

The Application of Vicarious Liability Principle in Malpractice Cases by Health Workers in Indonesia

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Abstract: A party's liability for unlawful acts committed by another person under its responsibility is established by the principle of vicarious liability in civil law. This principle is crucial in determining the hospital's liability for malpractice committed by medical personnel under its supervision in the context of health services. This investigation employed a normative legal method that considered pertinent legal literature, doctrines, laws, and regulations. The results reveal that Article 1367 of the Civil Code normatively establishes a general basis for liability for the actions of others in a dependent relationship, whereas Article 46 of Law Number 44 of 2009 concerning Hospitals explicitly mandates that hospitals are accountable for the negligence of health workers employed in their institutions. Conversely, the practical implementation of this principle continues to encounter numerous impediments, including the absence of sufficient technical regulations, the challenge of substantiating formal employment relationships, and the absence of consistent jurisprudence. It is anticipated that the principle of vicarious liability will be enforced more effectively, which will enhance legal protection for patients, promote institutional accountability, and establish a health service system that is more transparent, fair, and prioritizes patient safety.

Keywords: civil liability; Indonesia; medical malpractice; vicarious liability.

1. Introduction

The civil law system is founded on the principle of responsibility for unlawful acts (Subekti, 2005). In the context of employment relations, this principle not only governs legal relations between individuals but also encompasses relations between individuals and institutions. The concept of vicarious liability, or indirect responsibility, is a form of legal responsibility that is significant in the development of modern law within this framework. This principle underscores the possibility of an employer being held accountable for unlawful actions committed by their subordinates while fulfilling their responsibilities within the confines of an employment relationship (Susila, 2021). This concept functions as a structural control mechanism that not only upholds the principle of justice but also provides legal protection for victims, particularly in situations where establishing the perpetrator's personal responsibility is challenging. However, the institution's accountability as the party that protects it can still be legally requested.

The principle of vicarious liability is not only recognized in the Indonesian civil law system, but it is also a fundamental component of the legal systems of countries that follow the civil law and common law traditions. Its application has undergone substantial advancements, particularly in the public service sector, which includes the health sector. The relationship between hospitals and medical personnel, such as doctors and nurses, is no longer merely administrative; it now encompasses substantial management and supervision (Toumahuw et al., 2023). In this context, hospitals are not only positioned as providers of medical facilities but also as institutions that have the authority to regulate work policies, supervise the implementation of tasks, and distribute instructions to medical personnel. Consequently, the legal responsibility for negligence in the execution of medical duties cannot be solely placed on individual medical personnel; it must also take into account the institutional role of the hospital as a party with structural control over health services.

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The issue of medical malpractice is not only a national but also a global one that requires immediate attention. In 2019, the World Health Organization (WHO) released a report that indicated that approximately one in ten patients worldwide sustain injuries during the treatment or care process in hospitals, although the majority of these incidents could have been avoided (Organization, 2019). The current health care system is not yet fully capable of ensuring optimal patient safety, as evidenced by the fact that not a few of these cases result in death. This discovery also underscores the deficiencies of the oversight and accountability mechanisms within the relevant medical system. Consequently, WHO underscores the significance of revising the legal accountability system to ensure that it not only holds medical personnel accountable as direct actors but also holds health care institutions accountable, as they are parties with structural, control, and authority responsibilities for the implementation of medical actions.

In Indonesia, the principle of vicarious liability is regulated by Article 1367 of the Civil Code. This clause stipulates that an individual is accountable for losses resulting from their actions, as well as those caused by the actions of their dependents. This provision establishes a normative foundation for injured parties to demand accountability from the institution, rather than solely from the direct perpetrator. This provision has serious consequences in the context of health services. Specifically, hospitals, as institutions that employ and regulate the work system of medical personnel, can be held legally responsible for negligence that causes harm to patients, provided that the negligence is committed within the scope of their responsibilities.

