

Legal Gaps in the Supervision and Practice of Traditional and Non-Medical Alternative Medicine

Kesenjangan Hukum dalam Pengawasan dan Praktik Pengobatan Tradisional dan Alternatif Non-Medis

¹Ronny Sutanto, ²Hilda Muliana, dan ³Sabda Wahab

email: ronnysutanto@gmail.com

¹Fakultas Kedokteran, Universitas Muhammadiyah Sidoarjo, Sidoarjo

²Magister Hukum Kesehatan, Universitas Soegijapranata Semarang, Semarang

²Program Studi S-1 Farmasi, Universitas Batam, Batam

³Program Studi D3 Farmasi, Universitas Kader Bangsa, Palembang

Abstract: Traditional medicine and non-medical alternatives remain a significant healthcare choice for the Indonesian public despite continuous advancements in modern medical technology. Data from the 2018 Basic Health Research (Riskesmas) indicates that 31.4% of the population still utilizes these services, reflecting enduring trust in local wisdom-based healing practices. However, this high public demand is not matched by an adequate legal and supervisory framework. Many traditional practitioners operate without official licenses, ethical standards, or state oversight. This study aims to (1) analyze positive legal arrangements governing the supervision of traditional and non-medical alternative practices, (2) identify regulatory gaps between legal norms and empirical practices, and (3) formulate an integrated legal protection framework for patients. Employing a normative juridical approach with statutory and conceptual lenses, legal materials were analyzed through a three-stage qualitative process: inventory and classification of regulations, interpretive legal reasoning, and constructive synthesis to develop a patient protection model. Findings reveal that although Law No. 17 of 2023 legally recognizes traditional health services, implementation remains weak due to limited socialization, fragmented supervision, and the absence of specific legal accountability mechanisms. Patient protection is currently partial and non-integrated. The study recommends regulatory harmonization, establishment of a specialized supervisory institution, mandatory practitioner certification, digital promotion oversight, and a pluralistic legal approach that accommodates local wisdom while ensuring patient safety.

Keywords: Traditional Medicine, Legal Protection, Regulatory Gap, Health Consumers, Health Law.

Abstrak: Pengobatan tradisional dan alternatif non-medis masih menjadi pilihan signifikan masyarakat Indonesia meskipun kemajuan teknologi medis terus berkembang. Data Riskesdas 2018 menunjukkan bahwa 31,4% masyarakat masih memanfaatkan layanan ini, mencerminkan kepercayaan yang kuat terhadap metode penyembuhan berbasis kearifan lokal. Namun, tingginya permintaan masyarakat tidak diimbangi oleh kerangka hukum dan pengawasan yang memadai. Banyak pelaku pengobatan tradisional beroperasi tanpa izin resmi, standar etika, maupun pengawasan negara. Penelitian ini bertujuan untuk (1) menganalisis pengaturan hukum positif terkait pengawasan praktik pengobatan tradisional dan non-medis, (2) mengidentifikasi kesenjangan regulasi antara norma hukum dan praktik empiris, serta (3) merumuskan kerangka perlindungan hukum terintegrasi bagi pasien. Menggunakan pendekatan yuridis normatif dengan perspektif peraturan perundang-undangan dan konseptual, bahan hukum dianalisis melalui proses kualitatif tiga tahap: inventarisasi dan klasifikasi regulasi, penalaran hukum interpretatif, dan sintesis konstruktif untuk membangun model perlindungan pasien. Temuan menunjukkan bahwa meskipun UU No. 17 Tahun 2023 secara hukum mengakui layanan kesehatan tradisional, implementasinya masih lemah akibat sosialisasi terbatas, pengawasan terfragmentasi, dan belum adanya mekanisme pertanggungjawaban hukum spesifik. Perlindungan pasien saat ini bersifat parsial dan tidak terintegrasi. Penelitian merekomendasikan harmonisasi

regulasi, pembentukan lembaga pengawas khusus, sertifikasi wajib bagi praktisi, pengawasan promosi digital, serta pendekatan pluralisme hukum yang mengakomodasi kearifan lokal sembari menjamin keselamatan pasien.

Kata Kunci: Pengobatan Tradisional, Perlindungan Hukum, Kesenjangan Regulasi, Konsumen Kesehatan, Hukum Kesehatan.

INTRODUCTION

Health is a fundamental human right guaranteed by the Constitution. Article 28H paragraph (1) of the 1945 Constitution affirms that every person has the right to a prosperous life in both physical and spiritual well-being, and to obtain health services. To fulfill this right, Indonesians access two primary healthcare pathways: conventional medical services and non-medical traditional and alternative practices¹.

