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Protection of Baby Shamans as Non-Medical Health Workers Reviewed from the Job Creation Law

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ABSTRACT

Law Number 36 of 2014 concerning Health Workers stipulates that health workers must have formal education, competence, registration, and practice licenses. This provision causes baby shamans to not be recognized as official health workers, even though they still play a role in public health services based on local wisdom. This study aims to analyze the legal protection of baby shamans as non-medical health workers reviewed from the Job Creation Law. The research uses a qualitative method with a juridical sociological approach through interviews, observations, and documentation studies. The results of the study show that the legal position of baby shamans is still weak juridically, but strong sociologically. Legal protection from the perspective of the Job Creation Law is still normative and not optimal because it has not been supported by technical regulations that regulate legality, work safety, competence, welfare, and partnerships comprehensively. Its implementation also faces regulatory constraints, institutions, policy implementation, socio-cultural, economic, and limited access to information. Therefore, harmonization is needed through the recognition of local wisdom, strengthening partnerships with health workers, drafting more responsive regulations, and sustainable coaching. This study concludes that legal protection for baby shamans is still not optimal, so a more specific, integrated, and sustainable policy is needed.

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1. INTRODUCTION

Health is one of the basic rights of society guaranteed by the state as stated in Article 28H of the 1945 Constitution, which states that everyone has the right to receive health services. In an effort to realize an optimal degree of public health, the government continues to improve the health service system, including regulating health workers and other health support personnel. One of the groups that still has an important role in society, especially in rural and remote areas, is baby shamans. Baby shamans are traditional non-medical personnel who have been helping the delivery process, caring for postpartum

mothers, newborns, and providing advice related to maternal and child health based on local knowledge that is culturally inherited. The existence of baby shamans is still very much needed by some people, especially due to social closeness, cultural beliefs, relatively low costs, and limited access to formal health facilities.

Law Number 36 of 2014 concerning Health Workers stipulates that health workers must have formal education, competence, registration, and practice licenses. In this provision, baby shamans are not included in the category of official health workers because they do not have formal medical education standards. However, in social practice, they still carry out the function of non-medical health services that are recognized by the community. Furthermore, through Law Number 11 of 2020 concerning Job Creation, which was later strengthened by Law Number 6 of 2023 concerning the Determination of the Job Creation Perppu into Law, the government carried out regulatory reforms in various sectors, including employment and health. One of the focuses is the simplification of licensing, job protection, and legal certainty for various forms of work, including public service-based work. However, until now there has been no regulation that specifically provides legal protection for baby shamans as non-medical health workers.

The absence of legal recognition causes baby shamans to be in a vulnerable position, both in terms of job protection, social security, competency development, and legal responsibility in the event of complications in the childbirth process. On the one hand, the state encourages the professionalization of health services, but on the other hand, social realities show that baby shamans are still an important part of public health services. This condition creates a gap between legal norms and social practices in the field. In addition, the protection of baby shamans is also related to the aspect of employment and the right to decent work as guaranteed in Article 27 paragraph (2) of the 1945 Constitution. If baby shamans are seen as part of informal sector workers based on traditional health services, then there needs to be regulations that provide legal protection, coaching, and integration with the national health system, without eliminating the cultural values inherent in the profession. Therefore, it is important to study the protection of baby shamans as non-medical health workers reviewed from the Job Creation Law. This research aims to analyze the form of legal protection that should be given to baby shamans, the normative constraints that exist in the legal system, and how harmonization between positive law and the socio-cultural reality of society can be realized for the creation of fair, inclusive, and sustainable health services.

The definition of protection according to Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims is all efforts to fulfill rights and provide assistance to provide a sense of security to Witnesses and/or Victims that must be carried out by LPSK or other institutions in accordance with the provisions of this Law. According to Satjipto Rahardjo (2000), legal protection is an effort to protect a person's interests by giving him the power to act in order to defend his rights. Meanwhile, according to Philipus M. Hadjon, (19987) legal protection is the protection of the dignity and dignity as well as recognition of human rights owned by legal subjects based on the legal provisions of arbitrariness.

