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The Urgency of Legal Protection for Indonesian Health Workers in the Israel-Palestinian Conflict Area From the Perspective Act Number 59 of 1958

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Abstract: The Geneva Conventions of 1949, which were later ratified in Law No. 59 of 1958, became the only legal basis for the protection of Indonesian health personnel in conflict zones. However, The Geneva Conventions of 1949 which were ratified by Indonesia did not provide a full explanation of the legal protection of Indonesian health personnel who are in conflict zones. Therefore the presence of the Additional Protocol of 1977 was created to complement the existing rules in The Geneva Conventions of 1949, one of the topics is about detailed regulations related to the protection of health personnel in conflict zones that until now have not been ratified by Indonesia Government. This research is normative legal research using a conceptual approach. The data that used in this study includes secondary data consisting of analysis of laws and regulations, books, scientific articles, journals, and previous research results.

Keyword: Protection, Law, Health Personnel, Geneva Convention 1949.

INTRODUCTION

The war between Israel and Palestine has never reached a halfway point. Reporting from www.kompas.com, Israeli police again attacked Palestinians at the Al-Aqsa Mosque Complex on Friday (15/4/2022). As a result of the attack, clashes broke out and more than 170 Palestinians were injured. In the aftermath of this incident, Israel and Hamas carried out attacks on each other on Monday (18/4/22) and continued until the following morning on Tuesday (19/4/22) in the Gaza Strip.

The fighting began with a rocket fired from Gaza towards Israel but was shot down by Israeli anti-rocket defenses. Israel then responded to attacks on the Gaza Strip using planes which were then also fired upon by Hamas' armed wing (Arum, 2022).

Looking back, the Israeli – Palestinian war began in 1948 when Israel officially became an independent country. The day after, Israel was divided into several countries such as Jordan, Iraq, Syria, Egypt and Lebanon. At that time, the Gaza strip was controlled by Egypt and the Palestinian population was in the Gaza strip. The Palestinian population is caught between two countries. In 1967, after the Six Day War, Israel gained the territory of Gaza. In 1993 and 1995, Palestine and Israel negotiated with third parties which became the contents of the Peace Agreement carried out in Oslo in 1993. However, in 2006, the Gaza Strip was controlled by Hamas and then in the name of Palestine, even though Palestine did not have an official army. Hamas itself is an armed terrorist group and causes many conflicts. In 2018, the Palestinian community demanded that the Israeli army withdraw from Gaza (Julie, 2022). This war then continues to this day.

In a war, diplomacy is an important aspect of international politics. In relation to the diplomacy carried out by Indonesia regarding the Israeli-Palestinian conflict, Indonesia also took part in it, namely by supporting Palestinian independence as a free country.

Indonesia's stance in supporting Palestine to become an independent country can be said to be a diplomatic relationship between Indonesia and Palestine. A flashback to diplomatic relations between Indonesia and Palestine began with Palestine's recognition of Indonesia's independence. After the proclamation of Indonesian independence by Ir. Soekarno on August 17, 1945, not a single country wanted to recognize Indonesia as a sovereign country. However, Indonesia tried to lobby by sending delegations to various countries such as Europe and the Middle East. The efforts made bore fruit, namely the de facto recognition of Indonesia's sovereignty by Egypt, which was then followed by other countries in the Middle East region (Dewi & Suci, 2020: 65).

Due to its diplomatic relations, Indonesia's support for Palestinian independence is accompanied by various assistance as a concrete form of its attitude, one of which is providing medical assistance, specifically the assistance of health workers.

The definition of Health Workers based on article 1 of Law Number 36 of 2014 concerning Health Workers states that Health Workers are every person who dedicates themselves to the health sector and has knowledge and/or skills through education in the health sector which for certain types requires authority to carry out efforts. health. Health workers are also explicitly regulated in Law Number 36 of 2014 concerning Health Workers (hereinafter referred to as Law No. 36 of 2014), as stated in Article 1 number 1 of Law No. 36 of 2014, “yang dimaksud dengan tenaga kesehatan adalah setiap orang yang mengabdikan diri dalam bidang kesehatan serta memiliki pengetahuan dan/atau keterampilan melalui pendidikan di bidang kesehatan yang untuk jenis tertentu memerlukan kewenangan untuk melakukan upaya kesehatan”.