Despite rapid advancements in medical technology, traditional and alternative medicine continue to hold a significant place in society. The 2018 Riskesdas data reveals that 31.4% of Indonesians still utilize traditional health services, including herbal medicine (48%), home remedies (31.8%), spiritual/mental healing (1.9%), and energy-based therapy (2.1%)². This phenomenon underscores the public's enduring trust in culturally rooted and belief-based healing methods.

Unfortunately, the popularity of these practices is not accompanied by a robust legal and supervisory framework. Many traditional practitioners operate outside legal provisions stipulated in Law No. 17 of 2023 concerning Health, particularly regarding the Registration Certificate for Traditional Health Workers (STR-TKT) and the Practice License for Complementary Traditional Medicine (SIPT-TKT). A study in Denpasar found that 90% of traditional health workers lack compliance with these legal requirements³.

This legal gap has a direct impact on patient protection. Non-medical practices that do not conform to scientific standards or professional ethics, such as the use of supernatural powers, herbs without clinical trials, and non-biomedical methods without procedural clarity, can cause serious harm to patients, both physically, psychologically, and⁴ financially. In many cases, traditional medicine even commits acts that can be categorized as malpractice, but due to legal weaknesses, the perpetrators cannot be held optimally accountable⁵.

Ironically, despite frequent violations, many individuals hesitate to report them due to limited legal awareness, cultural stigma, or social embarrassment^{6,7}. This is exacerbated by weak

¹ Hetty Panggabean, Ontran Sumantri Riyanto, and Juana Linda Simbolon, "Tinjauan Hukum Pengobatan Tradisional Komplementer Tenaga Kesehatan Di Fasilitas Pelayanan Kesehatan," *Journal Of Social Science Research* 4, no. 3 (2024): 8852–8866.

² Ibid.

³ Juliana Juliana and I Gede Agus Kurniawan, "Implementation of Regulations on the Legality of Complementary Traditional Medicines Based on Health Law No. 36 of 2009," *JPEI (Indonesian Education Research Journal)* 10, no. 2 (2024): 298–307.

⁴ Ruth Tiur Jovita Kase and Rehnalemken Ginting, "Criminalization of Alternative Medicine Using Supernatural Powers: An Analysis of the Application of Article 252 of the 2023 Criminal Code in Protecting the Community from Dangerous Medical Practices," *Legal Bridge: A Study of Law, Social and State Administration* 2, no. 1 (2025): 93–107.

⁵ Mohammad Irfan, "Strengthening the Legal Protection of Traditional Medicine Patients Due to Negligence in Traditional Medicine Services," *Journal of Notary Treatise* 5, no. 1 (2024): 182–190.

⁶ Ibid.

⁷ Juliana and Kurniawan, "Implementation of Regulations on the Legality of Complementary Traditional Medicines Based on Health Law No. 36 of 2009."

oversight from regional health offices and the Food and Drug Monitoring Agency (BPOM)⁸. Academic studies consistently highlight inconsistencies between existing regulations and field practices, resulting in inequitable legal protection for patients. While Law No. 17 of 2023 establishes a legal framework for traditional medicine, its regional implementation remains fragmented, uncoordinated, and frequently overlooked^{9,10}

Therefore, it is important to review the legal systems that govern traditional and alternative medicine, as well as identify gaps between legal norms and their implementation on the ground. The legal gap not only shows the weakness of the surveillance system, but also ignores patients' rights to security and safety in receiving health services.

The urgency of writing this article lies in the need for a more integrative and responsive legal approach to the reality of traditional medicine practices in Indonesia, by emphasizing the protection of the public as consumers of health services and strengthening the role of the state in supervising and cracking down on illegal practices. This is not only relevant in the context of health law, but also in the framework of consumer protection and human rights.

RESEARCH PROBLEM

Based on the above background description, the formulation of the problem in this study is:

1. How is the positive legal arrangement in Indonesia structured regarding the supervision of traditional medicine and non-medical alternative practices?
2. What are the forms of gaps that arise between the provisions of the law that apply to traditional medical practices and non-medical alternatives in society?
3. How is the construction of legal protection for patients or consumers in traditional medicine practices and non-medical alternatives according to Indonesia's positive law?

RESEARCH METHODS

This study employed a normative legal research method¹¹, which focuses on the analysis of legal norms, legal principles, legal doctrines, and statutory regulations as the primary sources in examining legal issues related to traditional and alternative medicine practices. Normative legal research¹² is intended to provide a systematic interpretation of the applicable legal framework and to assess the adequacy of existing regulations in addressing contemporary legal problems.

