

THE REFORMATION OF MEDICAL ORGANIZATIONS IN OMNIBUS LAW ON HEALTH: SINGLE OR MULTI-BAR

Rikko Hudyono
Muria Kudus University, Indonesia
rharmani@yahoo.com

Suparnyo
Muria Kudus University, Indonesia
suparnyo@umk.ac.id

Abstract

The Omnibus Law on Health had been approved which in consequence allow other medical professional organizations to be established as doctors' right to organize in which may provoke ethical problems. The recent Omnibus Law on Health enabled opportunity for multi-bar organizations; even it was in accordance with single-bar system. This paper aims to review the medical professional organization system in the Omnibus Law on Health which is most in line with the freedom of association and does not reduce the right to health as a human right that must be accepted by the wider community. The author argues that the emergence of several professional organizations as embodiment of doctor's right may not suitable as it may procure ethical ambiguity. However, the compulsion to join single organization per se was a violation of our Constitution. In this case, we need the highest regulatory and controlling authority from the State to preserve the public interest. The concept of this federal multi-bar association may solve this problem.

Keywords: Health; Law; Medical; Multi-Bar.

A. INTRODUCTION

As a State of Law, Indonesian recognizes and upholds human rights by introducing them in the Indonesian Constitution. The right to live and obtain health integrally as a dignified human being is affirmed in Article 28 H paragraph (3) of the Constitution of the State of the Republic of Indonesia of 1945.¹ Health is inherent in every human being, and its existence cannot be divided between individuals, which affirm the context of health as a fundamental right.² The State, as implicitly stated in Law No. 39 of 1999 on Human Rights Article 2, is obliged to respect, uphold and protect these human rights.³

The new Law No. 17 of 2023 on Health mandates every medical personnel must obtained special education and intensive training before

1 Mikho Ardinata, Tanggung Jawab Negara Terhadap Jaminan Kesehatan dalam Perspektif Hak Asasi Manusia (HAM), *Jurnal HAM*, Vol. 11, No. 2, 2020;

2 Serlika Aprita & Yonani Hasyim, *Hukum dan Hak Asasi Manusia*, Jakarta, Mitra Wacana Media, 2020

3 Lembaga Bantuan Hukum Masyarakat, *Buku Atas Hak Kesehatan*, 2019

performing health services. The Law *a quo* also imposes that to perform healthcare services requires a certain authority from State. Doctors are considered to be more knowledgeable and more capable in providing health efforts. Patient is dependent on fate that his health is in the hands of doctors, which implicitly indicated a vertical paternalistic relation. This kind of relation might be deleterious to patient if the doctor did not follow the Indonesian Medical Code of Ethics.⁴ Today's the professional organizations are the forefront to maintain the medical ethics.

So far, Indonesia had implemented single bar system to govern the professional organization, which allows only one professional organization in a jurisdiction as reflected in Article 50 paragraph (2) of Law No. 36 of 2014 on Health Workers. The single bar system was previously stated in Law No. 29 of 2004 on Medical Practice Article 1 Number 12, the government has established the Indonesian Doctors Association, letterlijk I, D, and I as the sole organization for doctors and the Indonesian dentists Association letterlijk P, D, G, and I, for dentists.

The tendency of a single bar association system is reinforced by the decision of the Constitutional Court No. 10/PUU-XV/2017 which states that professional organizations for medical specialist cannot be separated from general medical professional organizations. This decision indirectly reinforces the government's tendency to recognize professional organizations as a single bar for each type of health worker. The verdict was in line with the previous decision of Constitutional Court No. 88/PUU-XIII/2015, which stated that Article 50 Paragraph (2) of Law No. 36 of 2014 concerning Health Workers on phrase "Any kind of health personnel can only establish one (1) Professional Organizations" did not contradict the Constitution, especially Article No 27 paragraph (1), Article 28, Article 28E paragraph (3) dan Article 28F Constitution of the Republic of Indonesia of 1945.⁵

Recently, it had been proposed for medical professional organizations to become multi-bar, with the emergence of other organizations besides IDI. *Perkumpulan Dokter Seluruh Indonesia* (PDSI) and *Perkumpulan Dokter Indonesia Bersatu* (PDIB) received their legal standing as a community-based organization authorized by the Indonesian Directorate General of General Law Administration of the Ministry of Law and Human Rights. Basically, the decision of the Constitutional Court No. 10/PUU-XV / 2017 does not explicitly explain that IDI is solely and the only professional organization that can be recognized by the government. The decision of MK *a quo* only states that between medical specialist and General Practitioners is the same and shall not be separated because it united as a medical professional association, with IDI as its big house.

