

The Urgency of the Ultimum Remedium Principle in Addressing the Criminal Law Phenomenon on Hospital Remuneration Policy

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Abstract

The phenomenon of criminatory law in hospital remuneration policies in Indonesia reflects the state's tendency to blur the line between administrative errors and criminal offenses. This study aims to critically examine the tendency of overcriminalization in the management of health worker remuneration policies, through the approach of legal philosophy and justice theory. Using Michel Foucault's theory of power, the principle of ultimum remedium in criminal law, and John Rawls' theory of justice, this study highlights how administrative violations in the remuneration system are often treated as criminal acts of corruption. The research findings show that regulatory ambiguity, weak administrative correction mechanisms, and the state's repressive approach to public policy have led to structural injustice. Therefore, this study recommends regulatory reformulation, strengthening internal corrective mechanisms, and the application of the principle of proportionality in law enforcement. This study contributes to the development of the discourse on criminatory law in Indonesia and urges the need for a fairer and more humanistic legal approach in public policy in the health sector.

Keyword:

Criminal Law ; Ultimum Remedium; Hospital Remuneration; Administrative Law; Criminal Law

1. INTRODUCTION

In the Indonesian legal system, there is a growing tendency to use criminal instruments as the main tool in regulating public policy, including in the health care sector. One real manifestation of this tendency is seen in the implementation of hospital remuneration policies. This policy is basically administrative in nature and is intended to distribute performance-based incentives to health workers. However, in practice, administrative inconsistencies in the implementation of remuneration are often used as objects of criminalization, without a critical reading of the elements of mens rea and actus reus which should be the foundation of criminalization. In recent years, the development of law enforcement related to public administration policies in Indonesia has raised a new issue that needs to be studied seriously, namely criminalization of administrative implementation in the management of public policies. This phenomenon is known in legal literature as Criministrative Law, which is a blurred intersection between administrative violations and criminal acts. In the context of remuneration policy, Criministrative Law becomes apparent when administrative errors such as differences in interpretation in calculating service units, administrative errors in the recording system, or delays in financial reporting are immediately brought into the criminal realm, even without a prior administrative correction mechanism. This phenomenon shows symptoms overcriminalization, namely the inflation of the use of criminal law in domains that should be handled through administrative or professional ethics approaches. The concept of Criminal Law refers to the blurred legal phenomenon between administrative violations and criminal acts, so that actions that should be resolved through administrative mechanisms are instead prosecuted using criminal law instruments. This is often rooted in the primum remedium approach, namely the tendency to place criminal law as the main instrument (first resort) in resolving policy or governance issues. This approach is diametrically opposed to the principle of ultimum remedium, namely the principle in criminal law which states that criminal law is the

last resort that is only used if other legal efforts, such as administrative or civil, are proven ineffective. The principle of *ultimum remedium* itself is part of the principles of a modern rule of law that prioritizes proportionality, legality, and justice in the law enforcement process. In the context of public policy, this principle reminds us that not all administrative violations are worthy of being criminalized, especially if there is no malicious intent (*mens rea*) or substantial real loss.