More specifically, Law no. 36 of 2014 then divided health workers into various types. Based on Article 11 paragraph (1) of Law no. 36 of 2014, health workers are grouped into 13 (thirteen) types, namely:

- a. Medical Personnel;
- b. Clinical Psychologist;
- c. Nursing Personnel;
- d. Midwifery Staff;
- e. Pharmaceutical Personnel;
- f. Public Health Workers;
- g. Environmental Health Workers;
- h. Nutritionist;
- i. Physical Therapy Personnel;
- j. Medical Technician;
- k. Biomedical Engineering Staff;

- l. Traditional Health Workers; and
- m. Other Health Workers.

Good health services are part of national development goals, because health services are one of the human rights (HAM) that must be observed and obtained by everyone without exception (Dewi K, 2019: 17). Humanitarian considerations are also the main principle in the Hippocratic Oath, which later became the guideline for the Indonesian Doctor's Oath and is binding on all medical personnel (doctors) in Indonesia, including general practitioners, dentists and other specialists (Sutan, 2019: 1). This reason then became the background for sending Indonesian Health Workers to the Israel - Palestine conflict area, namely to prioritize humanitarian interests in accordance with the Hippocratic Oath.

Even in its implementation, national law also regulates legal protection for medical personnel as regulated in Article 27 paragraph (2) of Law no. 36 of 2014, that: "Tenaga Kesehatan yang bertugas di daerah tertinggal perbatasan dan kepulauan serta daerah bermasalah kesehatan memperoleh perlindungan dalam pelaksanaan tugas."

Apart from that, in fact the protection of Indonesian health workers who are in conflict areas, in this case Israel - Palestine, received protection with the ratification of the 1949 Geneva Convention through Law of the Republic of Indonesia Number 59 of 1958 concerning Participation of the Republic of Indonesia in all Geneva Conventions. 12 August 1949 (hereinafter referred to as Law No. 59 1958).

The 1949 Geneva Convention stipulates that: Members of the health service specially employed to search for or collect, transport or care for the wounded and sick, or to prevent disease, and staff specially employed in the administration of health units and buildings, as well as chaplains serving in the armed forces, shall respected and protected under all circumstances.

In essence, this clause only provides general protection, while more detailed protection regarding health workers is regulated in the 1977 Additional Protocol. Unfortunately, this regulation has not been ratified by Indonesia as national law. In fact, the substance of the 1977 Additional Protocol regulates one of the most important protections for health workers, namely that health workers must not be the target of attacks. This clause was clearly stated in the 1977 Additional Protocol, which was not previously regulated in the 1949 Geneva Convention.

Based on this, a common thread can be drawn that the ratification of the 1949 Geneva Convention by Indonesia became Law no. 59 of 1958 does not fully provide legal protection to Indonesian health workers who are in the Israeli-Palestinian conflict area. This is what is interesting to study in more depth.

METHOD

This type of research is included in normative juridical legal research, namely by referring to legal norms and legal comparisons, namely by means of "...find the truth of coherence, namely whether there are legal rules in accordance with legal norms and whether there are norms in the form of orders or prohibitions in accordance with legal principles, as well as whether there are actions (acts) of a person that are in accordance with legal norms (not just according to legal rules) or legal principles." (Marzuki 2014: 131).

Normative legal research in the narrow sense is a legal research process to discover legal rules, legal principles and legal doctrines in order to answer the legal issues faced. The objects of normative legal research are legal norms, legal concepts, legal principles and legal doctrine (Made, 2017; 5). This legal research is said to be normative legal research because it examines the elements of legal regulation and protection of Indonesian health workers in conflict areas outside Indonesia's sovereignty.

RESULTS AND DISCUSSION

General Overview

"Active participation in the international world" has become the basis for carrying out state life in Indonesia, as Indonesia's active participation in the international world is in line with the opening of the 4th Paragraph of the 1945 Indonesian Constitution .

Indonesia's active participation in the international world as a constitutional mandate then led Indonesia to active involvement in diplomatic relations with other countries, one of which was in the Israeli-Palestinian conflict. Looking back on history, the presence of diplomatic relations between Indonesia and Palestine began with the recognition of Palestine's independence of Indonesia at the beginning of Indonesia's independence.

The dispatch of Indonesian health workers to the Israeli-Palestinian conflict area then raises the question, is there any explicit protection by Indonesian national law regarding Indonesian health workers who are in conflict areas, especially outside Indonesia's sovereign territory ?.

