

THE ROLE OF FACILITATORS IN RESTORATIVE HEALTH DISPUTE RESOLUTION PROCESSES

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Abstract

The resolution of health disputes in Indonesia is increasingly oriented towards restorative justice mechanisms that emphasise the restoration of relationships between patients and health workers, rather than simply imposing sanctions or penalties. In this context, facilitators or mediators play a central role as neutral parties who help the parties find fair, effective, and efficient solutions through dialogue and negotiation. This study aims to examine the role of facilitators in restorative health dispute resolution based on a literature review. The results of the analysis indicate that facilitators not only function as connectors but also as information providers, educators, and mediators who maintain constructive communication and help the parties identify problems and develop alternative solutions. The existing legal framework, such as Law No. 17 of 2023 on Health, provides legitimacy and legal certainty for the role of facilitators in the mediation process. However, challenges such as differences in medical knowledge, limitations of competent facilitators, and a litigious culture still need to be addressed to achieve optimal restorative justice. With enhanced facilitator capacity and clear regulatory support, mediation is expected to become the primary solution for resolving health disputes in Indonesia.

Keywords: Role of Facilitators, Health Dispute Resolution Process, Restorative.

Introduction

Healthcare disputes are becoming increasingly common as public awareness of patients' rights grows. The complexity of the relationship between patients and healthcare providers, combined with advances in medical technology and demands for professionalism, often leads to conflicts that result in legal disputes. This problem not only affects both parties but also has the potential to undermine public trust in the healthcare system as a whole (Hildayastie Hafizah & Surastini Fitriasih, 2022).

A legal dispute is a disagreement or difference of interest between two or more parties, whether individuals, groups, or institutions, arising from a clash of interests over a specific object and resolved based on applicable legal provisions, either through litigation or non-litigation, where each party bases its claims on rights and obligations stipulated in legislation or valid agreements (Samosir, 2024).

To date, the resolution of health disputes in Indonesia has generally been pursued through litigation in court. The litigation process is often time-consuming, costly, and risks worsening the relationship between patients and health workers. In addition, the litigation approach tends to be adversarial, where one party feels like the

winner and the other party feels like the loser. This situation often leads to dissatisfaction and fails to resolve the root cause of the problem (Williams, 2023).

As an alternative, the restorative approach to dispute resolution is gaining attention in the Indonesian legal system. Restorative justice emphasises the restoration of relationships between the parties involved, the achievement of mutual agreement, and the fair restoration of losses for all parties. This approach is considered more humane and capable of providing sustainable solutions, especially in the context of long-term relationships between patients and healthcare providers (Putri, 2024).

In the context of restorative health dispute resolution, the role of facilitators is crucial. Facilitators act as neutral parties who assist in the communication and negotiation process between patients and healthcare providers. They ensure that both parties can openly express their interests, needs, and expectations, and help find mutually acceptable solutions.

The presence of facilitators is expected to reduce tension, build trust, and prevent conflict escalation (Widodo, 2025). The role of facilitators in health dispute resolution is not limited to the technical aspects of mediation, but also includes an understanding of the psychological and social dynamics underlying the conflict.

Facilitators are required to have effective communication skills, empathy, and knowledge of health ethics and law. Thus, facilitators can serve as a bridge connecting the differences in perceptions and interests between patients and health workers (Rahmawati, 2022).

Regulations related to restorative health dispute resolution have been accommodated in various laws and regulations in Indonesia. For example, Law No. 17 of 2023 on Health emphasises the importance of resolving disputes outside of court through mediation mechanisms. Additionally, Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution provides a legal framework for mediation in various fields, including healthcare.

These regulations provide legitimacy and legal certainty for facilitators in carrying out their duties (Rachmawati, 2023). However, the implementation of restorative health dispute resolution in Indonesia still faces various challenges. One of the main challenges is the lack of understanding among the public and health workers regarding the benefits and mechanisms of restorative justice.

Many parties still believe that dispute resolution can only be achieved through the courts. In addition, the availability of competent and ethical facilitators is also an obstacle to the mediation process (Hidayat, 2023).

On the other hand, there is an urgent need to improve the capacity of facilitators in handling health disputes. Facilitators must be equipped with specialised training that not only covers mediation techniques but also includes an in-depth understanding of medical issues, professional ethics, and psychosocial aspects that influence the relationship between patients and health workers. Without adequate training support,

the role of facilitators in achieving restorative justice will be difficult to optimise (Zhang, 2023).