Equating the word labor with worker, in article 1 of Law No. 2 in Law Number 13 of 2003 concerning Manpower, the term "labor" includes the general meaning of every person who is able to do work to produce goods and services to meet the needs of himself and his community. Then, this Law was strengthened through Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. From the perspective of labor regulations, Law Number 11 of 2020 concerning Job Creation (Omnibus Law) provides wider recognition and protection opportunities for workers in the informal sector, including community-

based workers such as baby shamans. Through a regulatory simplification approach, the government seeks to increase access to legal protection, coaching, and social security for non-formal workers.

The Job Creation Law focuses more on formal labor, investment, and ease of doing business. In practice, traditional professions such as baby shamans have not received special attention. The absence of specific arrangements makes baby shamans vulnerable to losing their workspace due to the modernization of the health system and the tightening of health service regulations. If it is not balanced with social protection policies, then their existence can disappear without alternative solutions. In fact, the ideal legal approach is not just to remove traditional practices, but to carry out safe and measurable integration with the modern health system (Rahardjo, 2000). Thus, the Job Creation Law needs to be reviewed from a social justice perspective so that labor protection is not only given to formal workers, but also to non-medical health workers such as baby shamans who have important social functions in society.

Law Number 11 of 2020 concerning Job Creation (which was later strengthened through Law Number 6 of 2023 concerning the Determination of the Job Creation Perppu) is a strategic policy of the government in simplifying regulations and improving the protection and creation of jobs. In the context of informal labor, including baby shamans as community-based non-medical health workers, this law has important implications for protection, recognition, and empowerment aspects. Conceptually, the Job Creation Law carries an omnibus law approach that aims to integrate various cross-sectoral rules, including employment, health, and micro businesses. For baby shamans, this approach opens up opportunities for more systematic protection, although it does not explicitly mention the profession in its legal norms.

The protection of baby shamans as non-medical health workers should be seen as part of the protection of the right to work and recognition of local cultural values. Baby shamans not only function as traditional service actors, but also as part of the social system of society. The Job Creation Law, which is oriented towards labor protection, should be able to provide space for traditional workers to remain legally protected. The absence of clear regulations actually creates legal uncertainty and has the potential to cause social injustice. Therefore, harmonization between labor law, health law, and social protection law is needed so that baby shamans obtain a proportionate position in the national legal system. This thinking departs from the main problem, namely the lack of optimal protection for baby shamans as non-medical health workers, both in terms of legality, occupational safety, competence, and welfare. On the other hand, the government through the Job Creation Law (*Omnibus Law*) seeks to simplify regulations and improve labor protection, including the informal sector.

2. METHODS

The research design used in this study is a qualitative method. Qualitative research according to Moleong (2015:71) is research that intends to understand the phenomena experienced by the research subject (e.g. behavior, perception, action, etc.) holistically, and in a descriptive way in the form of words and language, in a special natural context and by utilizing various natural methods. Furthermore, Sugiyono, (2017:88) stated that qualitative research is a method based on the philosophy of postpositism, used to research on natural objects, (as opposed to experiments) where the researcher is the key instrument, data collection techniques are carried out in a trigulation (combined), data analysis is induction or qualitative, and the results of qualitative research emphasize meaning rather than generalization.

According to Lofland and Lofland in Moleong, (2015:86) said that the main source of data in qualitative research is words, and the rest of the actions are additional data such as documents and others. This study uses two data sources, which are as follows: Primary Data Sugiyono, (2016:228) said that primary data is a data source that directly provides data to data collectors. Secondary Data Sugiyono (2016:225) said that secondary data is a data source that does not directly provide data to data collectors, for example through other people or through documents.

Data Collection Techniques and Instruments Sugiyono, (2016:228) data collection techniques are the most strategic step in a research, because the main purpose of research is to obtain accurate data, so that without knowing the data collection techniques the researcher will not get data that meets the set standards. The data collection techniques used in this study are using interview, observation, and documentation methods.