Legal protection for Indonesian health workers is generally regulated in the provisions of Article 2 of Act No. 36 of 2014 which basically regulates that the existence of Act No. 36 of 2014 is based on the principle of protection. This substance is then clarified in the explanation of Article 2 of Act No. 36 of 2014 which stipulates that: "yang dimaksud dengan "asas perlindungan" adalah bahwa pengaturan Tenaga Kesehatan harus memberikan perlindungan yang sebesar-besarnya bagi tenaga kesehatan dan masyarakat".

Furthermore, regarding legal protection, health workers who carry out their duties in border and archipelago areas as well as problem areas (conflict areas) are entitled to protection as stipulated in the provisions of Article 27 paragraph (2) of Act No. 36 of 2014 which stipulates that:

"Tenaga Kesehatan yang bertugas di daerah tertinggal perbatasan dan kepulauan serta daerah bermasalah kesehatan memperoleh hak kenaikan pangkat istimewa dan perlindungan dalam pelaksanaan tugas".

However, the protection of health workers in Act No. 36 of 2014 only applies to Indonesia's sovereign territory. Meanwhile, for Indonesian health workers who are in conflict areas outside Indonesia, Act No. 59 of 1958 applies. Act No. 59 of 1958 is a law that comes from the ratification of the 1949 Geneva Convention. Ratification is a statement of the state's consent to be bound to an international agreement that has been mutually agreed. As stated by Hikmahanto Juwana that:

"Accession and ratification are two terms differentiated in international law. Accession relates to the process of joining a certain international treaty, while ratification is an act performed by a state participating in an international treaty to legalise such treaty".

The presence of Law No. 59 of 1958 is the result of the ratification of the 1949 Geneva Convention. In a broad sense, the 1949 Geneva Convention is an international treaty that talks about legal provisions that regulate the protection of military personnel who are not involved in armed conflict (*hors de combat*) and people who are not involved in armed conflicts (Herman, et al., 2020: 4).

Geneva Convention of 1949

The substance of the 1949 Geneva Convention for the Protection of Victims of War is divided into several conventions, including:

1. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, of August 12, 1949;
2. Geneva Convention of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, of August 12, 1949;
3. Geneva Convention relative to the Treatment of Prisoners of War, of August 12, 1949;
4. Geneva Convention relative to the Protection of Civilian Persons in time of War, of August 12, 1949.

In more depth, the 1949 Geneva Convention provides provisions on general protections for countries in conflict.

Furthermore, regarding the 1949 Geneva Convention, several things are regulated regarding protections, including (Rifka, 2013: 9-11):

1. **General Protection.** The general protection provided for in the 1949 Geneva Convention, is that the general protection provided to the civilian population should not be discriminatory. In all circumstances, the civilian population has the right to personal respect, family rights, wealth and the practice of religious teachings. Furthermore, in the 1949 Geneva Convention, there are several groups of civilians who need to be protected, including:
 - a. Foreigners in occupied territories. When a war breaks out between countries whose citizens live in the territory of the enemy country, these foreigners are citizens of the enemy country. Nevertheless, they still enjoy respect and protection in the country where they live.
 - b. People living in occupied territories. Within the occupied territories, the civilian population must be fully protected. The occupying power may not change the laws that apply in the territory. In other words, the law that applies in the territory is the law of the occupied country. Therefore, the national legislation of the occupied country is still valid (*de jure*), even though the ruler of the occupied territory is the Occupying Ruler (*de facto*). In line with this, the Regional Governments in the occupied territories, including their courts, should be allowed to continue their activities as usual.
 - c. Civilian internment. Civilians who can be interned are:
 - i. Enemy civilians within the territory of the disputing parties who need to be closely monitored in the interests of security;
 - ii. Enemy civilians within the territory of the disputing party who voluntarily wish to be interned; or because of his circumstances causing him to be interned;
 - iii. Enemy civilians in the occupied territory, if the Occupying Authority wishes that they should be interned for urgent reasons;
 - iv. Civilians who have committed violations of the law that are specifically intended to harm the Occupying Ruler.

More detailed explanation of the general protection of the groups of civilians who need to be protected can be found in the 1949 Geneva Conventions.

2. **Special Protection.** Special protection as provided for in the Geneva Conventions is the civilian population who belongs to a social organization that performs social duties to assist other civilians in times of armed conflict. They are civilians who are members of the National Red Cross and other members of the Volunteer Helper Society, including members of the Civil Defense. Basically, the 1949 Geneva Convention regulates special protections. The special protection consists of civilians who are members of a social organization that carries out social duties to help other civilians in times of armed conflict. Further regarding special protection also

includes the protection of members of health workers who are hereinafter referred to as members of the health service.