In addition to human resources, institutional support is also essential for the implementation of restorative mediation. Hospitals, professional organisations, and other health institutions need to integrate mediation mechanisms into their service systems. This can be achieved through the establishment of internal mediation units, the development of standard operating procedures, and the provision of facilities and infrastructure that support the mediation process effectively and efficiently (Sari, 2023).

Research on the role of facilitators in restorative health dispute resolution is highly relevant. Through a literature review, this study will analyse various theories, concepts, and best practices that have been applied in various countries, as well as evaluate the effectiveness of the existing legal framework in Indonesia. The results of this research are expected to provide a tangible contribution to the development of a more fair, efficient, and relationship-oriented health dispute resolution system. Additionally, the findings of this research can serve as a basis for the formulation of policies and training programmes for facilitators in the future. Thus, restorative justice in health dispute resolution can be realised more widely and sustainably.

Research Method

The research method used in this study is a literature review with a descriptive approach, which involves collecting, analysing, and comparing various literature, journals, books, and legal documents relevant to the role of facilitators in restorative health dispute resolution. All sources reviewed were selected based on their relevance to the research topic. then systematically analysed to describe the concepts, theories, practices, and challenges faced in the implementation of restorative justice-based health dispute resolution (Munn et al., 2020); (Boote & Beile, 2005).

Results and Discussion

The Role of Facilitators in Achieving Restorative Justice in Health Disputes

Healthcare dispute resolution often poses a significant challenge within Indonesia's healthcare system. These disputes usually arise due to poor communication, differences in perception between patients and healthcare providers, or unrealistic expectations from both parties. In this context, a restorative justice approach through mediation is becoming an increasingly recognised alternative to formal litigation, which is lengthy and often leads to dissatisfaction (Prasetyo, 2025).

Health facilitators or mediators play a central role in the restorative justice process. They act as neutral parties who connect patients and healthcare providers, ensuring that communication is fair, open, and constructive. Facilitators not only help the parties express their problems and expectations, but also act as educators and

providers of relevant information to reduce the medical knowledge gap between the disputing parties (Carroll & Reisel, 2024).

In practice, facilitators are tasked with taking stock of the problems, helping the parties formulate solutions, and encouraging healthy dialogue. This process requires facilitators to have communication skills, empathy, and a deep understanding of medical and health law issues. Thus, facilitators are able to create an atmosphere conducive to both parties reaching a fair and satisfactory agreement (Pratama, 2024).

Restorative justice in health disputes emphasises the restoration of relationships and repair, rather than retribution or punishment. Facilitators help the parties to jointly find solutions that not only resolve legal issues but also restore trust and good relations between patients and health workers. This process involves the perpetrators (health workers), victims (patients), and their families and other relevant parties (Anderson, 2024).

One of the main advantages of the facilitator's role is their ability to prevent conflict escalation. Through well-facilitated dialogue, the potential for division and hostility can be minimised. Facilitators also help the parties to view the problem more objectively and find good solutions, so that the results achieved are more sustainable and acceptable to all parties (Lee, 2021).

Regulatory support for the role of facilitators in restorative justice is stipulated in Law No. 17 of 2023 on Health and Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution. These two regulations emphasise the importance of dispute resolution outside the court system and provide legitimacy for facilitators to carry out their roles professionally (Sari, 2023).

However, the role of facilitators in achieving restorative justice in health disputes still faces challenges. One of the main challenges is the difference in medical knowledge between patients and health workers, which can affect the communication and decision-making processes. In addition, public trust in the effectiveness and neutrality of the mediation process also needs to be improved (Johnson, 2021). To overcome these challenges, efforts to improve the capacity and training of facilitators are needed. This training includes mastery of mediation techniques, understanding of medical aspects, and strengthening of professional ethics. With competent facilitators, the mediation process can run more effectively and the results achieved will be more satisfactory for all parties (Ramadhan, 2023).

In addition to improving the capacity of facilitators, it is also important to integrate mediation mechanisms into the health care system. Hospitals and health institutions need to provide internal mediation units and establish clear operational procedures. This will facilitate public access to restorative dispute resolution without having to go through lengthy and expensive court proceedings (Hidayat, 2023).

The role of facilitators also contributes to enhancing the awareness and responsibility of healthcare workers. Through the mediation process, healthcare

workers are encouraged to acknowledge mistakes, understand the impact of their actions, and improve their relationships with patients. On the other hand, patients gain the opportunity to voice their complaints and receive psychological and material compensation (Siregar, 2024).

