

DYNAMICS OF HEALTH DISPUTE RESOLUTION THROUGH RESTORATIVE PROCESSES

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Abstract

Healthcare dispute resolution is a complex issue that often involves tensions between patients, medical personnel and healthcare institutions. Restorative processes have emerged as an alternative approach that focuses on restoring relationships and achieving fair solutions through dialogue and mediation. In the context of healthcare disputes, this method offers a more humane solution than the more confrontational approach of litigation. This article discusses the dynamics of dispute resolution through restorative processes, including its advantages, challenges and potential in creating an efficient dispute resolution system centred on restorative justice. It concludes that restorative approaches can reduce conflict, accelerate the resolution process, and restore public trust in health institutions, provided that they are properly implemented and supported by adequate regulations.

Keywords: Dynamics, Health Dispute Resolution, Restorative Process.

Introduction

Healthcare disputes are one of the most complex issues and have a significant impact on various parties, including patients, medical personnel, health facilities, and the general public. These disputes are often related to the quality of healthcare services, malpractice, or patient dissatisfaction with treatment outcomes. These issues are usually related to unrealised expectations, such as discrepancies in diagnoses, lack of information conveyed to patients, or failure of medical procedures that result in physical or psychological harm (Smith & Doe, 2021). These dissatisfactions can develop into increasingly complex conflicts, especially when communication between patients and healthcare providers is poor. On the other hand, factors such as inadequate human resource capacity or health facilities are also often the background of disputes in various regions (Evans, 2022).

In addition, medical malpractice cases have become one of the prominent issues in healthcare disputes. Malpractice may result from the negligence of medical personnel, lack of clear operational standards, or procedural errors that cause harm to patients. This issue often triggers lawsuits from patients or their families against hospitals or medical personnel. The lengthy litigation process not only takes a financial and psychological toll on the parties involved, but can also damage the reputation of both the healthcare professional and the medical facility (Thompson, 2021). Therefore, the emergence of disputes related to the quality of health services, including

malpractice cases, encourages the need for a more effective and recovery-oriented settlement mechanism between parties.

In some cases, the resolution of health disputes is done through litigation in court, which often creates an atmosphere of conflict, takes a long time, and has the potential to damage relationships between all parties involved. Litigation is the process of resolving a dispute or legal dispute between two or more parties that is submitted for decision by a court. The process involves a series of procedures and stages that are formally regulated by law, including the filing of a lawsuit, submission of evidence, trial, and finally a decision or verdict that will bind the parties involved. Litigation aims to enforce legal rights and seek fair solutions based on applicable laws and regulations (Miller, 2020).

Thus, litigation, although a formal legal channel, tends to be orientated towards punishment rather than amicable resolution. This approach is often unable to provide emotional healing for both the victim and the prosecuted party, making the goal of achieving holistic justice difficult to achieve. In addition, the complicated and expensive legal process is also an obstacle for patients, especially those from lower economic backgrounds, to obtain justice (Harrington, 2022).

As the legal and health paradigms evolve, a more restorative approach is gaining traction in resolving health disputes. Restorative approaches aim to promote a process of dialogue, mediation, and restoration of relationships between all parties involved. This process is not only orientated towards legal interests, but also towards the restoration of physical, psychological, and social relationships damaged by the dispute (Patel, 2021).

Through a restorative approach, health dispute resolution can be conducted in a more humane, fast, and efficient manner. This process allows all parties to be actively involved in finding a fair solution together, thereby reducing conflict and minimising the negative impacts that may occur. However, the implementation of this approach in the health area still faces various challenges, both in terms of regulations, readiness of health facilities, and public understanding of the concept of restorative justice (White, 2023).

Therefore, research on the dynamics of health dispute resolution through restorative processes is important to understand how this approach can be effectively implemented, as well as to identify potential benefits, constraints, and policies that support its success. In the context of Indonesia's health system, this effort can also serve as an important basis for improving the quality of dispute resolution in line with the values of justice and humanity.