The research applied both a statutory approach and a conceptual approach. The statutory approach was conducted through the examination of various laws and regulations governing traditional and alternative health services in Indonesia. These regulations include Law Number 17 of 2023 concerning Health, Law Number 8 of 1999 concerning Consumer Protection, Government Regulation Number 28 of 2024 concerning the Implementing Regulation of Law Number 17 of 2023 concerning Health, and Minister of Health Regulation

⁸ Ruli Purnamasari Purnamasari, "Law Enforcement Against Unauthorized Traditional Medicine Practitioners in Pekanbaru City," *Execution: Journal Of Law* 4, no. 2 (2022): 186–199.

⁹ Abdurrahim Ismail, "Legal Protection of Patients in Alternative Medicine," *University of Mataram* (University of Mataram, 2014).

¹⁰ Anak Agung Rai Gayatri Artha Yani, I Nyoman Gede Sugiarta, and I Gusti Agung Ayu Gita Pritayanti Dinar, "The Practice of Alternative Medicine in the Perspective of Consumer Protection Law in Indonesia," *Journal of Legal Analogy* 6, no. 3 (2024): 261–266.

¹¹ Muhammad Ikhsan and Sabda Wahab, "Legal Certainty of Pharmaceutical Personnel in Organizing Pharmaceutical Services," *Indonesian Health Law Journal* 01, no. 02 (2021): 106–120.

¹² Hilda Muliana et al., "View of Legal Feasibility of AI Implementation in Indonesian Pharmaceutical Services," *Sol Justicia* 8, no. 1 (June 2025): 48–58.

Number 61 of 2016 concerning Empirical Traditional Health Services. Meanwhile, the conceptual approach was used to analyze legal concepts, doctrines, and theories related to legal protection, health law, consumer rights, and state responsibility in the supervision of non-medical treatment practices.

The legal materials used in this study consisted of primary, secondary, and tertiary legal materials. Primary legal materials included laws and regulations relevant to the research topic. Secondary legal materials comprised legal literature, scientific journal articles, previous research findings, and other scholarly works related to health law and traditional medicine practices. Tertiary legal materials included legal dictionaries, encyclopedias, and glossaries that supported the clarification of legal terminology and concepts.

The collection of legal materials was carried out through library research by reviewing official legal documents, legislation, academic books, scientific journals, and other relevant references. All collected materials were selected and classified according to their relevance to the research issues.

The analysis of legal materials was conducted using a qualitative normative method. The legal materials were systematically interpreted and analyzed based on legal reasoning, principles of justice, legal certainty, and doctrinal interpretation in order to formulate conclusions relevant to the legal issues discussed in this study.

RESULTS AND DISCUSSION

1. Positive Legal Arrangements in Indonesia Regarding the Supervision of Traditional and Non-Medical Alternative Medicine Practices

Traditional and alternative medicine has become an integral part of the health care system in Indonesia. However, its existence is still often in the gray area of the law. Normatively, supervision of this practice has been regulated through various laws and regulations, both at the level of laws, government regulations, and technical regulations from the Ministry of Health. Law No. 17 of 2023 recognizes Traditional Health Services as part of legitimate Health Efforts. In Article 22 paragraph (1) letter w, it is explicitly stated that traditional health services are a form of health efforts organized by the state.

Articles 23 and 24 affirm that all forms of health efforts, including traditional medicine, must be carried out safely, of quality, responsibly, equitably, and nondiscriminatory¹³. This reflects that traditional medicine should not be arbitrary it should be in accordance with the standards set by the Central Government through Government Regulations.

According to Article 160 of the Health Law¹⁴, traditional health services based on the way they are treated consist of traditional health services that use skills and/or traditional health services that use herbs. These services are carried out based on knowledge, expertise, and/or values sourced from local wisdom, both for promotive, preventive, curative, rehabilitative, and/or palliative services¹⁵.

Traditional medicine services can only be carried out by people who have competence and authority. The government is obliged to provide guidance and supervision to health workers and support workers, including those engaged in traditional medicine.

Traditional medicine can be used as long as its benefits and safety are proven. However, despite legal recognition, the mechanism for monitoring traditional medicine

¹³ Health Law, "Law of the Republic of Indonesia Number 17 of 2023 concerning Health" (Indonesia, 2023).

¹⁴ Ibid.