Thus, facilitators play a vital role in achieving restorative justice in healthcare disputes. Through a fair, open, and recovery-oriented mediation process, facilitators can help parties find win-win solutions, restore relationships, and reduce the burden on the court system. To ensure this role is carried out effectively, regulatory support, capacity building for facilitators, and the integration of mediation into the healthcare system are necessary.

Challenges Faced by Facilitators in the Health Dispute Mediation Process

The challenges faced by facilitators in the health dispute mediation process are complex and multidimensional, encompassing aspects of knowledge, legal culture, and the parties' trust in the mediation process. One of the main challenges is the difference in medical knowledge between patients and health workers. This information imbalance often leads to miscommunication, misperceptions, and feelings of injustice, so facilitators must be able to bridge this gap with explanations that are easily understood by both parties (Thompson, 2022).

In addition, trust in the mediation process itself remains an obstacle. Many patients and healthcare professionals doubt the effectiveness of mediation as a dispute resolution solution.

They tend to trust litigation more, as it is perceived to be more decisive and provide legal certainty, despite the lengthy and exhausting process. This is exacerbated by the lack of socialisation and education about the benefits and mechanisms of mediation in the healthcare environment (Perangin-Angin et al., 2025). The next challenge is the limited number of facilitators or mediators who truly understand both medical and legal aspects.

Ideal health mediators should have certification and specialised knowledge of psychological dynamics and medical professional ethics, but the number of such professionals is still very limited in Indonesia. As a result, the quality of the mediation process is often suboptimal because mediators are unable to fully understand the substance of the dispute (Setiawan, 2024).

The highly litigious legal culture in Indonesia is also a major obstacle. The public and healthcare professionals tend to view court settlements as the only legitimate and effective means of resolution, leading to restorative approaches through mediation being overlooked. As a result, participation and good faith from the parties involved in the mediation process are low, despite the success of mediation heavily depending on cooperation and openness from both sides (Smith & Brown, 2022).

Limited regulations and implementation mechanisms also pose serious challenges. Although there is legal framework such as Law No. 17 of 2023 on Health and Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, there are no specific technical regulations governing procedures, legal protection, and competency standards for health facilitators. This results in mediation processes often proceeding without clear and consistent standards (Suratman, 2025).

Additionally, the lack of legal protection for healthcare workers participating in mediation is a significant concern. Many medical professionals are reluctant to acknowledge mistakes or take responsibility openly during mediation, fearing that such admissions could be used as evidence in subsequent legal proceedings. Without legal safeguards, the mediation process becomes ineffective as parties tend to remain closed off (Mufrizal, 2025).

Another challenge is the limited infrastructure and supporting resources, especially in rural areas. Facilities for mediation, such as special rooms, documentation systems, and access to professional mediators, are still very limited in many hospitals and health institutions outside major cities. This makes access to quality mediation limited and uneven (Nugroho, 2023).

Internal factors from the mediators themselves can also be obstacles. Mediators who are not sufficiently neutral, lack experience, or do not have good communication skills can actually exacerbate the situation and intensify the conflict. Mediators must be able to manage the emotions of the parties, maintain confidentiality, and remain focused on win-win solutions without taking sides (Dewi, 2022).

In addition to technical obstacles, psychological challenges often arise. Health disputes typically involve high emotions, both from patients and healthcare providers. Facilitators must be able to manage these emotional dynamics to ensure the dialogue process remains conducive and productive. Lack of institutional support from hospitals or professional organisations also poses a barrier. Not all hospitals have special units or committees that handle mediation, so the dispute resolution process is often poorly coordinated and does not receive adequate administrative support (Lee, 2021).

Finally, the lack of training and capacity building for facilitators is a challenge that must be addressed immediately. Without continuous training and knowledge updates, facilitators will find it difficult to keep up with the latest developments in medical, legal, and mediation techniques. Therefore, improving training and integrating mediation into the health system is essential to ensure that the health dispute resolution process is effective, fair, and focused on restoring relationships.

The Effectiveness of the Legal Framework in Supporting the Role of Facilitators

The effectiveness of the legal framework in supporting the role of facilitators in restorative health dispute resolution in Indonesia has seen significant development, particularly following the enactment of Law No. 17 of 2023 on Health and Law No. 30 of

1999 on Arbitration and Alternative Dispute Resolution. These two regulations provide a strong legal basis for facilitators or mediators to carry out their roles in the mediation process, while also marking a paradigm shift from litigation-based dispute resolution towards more restorative non-litigation approaches (Kim, 2023).