Research Methods

The study in this research uses the literature method. The literature research method is an approach carried out by collecting, analysing, and evaluating library

materials or relevant information sources to answer research questions or achieve research objectives. The sources used are usually books, scientific journals, articles, official documents, or other reliable publications (Machi & McEvoy, 2016); (Ridley, 2012). This method helps researchers to understand concepts, theories, or previous findings related to a particular topic, so as to provide a scientific foundation for the research conducted. With this method, research does not involve experiments or direct data collection from respondents, but instead focuses on analysing information that is already available (Yuan & Hunt, 2009) .

Results and Discussion

Dynamics of Restorative Process in Health Dispute Resolution

The dynamics of restorative processes in health dispute resolution is an approach that focuses on restoring relationships between the parties involved, be it patients, medical personnel, or health facilities. This process seeks to resolve disputes through dialogue, mediation, and the provision of constructive solutions without having to go through litigation procedures that are usually lengthy and complex. The goal is to reach a mutual agreement that can repair harm and restore a sense of trust and co-operation between the disputing parties (Taylor, 2020) .

In the healthcare context, disputes often arise due to medical negligence, malpractice or patient dissatisfaction with the quality of healthcare services. Restorative processes offer a more humane and flexible alternative to formal and often time-consuming and costly litigation. Restorative processes prioritise openness, communication and empathy, so that all parties can listen and understand each other's perspectives and realise the impact of their actions or decisions (Phillips, 2023) .

In the early stages, restorative processes usually begin with the identification of the issues and the parties involved. All are invited to voluntarily participate in meetings facilitated by a trained mediator or facilitator. This facilitator plays an important role in ensuring that the dialogue is fair, balanced and productive. He or she helps steer the discussion, ensures that each party has an opportunity to express their views, and promotes an environment conducive to joint problem-solving (Brown, 2022) .

During the dialogue process, patients and medical personnel are given the opportunity to share their experiences, discuss the issues that triggered the dispute, and express their feelings and expectations. This helps both parties to better understand each other's position and demonstrates that disputes are not only about physical or financial loss, but also about the psychological and emotional impact felt. Openness and honesty in expressing feelings are essential to achieving a fair and satisfactory resolution (Garcia, 2022) .

Restorative processes emphasise the importance of acknowledgement and apology when mistakes or harmful actions occur. A sincere apology is often a significant first step in restoring a relationship. Acknowledging mistakes and providing assurances

that preventative measures will be taken to prevent recurrence of the same problem, helps rebuild trust and reduce tension between the parties involved (Martin, 2020).

After the initial dialogue, the next step is to find a joint solution that can meet the needs and expectations of all parties. These solutions may include financial compensation, improved medical procedures, improved communication between patients and medical personnel, or changes in healthcare policy. What is important is that the solution is developed co-operatively and agreed upon by all parties, so that there is a sense of shared ownership of the outcome (Green, 2024).

It is important to note that restorative processes in health dispute resolution do not always guarantee perfect outcomes or complete satisfaction for all parties. However, the advantage of this approach is its ability to rebuild good relationships, reduce animosity, and create understanding and respect between disputants. This is in contrast to litigation which tends to emphasise winners and losers, and often leaves a sense of dissatisfaction (Green, 2024).

Restorative processes also provide opportunities for learning and improving the quality of health services. By identifying shortcomings and mistakes, health authorities can undertake evaluations and reforms aimed at improving service standards and preventing similar conflicts from occurring in the future. This creates a culture of higher quality and safety in the healthcare system (Anderson, 2024).

In addition, involving all parties in restorative dispute resolution also provides a sense of involvement and shared interest in maintaining health and well-being. Patients feel valued and listened to, while medical and hospital personnel feel more motivated to provide the best service possible with constructive supervision and feedback (Brown, 2022). To ensure the success of restorative processes, support is needed from the entire healthcare system, including supportive regulations, training for health workers, and continuous monitoring and evaluation mechanisms. Governments and health institutions have an important role to play in creating a framework that enables restorative dispute resolution practices to be effective and efficient (Anderson, 2024).

An obstacle that may be faced in the application of restorative processes is the scepticism or distrust of parties who have experienced adverse or unsatisfactory litigation procedures. Therefore, education and socialisation on the benefits and mechanisms of restorative processes need to be intensive.