The Law No. 17 of 2023 on Health seems to allow the formation of several professional organizations. It was confirmed by the member of Working Committee on the Draft Law (Panja RUU) on Health Irma Suryani

4 Supriyatin & Ukilah, Hubungan Hukum Antara Pasien dengan Tenaga Medis (Dokter) Dalam Pelayanan Kesehatan, *Jurnal Ilmiah Galuh Justisi*, 2018, page. 184.

5 Solikin N & Rohmatullah A, *The Regulatory Reform of Advocate Organizations in Prospective Advocates in Indonesia*, *Jurnal Kajian Pembaruan Hukum*, 2022 page. 133-154.

Chaniago. According to her, the establishment of professional organizations including health professions is guaranteed by the law and should not be prohibited.⁶ The Law *a quo* was intended to overcome health problem such as shortage of medical personnel; accelerating the transfer of science and technology; facilitate licensing steps and simplifying health regulations.⁷

In ideal point of view, multi-bar system for professional organization may be beneficial in encouraging development of the medical field, besides fulfilling the doctor's rights of freedom to associate, to assemble and to express opinions. This multi-bar system will encourage every professional organization to provide better training and improve the service quality of their members. The system may encourage fair-play competition which in turn advancement of medical development may be expected.

As the vanguard in protecting the public interest, professional organizations must always set ethical standards as stated in Article 24 of Law No. 36 of 2009 on Health. Ethical standards provide the corridor to maintain the professional devotion of each health worker. The problem is, in the multi-bar system, where there are more than one professional organizations, each professional organization may have different standards or interpretations of ethical standards. This is reflected in the case of Lieutenant General TNI (Ret) Prof. Dr. dr. Terawan Agus Putranto, Sp.Rad (K) RI with a new breakthrough in the field of Interventional Radiology therapy which is popular under the name of 'brainwashing' therapy. IDI, as medical professional organizations considered it as a serious ethical violation because of lack of research.⁸ In other hand, PDSI, contrary to IDI, considered it is a new breakthrough that does not violate ethical standard.⁹ PDSI even offers membership to Lieutenant General TNI (Ret) Prof. Dr. dr. Terawan Agus Putranto, Sp.Rad (K) RI, which had been dismissed previously from IDI, to join the PDSI organization.¹⁰ This case gave a new perspective that ethical standards which was adopted by each professional organization may become controversy to each other if ethical standard were determined under professional organization.

Different interpretation of professional ethics may occur in the multi-bar system when ethical issues are under the authority of professional organizations. The difference in ethical standard, in long term, is contra productive to ideal goal and may potentially degrade professional ethics and the quality of medical field itself. Professional organizations tend to plead their members and in order to attract as many members as possible, they will tend to simplify the requirements, degrade the competence level and/or downgrading the existing ethical standards.

6 <https://www.dpr.go.id/berita/detail/id/44548/t/RUU+Kesehatan+Dipastikan+Jauh+dari+Liber+alisisi%2C+Diskrimnasi+dan+Kriminalisasi+Tenaga+Kesehatan>

7 <https://partisipasisehat.kemkes.go.id/ruu/detail?param=ruu>

8 <https://news.detik.com/berita/d-6009666/pernyataan-lengkap-pb-idi-soal-hasil-muktamar-pemecatan-dr-terawan> yang diakses pada 7 Juni 2023

9 <https://www.suara.com/health/2022/04/08/120252/ramai-testimoni-terapi-cuci-otak-dokter-terawan-ahli-samakan-dengan-fenomena-batu-ponari>

10 <https://nasional.tempo.co/read/1591555/terawan-resmi-bergabung-dengan-pdsi>

The implementation of single bar association system in one jurisdiction is considered contrary with our Constitution. The right to associate and to assemble is a constitutional right. The Second Amendment of 1945 Constitution, Article 28E paragraph (3) states that every person shall have the right to the freedom to associate, to assemble and to express opinions. The implementation of a single bar system in Indonesia raises the issue of dissent.