However, the reality of law enforcement in Indonesia shows the opposite tendency, where administrative actions including technical errors in the hospital remuneration system subject to criminal sanctions. This indicates the occurrence of overcriminalization, which is a situation where too many aspects of social life are criminalized by the state, which ultimately damages the effectiveness of criminal law itself. Overcriminalization erodes public trust in the law, burdens the criminal justice system, and has a negative impact on the public service sector, including health. In fact, in the basic principles of criminal law, as formulated by experts such as Barda Nawawi Arief, criminal law should be *ultimum remedium* - the last resort in resolving social problems. However, the reality on the ground shows that criminal law often becomes *primum remedium*, the first and main tool used by the state to respond to administrative deviations, even without malicious intent or real impact of state losses. This condition is exacerbated by the hyperlegalistic spirit of eradicating corruption. In this approach, every administrative deviation that intersects with state finances is perceived as corruption. This is contrary to the principle of due process of law, considering that the administrative process has its own characteristics and logic that does not always contain *mens rea*. The criminal approach to administrative errors actually becomes an obstacle order manage Which effective, And to grind initiative and professionalism in bureaucracy. Philosophically, this raises fundamental questions about the relationship between norms, power, and justice. The state, through its law enforcement apparatus, appears to be carrying out normalization practices through criminalization, where actions that should be assessed procedurally as administrative are instead interpreted as crimes that deserve criminal punishment. In Foucault's perspective, this reflects the form of disciplinary power of the modern state that no longer clearly distinguishes between forms of administrative control and criminalization as a form of social punishment. This situation not only creates legal uncertainty, but also has a serious impact on the work ethic of health workers. When the remuneration system is monitored and controlled with the threat of criminalization, not only is the hospital bureaucracy paralyzed, but also the spirit of public service is eroded by fear.

Therefore, it is necessary to conduct a deep reflection, both normatively and philosophically, on how the state organizes legal relations in public policy—especially in the health sector which is very strategic for the survival of society. Hospital remuneration policies, which are actually part of administrative governance based on performance and transparency, are vulnerable to criminalization due to weak internal oversight systems, unclear legal norms, and repressive approaches from law enforcement officers. In certain cases, administrative errors made by hospital staff in the data input process or service management can be directly processed as criminal acts of corruption, without first going through a fair administrative clarification mechanism. In the complex and ever-evolving landscape of Indonesia's legal system, one of the acute problems that has begun to emerge is the tendency towards overcriminalization of administrative policies, especially in the health care sector. One of the most vulnerable areas is hospital remuneration policy, which is a compensation system for medical services provided by health workers based on workload, risk, and quality of service. The hospital remuneration system is regulated, among others, through the Regulation of the Minister of Health of the Republic of Indonesia No. 28 of 2014 concerning Guidelines for the Implementation of National Health Insurance in the Referral System, which was then refined in other technical regulations. In many hospitals, this system adopts the division of medical services managed collectively and administratively by hospital management together with related installations. In practice, there is the potential for administrative errors such as errors in inputting service data, delays in claim verification, or differences in interpretation of the division of service fees based on the Director's Decree.

Unfortunately, a number of such administrative errors are often drawn into the realm of criminal law without first going through an administrative corrective mechanism or internal supervision. This phenomenon reflects the occurrence of symptoms that experts call Criminal Law, namely the blurring of the boundaries between administrative violations and criminal acts, so that administrative actions can be punished. This phenomenon becomes even more serious when the legal approach used ignores the principle of *Ultimate Remedium*, and instead prioritizes the *Primum Remedium* approach, namely using criminal law

as the first and main instrument. The principle of *U Itim Remedium*, meaning "last remedy", is a basic principle in modern criminal law that emphasizes that criminal law should be used as a last resort after other legal mechanisms, such as administrative or civil sanctions, have proven ineffective. In contrast, the *primum remedium* approach actually makes criminal law the primary response to all forms of violations of the law, without considering the level of seriousness and substance of the violation. When used disproportionately, this approach risks ensnaring individuals or institutions in criminal proceedings for actions that are actually more appropriately resolved administratively or managerially. In practice in Indonesia, several cases indicate the misuse of criminal law against administrative violations in hospitals. One real example is the case involving the Director of Tarakan Regional Hospital in North Kalimantan (Supreme Court Decision No. 394 K/Pid.Sus/2020) showing how the remuneration distribution policy that was in accordance with internal procedures was still criminalized. In fact, there was no evidence of malicious intent or real state losses. This reflects legal practices that ignore the principle of *Ultimum Remedium* and create a chilling effect in hospital policy-making. The corruption case at Muhammad Zein Regional Hospital, East Belitung, in 2021 surfaced because it involved a doctor with the initials RG, who is also a civil servant and Head of the Service Team. RG is suspected of engineering the distribution of incentives for Covid-19 health workers, resulting in a loss of Rp369,000,000 to the state. Based on the investigation by the District Attorney's Office, RG was named a suspect on charges of finding an excess payment of direct service incentives to RG and violating Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, which has been amended by Law Number 20 of 2001, as well as Article 55 paragraph (1) 1 of the Criminal Code. RG was sentenced to 4 years in prison and a material fine for his actions.