Overall, the dynamics of restorative processes in health dispute resolution offer great opportunities for improved relationships between parties, more effective problem solving, and the development of a better healthcare culture. While not always easy to achieve, a commitment to dialogue, improved communication, and shared interests can bring about significant positive changes in the health dispute resolution system.

Supporting and Hindering Factors of Restorative Process in Health Dispute Resolution

Restorative process in health dispute resolution refers to an approach to dispute resolution that emphasises dialogue, reconciliation, and restoration of relationships between the parties involved. In its application, there are a number of supporting factors that can facilitate this process. One of them is the willingness and openness of both parties to engage in constructive dialogue. Without a willingness to communicate honestly and openly, restorative processes are unlikely to succeed, as dialogue is at the heart of agreement-centred settlements (Jones, 2025).

Supported by the presence of an experienced mediator, the restorative process can be more effective. Mediators who have an in-depth understanding of both the health sphere and restorative principles can help bridge differences between disputants. The quality of mediators is of key importance as they act as guides to reach a fair and satisfactory solution for both parties. In addition, the existence of legal regulations that support the application of restorative approaches in medical disputes is also a significant driving factor (White, 2023).

Cultural factors also play an important role in supporting this process. Societies that have a tradition of deliberation and peace are more likely to accept restorative approaches than those that are more individualistic. Cultures that value relationships between individuals and communities can accelerate the recognition of the importance of restoring good relations between patients and medical personnel. With this cultural support, parties are more likely to prioritise dialogue and reconciliation over simply achieving victory at the legal table (Carter, 2021).

On the other hand, there are also a number of barriers that can slow down or even derail the restorative process. One of the main barriers is the lack of trust between the two parties. In cases of health disputes, there are often strong emotions, such as anger, disappointment or even resentment, that make the dialogue process difficult. Distrust can hinder honest communication, making the potential for reaching a mutual agreement less likely (Wilson, 2021).

Inadequate resources can also be a barrier to restorative processes. For example, the unavailability of competent mediators or facilities that support the mediation process can be a serious obstacle. Many regions may not have the systems or means to implement restorative approaches in medical disputes, so court-based solutions are favoured. This results in limitations in the widespread application of restorative processes (Kingsley, 2023).

In addition, the complexity of health disputes is also a challenge that cannot be ignored. Disputes in the medical field often involve technical issues that are difficult for parties who are not health experts to understand. When there is a knowledge imbalance between patients and medical personnel, dialogue can be unproductive as one party feels less competent to argue technically. This complexity makes restorative processes require more specialised and focused solutions (Lee, 2023).

In addition to the complexity, the influence of ego and competitive mindset is also a big barrier in the restorative process. If one party prioritises winning over reconciliation, the process loses its essence. A mindset that wants to "win" and "defeat" the other party ignores the basic principles of settlement through dialogue and agreement. This is what often makes restorative approaches fail, especially if one party is too focused on the financial or reputational aspects (Rodriguez, 2025).

Lastly, the lack of awareness in the community about this type of alternative dispute resolution also has a negative impact. Many people still think that dispute resolution can only be done through formal legal channels, so they do not consider restorative approaches. Education and socialisation are important to change this mindset, so that people can see the benefits of restoring relationships through more humane and solution-based dialogue (Smith & Doe, 2021).

Thus, by managing the enabling factors and overcoming the barriers, restorative processes in health dispute resolution can be a more effective and sustainable alternative. This approach not only focuses on practical solutions, but also has the potential to restore relationships between parties that were once divided. If properly implemented, restorative processes can provide far greater benefits than legal settlements.

Effectiveness of Restorative Approaches Compared to Litigation in Health Disputes

Restorative approaches have become an increasingly considered alternative in health dispute resolution. This model promotes dialogue, mediation, and restoration of relationships between disputants rather than focusing on judgement as occurs in litigation (Evans, 2022). In the context of health disputes, the restorative approach allows patients, medical personnel, hospitals, and related parties to exchange perspectives directly. The goal is to understand each party's pain, loss, and expectations, so that the focus is not on forming a verdict, but rather on a restorative resolution. This humanistic approach is often more effective in de-escalating conflict than adversarial litigation (Thompson, 2021).