The relationship between hospitals and medical personnel cannot be interpreted as a mere technical administrative relationship, as it also encompasses legal aspects that have direct implications for legal accountability, according to this legal construction. In practice, hospitals operate as managers of work systems, regulators of standard operating procedures (SOPs), and those accountable for the quality and safety of medical services provided to patients, in addition to providing health service facilities (Syahrir et al., 2023). Consequently, legal liability should not be limited to the individual perpetrator but should also encompass the institution where they work in the event of negligence or medical error by doctors, nurses, or other medical personnel associated with the hospital organizational structure. In the Indonesian legal system, accountability in cases conducted by corporations requires an essential evaluation (Romdoni, 2022).

Although the principle of vicarious liability is legally established in Article 1367 of the Civil Code, it continues to encounter a variety of challenges in its practical application. One of them is the absence of sectoral regulations that explicitly define the form of hospital liability for the negligence of medical personnel. The limits of responsibility between hospitals as employers and doctors or nurses as direct perpetrators have not been explicitly defined in Law Number 29 of 2004 concerning Medical Practice and Law Number 36 of 2009 concerning Health. In fact, Article 46 of Law Number 44 of 2009 concerning Hospitals explicitly stipulates that hospitals are accountable for losses resulting from the negligence of their health workers. Nevertheless, this regulation has not been implemented consistently and impartially. Therefore, there is ongoing uncertainty regarding the appropriate party to be held accountable for malpractice, which may result in diminished legal protection for patients.

There are those who contend that the doctor is solely responsible for malpractice, as medical actions are predicated on personal professional expertise and accountability. Nevertheless, an alternative perspective posits that hospitals, as organizations that regulate labor, establish protocols, furnish amenities, and generate revenue from medical services, are also accountable for their actions (Sulistiyani & Syamsu, 2023). The performance of medical personnel under the authority of hospitals is deemed negligent if they are not supervised or managed. This discrepancy demonstrates a lack of certainty in determining which party should be fairly held responsible in medical disputes and a gap in legal protection for patients.

Tiara Debora Simanjourang, a baby who passed away at Mitra Keluarga Kalideres Hospital in Jakarta in 2017, is one of the numerous real-life examples of this condition. Despite

being registered as a BPJS Kesehatan participant, the baby did not receive medical treatment immediately due to administrative issues, despite experiencing acute shortness of breath. The death of the patient because of the delay in medical treatment suggests a structural failure in health services that cannot be attributed to individual medical personnel. This case demonstrates that there is a need to extend the legal liability for malpractice incidents to include health service institutions that have the authority and control over procedures and decision-making in the medical service process, in addition to technical implementers.

Nevertheless, Indonesia's legal system continues to prioritize ethical mechanisms and professional discipline in the management of medical malpractice cases, resulting in an inadequate utilization of civil law channels to evaluate institutional accountability (Artemisya & Yusuf, 2024). In numerous instances, lawsuits filed by patients or the families of victims are frequently directed solely at individual medical personnel, such as doctors or nurses, without taking into account the hospital's systemic involvement as an institution that establishes policies, regulates service flows, and supervises the execution of medical interventions. In reality, the medical decision-making process is significantly influenced by the internal policies and managerial structures of hospitals, which, if not managed effectively, can be a significant contributing factor to malpractice.

In general, prior research has concentrated more on the individual responsibility and professional ethics of medical personnel. Nevertheless, there is a significant lack of research that specifically examines the institutional legal responsibility of hospitals from a civil law perspective, particularly in relation to the application of the principle of vicarious liability. In numerous countries, including the United States and England, this concept has been implemented more extensively. Hospitals are routinely held accountable for negligence in the supervision and management of medical personnel under their jurisdiction.

A study conducted by (Mambrasar et al., 2024) discusses the civil liability of hospitals in Indonesia in the context of medical malpractice. The results show that the principle of vicarious liability emphasizes that hospitals can be held responsible for errors or negligence committed by doctors, nurses, or other medical personnel while they are working under the auspices of the hospital. The difference with this study is that in the vicarious liability applied requires a clear working relationship so that new responsibility can be transferred.