Data Analysis Technique Sugiyono (2017:92) said that data analysis is the process of systematically searching for and compiling data obtained from interviews, field notes, and documentation, by organizing data into categories, describing it into units, synthesizing, arranging it into patterns, choosing which ones are important and what to study, and making conclusions so that they are easy to understand by themselves and others. The qualitative analysis technique used in this study is an interactive analysis model developed by Miles and Hubermann (in Sugiyono 2017:94), with the following analysis steps: Data Collection. Data reduction; Data presentation. Drawing conclusions or verification.

3. FINDINGS AND DISCUSSION

A. Research Findings

Research shows that the position of baby shamans is still socially recognized as part of traditional health services, but has not yet gained formal legal recognition as a non-medical health professional. Legal protection is still partial, especially in the aspects of legality, work safety, competence, welfare, partnership, non-discrimination, and the implementation of the Job Creation Law. The legality aspect shows that there is no regulation that explicitly regulates the status of baby shamans so that recognition is only administrative. In the aspect of K3, there has been a shift in the role of midwife partners with the implementation of more hygienic practices, but it has not been supported by SOPs and work risk guarantees. Coaching through partnerships with midwives has improved competence, but it is not even and does not have national standards. Social protection is still weak due to the absence of a fixed income, access to social security, and a clear remuneration system. The partnership relationship with health workers is going well, but it does not yet have a strong legal basis. In terms of rights, baby shamans are still involved in public health activities even though they have the potential to experience marginalization due to the professionalization of health workers. The implementation of the Job Creation Law is also not optimal because there are no specific derivative regulations available.

a) Protection of Legality and Recognition

The results of the study show that until now there has been no regulation that explicitly recognizes baby shamans as non-medical health workers in the national legal system. The recognition of baby shamans is still sociological and administrative through data collection by the village government or health center, but it has not provided legal certainty in the form of professional status, certification, and legal protection. Although the Job Creation Law opens up protection opportunities for informal workers, the absence of derivative regulations has caused baby shamans to not receive optimal benefits. This condition shows that there is a gap between social recognition and legal recognition.

b) Occupational Safety and Health Protection (K3)

The results of the study show that the role of baby shamans has shifted from the main helper of childbirth to a companion who works closely with health workers. Coaching by midwives and health centers has increased the application of occupational safety principles, such as the use of more hygienic tools and referral mechanisms. However, K3 protection is still not optimal because there are no operational standards, adequate protective equipment, and occupational risk guarantees such as insurance and work accident insurance.

c) Competency Protection and Coaching

The competency aspect shows better development than other indicators. Coaching through partnerships between baby shamans and midwives has increased knowledge about maternal and child health and the limitations of roles in health services. However, the implementation of coaching is still uneven, dependent on regional policies, and has not been supported by competency standards and national certification systems. Therefore, a more structured and sustainable coaching is needed.

d) Social Protection and Welfare

Social protection and welfare are the weakest aspects. Most baby shamans have no fixed income and still rely on community grants or village government incentives. Access to social security, including BPJS Ketenagakerjaan, is still very limited, making their economic condition relatively vulnerable. This shows that social protection for baby shamans has not been running optimally even though the Job Creation Law provides protection opportunities for informal sector workers.

e) Protection in Employment Relations and Partnerships

The relationship between baby shamans and formal health workers in general has run through a fairly good partnership pattern, especially in maternal and child health services. However, the relationship is still informal and does not have a clear legal basis, operational standards, or employment agreement. As a result, the rights, obligations, and legal protection for baby shamans have not been ascertained.

f) Protection of Rights and Non-Discrimination

Research shows that baby shamans do not experience direct discrimination because they are still involved in various public health service activities. However, policies that emphasize more professionalization of health workers have caused the role of baby shamans to shift to companions. This condition has the potential to cause marginalization if it is not balanced with policies that still respect local wisdom and ensure equality of roles.

g) Protection through Simplification of Regulations (Omnibus Law)

The Job Creation Law aims to expand protections for workers, including the informal sector. However, the results of the study show that the benefits of the policy have not been optimally felt by baby shamans due to the lack of specific implementing regulations, lack of socialization, and weak implementation at the regional level. Therefore, more concrete policies are needed so that the simplification of regulations is really able to provide legal protection for baby shamans as non-medical health workers.