¹⁵ Government Regulation, "Government Regulation (PP) Number 28 of 2024 concerning Implementation Regulations of Law Number 17 of 2023 concerning Health" (Indonesia, 2024).

practitioners is still not optimally implemented. The government through the Ministry of Health has issued Regulation of the Minister of Health (Permenkes) No. 61 of 2016 concerning Empirical Traditional Health Services, which regulates standards and procedures for the practice of these services. However, in practice, there are still many traditional medicine practitioners who do not have official permits or do not follow these guidelines.

More specific regulations can also be seen in the Minister of Health Regulation No. 15 of 2018 concerning the Implementation of Complementary Traditional Health Services, which divides the types of traditional medicine into three categories: empirical, complementary, and holistic. This category is intended to have different classifications and approaches to supervision depending on the nature and method of the practice being carried out. However, there are still legal loopholes because many perpetrators are outside the available licensing system, such as shamans, psychics, or alternative therapists who do not have a formal medical background or health training. This condition poses challenges in the implementation of supervision because Indonesia's positive law has not been able to reach all practices in the field, especially those that are non-institutional and informal.

Criminal provisions in traditional medicine practice have also not been regulated in detail in laws and regulations. When malpractice or loss to patients occurs, the legal process used is usually through general instruments such as the Criminal Code (Criminal Code) or the Consumer Protection Law. This signifies the absence of specific norms in protecting patients from harmful traditional medicine practices. In the context of legal protection, this is a weak point that must be corrected immediately because traditional medicine is not only about people's beliefs and culture, but also about the right to health and safety of consumers.

In addition, supervisory institutions such as the Regional Health Office have limitations in providing guidance and supervision to traditional medicine practitioners who are numerous and spread over a wide area. Geographical factors and limited human resources are challenges in implementing existing regulations. As a result, many alternative medicine practices run without adequate oversight, and will only come to public attention when cases come to light in the media¹⁶, such as patient deaths or alleged fraud by perpetrators. This shows that supervision has not been carried out preventively, but rather is more reactive.

Furthermore, the unclear boundaries between legal and illegal traditional medicine also contribute to confusion in society. For example, there are perpetrators who claim to be herbalists, but in practice provide medical diagnoses without competence. This is supposed to be the domain of health professionals, but existing regulations are not strict enough to provide administrative or criminal sanctions for such violations¹⁷. Thus, at the implementation level, these rules have not reached all important elements, such as the classification of violations, reporting mechanisms, and the establishment of a public complaint system.

This condition shows that although Indonesia's positive law has normatively regulated the existence of traditional and alternative medicine, its application is still far from ideal. There is a need for revision and harmonization between laws and regulations that regulate this

¹⁶ Rani Tiyas Budiyantri and Penggalih Mahardika Herlambang, "Legal Protection of Patients in Empirical Traditional Health Services in Indonesia," *Credito* 5, no. 2 (2023): 174–183.

¹⁷ Mulawarni, Hamzah Arhan, and Nazaruddin, "Law and Advertising of Traditional Medicine in the City of Makassar," *Al-Ahkam: Journal of Islamic Criminal Law* 2, no. 2 (2020): 97–102.

sector, as well as strengthening the aspects of implementation and supervision. The government also needs to encourage education to the public to be able to distinguish between legally valid practices and misleading practices, so that there is comprehensive legal protection for consumers or patients.

Efforts to coach and certify traditional medicine practitioners are also still voluntary and not legally binding. In fact, to ensure patient safety, there should be a mandatory certification mechanism for all perpetrators, as well as periodic audits involving professional associations, academics, and regulators. Without this step, Indonesia's positive law will continue to lag behind real practices in a highly dynamic society, especially in the digital era when the promotion of health services is very accessible and difficult to control.

Finally, it should be emphasized that traditional medicine arrangements must be aligned with the principles of human rights, especially the right to quality and safe health. Therefore, the strengthening of positive law in Indonesia is not only limited to the regulatory level, but must also be realized in an efficient institutional structure, supervisory system, and law enforcement mechanism. Without strong commitment from all stakeholders, the risk of violating patients' rights in traditional and alternative medicine practices will continue to increase.

2. The Gap Between Applicable Legal Provisions and Traditional Practices of Non-Medical Medicine in Society

Although traditional medicine has gained recognition in the health legal system in Indonesia, practice on the ground shows that there is a significant gap between the prevailing legal norms and the empirical reality of society. The first gap arises from the low level of socialization of existing regulations¹⁸. Many traditional medicine practitioners do not even know the existence of Permenkes No. 61 of 2016 or Permenkes No. 15 of 2018. They practice based on hereditary knowledge, without realizing the obligation to follow certain administrative procedures. This shows that state-made laws have not been fully able to reach the grassroots, especially in remote areas or indigenous communities that are strong in maintaining local treatment systems.