Geneva Conventions of 1949 as the Basis for Legal Protection of Health Workers in Conflict Areas

The legal basis for health workers in conflict areas is regulated in the provisions of Chapter IV concerning Members of the Health Service Articles 24-32 of the 1949 Geneva Convention. The basis for the protection of health workers as stipulated in Article 24 of the 1949 Geneva Convention, that:

“Tenaga kesehatan yang dipekerjakan khusus untuk mencari atau mengumpulkan, mengangkut atau merawat yang luka dan sakit, atau untuk mencegah penyakit, dan staf yang dipekerjakan khusus dalam administrasi kesatuan-kesatuan dan bangunan-bangunan kesehatan, demikian juga rohaniwan yang bertugas dalam angkatan perang, harus dihormati dan dilindungi dalam segala keadaan”.

In other cases, the assistance of health workers from outside the territory of the warring parties is also regulated in its implementation, namely in the provisions of Article 27 of the 1949 Geneva Convention which stipulates that:

“Suatu perhimpunan yang diakui dari suatu negara netral hanya boleh memperbantuan anggota dinas dan kesatuan kesehatannya kepada suatu Pihak dalam pertikaian setelah memperoleh persetujuan terlebih dahulu dari Pemerintahnya sendiri dan mendapat ijin dari Pihak dalam sengketa bersangkutan. Anggota dinas kesehatan dan kesatuan-kesatuan tersebut akan ditempatkan dibawah kekuasaan Pihak dalam sengketa itu.

Pemerintah netral itu harus memberitahukan persetujuannya itu kepada pihak lawan dari Negara yang menerima bantuan itu. Pihak dalam sengketa yang menerima bantuan tersebut diwajibkan untuk memberitahu Pihak lawan tentang bantuan itu sebelum menggunakannya.

Bantuan itu sekali-kali tidak boleh dianggap sebagai campur tangan dalam sengketa.

Anggota-anggota dinas kesehatan yang disebut dalam paragraf pertama, harus dilengkapi seperlunya dengan kartu-kartu pengenalan sebagaimana ditentukan dalam pasal 40 sebelum meninggalkan Negara netral dari mana mereka berasal.”

If examined further in relation to the case raised by the author, it is clear that arrangements regarding legal protection, both nationally and internationally, for Indonesian health workers in the Israeli-Palestinian conflict area where Indonesian health workers are sent to help Palestine in general are regulated in the 1949 Geneva Convention.

So, it can be concluded that the 1949 Geneva Convention, which was later ratified by Indonesia into Law No. 59 of 1958, is an important step for Indonesia to be able to actively participate in international diplomacy and in other cases also provide legal protection nationally to Indonesian health workers sent to Israel-Palestine conflict areas.

The Urgency of Ratifying the Additional Protocols of 1977 at the 1949 Geneva Convention Furthermore, the presence of the Additional Protocol which is an additional rule of the 1949 Geneva Convention provides more detailed legal protection for health workers in conflict areas. However, until the time this research was carried out, the 1977 Additional Protocol had not been ratified by Indonesia. This causes the national legal protection regarding Indonesian health workers in conflict areas based on only Article 1 of the 1949 Geneva Convention which does not concretely regulate what forms of protection are obtained by Indonesian health workers in conflict areas.

Article 24 of the Geneva Convention only provides that health workers employed exclusively for the search or collection, transport or treatment of the wounded and sick, or for the prevention of disease, and staff employed exclusively for the administration of health units and buildings shall be protected under all circumstances. In fact, the form of protection obtained by Indonesian health workers in the 1949 Geneva Convention is not clear in its

regulation. Whether what is protected by the defense must be protected will receive protection from both sides who are at war or only protected by the protective state. In fact, it is necessary to emphasize the form of protection of Indonesian (foreign) health workers who are in conflict areas. For this reason, there is an urgency for the ratification of the 1977 Additional Protocol derived from the 1949 Geneva Convention.

The presence of the 1977 Additional Protocol derived from the 1949 Geneva Convention provides more protection to Indonesian health workers who are in conflict areas, so there is a need for active steps from Indonesia to be able to provide more protection to its own citizens by ratifying the 1977 Additional Protocol.