B. Discussion

Based on the results of the research, in this case there are several points, the discussion is focused on four problem formulations, namely the legal position of baby shamans as non-medical health workers in the health service system in Indonesia, the form of legal protection for baby shamans reviewed from the Job Creation Law, obstacles faced in providing legal protection, and efforts to

harmonize between laws and regulations and socio-cultural realities community. Through this discussion, it is hoped that it can provide a comprehensive overview of the conditions of legal protection for baby shamans and become the basis for formulating policy recommendations that are more effective, adaptive, and fair.

a) The legal status of baby shamans as non-medical health workers in the health service system in Indonesia

The results of the study show that baby shamans still have an important position in society, especially in areas where access to formal health services is still limited. In addition to helping maternal and child health services, baby shamans also carry out social and cultural functions that have developed for generations. Therefore, the government through various health programs still involves baby shamans as midwives partners in public health services. However, the recognition of baby shamans is still sociological and administrative, and does not yet have clear legal legitimacy. Baby shamans are not included in the category of professional health workers because they do not meet the requirements for formal education and certification as stipulated in laws and regulations. As a result, their existence is in a semi-formal position, namely recognized in health service practice but has not obtained legal certainty regarding professional status, rights, and legal protection. This condition shows that the health service system in Indonesia still combines modern medical approaches with traditional health practices. Baby shamans function as community-based health workers who bridge community relationships with health facilities. However, the absence of special regulations has resulted in very limited access to coaching, legal protection, social security, and operational standards. Therefore, a policy is needed that is able to integrate social recognition with legal recognition so that the role of baby shamans is maintained without ignoring national health service standards.

b) The form of legal protection for baby shamans as non-medical health workers is reviewed from the Job Creation Law

The Job Creation Law basically provides protection opportunities for informal sector workers through simplifying regulations and expanding access to various employment programs. In the context of this study, baby shamans can be seen as community-based workers who are conceptually entitled to legal protection, even though they have not been explicitly mentioned in the regulation. Forms of protection that can be identified include aspects of legality, occupational safety and health (K3), competency improvement, social protection, partnership relationships, as well as the protection of rights and non-discrimination. From the legality aspect, government policies have encouraged the collection of data on baby shamans, but have not resulted in formal legal recognition because there are no technical regulations governing traditional health workers. In terms of work safety, there has been a change in the role of baby shamans from the main helper of childbirth to a companion who collaborates with midwives. Guidance on the use of hygienic tools and referral mechanisms shows an increase in attention to occupational safety. However, this protection has not been supported by operational standards or adequate work risk guarantees.

In terms of competence, the government through the health center has carried out various forms of coaching and training. The partnership program between midwives and baby shamans is one of the efforts to improve the ability of baby shamans to support maternal and child health. However, the coaching is still uneven and does not have national competency standards. Social protection has also not run optimally. Most baby shamans have not gained access to employment social security or welfare protection due to limited data collection, lack of socialization, and relatively low economic conditions. Meanwhile, the working relationship between baby shamans and formal health workers is still an

informal partnership so it does not provide certainty about rights, obligations, and legal protection for both parties. From the perspective of rights and non-discrimination, baby shamans are still involved in various public health service activities. However, policies that are more oriented towards the professionalization of medical personnel have the potential to reduce the role of baby shamans if they are not balanced with more inclusive policies. Thus, the results of the study show that legal protection for baby shamans in the perspective of the Job Creation Law is still normative. More specific derivative regulations are needed so that legal protection can be applied effectively in accordance with the social conditions of the community.

c) Obstacles faced in providing legal protection for baby shamans in public health service practices

The results of the study show that legal protection for baby shamans still faces various obstacles, both from the aspects of regulation, institutional, policy implementation, socio-cultural, and economic. The main obstacle is the lack of regulations that specifically regulate the position and legal protection of baby shamans as non-medical health workers. As a result, there is no certainty regarding legality, standards of practice, and professional responsibility. In addition, policy implementation at the regional level is still not optimal due to limited inter-agency coordination, lack of socialization, and the absence of more operational implementing regulations. The guidance carried out by the government is also still partial and has not been supported by an integrated institutional system. From a socio-cultural perspective, baby shamans are part of local wisdom that is still believed by the community. However, the modernization of health services often puts traditional practices in a position of receiving less attention. On the other hand, economic limitations, low access to social security, and lack of legal literacy have caused baby shamans to not be able to take advantage of the various forms of protection available. Therefore, legal protection of baby shamans requires a more comprehensive approach through strengthening regulations, improving institutional coordination, sustainable coaching, and social and economic empowerment so that their existence can be integrated more effectively in the health service system.