The second gap occurs in the licensing aspect. The regulation does stipulate that empirical traditional medicine practitioners must register and obtain a practice license from the health office. However, implementation in the regions is very varied. There are regions that actively conduct coaching and supervision, while most others are passive. As a result, many perpetrators have never been officially recorded. This has serious legal implications because in the event of a violation of patient rights, it is difficult to trace the liability of unregistered perpetrators. On the other hand, patients as consumers are often unaware of the importance of choosing a practitioner who has an official license¹⁹, so the potential for law violations is higher.

The third gap appears in the mechanism of legal accountability for malpractice or errors in alternative medicine²⁰. Currently, there is no specific legal instrument that regulates the

¹⁸ Azmi Rafisyah Nurdin, Nayla Alawiya, and Nurani Ajeng Tri Utami, "The Implementation of the Law on Supervision of Traditional Health Service Practices (Study at the Banyumas Regency Health Office)," *Soedirman Law Review* 5, no. 1 (2023): 95–105.

¹⁹ Ramadhani Kurnia Dilaga, Dicky Auliansyah, and Yuyut Prayuti, "A Juridical Review of Patient Legal Protection in Empirical Traditional Health Services as Complementary Medicine in the Community," *JIM: Journal of Multidisciplinary Science* 4, no. 2 (2025): 1085–1091.

²⁰ Abdi Kurniawan Purba and Redyanto Sidi, "Legal Protection of Patients Using Acupuncture Treatment According to Law No. 36 of 2009 and Ministry of Health No. 1076/Menkes/SK/VII/2003," *Journal of Nurses* 7, no. 2 (2023): 1084–1091.

legal responsibilities of traditional medicine practitioners. When a patient is harmed, then the available legal avenues are only through a civil lawsuit or a general criminal report such as fraud or negligence. This creates legal uncertainty, both for patients and perpetrators. The absence of legally binding ethical standards and competencies makes the proving process difficult, especially if the treatment method used is based on beliefs or spirituality, which is scientifically difficult to verify.

Furthermore, the gap is also visible from the aspects of coaching and supervision. Formally, this task is in the hands of the Regency/City Health Office. However, in practice, not all Dinas have special units or personnel that handle traditional medicine. Many Health Offices focus more on conventional medical services that are structurally stronger. Traditional medicine practitioners end up walking without assistance or guidance²¹. This makes them more susceptible to deviations from safe and rational medical rules. The lack of coaching also makes erroneous or harmful practices difficult to correct from within.

On the other hand, there is also a gap between people's expectations of traditional medicine and the ability of the law to meet these expectations. Many patients turn to alternative medicine because they are disillusioned with conventional medical services that are expensive, bureaucratic, and often lead to unpleasant experiences. In this context, traditional medicine is perceived as a last resort or a more "humane" complement. However, positive laws have not been able to regulate this kind of social reality adaptively. When the state imposes strict administrative legality, this can be seen as contrary to the freedom of the public to choose the means of healing they believe in.

Another gap is in the aspects of legal literacy and public health. Most people do not have adequate knowledge about their rights as consumers of health services, including the right to information, security, and legal protection. As a result, when there is a violation or loss due to alternative medicine, they tend to give up or just solve it as a family. This creates a culture of impunity where the perpetrator is never held legally accountable, even if his or her actions have harmed or endangered lives.

Social media and digital platforms are also creating new gaps. Many traditional or alternative medicine practitioners promote their services massively on the internet without going through a process of selection, verification, or official permission. Positive law we do not yet have a digital regulatory system that is able to strictly supervise these practices. This creates a new space that is free from state supervision, even though the risks posed are no less great. This kind of practice does not only occur in big cities, but has also penetrated into areas due to the high public access to digital media.

Finally, a major gap that needs to be highlighted is the weak synergy between legal, health, and consumer protection institutions. Institutions such as the Food and Drug Supervisory Agency (BPOM), the Ombudsman, YLKI, and law enforcement officials do not yet have special cooperation protocols to deal with traditional medicine practices that harm the community. In this context, positive law runs sectorally, is not coordinated, and is less effective in responding to field challenges. This suggests that to address existing gaps, an interdisciplinary approach is needed that integrates legal, public health, culture, and technological aspects.

²¹ Istiana Heriani and Munajah Munajah, "Aspects of Legality to Traditional Health Services in Indonesia," *Al-Adl : Jurnal Hukum* 11, no. 2 (2020): 197.