As explained in sub-chapter point (3.3), it can be stated that legal protection for Indonesian health workers in conflict areas outside Indonesia's sovereign territory which is regulated in the provisions of the 1949 Geneva Convention is only in Article 24 of the Geneva Convention, which is considered to be very minimal with explanation.

The urgency of ratifying the Additional Protocols of 1977 at the 1949 Geneva Convention is actually to provide additional legal protection apart from the 1949 Geneva Convention to Indonesian health workers who are in conflict areas outside Indonesia's sovereignty. The urgency of the ratification is based on Article 28D Paragraph (1) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution) stipulates that, "Setiap orang berhak atas pengakuan, jaminan, perlindungan, dan kepastian hukum yang adil serta perlakuan yang sama dihadapan hukum"

In line with the 1945 Constitution, the ratification of the 1977 Additional Protocols at the 1949 Geneva Convention is aimed at fulfilling national legal protection as stipulated in Article 28D Paragraph (1) of the 1945 Indonesian Constitution.

Additional Protocols of 1977 at the 1949 Geneva Convention in relation to the Legal Protection of Indonesian (Foreign) Health Workers.

In the 1977 Additional Protocol, a derivative of the 1949 Geneva Convention, Indonesian health workers will receive more detailed legal protection, including:

1. Article 12 Paragraph (1) - Protection of Health Units

Article 12 Paragraph (1) states that, "Health units must always be respected and protected at all times and must not be the target of attacks".

Based on the 1977 Additional Protocol, a derivative of the 1949 Geneva Convention, there are more detailed rules regarding the protection of health workers, both health workers from countries in conflict and also countries that participate in providing assistance; It is explained in detail that health workers should not be the target of attacks while when viewed from the protection provided in Article 24 of the 1949 Geneva Convention, it is not explained in detail as in the 1977 Additional Protocol, but only written "protected in all circumstances" without any further explanation of the form of protection.

2. Article 12 Paragraph (3)

Article 12 Paragraph (3) states that, "The parties to the dispute are invited to inform each other of the location of the settled health units. The absence of such notice shall not relieve any of the Parties and the obligation to comply with the provisions of paragraph (1)".

In the 1977 Additional Protocol derived from the 1949 Geneva Convention, the parties to the dispute are also obliged to provide protection as to health workers, namely by informing the location of the places where the health units reside so that they are not attacked in order to provide protection to health workers as explained in Article 12 Paragraph (1) in the previous paragraph.

3. Article 12 Paragraph (4)

Article 12 Paragraph (4) states that, "Under no circumstances shall health units be used in an attempt to protect military objects from attack. Where possible the Parties to the dispute shall

ensure that health units are stationed in such a way that attacks on military objects do not endanger their safety."

In the explanation of Article 12 Paragraph (4), it can be interpreted that because health units including health workers should not be used to protect military objects because health worker units should not be targeted by attacks, then it is also emphasized that there is a guarantee that attacks on military objects do not endanger the safety of health workers.

4. Article 13 Paragraph (1) - Termination of Protection for Civil Health Units

Article 13 Paragraph (1) states that, "The protection which is a right of civil health units shall not end unless they are used outside of their humanitarian function to commit acts detrimental to the enemy".

In Article 13 Paragraph (1), the protection of civil health units does not have an expiration period unless it is used outside of humanitarian functions.

5. Article 15 Paragraph (1) - Protection for members of the civil health service and religious service.

Article 15 Paragraph (1) states that, "Members of the civil health service must be respected and protected".

It can be seen in Article 15 Paragraph (1) to provide general protection to members of the civil health service so that they are given protection.

6. Article 16 Paragraph (1) - General Protection of Health Duties.

Article 16 Paragraph (1) states that, "Under no circumstances shall a person be punished for carrying out health activities in accordance with the norms of medical ethics, regardless of whether the person draws benefits from his activities".

Article 16 Paragraph (1) also shows that the 1977 Additional Protocol derived from the 1949 Geneva Convention also provides protection in other matters to health workers who are in conflict areas, namely with a health worker who cannot be subject to the law or in other words immune to the law because he or she carries out activities related to and in accordance with medical ethical norms.