The author proposes a discussion of how the system of medical professional organizations in the Law No. 17 of 2023 on Health should be regulated so that it is in accordance with its ideal goals as an effort to improve the degree of public health status in Indonesia and in accordance with freedom to associate and to assembly guaranteed by Article 28 (E) of 1945 Constitution.

This paper aims to examine the arrangement of the medical professional organization system in the Health Omnibus Law Bill which is most in line with the freedom of association guaranteed by the 1945 Constitution and does not reduce the right to health as a human right that must be accepted by the wider community.

B. RESEARCH METHODS

The methodology of research was normative-legal research. The research refers to applicable law and regulations, analyzing principles, and doctrines from a legal perspective. Data collection in normative legal research is carried out by means of library research in the form of secondary data as a basic material to be researched by conducting a search on regulations and other literature related to the problems studied or often referred to as library law research. The aim is to be able to provide legal arguments from the results of the previous study on this research. This study discusses the harmonization of vertical and horizontal laws to see whether there are linkages and interconnections between laws and regulations in developing professional medical organizations in Indonesia.

C. RESULTS AND DISCUSSION

1. Profession in Medical Field

Etymologically, the term 'profession' is originated from Medieval Latin word '*professare*' or '*profiteri*', literally having declared publicly. Profession is defined as all activities aimed at earning a living, where the professional expertise is someone who learned special expertise or certain skills, and is usually associated with high-level skills and expertise in certain field. The nature of the profession is a life-calling to serve humanity obtained through higher education and must be carried out with sincerity and responsibility.

Profession is characterized with having competence exclusively, usually associated with a high-ranking job of expertise; based on intensive training and certain scientific disciplines of knowledge; strictly regulated and own its ethical standards. The literal meaning of profession reveals another dimension of promises or pledges, which

actually implies a personal commitment in carrying out certain activities. The implementation of a profession in addition to expertise also requires a service attitude known as ethics which had been an integral part of medicine since the time of Hippocrates.¹¹ This is what is called a special profession or a noble profession.

Professionalism in the field of medical science forms the basis of doctors' contracts with the public. The principles and responsibilities of the profession must be clearly understood by both doctors and society. In contracts with society, what is important is trust in doctors and this depends on the integrity of each individual doctor, as well as the entire medical profession. To strengthen this professionalism, it is necessary to know the basic ethical principles that are universal for the medical profession and must be owned by all medical personnels, that is: beneficence, or based on patient welfare; respect for patient autonomy; non-maleficence; and justice.¹²

Justice consideration is a central issue in global health. The definition of health maintenance has a broader meaning and understanding than healing which is only repressive and preventive. It shall be understood as an effort to provide access to good health which is remained unavailable to most people. With regard to the medical profession, in carrying out their profession they always deal with humans who expect help, it is only appropriate that in carrying out their profession they must always respect human rights.¹³

2. Professional Organization

In general, an organization is a group of people with a specific purpose. The organization is seen as an order of social systems consisting of individuals and groups with a certain structure.¹⁴ Organizations have certain characteristics, how to behave within organization, known as organizational culture, which consists philosophical value, norms, ethics, assumptions, beliefs and a hope that act as a foundation to accommodate the differences of each member who joins it.¹⁵ Organizational culture is a tool for organizing and controlling the behavior of its members, which will eventually encourage the performance of members in achieving organizational goals.

Organizations shall build trust through transparency, accountability, authenticity and respect which indicated a participative organization.¹⁶ A healthy organization still requires discipline, and

11 World Medical Association, *Medical Ethics Manual*, 3rd Edition, 2020

12 Azmand et al, Medical Ethics According to Avicenna's Stance: A Synopsis, *Galen Medical Journal*, 2018, page. 6.

13 World Health Organization, Global Health Ethics Key Issues: Global Network of WHO Collaborating Centres for Bioethics, *World Health Organization*, 2015

14 Azhari D S & Usman U, *Etika Profesi dalam Perspektif Islam*, Jurnal Review Pendidikan dan Pengajaran (JRPP), 2022), page. 6-13.