The novelty of this study lies in the use of a normative legal approach to comprehensively analyze the application of the principle of vicarious liability in medical malpractice cases in Indonesia. This study highlights the institutional legal responsibility of hospitals, which have the structural authority to supervise and control the performance of medical personnel, in contrast to previous studies that focused more on the individual responsibility of medical personnel or aspects of professional ethics. The analysis in this study was conducted to examine the applicable regulatory framework and the relevance of the application of Article 1367 of the Civil Code in judicial practice, especially in malpractice cases that harm patients.

The purpose of this study is to examine the extent to which hospitals, as employers and health service providers, can be held legally responsible for negligence committed by medical personnel under their control. This study also aims to strengthen the doctrine of civil liability in the health care sector by providing legal arguments that can encourage the establishment of a more just, effective, and oriented legal protection system that is oriented towards fulfilling the rights of patients as vulnerable legal subjects in medical service relationships.

2. Materials and Methods

This study is a normative juridical approach to legal research, which is defined as the examination of relevant positive legal norms (Sri Mamudji, 2001). This method was employed to conduct a systematic examination of the legal literature, doctrines, and laws applicable to civil liability in instances of malpractice committed by medical personnel, with a particular emphasis on the concept of vicarious liability as outlined in Article 1367

of the Civil Code. This research uses a legislative approach and a case study approach. This approach is used because it is the most relevant approach to the topic being researched.

This study employed secondary data sources that were categorized into three categories: primary, secondary, and tertiary legal materials. The primary legal materials were laws and regulations, including the Civil Code, Law Number 29 of 2004 concerning Medical Practice, and Law Number 36 of 2009 concerning Health. Expert opinions (doctrines), journal articles, and other academic publications that investigated legal accountability in the relationship between health institutions and medical personnel were considered secondary legal materials. The data collection technique is carried out by means of literature study, namely searching for legal literature in the library, after which it is collected and then analyzed using descriptive analysis. In the interim, tertiary legal materials were employed to enhance comprehension of legal terms or concepts, including those sourced from legal encyclopedias and dictionaries. No ethical approval was necessary for this study, as all data sources are sourced from publicly available literature and documents, and empirical data, human subjects, and animals were not utilized.

3. Results and Discussion

3.1. The Principle of Vicarious Liability in the Context of Indonesian Civil Law and Health Services

In Indonesian civil law, the principle of vicarious liability is a form of indirect legal responsibility. This principle allows a party who does not directly commit an unlawful act to be held accountable for the negligence of another individual under their supervision (Ayu Dita & Winanti, 2023). This principle is explicitly regulated in Article 1367 of the Civil Code in the Indonesian civil law system. The article states that "A person is not only responsible for losses caused by his own actions, but also for losses caused by the actions of people who are his responsibility or caused by goods under his supervision." This provision unequivocally demonstrates that in the civil law system, liability is not exclusively individual; it can also be extended to parties who have a structural relationship or supervisory position with the perpetrator.

Based on the provisions above, hospitals as institutions can be held responsible if medical personnel under the scope of supervision commit negligence that results in harm to patients. This is very relevant in health resolution because:

1. Medical personnel such as doctors and nurses work within the structure and system established by the hospital.
2. Medical service activities depend not only on personal skills, but also on institutional policies, facilities, and control systems.
3. Hospitals receive economic benefits from the services provided by medical personnel working under them.

Therefore, hospitals should not absolve themselves of responsibility when a medical error results in patient harm. The principle of vicarious liability in this case becomes a legal mechanism to realize justice for patients who suffer losses.

