be served safely, correctly and safely as mandated by the 1945 Constitution, "Law No. 17 of 2023 concerning health and "Law No. 08 of 1999 concerning consumer protection. To obtain the right to safe and correct medical services or assistance, of course, it must be done by someone who has the competence and authority, namely Medical Personnel, who can be used as aircraft flight crew personnel during flights.

To find out whether the placement of Medical Personnel in an airplane has been regulated or not in " Law No. 1 of 2009 concerning Aviation", the author traces the articles in the Law. From the tracing of the articles that the author has done, the author is interested in several articles in "Law 1 of 2009, including;

a. Article 58 Paragraph (1): " Every aircraft personnel must have a license or competency certificate". Paragraph (2): "Aircraft personnel who are directly involved in the operation of the aircraft must have a valid and valid license".

   In this article, aircraft personnel are required to have a license and competency. According to the author's analysis, the personnel referred to in this article are more directed towards aircraft crew personnel, not medical personnel. Therefore, in this article there are no regulations regarding medical personnel.

b. In "CHAPTER X on Air Transportation, section six concerns transportation for the disabled, elderly, children, and/or sick people. Article 134 Paragraph (1): "The disabled, elderly, children under 12 (twelve) years of age, and/or sick people have the right to receive services in the form of special treatment and facilities from commercial air transportation business entities." Paragraph (2): " Services in the form of special treatment and facilities as referred to in paragraph (1) at least include". Letter "f': "availability of personnel who can communicate with the disabled, elderly, children, and/or sick people."

   In both of these articles regulate the condition of special facilities for one of which is sick people, it is mentioned that there are personnel available to be able to communicate with one of them for sick people, but the personnel is also not specifically mentioned that the personnel is a Medical Personnel, if only personnel who can communicate with sick people for example for flight attendants or other aircraft crew can do so. So in this article 134, it has not explicitly regulated the placement of Medical Personnel personnel on the aircraft.

c. Article 142

   Article (1): " The carrier is not responsible and may refuse to transport a sick passenger, unless he/she can provide a doctor's certificate to the carrier stating that the person is permitted to be transported by aircraft". Article (2): " Passengers as referred to in paragraph (1) must be accompanied by a doctor or nurse who is responsible and can assist them during the flight".

In this article it is described that in the flight on the plane, the airline does not provide a doctor or medical personnel who have been prepared by the airline or there is no placement of medical personnel on the plane flight, so the airline allows passengers to bring a personal doctor to maintain their health during the flight. (Law of the Republic of Indonesia Number 1 of 1999 concerning Aviation, LN. Republic of Indonesia, nd)

d. In "CHAPTER XIX (nineteen) Concerning Human Resources

Article 381, Paragraph (1): "The government is responsible for the provision and development of human resources in the aviation sector". Paragraph (3): " The human resources as referred to in paragraph (1) consist of human resources in the fields of: a. aircraft, b. air transportation, c. airports, d. flight navigation, e. flight safety, f. flight security.

In article 381 above, the government is responsible for providing and developing human resources in the aviation sector. In paragraph (2), what is meant by the aviation sector is that there is no health sector in aviation, so health personnel are certainly not regulated in this article.

From the search and analysis of Law No. 1 of 1999 concerning Aviation which consists of xxiv (twenty four) chapters and 466 articles. That the placement of Medical Personnel on civil passenger aircraft has not been regulated in the aviation law. Referring to the principle of legality that has been described above, an act must refer to a law, while good regulations according to Prof. M. Solli Lubis are regulations that are able to provide an atmosphere of justice, provide legal certainty, and provide legal benefits, therefore the placement of Medical Personnel personnel on domestic civil passenger aircraft in Indonesia must be regulated immediately.

Future Legal Arrangements Regarding The Placement Of Medical Personnel On Domestic Civil Passenger Aircraft In Indonesia

Based on the results of the search and analysis of "Law No. 1 of 1999 concerning Aviation, the placement of Medical Personnel on civil passenger aircraft flights has not been regulated in this aviation law. This means that there is a legal vacuum or a vacuum of legislation in terms of legal regulations regarding the placement of Medical Personnel on aircraft flights, especially domestic passenger aircraft in Indonesia.

The explanation of law according to E. Utrecht is: A collection of life instructions that regulate order in a society and should be obeyed by its members, namely the community concerned, therefore violations of these life instructions can result in actions by the government or the community. Sunaryati, Hartono provides a definition related to the Understanding of Law, which is a rule that concerns a person's personal behavior, but can

regulate human needs in human activities in interacting with other humans, or in other words, law is a tool to regulate humans in their lives in society. (Subiharta, 2015)

Emptiness or *vacuum* , according to KBB Indonesia, "vacuum is a situation (condition, nature and so on) empty or void," which in the legal dictionary can be interpreted as *a vacuum* which can be interpreted the same as "empty or vacant". From this explanation, narrowly "legal vacuum" can be interpreted as "an empty condition or the absence of statutory regulations (laws that regulate order in society," so that legal vacuum in written regulations is more precisely called "regulatory vacuum or statutory regulations"

Legal vacuum is a condition or event because there is something that has not been regulated in legislation so that certain things cannot run in certain circumstances . (Daniel Mulia Djati, Dwi Jatmiko Cahyono & Lintin, 2020) Bagir Manan is of the opinion that a legal vacuum (*legal vacuum, rectsvacum*) occurs because there are no or have not been formal legal provisions regulated, even if there are formal rules, these rules can no longer be applied because they are no longer able to answer problems in society.