3. Construction of Legal Protection for Patients in Traditional Medicine Practices and Non-Medical Alternatives According to Indonesian Positive Law

Legal protection of patients in traditional medicine practices and non-medical alternatives is a central issue in the discourse of a fair and comprehensive health system. In Indonesia's positive law, consumer or patient protection is basically part of the human rights guaranteed by the 1945 Constitution, especially Article 28H paragraph (1) which states that everyone has the right to live a prosperous life both physically and mentally, to live, and to receive health services. This protection is then described more technically in several legal instruments, such as Law Number 8 of 1999 concerning Consumer Protection and Law Number 17 of 2023 concerning Health. However, when these protections are specifically linked to traditional medical practices, many legal loopholes and ambiguities are found that have the potential to undermine patients' rights.

Normatively, the 2023 Health Law provides recognition for traditional medicine, but does not yet expressly regulate the accountability mechanism in the event of a violation of patients' rights by traditional medicine actors. Unlike medical personnel or health workers who are subject to the Professional Code of Ethics, traditional practitioners, especially those outside the formal system, do not have legally binding ethical standards. As a result, if malpractice occurs, it is difficult for patients to claim compensation or criminal liability because there are no special legal norms that can be used as a basis. This is a weak and disproportionate form of legal protection, considering that patients from traditional medicine still have the same right to safe and quality services.

In the perspective of consumer protection law, patients in traditional medicine practices can be positioned as consumers of services, who juridically have the right to security, comfort, and safety in using the service. However, in practice, this protection is difficult to enforce because many traditional medicine practitioners are not legal entities, do not have official licenses, and do not have measurable service standards. This complicates the enforcement process because consumers cannot prove that there is a strong legal relationship between themselves and the perpetrator, such as a written agreement or proof of payment. In many cases, the relationship between the patient and the traditional practitioner of medicine is informal and highly dependent on trust, so when a loss occurs, the settlement tends to be non-litigation and not through a formal legal process.

This condition is exacerbated by the absence of a special institution that handles disputes between patients and traditional medicine practitioners. While in the world of medicine there is an Honorary Council of Indonesian Medical Disciplines (MKDKI) which can receive complaints and impose ethical and administrative sanctions, in traditional medicine there is no such institution. This creates a risk-free space for the perpetrator, and at the same time weakens the position of the aggrieved patient. Ideal legal protection should not only be reactive (giving legal recourse after a violation occurs), but also preventive by setting minimum standards of service and consumer protection from the start.

Several technical policies from the Ministry of Health such as Permenkes No. 61 of 2016 and Permenkes No. 15 of 2018 have tried to fill the legal void by establishing service standards and permit requirements. However, due to its administrative nature, violations of this provision are only subject to administrative sanctions, such as revocation of permits or written reprimands. In more severe cases such as patient death or fraud under the guise of therapy, the perpetrator must be prosecuted through the general criminal law route (e.g. Article 378 of the Criminal Code on fraud or Article 360 of the Criminal Code on negligence causing injury or death). But unfortunately, this kind of legal process is rarely carried out due to the lack of reporting from victims, weak evidence, and low legal literacy of the community.

To build an effective legal protection construct, a multilevel approach that includes regulations, institutions, and dispute resolution mechanisms is needed. At the regulatory level, it is necessary to establish regulations that regulate patient protection in traditional medicine more clearly. At the institutional level, it is necessary to establish a special body under the Ministry of Health or a professional institution that has the authority to regulate, foster, and sanction traditional medicine practitioners. This institution must be open, inclusive, and able to accommodate the diversity of alternative medicine methods that are developing in society.

The role of local governments is also very important in this legal protection. Local governments have the authority to supervise, coach, and take action against traditional medicine actors in their areas. However, to be able to carry out this function effectively, training and capacity building of apparatus are needed, as well as synergy between institutions such as Satpol PP, the Health Office, and the police. Thus, legal protection is not only symbolic on paper, but is actually present in people's everyday experiences.

In addition, legal protection for patients must also be strengthened through public literacy. The public should be educated about their rights as consumers of medical services, including the right to information, the right to choose services, the right to compensation, and the right to complain. This education is not only the responsibility of the government, but also educational institutions, professional organizations, and the mass media. In the digital era, the dissemination of legal information through social media, educational videos, or digital health platforms can be an effective means to increase public legal awareness.