7. Article 18 – Introduction

- a. Article 18 Paragraph (1) states that, "Each party to the dispute must make every effort to ensure that the members of the health service and religious service and the units and means of transport of health can be identified".
- b. Article 18 Paragraph (2) states that, "Each Party to a dispute shall endeavor to adopt and implement methods and procedures (procedures) that will make it possible to recognize units and means of transport of health that use identification symbols and identification signals".
- c. Article 18 Paragraph (3) states that, "In occupied territories and in areas where fighting is taking place or is likely to occur, members of the health and religious services shall be able to be identified by an identification symbol and by an identification card describing their position".

From the explanation contained in the provisions of Article 18 Paragraph 1-3, it can be seen that members of the health service are also given more detailed protection regarding the presence of identification marks or symbols in conflict areas, this is based on the aims and objectives of ensuring that members of the health service, units health, or foreign health workers are not targets of fire because of their identification marks. Regulations regarding recognition are quite important regulations in the protection of health workers in conflict areas.

So from the explanation of the previous paragraphs it can be concluded that in fact the 1977 Additional Protocol, a derivative of the 1949 Geneva Conventions, provides much deeper protection for health workers in conflict areas, namely:

1. Protection by not being a target of attack.

2. Comprehensive protection is provided to all countries in conflict.
3. Protection in the form of a guarantee that attacks on military objects will not endanger the safety of health personnel units.
4. Protection for civilian health units does not have an expiration date unless used outside of humanitarian functions.
5. Protection of all health and humanitarian actions carried out by health workers cannot be subject to law or in other words are immune from the law because they carry out activities that are related to and in accordance with the norms of medical ethics.
6. Protection is provided by providing identification marks or identification symbols in conflict areas with the aim and purpose of ensuring that members of the health service, health units, or foreign health workers do not become targets of fire because of the identification marks.

The Correlation of the Ratification of the 1977 Additional Protocol as National Legal Protection for Indonesian Health Workers in Israeli-Palestinian Conflict Areas

The Urgency of Ratification of the 1977 Additional Protocol for Indonesian health workers who are currently in the conflict zone between Israel and Palestine has not been fully protected because Indonesia itself until the time this study was conducted has not ratified the 1977 Additional Protocol which, as is known and has been explained, provides much deeper protection to health workers, both civilians and foreign health workers.

Sourced from the official website of www.idxchannel.com, a humanitarian organization in the field of health emergencies in conflict areas, the Medical Emergency Committee (Mer-C) sent Indonesian health workers along with volunteers and medicines to Indonesian hospitals in North Gaza, Palestine.

"We sent a team of about five or six people to the hospital in Gaza. We also bring surgical tools and medicines due to the current situation that the surgeons are exhausted and lack of medicines," said the Head of Mer-C Presidium, dr. Sarbini Abdul Murad to reporters at the Mer-C Indonesia Building on Jalan Kramat Lontar, Senen, Central Jakarta on Tuesday (18/5/2021).

Furthermore, dr. Sarbini Abdul Murad said that the surgical team sent were specialists in orthopedic surgery, anesthesia, general surgery, plastic surgery and surgical nurses spread throughout Indonesia through selection. Dr. Sarbini Abdul Murad also explained that all medical personnel sent have been selected and verified because the task is very risky because it is in a conflict area.

From the news summarized in the previous paragraph, it can be concluded that Indonesia sends many healthcare workers to Palestine as a reflection of its support for Palestinian independence. However, the national laws of Indonesia providing protection for Indonesian healthcare workers in conflict zones remain insufficient up to the time of this research. This raises the question of whether the relevant agencies that deploy Indonesian healthcare workers to conflict areas outside Indonesia's sovereignty are also governed by regulations set forth in the law. Additionally, it questions whether these agencies will provide legal protection for the healthcare workers they send. A deeper examination reveals that there were broader issues regarding the responsibilities of the government and/or agencies that deploy Indonesian healthcare workers to the conflict zones outside Indonesia's sovereignty.

Since Palestine, the country who recognize Indonesia as a sovereign country, gave the Indonesian the validation they wanted and were given additional available support to join the Asia-African through 60 years of Conference on the Question of Jerusalem as teamwork between OKI and the United Nations Committee on Inalienable Rights of the Palestinian People. In 2016 early march, Indonesia became the host of the KTT OKI the fifth to explain the issue of Palestine and Al-Quds Ash-Sharif to form the conflict resolution against Israel-

Palestine war. Another support coming from Indonesia are practice and challenges to train Palestinian for future technology, light manufacturing, and information to build Indonesian Cardiac Center Hospital in Gaza which cost around 1,5 million USD.