15 Husin I, Teori Organisasi, *Jurnal Gerbang STMIK Bani Saleh*, Vol. 12, No. 2, 2022

16 Hastuti et al, *Pengaruh Budaya Organisasi, Gaya Kepemimpinan, Kepuasan Kerja terhadap Kinerja Pegawai*, Tata Kelola, 2020, page. 88-94.

equality among all its members. In order to realize the goals of the organization, even it was an open and participatory organizational culture; an integrated centralized system shall be introduced. Integrated centralized system act as one unitary command, as a soul manifestation of the organizational unity.¹³

In an open and participative organization, all members can compete to achieve their respective interests in the organization. The presence of different point of views within the organization cannot be avoided. The emergence of conflict of interests in an organization is not always negative. If the existing conflicts can be resolved, then it may have a positive impact for the organization. However, if the emergence of conflict causes long discussions without finding solutions between the members and there are no organizational priorities, it may result in a negative impact for the whole organization.

There are three forms of organization for professional organizations. First, a single-bar association, where in a state or jurisdiction only recognizes one professional organization. Other organizations may still exist but only one that can be recognized by the State and all professionals are required to join in.¹⁷ The second, there are multiple association or known as multi-bar association system, where there are more than one professional organization that are recognized by the State and has the authority to determine ethical standards and quality professional standards. The third, the combination of system above, which resembles a federal state (*bondstaat*) where one large country functions as an overall government with a federal constitution. The federal constitution regulates the limits of the overall (federal) powers, while the remainder is considered to be the property of the community (states). Federalism will emphasize the sovereignty of existing groups, which are in a large container led by the state. The rights to associate will also be properly accommodated when the sovereignty of the factions is recognized.

3. The Concept of Freedom to Associate and to Assemble

The State has guaranteed the freedom to associate and to assemble as constitutional rights. Freedom to organize is fully recognized in the Second Amendment to Constitution of the Republic of Indonesia of 1945, in which Article 28E paragraph (3) of 1945 Constitution was added. It states that every person shall have the right to the freedom to associate, to assemble and to express opinions.

At the international level, right of freedom to peaceful assembly and association are guaranteed in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). The inclusion of human rights into the State's constitutions was associated with modern constitutions, which is a consequence of social order developments as an international community. The freedom to associate, to assemble and to express

¹⁷ *Ibid*, page. 8.

opinions must be fundamentally guaranteed in the constitution as a constitutional right because it is a fundamental human right, which is inherent in every human being. Bearing in mind that freedom to associate is a manifestation of human dignity; the State must be present and responsible for fulfilling this right which has been clearly regulated in International Law and National Law.¹⁸

The freedom to associate, to assemble and to express opinions relates to the freedom to determine the choice of organization. In other words, a person must voluntarily determine his own free will, not because he is forced or led by other people to join an organization. Every person has the right to establish an organization in order to express ideas and concepts or organize efforts to realize his beliefs in a democratic way of life. Guarantees in the constitution are further regulated in Law No. 39 of 1999 concerning on Human Rights and Law No. 17 of 2013 concerning Community-based Organizations Article 24 states: Paragraph (1) Everyone has the right to peaceful assembly and association; and Paragraph (2) Every citizen or group has the right to found a political party, non-government organization, or other organization in order to take part in the government or administration of the state and nation for the purpose of protecting and promoting human rights, according to prevailing law.¹⁹

Freedom to associate and assemble is a human right that can be reduced or limited under certain conditions (*derogable* rights) based on Article 28J paragraph (2) of 1945 Constitution and Article 70 of Law No. 39 of 1999 concerning Human Rights. Article 28J paragraph (2) of 1945 Constitution states that in exercising his rights and freedoms, everyone is obliged to comply with the restrictions determined by law with the sole purpose of guaranteeing recognition and respect for the rights and freedoms of others and to fulfill fair demands in accordance with considerations of morals, religious values, security, and public order in a democratic society.²⁰ This article is in concordance with Article 22 Paragraph (2) ICCPR which stated no restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.²¹