Legally, the existence of this principle provides a legal opportunity for patients or their families to sue hospital institutions when malpractice occurs, not only limited to doctors as direct perpetrators. According to (Rahardianto, n.d.), hospitals can be held accountable if negligence occurs in the implementation of medical personnel's duties under their organizational structure. This is based on a therapeutic relationship pattern that places hospitals as the main service providers. However, in practice, this principle has not been optimally implemented in Indonesia. Many cases of malpractice only end in the personal responsibility of doctors or medical personnel, while hospitals as employers are not held accountable, thus creating a gap between legal norms and their implementation in the field.

In the legal systems of common law countries such as England and the United States, the application of this principle has become common practice. Hospitals can be held civilly liable if it is proven that negligence occurred in the performance of duties by a medical

worker under their organizational structure (Wahyudi, 2011). This approach is in line with the principle of distributive justice, where the burden of losses experienced by patients should be borne by the larger party that has more control over the work system, namely the hospital.

The implications of implementing the principle of vicarious liability in health services are very broad, both from a legal, ethical, and administrative perspective. Legally, the application of this principle can strengthen the legal responsibility system in medical services and provide more comprehensive legal protection to patients. Ethically, this approach encourages hospitals to be more responsible in supervising medical personnel and ensuring that the work system implemented is in accordance with patient safety standards. Administratively, hospitals will be more encouraged to prepare guidelines, training, and periodic evaluations of the performance of medical personnel working under them to avoid the risk of lawsuits (Haryanto & Suryono, 2019).

However, health sector regulations in Indonesia, especially in Law Number 29 of 2004 concerning Medical Practice and Law Number 44 of 2009 concerning Hospitals, have not explicitly regulated the institutional responsibility of hospitals for errors or negligence committed by medical personnel under their supervision. Some important provisions that are relevant but still general include:

1. Law Number 29 of 2004 concerning Medical Practice

- Article 50 letter (a) states that doctors and dentists are required to provide medical services in accordance with professional standards and standard operating procedures.
- Article 67 states that the public can report alleged disciplinary violations by doctors or dentists to the Indonesian Medical Council (KKI).
- However, this law does not establish a legal liability mechanism for health institutions where doctors work, so that liability tends to be directed at individual medical personnel.

2. Law Number 44 of 2009 concerning Hospitals

- Article 46 explicitly stipulates that hospitals are legally responsible for all losses caused by negligence committed by health workers in the hospital. This provision provides an explicit legal basis for the application of the principle of institutional responsibility (vicarious liability) in health service practices in Indonesia.
- Although it has been regulated in Article 46, in practice there are still obstacles in the implementation of hospital legal responsibility, especially in confirming the direct link between medical personnel errors and the managerial or systemic responsibility of the hospital. This shows that the application of the principle of vicarious liability still requires strengthening both in terms of derivative regulations and legal enforcement at the court level.

The ambiguity in the current legal regulations has resulted in the absence of a firm and comprehensive legal basis for patients or their families to file a lawsuit directly against the hospital for negligence committed by medical personnel under its auspices. As a result, law enforcement in Indonesia is still not running well, which is concerning (Romdoni et al., 2022). The absence of explicit norms that regulate in detail the form, scope, and limits of legal liability of these health service institutions creates ambiguity in law enforcement. As a result, in judicial practice, judges often face difficulties and doubts in determining the hospital as the defendant, because there is no normative reference that clearly supports the construction of the hospital's legal responsibility as a corporate entity. This situation can indirectly reduce access to justice for victims of medical malpractice and weaken the legal position of patients in health service disputes.

Thus, legal reform is an urgent need to ensure the effective implementation of the vicarious liability principle in Indonesia. Efforts that can be made include the preparation of derivative regulations that regulate in detail the institutional responsibility

of hospitals, the affirmation of the principle of hospital responsibility in court decisions as a form of legal doctrine renewal, and increasing the understanding of health law among management and medical personnel through education and training. These steps will make this principle a theoretical and practical norm for protecting patient rights and improving health services in Indonesia.