Finally, it should be emphasized that legal protection of patients in traditional medicine should not ignore local wisdom and the right of indigenous peoples to maintain their own healing practices. Therefore, positive law must be built adaptively by paying attention to the principle of legal pluralism. Within this framework, traditional medicine can remain alive and thriving, but within a legal corridor that guarantees the safety and rights of patients. The balance between recognition of traditional practices and legal protection of consumers is a major challenge in the construction of laws in this area.

CONCLUSION

1. **Positive Legal Arrangements in Indonesia Regarding the Supervision of Traditional and Non-Medical Alternative Medicine Practices**

Indonesia's positive law has provided formal recognition of traditional medicine as part of the health service system, especially through Law No. 17 of 2023 and a number of technical regulations such as Permenkes No. 61 of 2016 and Permenkes No. 15 of 2018. However, supervision of this practice is still not running optimally. Many traditional medicine practitioners are not officially licensed, do not follow service standards, and are outside the scope of regular government supervision. Existing legal provisions also do not provide for detailed criminal sanctions for serious violations such as malpractice. This shows that despite the normative legal basis, its implementation is still weak, uneven, and has not been effective in protecting patients as a whole.

2. **The Gap Between Applicable Legal Provisions and Traditional Practices of Non-Medical Medicine in Society**

There is a significant gap between legal norms and real practices in society. Lack of socialization of regulations, weak licensing systems, lack of specific legal accountability mechanisms, and lack of coaching and supervision are the main causes of uncontrolled

practices. Traditional medicine practices are often carried out without understanding the law, and people still tend to opt for the non-litigation route in the event of a loss. On the other hand, social media is a promotional channel that has not been adequately regulated, thus opening up space for abuse. This gap reflects the weak penetration of the law into the local social and cultural structures that practice alternative medicine.

3. **Construction of Legal Protection for Patients in Traditional Medicine Practices and Non-Medical Alternatives According to Indonesian Positive Law**

Legal protection for patients in traditional medicine practice is still partial and has not been systematically integrated. The absence of binding ethical standards, weak oversight mechanisms, and the absence of specialized institutions to resolve disputes make the patient's position very vulnerable. Patients as consumers have the right to security and safety, but in practice it is difficult to demand legal accountability due to informal and undocumented relationships. To create effective legal protection, an integrated, institutional, and educational approach to local wisdom is needed.

SUGGESTION

1. **Regulatory Revision and Harmonization Needed**

The government needs to revise existing regulations to be more firm and comprehensive in regulating traditional medicine, including the preparation of special criminal norms for serious violations such as malpractice, as well as harmonization between ministries and institutions.

2. **Establishment of Special Supervisory and Disciplinary Institutions**

It is necessary to establish a special body under the Ministry of Health or an independent institution that has the authority to foster, certify, supervise, and impose sanctions on traditional medicine actors, both formal and informal.

3. **Improving Legal Literacy and Public Health**

The government, professional organizations, and the mass media must actively provide legal education to the public so that they know their rights as patients and consumers. Education can be done through digital campaigns, community-based counseling, and learning materials in schools or health facilities.

4. **Strengthening the Capacity of Local Governments**

Local governments should be provided with training and technical support to be able to effectively supervise traditional medicine practices in their regions, including establishing special units that deal with the sector consistently.

5. **Require Practitioner Certification and Registration**

All traditional medicine practitioners, including those based on hereditary skills, must undergo a certification process and be officially registered with the designated institution, with a periodic audit mechanism to maintain the quality of service and patient safety.

6. **Special Arrangements for Digital Promotion**

Digital regulations need to be designed immediately to oversee the promotion of traditional medicine services through social media and online platforms. The government must work with the Ministry of Communication and Information to verify the accounts of traditional health service providers and crack down on misleading promotions.

7. **Adaptive Pluralistic Approach to Local Wisdom**

In establishing legal protection, the government must adopt a legal pluralism approach that recognizes local healing practices, as long as they do not harm patients and conform

to agreed safety standards. This can be done through the recognition of indigenous communities in local certification mechanisms integrated into the national legal system.

8. Synergy Between Law Enforcement, Health, and Consumer Agencies

A coordination forum or cross-sector cooperation protocol must be established between BPOM, the Health Office, YLKI, the Ombudsman, and law enforcement officials for integrated handling of cases of traditional medicine that risk harming the community.