18 Bahar Elfudlatsan et al, Kajian Mengenai Kebebasan Berkumpul dan Berserikat Pasa 28E Ayat (3) Undang-Undang Dasar 1945 Melalui Organisasi Kemasyarakatan Kaitannya dengan Teori Kedaulatan Rakyat dan Hak Asasi Manusia, *Jurnal Pasca Sarjana UNS*, Vol. VII, No. 1, 2019

19 Kristian Megahputra Warong dkk, Kajian Hukum Hak Asasi Manusia Terhadap Kebebasan Berpendapat Oleh Organisasi Kemsayarakatan di Media Sosial, *Lex Administratum*, Vol. 8, No. 5, 2020

20 Sufiana Julianja, Pembatasan Kebebasan Berekspresi Dalam Bermedia Sosial: Evaluasi Undang-Undang Informasi dan Transaksi Elektronik dalam Perspektif Hak Asasi Manusia, *Padjajaran Law Review*, Vol. 6, 2018

21 Marzuki & Suparman, *Hak Asasi Manusia*, (PUSHAM, 2017).

Medical Professional Organizations are a kind organization established specifically for Medical Workers or Health Workers who have the same profession based on similarity of expertise, aspirations, desires, professional ethics, needs, interests, activities and goals to participate in health development. In general, the Law No. 17 of 2023 on Health seems accommodates the multi-bar association system which stated in Article 311 paragraph 1 which stated each kind of medical workers or health workers can form professional organization. For the State, a professional organization in a single-bar system facilitates the government in supervision and imposition of sanctions and meanwhile, facilitates the quality improvement for doctors and dentists within the framework of protecting the public interests.

Currently, there are currently two other professional medical professional organizations, in addition to the Indonesian Medical Association (IDI) which has been recognized by the Ministry of Law and Human Rights as community-based organization, namely the *Persatuan Dokter Indonesia Bersatu* (PDIB) according to the Decree of the Ministry of Law and Human Rights (SK KemenkumHAM) of the Republic of Indonesia Number AHU-0075221.AH.01.07. of 2016 and *Perkumpulan Dokter Seluruh Indonesia* (PDSI) which is recognized according to Decree of the Ministry of Law and Human Rights (SK KemenkumHAM) of the Republic of Indonesia with number AHU-003638.AH.01.07.2022 concerning Ratification of the Establishment of the *Perkumpulan Dokter Seluruh Indonesia* (PDSI).

The Law No. 17 of 2023 on Health had not explicitly stated which professional organizations would be recognized by the government, bearing in mind that, currently, *de facto*, there are three social organizations that claimed their selves to be professional medical organizations whose members are general practitioners and specialist. The article Law on Health *a quo* is quite different from Article 1 point 12 of Law No. 29 of 2004 concerning Medical Practice which explicitly stated that the only professional organization is the Indonesian Medical Association (*Ikatan Dokter Indonesia*, *letterlijk* I,D, and I) for doctors and the Indonesian Dental Association (*Persatuan Dokter Gigi Indonesia letterlijk* P,D,G, and I) for dentists. IDI itself was originally formed as an association in 1950. IDI was registered on August 26 2009 based on the KemenkumHAM letter number AHO-100.AH.01.06 of 2009. In addition, in legal fact, the professional organizations of IDI and PDGI are stated by Law No. 29 of 2004 concerning Medical Practice, has changed its name to be *Perkumpulan Ikatan Dokter Indonesia* (PIDI) according to the Decree of the Ministry of Law and Human Rights Number AHU-0000840.AH.01.08.Tahun 2020 September 4 2020 and the *Perkumpulan Persatuan Dokter Gigi Indonesia* (PPDGI) according to the Decree of the Ministry of Law and Human Rights Number AHU-0001071.AH.01.08.Tahun 2020, October 22, 2020. So based on the above facts the Indonesian Medical Association (*Ikatan Dokter Indonesia*, *letterlijk* I,D, and I) and the Indonesian Dental Association (*Persatuan*

Dokter Gigi Indonesia letterlijk P,D,G, and I), which are meant by Law No. 29 of 2004 concerning Medical Practice, *de jure*, already ceased to exist.