d) Efforts to harmonize laws and regulations with the socio-cultural reality of the community regarding the existence of baby shamans

Harmonization between laws and regulations and socio-cultural realities is needed so that the existence of baby shamans continues to gain recognition without ignoring modern health service standards. The results of the study show that there is still a gap between the legal approach that emphasizes the professionalism of health workers and the condition of people who still believe in the practice of baby shamanism as part of the local culture. Harmonization efforts can be carried out through the recognition of baby shamans as community-based health companions, not as a substitute for medical professionals. In addition, the partnership pattern between baby shamans and midwives needs to be strengthened through regulations that regulate duties, authority, coaching, and clearer cooperation mechanisms. The government also needs to develop regulations that are more adaptive to the existence of traditional health workers, accompanied by continuous coaching, training, and education programs. In the formulation of the policy, the participation of the community, health workers, and baby shamans needs to be accommodated so that the resulting policies are in accordance with the needs in the field. Policy synchronization between the health, employment, and social sectors is also needed to strengthen legal protection, improve competence, and the welfare of baby shamans. Thus, the harmonization of law and socio-cultural reality can be a solution to maintain the values of local wisdom while supporting safe, quality health services, and providing legal certainty for all parties.

In the perspective of rights and non-discrimination, this law emphasizes the principle of equality in the protection of the workforce. Baby shamans in general do not experience direct discrimination because they are still involved in public health activities. However, health policies that emphasize more on the professionalization of medical personnel have the potential to indirectly marginalize the role of baby shamans. Therefore, a more inclusive policy approach is needed so that their existence is still valued. Finally, through an *omnibus law approach*, the Job Creation Law aims to improve bureaucratic efficiency and facilitate access to government programs. Theoretically, this can provide benefits for baby shamans in terms of data collection, coaching, and social protection. However, in practice, these benefits have not been significantly felt due to the lack of socialization, the absence of specific derivative regulations, and limited implementation capacity at the regional level. Based on the overall discussion, it can be concluded that the protection of baby shamans as non-medical health workers in the perspective of the Job Creation Law is still at the normative stage and has not yet been implemented. Although there are opportunities for protection in various aspects, the absence of special arrangements and weak implementation have meant that such protection has not been able to provide comprehensive legal guarantees. Therefore, a more specific, integrative, and socio-cultural reality follow-up policy is needed so that the protection of baby shamans can be realized effectively and sustainably.

4. CONCLUSION

Based on the results of research and discussion on the protection of baby shamans as a non-medical health workforce reviewed from the Job Creation Law, several conclusions can be drawn as follows:

1. The legal position of baby shamans in the health service system in Indonesia is in a weak position juridically but sociologically strong. Baby shamans have not been formally recognized as health workers in laws and regulations, but they still have an important role in public health service practices, especially as companions based on local wisdom.
2. The form of legal protection for baby shamans from the perspective of the Job Creation Law is still normative and has not been implemented. Although there are opportunities for protection in the aspects of legality, occupational safety, competence, welfare, partnership, and non-discrimination, the absence of specific regulations and weak implementation cause that such protection is not optimal and does not provide comprehensive legal guarantees.
3. Obstacles in providing legal protection for baby shamans are multidimensional, including regulatory constraints, policy implementation, institutional, socio-cultural, economic, and limited access to information. These obstacles cause legal protection for baby shamans to not run effectively and integrated.
4. Efforts to harmonize laws and regulations and socio-cultural realities show that an inclusive, adaptive, and integrative approach is needed. Harmonization can be carried out through recognition based on local wisdom, integration in the formal health system, the preparation of responsive regulations, and the strengthening of community coaching and participation, so that the existence of baby shamans remains protected and relevant in the health service system.

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