REFERENCES

- Budiyanti, Rani Tiyas, dan Penggalih Mahardika Herlambang. "Perlindungan Hukum Pasien Dalam Layanan Kesehatan Tradisional Empiris Di Indonesia." *Credito* 5, no. 2 (2023): 174-183.
- Dilaga, Ramadhani Kurnia, Dicky Auliansyah, dan Yuyut Prayuti. "Tinjauan Yuridis Perlindungan Hukum Pasien Dalam Pelayanan Kesehatan Tradisional Empiris Sebagai Pengobatan Komplementer Pada Masyarakat." *JIM: Jurnal Ilmu Multidisiplin* 4, no. 2 (2025): 1085-1091.
- Heriani, Istiana, dan Munajah Munajah. "Aspek Legalitas Terhadap Pelayanan Kesehatan Tradisional Di Indonesia." *Al-Adl: Jurnal Hukum* 11, no. 2 (2020): 197.
- Ikhsan, Muhammad, dan Sabda Wahab. "Kepastian Hukum Tenaga Kefarmasian Dalam Menyelenggarakan Pelayanan Kefarmasian." *Jurnal Hukum Kesehatan Indonesia* 1, no. 2 (2021): 106-120.
- Irfan, Mohammad. "Penguatan Perlindungan Hukum Pasien Pengobatan Tradisional Akibat Kelalaian Pelayanan Pengobatan Tradisional." *Jurnal Risalah Kenotariatan* 5, no. 1 (2024): 182-190.
- Ismail, Abdurrahim. "Perlindungan Hukum Pasien Pada Pengobatan Alternatif." Skripsi, Universitas Mataram, 2014.
- Juliana, Juliana, dan I Gede Agus Kurniawan. "Pelaksanaan Peraturan Tentang Legalitas Para Pengobat Tradisional Komplementer Berdasarkan Undang-Undang Kesehatan No. 36 Tahun 2009." *JPPi (Jurnal Penelitian Pendidikan Indonesia)* 10, no. 2 (2024): 298-307.
- Kase, Ruth Tiur Jovita, dan Rehnalemken Ginting. "Kriminalisasi Pengobatan Alternatif Menggunakan Kekuatan Ghaib: Analisis Penerapan Pasal 252 KUHP 2023 Dalam Melindungi Masyarakat Dari Praktik Pengobatan Berbahaya." *Jembatan Hukum: Kajian Ilmu Hukum, Sosial dan Administrasi Negara* 2, no. 1 (2025): 93-107.
- Mulawarni, Hamzah Arhan, dan Nazaruddin. "Hukum Dan Iklan Pengobatan Tradisional Di Kota Makassar." *Al-Ahkam: Jurnal Hukum Pidana Islam* 2, no. 2 (2020): 97-102.
- Muliana, Hilda, Sabda Wahab, Ronny Sutanto, dan Nia Azzahra. "View of Legal Feasibility of AI Implementation in Indonesian Pharmaceutical Services." *Sol Justicia* 8, no. 1 (Juni 2025): 48-58.
- Nurdin, Azmi Rafisyah, Nayla Alawiya, dan Nurani Ajeng Tri Utami. "Implementasi Hukum Pengawasan Terhadap Praktik Pelayanan Kesehatan Tradisional (Studi Di Dinas Kesehatan Kabupaten Banyumas)." *Soedirman Law Review* 5, no. 1 (2023): 95-105.
- Panggabean, Hetty, Ontran Sumantri Riyanto, dan Juana Linda Simbolon. "Tinjauan Hukum Pengobatan Tradisional Komplementer Tenaga Kesehatan Di Fasilitas Pelayanan Kesehatan." *Journal Of Social Science Research* 4, no. 3 (2024): 8852-8866.
- Peraturan Pemerintah Republik Indonesia Nomor 28 Tahun 2024 tentang Peraturan Pelaksanaan Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan, 2024.

Purba, Abdi Kurniawan, dan Redyanto Sidi. "Perlindungan Hukum Terhadap Pasien Pengguna Pengobatan Akupunktur Menurut UU No. 36 Tahun 2009 Dan Kemenkes No. 1076/Menkes/SK/VII/2003." *Jurnal Ners* 7, no. 2 (2023): 1084-1091.

Purnamasari, Ruli Purnamasari. "Penegakan Hukum Terhadap Pelaku Pengobatan Tradisional Tanpa Izin Di Kota Pekanbaru." *Eksekusi: Journal Of Law* 4, no. 2 (2022): 186-199.

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

Yani, Anak Agung Rai Gayatri Artha, I Nyoman Gede Sugiarta, dan I Gusti Agung Ayu Gita Pritayanti Dinar. "Praktik Pengobatan Alternatif Dalam Perspektif Hukum Perlindungan Konsumen Di Indonesia." *Jurnal Analogi Hukum* 6, no. 3 (2024): 261-266.