There are several schools of thought that are closely related to legal vacuum, one of which is;

1. *Legissme Flow*

   This school of thought emerged around the 19th century, this school of thought is closely related to the vacuum of law. This school of thought argues that law is a complete and closed unity, outside of legislation "is not considered law, judges are seen as mouthpieces of the law, because they are not allowed to apply laws that are not stated in the law. (Purwaningrum et al., 2024)
2. *Free flow of law*

   This school of thought developed in countries that adopted the *Anglo-Saxon system* and argued that law is every court decision (the result of a resolution of concrete events), while legislation, other customs that are similar to it, are only elements of the formation of law. (Permana, 2021)
3. *Legal Information Flow*

   This school of thought argues that law consists of many sources, can consist of legislation, customs, customary law and others that are similar, thus judges are given the freedom to interpret legislation. (Nurmin K. Martam, 2017)

The impact of the occurrence of a legal vacuum, resulting in an event that has not been regulated can cause legal uncertainty or uncertainty of laws and regulations that will impact life in the midst of society, and can even cause chaos in society in interacting with its environment or in its life due to legal chaos. (Nasir, 2017) Such an event is certainly not desired by all parties. Legal vacuum makes society confused, because which rules should be applied in the governance of community life. The impact in society is that there is no legal

certainty that is applied so that it is difficult for society to resolve deadlocks related to laws and regulations.

In order to provide legal certainty in certain circumstances, new laws must be found immediately, so that in certain situations they can be applied and implemented for the benefit of public order. Utrecht to argue legal certainty is the existence of regulations that have a general nature to enable an individual to know what actions are and are not allowed to be done. Sudikno Mertokusumo Legal certainty is a guarantee that the law will be implemented, and those who are entitled will get their rights. Legal certainty is also the implementation of the law according to its wording, so that society can ensure that existing laws can be implemented . (Renata Christa Aulia, 2022)

In terms of safe health services for airplane passengers, it is the right of passengers that has been stipulated in laws and regulations as regulated in the 1945 Constitution, Law 17/2023 concerning health, Law 8/1999 concerning consumer protection.

In order to realize safe and quality health services or medical assistance for airplane passengers in the future, of course it must be served by someone who has the competence and authority in their field, related to the field of medical treatment, of course medical personnel who have the competence and authority, so that there is no legal vacuum that results in legal uncertainty.

Indonesia as a country of law, which means that the implementation of the state and government must be based on existing rules / constitutionally. (the principle of legality in constitutional law). The government, which is also responsible for providing human resources in the aviation sector, must regulate the needs of medical personnel on airplanes that are very much needed by airplane passengers.

From a search of Law No. 1 of 2009 concerning Aviation, it is clear that the placement of medical personnel on aircraft has not been regulated. In this law, the placement of medical personnel on domestic civil passenger aircraft in Indonesia should be regulated immediately. into the regulations of Law 1/2009 in Chapter XIX concerning Human Resources.

By regulating the placement of medical personnel on domestic civil passenger aircraft in Indonesia into the regulation of Law 1/2009, it will fill the legal vacuum so far and provide legal certainty for Medical Personnel and Airlines regarding the placement of Medical Personnel on domestic civil passenger aircraft in Indonesia. The absence of legal certainty can result in the non-fulfillment of one of the passenger's rights, namely regarding safe and quality medical services. As the theory put forward by Utrecht, legal certainty makes an individual know what actions are and are not allowed to be done. While Sudikno Legal certainty can guarantee that the law will be implemented, and those who are entitled will get their rights.

IV. Conclusion

Based on the results of the analysis of the discussion in this study, the placement of Medical Personnel in domestic civil passenger aircraft in Indonesia has not been regulated in Law No. 1 of 2009 concerning Aviation. The expected legal regulations regarding the placement of Medical Personnel in domestic civil passenger aircraft in Indonesia should be immediately regulated in Law No. 1 of 2009 concerning Aviation. The determination of legal regulations regarding the placement of Medical Personnel in domestic civil passenger aircraft in Indonesia will fill the legal vacuum and can provide legal certainty for Medical Personnel and Airlines. For the Government and the Indonesian House of Representatives to immediately realize the regulation of the placement of Medical Personnel on domestic civil passenger aircraft in Indonesia in Law 1/2009 concerning Aviation. For Indonesian airlines and related parties, they must provide full support to the Government and the Indonesian House of Representatives in realizing legal regulations regarding the placement of medical personnel on domestic civil passenger aircraft in Indonesia, to fill the legal gap and provide legal certainty..

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