The Health Law No. 17 of 2023 explicitly states that any dispute arising from alleged medical or healthcare professional errors must first be resolved through alternative mechanisms outside the court system, namely mediation. This provision not only strengthens the position of facilitators as key actors in the dispute resolution process but also provides legal protection for all parties involved, including patients and healthcare workers (Livne-Tarandach et al., 2023).

One of the main advantages of this legal framework is its emphasis on restorative justice, where the mediation process focuses on restoring relationships and achieving mutually acceptable solutions for both parties. The facilitator acts as a liaison, information provider, and educator who helps the parties understand the case objectively, while encouraging constructive dialogue (Hildayastie Hafizah & Surastini Fitriasih, 2022).

The existing legal framework also provides legitimacy for the results of mediation, so that the agreement reached is recognised and has certain legal force.

This is important to ensure that the results of mediation are not only moral but can also be implemented by the disputing parties. Thus, facilitators are not only mediators but also guarantors of the sustainability of the agreed solutions (Samosir, 2024). However, the effectiveness of this legal framework still faces a number of challenges in its implementation.

One of the main challenges is the low level of understanding and awareness among stakeholders, including patients, health workers, and the general public, regarding the mediation mechanism and the role of facilitators. Many parties still consider litigation as the only means of dispute resolution, so mediation efforts are often underutilised (Williams, 2023). In addition, despite the existence of a legal framework, there are no technical regulations that specifically govern the procedures, competency standards, and legal protection for health facilitators. As a result, the quality and consistency of the mediation process can vary, depending on the capacity of individual facilitators and the institutional support available (Putri, 2024).

The limited number of facilitators with specialised expertise in health is also an obstacle to effective mediation. Facilitators must have a deep understanding of medical issues, the law, and the psychological dynamics between patients and health workers. Without adequate training, facilitators cannot perform their role optimally (Widodo, 2025).

The existing legal framework also does not fully regulate the mechanism for enforcing mediation outcomes, so in some cases, agreements that have been reached cannot be legally enforced if one party fails to comply with the terms of the agreement.

This raises concerns regarding legal certainty and the effectiveness of restorative dispute resolution (Rahmawati, 2022).

In addition to regulatory aspects, the highly litigious legal culture also poses a challenge. Many parties still view court settlements as the primary solution, so a paradigm shift towards restorative justice requires time and continuous socialisation efforts (Rachmawati, 2023). To enhance the effectiveness of the legal framework, synergistic efforts are needed between the government, health institutions, professional organisations, and the community to promote the benefits of mediation and strengthen the capacity of facilitators. The establishment of specialised mediation institutions in the health sector and the development of clear standard operating procedures can help strengthen the position of facilitators in the dispute resolution process (Hidayat, 2023).

Overall, the existing legal framework provides a strong foundation for facilitators to carry out their role in restorative health dispute resolution. However, its effectiveness is highly dependent on implementation in the field, the availability of competent facilitators, and technical regulatory and legal support that promotes peaceful and fair dispute resolution. With continuous improvement efforts, this legal framework has great potential to create a more efficient, fair, and relationship-oriented health dispute resolution system between patients and healthcare providers. Facilitators, with adequate regulatory support, can become agents of change in building a more humane and effective dispute resolution culture in Indonesia.

Conclusion

The role of facilitators or mediators in restorative health dispute resolution has proven to be crucial in creating fair, efficient, and mutually satisfactory solutions. Facilitators not only act as a bridge between patients and healthcare providers but also as information providers, educators, and neutral mediators who ensure communication remains objective and constructive. With the right skills and strategies, facilitators can help parties identify the core issues, develop solution options, and reach a win-win agreement without having to go through lengthy and exhausting court proceedings.

The effectiveness of the facilitator's role in health dispute mediation is also supported by a strong legal framework, such as Law No. 17 of 2023 on Health and Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution. This regulatory support underscores the legislative commitment to prioritise dispute resolution outside the court system, thereby restoring better relationships between patients and healthcare providers and enhancing public trust in the healthcare system. However, challenges such as differences in medical knowledge, levels of trust in the mediation process, and the limited availability of competent facilitators still need to be addressed. Therefore, enhancing training for facilitators, raising public awareness of the benefits of mediation, and integrating mediation mechanisms into the healthcare system are

important recommendations to optimise the role of facilitators in achieving restorative justice in healthcare dispute resolution.

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