There are some lawsuits for a single bar association that had already been filed for judicial review at the Constitutional Court. The first, Petitioners basically filed a lawsuit against IDI as the sole and the solely medical professional organization recognized by the State based on Law No. 29 of 2004 concerning Medical Practice. The Petitioner argues that specialist professional organizations are basically groups of doctors with different branches of knowledge from general practitioners, so that a specialist medical professional organization that has autonomy is needed to facilitate the assessment of the integrity and ethical adherence of specialist doctors. However, the Constitutional Court has a different opinion through Decision of the Constitutional Court Number 10/PUU-XV/2017 stating that the Specialist Professional Organization is one part of the IDI. IDI is a large house that contains the medical profession with various fields of medical expertise and they were inseparable from IDI.

Another constitutional lawsuit against Law No. 36 of 2014 concerning Health Workers, the Constitutional Court through the Constitutional Court Decision Number 88/PUU-XIII/2015, stated that only one professional organization was needed for one kind health worker to facilitate the Government in supervising health workers. The existence of multi-bar organizations may prevent government intervention (*bestuurzorg*) in regulating and supervising health services for public interest as a consequence of being a Welfare State.

Reflecting on the decisions of the Constitutional Court of the Republic of Indonesia Number 88/PUU-XIII/2015 and Number 10/PUU-XV/2017 directly and indirectly negate the existence of a multi-bar system for professional organizations throughout Indonesia. However, there is at least a tendency of system shift from a single-bar to be a multi-bar system, which can be reflected from professional organization of advocates which, recently allow multi-bar system.

Indonesia as a constitutional state guarantees the freedom to associate and to assemble as enacted in Article 28E paragraph (3) of the Constitution of the State of the Republic of Indonesia of 1945 which is further regulated in Article 24 of Law No. 39 of 1999 on Human Rights. The realization of the freedom to associate and assemble, among others, is the freedom to establish an organization. The obligation to respect human rights is reflected in the Preamble to the Constitution of the State of the Republic of Indonesia of 1945 which animates all the articles in its body, especially those relating to freedom of association and assembly. Freedom of association and assembly is also guaranteed internationally in the UDHR and ICCPR.²²

22 Herdi Munte & Christo Sumurung, Perlindungan Hak Konstitusional di Indonesia, *Jurnal Ilmiah Penegakan Hukum*, Vol. 8, No. 2, 2021

Multi-bar organizations were considered to have various problems such as ambiguity in ethical standards and professional competence because there is no single source shall be considered as a source of truth (single truth), and there is no clear accountability between organization. Meanwhile, single-bar organization tends to be monopolistic and absolute autocracy. Monopolistic is not good for professional development, because of the lack of competition in a positive meaning. It is even more dangerous if the organization's goals are perverted by its leader for covert political interests.

According to the author, based on the freedom to associate and assemble which is guaranteed in Article 28E paragraph (3) of the Constitution of the Republic of Indonesia of 1945 and Article 24 of Law No. 39 of 1999 on the Human Rights Law, it seems possible to have more than one medical professional organization in Indonesia (multi-bar system). Implementation of multi-bar system shall concern on problems such as quality standardization for medical personnels and the possibility of ethical deviations, because every professional organization determines its own ethical standards. Under ideal circumstances, every medical professional organization is expected to provide ongoing education for better service. In reality, as a concern, the implementation of a multi-bar system may reduce the quality of doctors, because every medical professional organization tries to attract members by simplifying requirements and lowering competency standards. Another concern is that doctors who are given ethical sanctions will easily switch to other medical professional organizations or even create their own medical professional organizations.

In this case, the authors argue that community-based organizations that grow from and for the community should not engage in monopolistic practices. Awareness to join into a single organization, if present or not, cannot be forced as a respect of human rights guaranteed by the Constitution.²¹ If in the future there is another group of parties who want to establish the same organization, having the same goal of regulating the medical field, then they should be given the same place, rights and obligations. Monopolistic organizations must still be maintained as the domain of state, not by public.