This act is considered to violate the principle of justice and cause state losses, fulfilling the elements of a criminal act of corruption as regulated in Article 2 paragraph (1) Jo Article 18 paragraph (1) letter b Law No. 31 of 1999 Jo Law No. 20 of 2001 and Article 55 paragraph (1) point 1 of the Criminal Code. Similar cases also occurred in several other regional hospitals such as the case of corruption in the health sector also occurred in the Banten Regional Hospital, involving drg. DHH, M.Kes, who at that time served as the hospital director. DHH was named a suspect by the Serang District Attorney's Office for alleged misuse of service funds (Jaspel) in the 2016 budget year, with a total fund of Rp17.8 billion. Of that amount, around Rp1.9 billion was allegedly misused by DHH, where the funds that should have been allocated transparently for health workers were used for personal interests that violated the law. For his actions, Drg. DHH was sentenced to 5 years in prison and a fine of IDR 200,000,000. This phenomenon is inseparable from the blurring of legal norms, overlapping administrative and criminal regulations, weak internal coaching and supervision functions, and a law enforcement approach that tends to be repressive. As a result, the remuneration system that should encourage efficiency and professionalism has instead become a legal risk area for hospital managers and health workers. In this context, the application of the principle of *U Itim Remedium* becomes very important to emphasize. This principle not only guarantees proportionality in the use of criminal law, but also protects public policies implemented administratively from excessive deviations in legal interpretation. Without strict restrictions, a repressive approach to administrative policies has the potential to erode public trust in law enforcement agencies, damage the work ethic of medical personnel, and have a negative deterrent effect on public policy makers in the health sector. Therefore, it is necessary to conduct an in-depth and critical study of the urgency of implementing the *ultimum remedium* principle in overcoming the phenomenon of Criminal Law that is developing in hospital remuneration policies. This study is expected to not only produce juridical-conceptual reflections, but also provide real contributions to legal policy reform in the Indonesian public service sector.

In examining this issue, the study uses three main pillars of the theoretical framework: Michel Foucault's theory of power, the principle of *ultimum remedium* in criminal law, and John Rawls' theory of justice. Foucault's theory of power explains that in modern society, the state controls its citizens through disciplinary norms that are disguised in seemingly rational legal mechanisms. Meanwhile, the principle of *ultimum remedium* emphasizes that criminal law is a last resort and should not be used to address administrative or technical problems that can still be resolved by internal mechanisms. Rawls' theory of justice functions as an ethical framework to assess whether a policy or regulation has reflected procedural justice and equitable distribution. Based on the theoretical framework, this study builds a conceptual framework consisting of three main concepts. First, Criminal Law as a meeting point between the administrative and criminal realms whose boundaries are blurred. Second, overcriminalization as a tendency

to excessively punish non-criminal violations. Third, ultimum remedium as a controlling principle in the use of criminal law so as not to deviate from its function as a protector of society from substantive crimes. These three concepts are interrelated in critically reading the hospital remuneration policy in Indonesia. When the state criminalizes administrative errors without a prior administrative correction mechanism, not only is the principle of ultimum remedium violated, but there has also been an abuse of criminal law as a tool of power. Therefore, a normative and philosophical approach is needed to re-evaluate the direction and proportionality of law in public service policies. Research on Criminal Law in Indonesia is still limited, especially in the context of the public service sector such as hospitals. Previous studies have discussed overcriminalization in the context of taxes, licensing, and the environment (Saragih, 2022; Prakoso, 2021), but not many have highlighted its relationship to remuneration and health policies. Studies such as those conducted by Van de Bunt (2020) and Sklansky (2018) in the international arena show that blurred lines between criminal and administrative law are a global trend in modern governance. This study offers a new contribution by raising the case of Indonesia and highlighting it from the perspective of legal philosophy, especially through an analysis of norms, power, and justice.