Therefore, there are contribution being made for UNRWA (United Nations Relief and Works Agency for Palestine Refugees through the Ministry of Foreign Affairs to give solution to both countries (Israel and Palestine) according to the international law and human rights so both clashed parties will obey the parameter that has been developed by the resolution of United Nations. There must be an impartial attitude from every other international countries to help stop conflict resolution and push peaceful act that has been made from the Israel-Palestine war. UNRWA (United Nations Relief and Works Agency for Palestine Refugees in the Near East) ought to be protected to help the Palestine refugees especially women and kids. This means that Indonesia as a whole country is very committed to help gain peace towards Israel and Palestine.

CONCLUSION

Based on the description and discussion of this study, several points of conclusion can be drawn, namely that the ongoing war between Israel and Palestine has caused a lot of sympathy from various countries to be able to help one of the parties of the conflicting country. Indonesia as an independent country is able to be neutral towards countries in conflict. However, based on its history, Palestine took part in Indonesia's independence where Palestine along with other Middle Eastern countries recognized Indonesia as a sovereign state. Based on this, since the outbreak of the Israeli-Palestinian war, Indonesia's attitude towards the conflict has been pro-or support for Palestine to be independent.

Furthermore, Indonesia's attitude by supporting Palestine to become an independent country is accompanied by other assistance, namely assistance from Indonesian health workers to the Israeli-Palestinian conflict area, which is in the Gaza area, Palestine.

In the discussion, it can be seen that Indonesia sent some of its medical personnel to the conflict area, raising questions about whether there is any national legal protection related to Indonesian health workers who are in the Israeli-Palestinian conflict area.

The results of the discussion can be concluded that Indonesia has actually provided legal protection to Indonesian health workers in conflict areas, namely with the ratification of the 1949 Geneva Convention, as stated in Law Number 59 of 1958 concerning the Participation of the State of the Republic of Indonesia in the All Geneva Conventions dated August 12, 1949.

Furthermore, in its development, there were Additional Protocols of 1977 at the Geneva Convention in 1949. The presence of this additional Protocol is intended to complement the 1949 Geneva Convention on the protection of civilians. In relation to the legal protection of Indonesian health workers who are in conflict areas outside Indonesia's sovereign territory, the protection has actually been regulated in the 1949 Geneva Convention which was later ratified in Law Number 59 of 1958, but the problem is that after further study in the discussion, protection related to Indonesian health workers in conflict areas can only be found in Article 24 of the Convention Geneva of 1949 which does not provide protection in detail, namely that:

"Health workers employed specifically to search for or collect, transport or treat the wounded and sick, or to prevent disease, and staff employed exclusively in the administration of health units and buildings, as well as chaplains serving in the armed forces, shall be respected and protected in all circumstances."

It can be seen that Article 24 of the 1949 Geneva Convention does not explain in detail but only explains that health workers must be protected, which results in confusion and ambiguity. Whether what is protected by the defense must be protected will be protected by

both sides of the war or only protected by the protectorate. Thus the presence of the 1977 Additional Protocol (Additional Protocol) to complement the explanation of matters that are still unclear as stipulated in the 1949 Geneva Convention.

However, the 1977 Additional Protocol from the 1949 Geneva Convention until this study was conducted, Indonesia has not ratified the 1977 Additional Protocol, so it can be concluded that the protection of Indonesian health workers who are in conflict areas does not receive full protection from existing national laws. The lack of legal protection for Indonesian health workers in conflict areas is the urgency of this writing and the reasons that reinforce that the 1977 Additional Protocols are important to be ratified by Indonesia as soon as possible.

Actually, the protection of international law for foreign health workers in foreign territories will directly apply the provisions in the 1949 Geneva Convention and also the Additional Protocols of 1977 (Additional Protocol), but what is emphasized in this study is about national legal protection for Indonesian health workers because when seen in the regulations in Law Number 36 of 2014 concerning Health Workers For example, Law Number 36 of 2014 only states that health workers who serve in disadvantaged border and archipelago areas as well as areas with health problems receive protection in the implementation of their duties. It should be underlined that in Article 27 Paragraph (2) of Law Number 36 of 2014 concerning Health Workers it is only mentioned that obtaining protection is not detailed.

Even though there are not much ratification law been made for Indonesian health workers against Israel-Palestine war but the respond from the Indonesian are clear that there were condemnation of violence where health workers expressed very deep condolences due to the attacks been made to Gaza by providing protection on healthcare facilities to take action halting Israel's aggressive act. The immediate response are to restore medical services for the refugees affected by the cause of the conflict.