The concept of vicarious liability in the Netherlands and Germany in the context of medical malpractice is rooted in the principle of civil liability of employers for the actions of their subordinates, which is strictly enforced in the healthcare system. In the Netherlands, Article 6:170 of the Civil Code (BW) states that employers are liable for the actions of their subordinates in the performance of their duties. In medical practice, hospitals are considered employers (*werkgever*), while doctors or medical personnel are considered workers (*werknemer*), even though they may work independently or under contract. This allows patients to sue hospitals directly for malpractice committed by medical personnel, without having to prove fault on the part of management. This concept reflects the protection of patients as the weaker party in a contractual relationship and facilitates the demonstration of liability.

In common law systems, such as the United Kingdom and the United States, the concept of vicarious liability is widely applied in medical malpractice cases as part of the principle of employer responsibility for the acts of subordinates committed in the course of employment. Hospitals or healthcare institutions can be held liable for the negligence of doctors, nurses, or other medical staff, even if they did not directly cause harm, as long as the malpractice occurred within the scope of their employment and within the institution's service capacity. In the United Kingdom, this principle was affirmed in *Cassidy v Ministry of Health* [1951], where the court held that the hospital was liable for the doctor's negligence because the patient did not freely choose his doctor, but rather received institutional care. In the United States, in addition to the principle of *respondeat superior*, the doctrine of corporate negligence has also developed, allowing patients to sue hospitals for systemic failures, such as failure to recruit competent medical personnel or the lack of adequate safety protocols. Thus, the common law system not only focuses responsibility on the individual perpetrator but also extends it to institutional structures to ensure comprehensive accountability and patient protection.

3.2. The Application of Vicarious Liability Principle in Malpractice Cases by Health Workers in Indonesia

In the practice of law enforcement in Indonesia, accountability in medical malpractice cases is generally still focused on an individual approach, where the burden of legal responsibility is almost always imposed on medical personnel who directly carry out actions that are considered negligent in the health service process. This approach ignores the fact that medical services take place in a complex system under the management of health institutions such as hospitals (Putri Emmanuella & Aryanti Ramadhani, 2023). As a result, there is an imbalance in legal protection for patients because structural dimensions, including managerial systems, institutional policies, and internal hospital oversight mechanisms, are often not used as important elements in the evidence process or in the judge's legal considerations when deciding cases. In fact, in practice, medical actions cannot be separated from the role of the hospital institution as a provider of facilities, regulator of operational procedures, and authority holder over the governance and control of service quality.

The weak application of the principle of vicarious liability in the context of health services in Indonesia is reflected in several court decisions that tend to only impose sanctions, both ethical and civil, on medical personnel who directly commit malpractice, such as doctors or nurses. In many cases, legal responsibility does not touch the hospital institution, which has a structural role in the medical service system. This reflects a gap in the systemic approach to legal responsibility in the health sector. In fact, hospitals have a structural role in regulating standard operating procedures

(SOPs), internal referral systems, ethical supervision, and health service risk management (Tanaya & Putri, 2025). In other words, hospitals not only function as providers of physical facilities but also as managers of systems that greatly affect the quality and safety of health services. Therefore, ignoring the institutional responsibility of hospitals in legal decisions not only reduces justice for victims but also weakens the principle of accountability in health service governance.

This condition is reflected in the case of Tiara Debora Simanjorang, a baby who died due to delayed medical treatment at a private hospital in Jakarta. In this case, legal responsibility was more focused on the administrative aspects and the alleged negligence of the doctor on duty, without investigating in depth how the hospital management system contributed to the service failure. In fact, based on the facts revealed, the hospital had an internal policy that required an advance payment before the patient could access intensive care, which ultimately hampered the rapid treatment of the baby in critical condition. This incident reflects how the institutional structure and operational policies made by hospital management can have a direct impact on patient safety. However, the absence of the application of the principle of vicarious liability in the legal settlement of this case shows that the justice system in Indonesia has not yet reached institutional responsibility comprehensively. In fact, this principle should be used as a basis for questioning the negligence of the hospital as an entity that has authority and control over medical personnel and the service procedures applied.