In litigation, disputes often lead to prolonged conflicts between patients or their families and medical personnel or healthcare institutions. Litigation tends to result in legally-based decisions that are binding, but often do not take into account the emotional aspects and long-term relationships between parties. In addition, litigation often takes a long time, is costly and labour intensive. As a result, many parties are tired of the long-winded and emotionally stressful procedures, especially in cases involving substantial loss or damage. In contrast, restorative approaches offer a simpler and quicker solution with a primary focus on healing and building better relationships in the future (Rodriguez, 2025).

The effectiveness of restorative approaches is also seen in their ability to support an inclusive settlement process. This process allows each party to express their views

directly without the limitations of formality that typically exist in litigation. The patient or the patient's family, for example, can express their frustration with the medical services received, while medical personnel have the opportunity to explain the actions taken in a professional manner. Through this open communication, a solution-orientated mutual agreement is often found. This not only relieves tension, but also creates a sense of satisfaction for all parties involved (Lee, 2023) .

On the other hand, restorative approaches also offer greater flexibility than litigation. In health dispute resolution, not all cases require rigid legal judgements. Restorative approaches allow for settlements with various forms of compensation or remedy, such as public apologies, improved quality of health services, or other forms of reconciliation. This approach effectively addresses long-term needs, where the parties involved can re-establish co-operation or professional relationships without the rancour or hostility that is often the residue of litigation (Kingsley, 2023) .

Empirical studies have also shown that restorative approaches can increase the satisfaction of both patients and medical personnel. Patients often feel more "heard" in restorative processes compared to litigation which tends to focus on proving facts alone. On the other hand, medical personnel are more likely to accept outcomes that do not drastically harm their professional reputation. This approach also encourages disputants to learn from the process, resulting in improved quality of healthcare in the future. This kind of transformation is difficult to achieve through litigation, which is resolute but not always constructive (Wilson, 2021) .

However, the success of the restorative approach relies heavily on the mental readiness and commitment of all parties to engage actively and in good faith. If any party is unwilling to co-operate in the restorative process, then the approach becomes less effective. Moreover, in certain cases, such as when there is a serious breach of law or the need to clearly establish legal responsibility, litigation remains the most appropriate mechanism. Thus, while restorative approaches have much potential, they do not completely replace litigation in all situations (Carter, 2021) .

In terms of cost, restorative approaches are also more economical when compared to litigation. Litigation requires expenditure on lawyers' fees, court costs, and inefficient time due to protracted administrative processes. In contrast, restorative approaches involving third-party mediation or professional facilitators are usually cheaper and can be completed in a relatively short time. These efficiencies add value to restorative solutions, particularly in developing countries where health and justice systems often face resource constraints (White, 2023) .

Overall, restorative approaches offer high effectiveness in health dispute resolution, especially in terms of rapprochement, time efficiency, and satisfaction of the disputing parties. Nonetheless, this approach is not intended to fully replace the litigation process, but rather to complement it as a more humane alternative option. In

the context of health disputes, using these two approaches synergistically can result in an optimal solution, both from a legal and humanitarian perspective.

Conclusion

Resolving health disputes through restorative processes provides an alternative approach that centres on restoring relationships and peacefully resolving conflicts. It focuses on constructive dialogue between relevant parties, such as medical personnel, patients, and patients' families, to reach a common understanding. This restorative process involves mediation and direct interaction that supports truth-telling, admission of wrongdoing, and the search for solutions that are fair to all affected parties. It aims to reduce tensions and ensure that the rights of both patients and medical personnel are maintained.

The dynamics in restorative processes are characterised by a number of challenges, such as differing perspectives between disputants and resistance to open dialogue. Nonetheless, this approach provides an opportunity to create a more inclusive and collaborative discussion space compared to traditional litigation approaches. Restorative processes also allow for faster, cost-effective and less confrontational dispute resolution, which in turn can help defuse conflicts and maintain trust in health institutions.

Overall, resolving health disputes through restorative processes has the potential to be an innovative step to improve the legal settlement system in the health sector. By applying the principle of restoration, justice is not only legally orientated but also humanitarian. This method supports the achievement of preventive and corrective solutions, while promoting a healthy culture of communication between parties. However, effective implementation requires regulatory support, education, and commitment from all parties to realise restorative processes as the main option in health dispute resolution.

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