Viewed from the existing National Law, it can be said that Indonesia lacks an explanation of the form of national legal protection obtained for Indonesian health workers who are in conflict areas outside Indonesia's sovereign territory. Indonesian health organizations when united are able to stand for Palestine by supporting medical assistance and give resources to the refugees of the Israel-Palestine war.

Thus, it is clear that the importance of ratification of the 1977 Additional Protocol from the 1949 Geneva Convention is an important step for Indonesia to provide more detailed legal protection to Indonesian health workers in the Israeli and Palestinian conflict area..

REFERENCE

Additional Protocol 1977 of Geneva Convention 1949

Diantha Pasek I Made, "Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum" (Jakarta: PT Fajar Interpratama Mandiri, 2017) hlm. 2

Hermawati, "Sejarah Agama dan Bangsa Yahudi" (Jakarta: Raja Grafindo Persada, 2005, hlm. 130-134)

Jabbar Ramdhani, "Menlu Ajak Yordania Perkuat Dukungan untuk Palestina di KTT OKI" diakses dari <https://news.detik.com/berita/d-37665123/menlu-ajak-yordania-perkuat-dukungan-untuk-palestina-di-ktt-oki>, pada tanggal 29 Mei 2024 Pukul 13.39 WIB

Johan Galtung, "Three Approaches to Peace: Peacekeeping, Peacemaking and Peacebuilding" (Copenhagen: Eljers, 1976, hlm. 282-304)

Kementerian Luar Negeri Republik Indonesia, "Isu Palestina" diakses dari: https://kemlu.go.id/portal/id/read/23/halaman_list_lainnya/isu-palestina, pada tanggal 9 Juni 2024 Pukul 13.39 WIB.

Law No. 36 of 2014 about Health Workers

- Law No. 59 of 1958 about the Participation of the State of the Republic of Indonesia in the All Geneva Conventions of August 12, 1949 (inc. Geneva Convention 1949)
- Law No. 59 of 1958 about the Participation of the State of the Republic of Indonesia in the All Geneva Conventions of August 12, 1949 (inc. Geneva Convention 1949)
- Marks Julie, "Gaza: The History That Fuels the Conflict" diakses dari: <https://www.history.com/news/gaza-conflict-history-israel-palestine>, pada tanggal 13 Juni 2024 Pukul 22.53 WIB.
- Mayasari Rifka, Skripsi: "Tinjauan Yuridis Konvensi Jenewa IV Tahun 1949 Terhadap Negara-Negara yang Berperang Menurut Hukum Internasional" (Sumatera Utara: Universitas Sumatera Utara (USU), 2013, hlm. 9-11)
- Putri Sutrisni Arum, "Penyebab Israel dan Palestina Berperang", diakses dari: <https://www.kompas.com/wiken/read/2022/04/penyebab-israel-dan-palestina-berperang>, pada tanggal 11 Juni 2024 Pukul 19.16 WIB.
- Sjahdeini Remy Sutan, "Hukum Kesehatan Tentang Hukum Malpraktik Tenaga Medis" (Bogor: IPB Press, 2020, hlm. 1).
- Suhartiningtyas, "Analisa Kebijakan Presiden Abdurrahman Wahid Untuk Membuka Hubungan Diplomatik dengan Israel dalam Upaya Peduli Perdamaian Palestina-Israel" (Jurnal Analisa Hubungan International, 2014, hlm. 842)
- Suratiningsih Dewi dan Lukitowati Suci, "Strategi Komunikasi Dalam Diplomasi Kemanusiaan" (Surabaya: Scopindo Media Pustaka, 2020, hlm. 65)
- Suryokumoro Herman, dkk, "Hukum Humaniter Internasional - Kajian Norma dan Kasus" (Malang: UB Press, 2020, hlm. 4)
- Syarif Bahaudin Mudore, "Peran Diplomasi Indonesia Dalam Konflik Israel-Palestina" (Yogyakarta: Universitas Islam Negeri Sunan Kalijaga, 2019, hlm. 170-180)
- Filosofia Putri Kemala Dewi, "T Perlindungan Hukum Terhadap Dokter Dalam Melakukan Tindakan Medis Yang Menyebabkan Pasien Meninggal Dunia," *Rechtsidee* 6, no. 1 (2019, hlm. 1-17).