Lots of problems in the Reform era that arose due to the existence of organizations which known as quasi-state or known as Quasi Non-Governmental Organizations or Quango. In the pre-reformation era, the Quango organization was formed by the community as a framework to facilitate the certain State's role.²³ Many experts argue that since the Reform era, the existence of organizations like this has often been problematic, especially because state funding cannot be given away to community-based organizations.

23 Abdillah et all, Lembaga Quasi Non Governmental Organization (Quango) dalam Sistem Ketatanegaraan Indonesia: Majelis Ulama Indonesia, *Jurnal Hukum & Pembangunan*, 2019, page. 49.

According to the author, the monopolistic role should only be carried out by the State. The organization will later become State's institution with a recruitment system regulated by law such as a fit and proper test. The existence of these institutions is inseparable from the monitoring and evaluation system by the executive and the legislative power.

Under the State's regulation, it is possible for the other organizations to be established to take part in supervise or operating in medical field. One organization that acts as a regulator will hinder the government's role in regulating if a conflict of interest arises. Where if these differences are allowed to interfere with the achievement of health goals and the community becomes victims of conflict over these problems. However, the establishment of professional organizations shall be under strict rules, to prevent sanctioned medical personnel establishes their own professional organizations and directly set their own set of ethical standards, which may endanger the wider community.

We need to admit that freedom to associate and to assembly are human rights granted by the Constitution (constitutional given rights), but in practice they can be limited or be reduced under certain conditions as stipulated under Article 28J paragraph (2) of the Constitution of the State of the Republic of Indonesia of 1945 and Article 70 of Law No. 39 of 1999 on the Human Rights. The limitation of these rights, known as *derogable* rights is in the framework of guaranteeing the recognition of human rights and respect for the dignity of others and to fulfill the demands of justice in accordance with considerations of morality, security and public order in a democratic society. Therefore, it is also necessary to limit the freedom to establish professional organizations in the form of conditions for the establishment of medical professional organizations. In addition, every doctor or medical personnel is also required to affiliate in a professional organization that has been recognized by the government.

In author's point of view, that the federation of multi-bar organization may be a solution for this. The existence of several medical professional organizations shall be under control of the government as a regulator. This system can be a breakthrough in respecting the right to freedom of association while maintaining professional ethics to protect wider community. In terms of code of ethics, the federation of organizations has the authority to formulate and establish a code of ethics used by all medical professional organizations. Settlement of ethical violations is carried out at the first level at the medical professional organization and at the appeal level is carried out at the federation. The establishment of an independent National Ethics Council shall be considered as returning the control and regulatory functions to the government. The Council for the Medical Ethical Code (Majelis Kehormatan Kode Etik Kedokteran/MKEK), which has so far been under a professional organization, may still exist and must exist, but the government must establish a National Ethics Council to standardize and

decide cases which cannot be handled by the professional organizations under its auspices.

The federation of these medical associated has also the highest authority to determine educational curriculum standards and medical competency materials, as well as passing exam standards. Medical professional education and exams are administered by each medical professional organization at the local level using standards set by the federation.

D. CONCLUSION

The profession of doctors and dentists is closely related to professional organizations of medicine and dentistry where medical personnel shall be affiliated. The federation of multi-bar concept can be the best choice to regulate professional organization in Indonesia. The federation of multi-bar system accommodates the freedom to associate and to assembly guaranteed in Article 28E paragraph (3) of the Constitution of the State of the Republic of Indonesia of 1945. Author suggested a set of regulatory regarding medical professional organizations that guarantee freedom to assemble and to associate. It is included the restrictions on the establishment of professional organization, which prevent everyone easily establishes a counter-professional organization. Therefore, ethical issues should not be under the authority of professional organizations because they are prone to conflicts of interest. The author's suggested it is necessary to establish a National Ethics Council which is intended as a final solution on ethical conflict issues between medical professional organizations. The clarification on the regulation of the professional organization system needs to be implemented immediately in order to provide legal certainty and comfort for the profession of doctors, medical personnel and other health workers and ultimately for the wider community as users of health services.

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