The hospital's failure to fulfill its supervisory responsibilities in this instance may be considered a form of institutional negligence. The hospital should be positioned as a legal entity that is not only responsible for the medical services provided by health workers under its management but also as a provider of facilities. Consequently, the hospital can be held accountable for the negligence of medical personnel through the application of the principle of vicarious liability, provided that the negligent act was committed in the execution of duties that fall within the institution's authority and responsibility.

As a comparison, in civil law practice in countries that adopt the common law system, such as England and the United States, hospitals have long been the subject of lawsuits in malpractice cases. This model is based on the principle that institutions have control over the actions of medical personnel within their organizational structure. Within this framework, hospitals are not only obliged to provide adequate health care facilities but also have the responsibility to ensure that all medical practices are carried out in accordance with professional standards and applicable regulations. In addition, the administrative responsibilities of hospitals include organizing ongoing training, evaluating the competence of medical personnel, and a medical incident reporting system to prevent the recurrence of errors that harm patients. If negligence in these aspects is proven to have contributed to the loss, then the hospital institution is legally liable.

Nevertheless, it is crucial to acknowledge that the process of establishing malpractice cases through vicarious liability is complex and necessitates prudence. The plaintiff must be able to substantiate the existence of a formal working relationship between the medical personnel and the institution, the perpetrator's scope of authority within the organizational structure, and the direct relationship between the negligent act and the relevant institutional procedures or policies. This complexity necessitates a well-balanced system of proof, which is capable of providing patients with the broadest possible access to justice while simultaneously ensuring that medical personnel are legally protected in the performance of their duties in accordance with professional standards.

Hospital institutions will be motivated to enhance the governance of medical services in a more comprehensive and responsible manner by bolstering the application of the principle of vicarious liability in the Indonesian legal framework. Such an approach has the potential to foster a health service environment that is more patient-

oriented, transparent, and secure (Dian et al., 2025). Additionally, such initiatives will enhance the accountability of health institutions in ensuring that the quality of medical services is consistent with the ethical standards of the medical profession and legal provisions.

In Indonesia, the concept of vicarious liability in medical malpractice cases is not explicitly regulated by law, but it can be found in its application through the construction of civil liability in Article 1367 of the Civil Code. This article states that a person is not only responsible for losses caused by their own actions, but also for losses incurred by those under their supervision. In the context of medical services, hospitals or healthcare institutions can be held liable for the mistakes of doctors or other medical personnel if it is proven that the negligent act occurred within an employment or professional capacity under the institution's control. This principle is reinforced by Law Number 44 of 2009 concerning Hospitals, specifically Article 46, which expressly states that hospitals are legally responsible for all losses caused by the actions of their healthcare personnel.

One concrete example of the application of the vicarious liability principle in Indonesia is Supreme Court Decision Number 3655 K/Pdt/2001, in a case between a patient's family and Dr. Kariadi General Hospital in Semarang. In this case, the patient died due to the negligence of medical personnel while undergoing treatment. The Supreme Court held the hospital liable for the doctor's negligence because the medical personnel acted within an employment relationship and on behalf of the institution, thus shifting responsibility to the hospital as the employer. This ruling constitutes important jurisprudence, affirming that even if a doctor personally commits negligence, the hospital can still be held civilly liable as a form of structural and systemic responsibility. Thus, vicarious liability regulations in Indonesia aim to protect patients by emphasizing legal responsibility on healthcare institutions, particularly in the context of systemic failure or collective negligence.

3.3. Legal Challenges and the Need for Strengthening Regulations in the Implementation of Vicarious Liability

The principle of vicarious liability in the Indonesian civil law system is normatively based on the provisions of Article 1367 of the Civil Code, which states that a person is not only responsible for unlawful acts committed by himself but also for the actions of people under his control (Komang et al., 2020). This is in accordance with the principle of responsibility for the actions of others in civil law doctrine. However, in the context of health services, the implementation of this principle is still far from optimal. The main problem lies in the weak formulation of institutional responsibility in health sector regulations.