2. RESEARCH METHODOLOGY

This research has important theoretical and practical significance in the development of legal science, especially in the context of legal philosophy, administrative law, and criminal law. From a theoretical perspective, this study enriches the discourse on Criminal Law which is still relatively new in Indonesia by placing it within the framework of critical legal philosophy. Through an interdisciplinary approach, this study connects the theory of power, the principle of justice, and the principle of ultimum remedium in a unified analysis of contemporary legal practices in public health policy. In practice, this study contributes to the formulation of fairer, more proportional, and accountable public policies, especially in the management of hospital remuneration systems. The findings in this study can be a reference for policy makers, law enforcers, and hospital management in clearly distinguishing between administrative violations and criminal acts. In addition, the results of this study are expected to encourage the formulation of regulations based on substantive justice, not merely repressive law enforcement.

3. RESULT AND DISCUSSION

The phenomenon of Criminal Law in hospital remuneration policies is not something that appears suddenly. It is the result of bureaucratic complexity, unclear norms, and a legal approach that tends to be repressive towards administrative deviations. In practice, hospital remuneration relies on a performance-based service unit calculation system (SKP, BPJS Service, etc.), which is highly dependent on administrative input. When there is an input error, different interpretations of regulations, or technical negligence, the space for criminalization is wide open, especially if auditors or law enforcers do not understand the sectoral context and complexity of health services. From a normative legal perspective, regulations governing remuneration often do not clearly distinguish between administrative errors and criminal elements. This ambiguity provides a gap for subjective interpretation from law enforcement officers who view administrative errors as criminal acts of corruption or abuse of authority. This is where the meeting point is with the concept of Criminal Law : the administrative realm becomes "criminalized" due to the weak division of authority between the development instrument and the punishment instrument. However, practice in the field shows that data input errors, late reporting, or different interpretations of service distribution are often used as the basis for corruption charges. This indicates the use of a primum remedium approach, which is contrary to the principle of ultimum remedium. The Tarakan Regional Hospital and Belitung Timur Regional Hospital cases are clear evidence that the state does not yet have a clear differentiation between administrative and criminal violations. This is exacerbated by the spirit of zero tolerance and public pressure on the issue of corruption, which makes the state driven to show firmness, even on administrative errors. In Foucault's logic, this is a form of power working through "legal discipline" that directs obedience through fear, not through understanding the law. When viewed from the principle of ultimum remedium, criminalization of administrative violations in remuneration is clearly contradictory. Technical and administrative errors should be resolved through internal or administrative corrective mechanisms. Criminalization in this case is a form of state overreach that expands the power of criminal law beyond the limits of rationality and justice. In

analyzing the phenomenon of Criminal Law in hospital remuneration policies, this study uses an interdisciplinary approach with a foundation of mutually reinforcing legal theories and social philosophy.

The three main pillars of this theoretical framework are: Michel Foucault's theory of power, the principle of *ultimum remedium* in criminal law, and John Rawls' theory of justice. First, Michel Foucault's theory of power provides an analytical knife for state practices in controlling behavior through normalization and discipline. In his work *Discipline and Punish* (1977), Foucault explains that modern power no longer works only through physical repression, but through a regulatory system that creates obedience. In this context, law becomes an instrument of control that internalizes fear, including in health workers who work under the threat of administrative criminalization. This phenomenon shows how power works not directly, but through normative and institutional frameworks that are considered neutral and rational. Second, principle *Ultimum remedium* in criminal law emphasizes that criminal law is not the main means of resolving legal problems, but rather the last resort if other means prove inadequate. Criminal penalties should only be imposed if the violation has substantially crossed moral and social boundaries, and has a serious impact on society. The imposition of criminal law in the administrative realm without a clear basis for *mens rea* shows a shift in the value of criminal law from a means of protecting rights to a tool for controlling power. Third, John Rawls' theory of justice, especially the concept of justice as fairness, provides an ethical framework for evaluating public policy. Rawls emphasizes the importance of fair procedures and equitable distribution of justice in a social system. In this case, if the remuneration policy is designed to realize distributive justice for health workers, then criminalization of administrative errors that originate from a complex and imperfect system is a form of structural injustice. Three main concepts that interact with each other and form the foundation for analyzing concrete cases in hospital remuneration policies:

1. Criminal Law

This concept refers to a condition where the dividing line between administrative violations and criminal acts becomes blurred. In the context of hospitals, this occurs when administrative errors in remuneration (such as negligence in reporting or errors in calculating incentives) are processed as criminal acts. This concept shows the existence of a legal grey area that is exploited by the legal authorities.

2. Overcriminalization

It is the tendency of the state to apply excessive criminal sanctions to actions that should not be criminalized. In this context, the state does not distinguish between systemic, administrative errors, and substantial violations of law. Overcriminalization is an indicator of the weakening of the function of law as a guardian of substantive justice and the strengthening of law as a tool of order.

3. Ultimate Remedy

This principle is a benchmark for criticizing the use of criminal law in public policy. Within the framework of this study, this principle is used to assess whether the application of criminal law in the case of hospital remuneration has met the moral, legal, and logical requirements of modern criminal law. Violation of this principle is considered a form of misuse of criminal law that can cause injustice.

Thus, this conceptual framework is not only analytical, but also normative, namely directing legal understanding towards the ideals of justice and protection of professional rights. Meanwhile, Lon Fuller in *The Morality of Law* emphasizes the importance of the internal morality of law, such as clarity, consistency, and enforceability. For obeyed. If norm law administrative No fulfil these principles, then the criminal sanctions imposed for these violations are morally invalid and contrary to substantive justice. *Ultimum Remedium* principle is also an important normative basis. Criminal law should be a last resort, used only when all other mechanisms are inadequate. In the context of public policy, this approach criminal should be avoided If the problem nature administrative And does not involve malicious intent. Violation of this principle means that the state uses its coercive powers excessively and disproportionately. In line with that, Sklansky (2018) stated that criministrative law is a manifestation of the functional boundary crisis between regulatory law and punitive law. When the state prefers the criminal path in handling administrative problems, there is a distortion of the basic principles of law, especially the principles of legality and proportionality. Administrative violations that should be handled with internal corrective mechanisms or guidance are instead criminalized, thus creating legal uncertainty and the potential for abuse of power. In criminal law doctrine, the principle of *ultimum remedium* refers to the principle that criminal law should be

the last resort after other legal efforts, such as civil and administrative, have failed to resolve the problem effectively. Barda Nawawi Arief (2010) emphasized that criminal punishment is only appropriate if the violation that occurred truly caused substantial losses, was accompanied by malicious intent (*mens rea*), and could not be handled by other legal systems.

According to Muladi (1995), the indiscriminate use of criminal law actually leads to overcriminalization, which erodes the legitimacy of the law itself. Overcriminalization also creates an excessive burden on the criminal justice system, reduces the effectiveness of the law, and creates counterproductive fear among bureaucrats and public policy implementers. From Michel Foucault's point of view, law is not just a system of rules, but a power mechanism that creates obedient subjects. In *Discipline and Punish*, he shows how the law infiltrates everyday life and creates normalization of action. In this context, Criminal Law is not just a phenomenon, but rather part of a government technique that makes criminal law a disciplinary tool for public bureaucracy. Michel Foucault (1977) explains that in modern society, state power is no longer exercised through direct violence, but through mechanisms of supervision and normalization of behavior. Law becomes one of the main instruments in the practice of this power, where criminalization not only functions as punishment, but also as a means of producing obedience and social control. In the context of administrative law, a repressive legal approach reflects a form of disciplinary power, where the state wraps control power in a legal framework that appears neutral, but is actually repressive. Furthermore, from a Rawlsian perspective, such policies also violate the principle of justice as fairness. Health professionals work in a system that is not fully under their control. When the system is flawed but individuals are punished, there is structural injustice. An unfair system results in perpetrators being made victims of imperfect state governance. John Rawls' (1971) theory of justice provides an ethical framework for assessing whether a public policy reflects procedural and distributive justice. In the Rawlsian framework, a legal system is said to be just if it protects basic individual liberties and provides the greatest benefits to the least advantaged groups. Legal policies that criminalize administrative errors without considering context, intent, and social impacts actually risk violating the principle of procedural justice.

The repressive approach to administrative errors in remuneration policies has a systemic impact. This problem creates a chilling effect on managerial decision-making by hospital directors and technical officials. Fear of being prosecuted makes managers reluctant to take the initiative or act progressively in improving services. Furthermore, it lowers the morale of medical personnel because every administrative activity is overshadowed by the threat of criminal law, and worsening hospital bureaucracy due to delays in decisions to avoid legal risks. In the long term, this phenomenon threatens the quality of public health services. Hospitals are not just administrative entities, but vital social institutions. When the legal system becomes a source of fear rather than protection, then what happens is institutional dysfunction and policy fragmentation. The *Ultimum remedium* principle is very important in overcoming administrative law. This principle acts as a corrective principle that restrains the state from excessive use of repressive power. In a healthy legal system, administrative deviations should be resolved through a coaching mechanism, warnings, internal audits, or even civil if the loss can be proven without any criminal elements. Only after all non-penal mechanisms have failed can a criminal approach be considered. Strengthening the principle of *ultimum remedium* is also in line with the principle of due process of law, where every citizen has the right to a fair and proportional legal process. In this context, policymakers must formulate regulations that clearly distinguish between administrative and criminal errors, and ensure that there is an effective internal evaluation mechanism before law enforcement officers are involved.

Through the perspective of legal philosophy, the practice of criminalizing remuneration policies can be seen as a form of abuse of law by the state. Uncontrolled law enforcement power, as explained by Foucault, creates a repressive social structure even though it appears procedurally legitimate. Here, law loses its ethical dimension and turns into an instrument of power. When viewed from Rawls' theory of justice, a repressive approach to administrative errors actually creates inequality, because it harms groups that are structurally in a vulnerable position—namely health workers who work under pressure from the system and institutional limitations. Therefore, efforts to reform criminal law in the public service sector must begin with a normative reconstruction of justice, proportionality, and the function of law in society. The phenomenon of administrative law in the context of hospital remuneration policy is an expression of regulatory ambiguity, where the boundary between administrative violations and criminal offenses becomes blurred. This creates a distortion in the principle of legality (*nullum crimen sine lege*), because criminal sanctions are applied on

the basis of administrative norms that are multi-interpretable and do not have sufficient legal certainty. As a result, hospital policy implementers become vulnerable to criminal charges even though their actions are within the scope of administrative discretion or based on changing technical instructions. The negative effects of this situation include: :

1. Systemic fear in administrative decision making that hinders the effectiveness of hospital management.
2. An internal crisis of trust, where medical and structural personnel suspect each other for fear of being made scapegoats in criminal investigations.
3. The spread of bureaucratic defensive practices, such as delaying incentives, delegating responsibilities, and limiting progressive internal policies.

In the perspective of Michel Foucault's philosophy of power, a legal system that mixes administrative norms with criminal ones reflects the practice of disciplinary power. The state not only attempts to control the behavior of civil society, but also its own internal bureaucracy with the threat of sanctions. Health bureaucrats and hospital management, who should carry out public service functions, are positioned as subjects who are continuously monitored and can at any time be transformed into criminal objects. The negative effects of this model include:

1. Institutional paranoia, where state officials (doctors, hospital managers, treasurers, etc.) are reluctant to implement innovations or technical policies that are not explicitly regulated for fear of being criminalized.
2. Governance stagnation, as every administrative decision must go through layers of legal consultation which slows down service delivery.
3. Inter-agency conflict, for example between internal hospital supervision and law enforcement officers who have different assessment standards for an administrative event.

One of impact Serious from criminatory law is reduced motivation professional power medical . Instead operate profession on base ethics dedication and integrity, energy health become more focus on legal-formal aspects , avoiding error administrative, and maintaining position safe in a way law. Consequence term length :

1. Depersonalization of services, where the relationship between health workers and patients becomes cold and rigid due to the dominance of bureaucratic obedience
2. The quality of services is decreasing, because service providers are more focused on avoiding criminal risks than improving the quality of services.
3. Internal brain drain, namely the transfer of superior human resources from the public sector to the private sector because they are uncomfortable with the repressive bureaucratic climate.

In Rawls and Sen's framework, this administrative criminalization emphasizes the maldistribution of justice, namely the unequal distribution of justice. The legal system that should protect public servants from arbitrariness has instead become a tool of repression. While policymakers who harm the state on a large scale often get away with a non-punitive approach, administrative actors in hospitals who make minor technical errors can be punished criminally. The impact is :

1. The emergence of a public narrative of injustice , which exacerbates the demoralization of health workers
2. Escalation of distrust towards the legal system , which is dangerous for the sustainability of legal democracy
3. The stagnation of bureaucratic reform, because it actually strengthens the rigid and repressive legalistic regime.

To overcome this problem, progressive legal intervention and differentiating policies are needed that define the boundaries between administrative errors and criminal acts. Some strategic solutions that can be adopted are:

1. Affirmation of *Ultimum Remedium* in Criminal Law Governance

The principle of *ultimum remedium* must be applied in practice, by making explicit provisions that administrative errors cannot be immediately processed criminally without a strong internal correction process and proof of *mens rea*. Furthermore, the Attorney General's Office and the Indonesian National Police have drawn up criminal policy guidelines which emphasize the initial screening procedures in cases of alleged criminal remuneration policy.

2. Strengthening Progressive Administrative Sanctions Mechanism

The Ministry of Health and the Ministry of PAN-RB need to develop a proportional, tiered, and development-based administrative sanction system as an alternative to criminalization. Strengthening the role of the inspectorate, ombudsman, and internal auditors as the first line of defense in resolving remuneration violations.

3. Regulatory Reform and Inter-Institutional Harmonization

Revise regulations that are open to multiple interpretations such as PMK, Permenkes, or SE regarding the division of service fees to provide normative clarity and prevent wild interpretations by law enforcement. Furthermore, the preparation of the MoU between institutions (Ministry of Health, Prosecutor's Office, Police, BPKP, KASN) regarding the limits of authority, SOP, and procedures for handling remuneration cases.

4. Legal and Ethical Education for Hospital Officials and Managers

Regular training on administrative law, corporate crime, and the principle of *ultimum remedium* for law enforcement officers, hospital officials, and health workers. As well as the preparation of ethical-professional guidelines on administrative discretion and remuneration governance as part of the hospital management training curriculum.

5. Implementation of Justice-based Policy Making

Legal policies must be based on substantive justice, taking into account the structural impact on vulnerable groups in the health bureaucratic system. and involving legal professionals, medical ethics, academics, and civil society in the evaluation and redesign of the remuneration system based on the principles of fairness, transparency, and accountability.

4. CONCLUSION

This study shows that the practice of Criminal Law in hospital remuneration policies in Indonesia is a reflection of the blurring of the boundaries between administrative and criminal domains. This phenomenon reflects the state's tendency to use criminal law excessively, even against technical or procedural errors that should be resolved through non-criminal mechanisms. This tendency indicates the occurrence of overcriminalization in public policy, which not only violates the principle of *ultimum remedium*, but also contradicts the spirit of substantive justice. In this condition, the law loses its pedagogical and transformative function, and turns into a repressive instrument of control.

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