Although Law Number 44 of 2009 concerning hospitals, specifically Article 46, has explicitly stipulated that hospitals are legally responsible for losses due to the negligence of health workers working under their auspices, this provision has not been fully operationalized in legal practice. On the other hand, Law Number 29 of 2004 concerning medical practice also does not explicitly regulate the institutional responsibility scheme of hospitals in working relationships with medical personnel. As a result, in judicial practice, hospitals are often only positioned as providers of physical facilities, not as entities that have full authority over the operational system and supervision of the quality of medical services. In fact, hospitals have structural control over policies, standard procedures, and supervision of all medical actions carried out within their institutions (Pribadi & Pramono, 2024).

In civil law theory, this is closely related to the doctrine of liability for acts of others, where a corporation or institution is considered responsible for any unlawful acts committed by its agents in the course of carrying out their duties (Asmoro, 2020). In the context of health services, this means that the hospital as a corporation is responsible for the actions of doctors under its control, to the extent that such actions are carried out in the course of carrying out their professional duties.

When there is no explicit norm in the law governing hospital liability, proving a formal employment relationship and the scope of the perpetrator's authority becomes a serious challenge. The plaintiff is required to be able to prove that negligence occurred in the context of a legitimate employment relationship and that the hospital influenced the procedures or policies that were violated. In practice, this is difficult to do because of limited patient access to internal hospital documents, such as employment contracts, medical records, or internal SOPs.

The absence of fixed jurisprudence related to the application of the principle of vicarious liability in medical malpractice cases remains a structural obstacle that contributes to legal uncertainty in Indonesia. To date, very few court decisions have explicitly recognized or applied the principle in deciding cases of hospital liability for medical personnel negligence. The minimal number of precedents like these makes it difficult to establish consistency in judicial practice and fails to provide legal certainty or serve as a strong reference for judges when handling similar cases in the future.

By contrast, the common law legal system has long recognized and progressively applied this principle. One landmark case was *Darling v. Charleston Community Memorial Hospital* (1965), in which the Illinois Supreme Court held that a hospital could be held liable for the negligence of physicians working under its management, asserting that hospitals could not hide behind their status as independent professionals. In the judge's view, patients who came to the hospital had the right to assume that the services were guaranteed by the institution in which they were provided.

In order to realize the effective implementation of the principle of vicarious liability in Indonesia, a number of legal reform steps need to be taken:

1. First, it is necessary to revise relevant laws and regulations, such as Law Number 29 of 2004 concerning Medical Practice, to explicitly regulate the hospital's liability scheme for errors or negligence of medical personnel working under its institutional supervision and coordination.
2. Second, the Supreme Court can issue jurisprudential guidelines through Circular Letter of the Supreme Court or Supreme Court Regulation that explain the criteria and standards for applying the principle of vicarious liability in the context of civil cases in the health sector.
3. Third, hospitals need to build an internal legal system that is responsive to potential medical disputes, by strengthening internal legal units, medical incident reporting systems, legal risk evaluations, and strict medical audit procedures.
4. Fourth, increasing legal literacy for the community and medical personnel is also crucial, so that they understand each other's rights and obligations in therapeutic relationships, as well as the legal procedures that can be taken if there is a violation of professional standards.

By building a more transparent, accountable, and adaptive legal ecosystem for the development of medical practice, the principle of vicarious liability is no longer merely positioned as a normative legal construction but rather as a concrete and applicable legal mechanism in judicial practice. The presence of this principle is very important to ensure legal certainty and balanced protection, both for patients who experience losses and for health care institutions as public service providers. When the principle of institutional responsibility is upheld through strong regulatory instruments and consistent court decisions, the Indonesian civil law system will be increasingly able to respond to the complexity of the relationship between hospitals, medical personnel, and patients. The application of this principle also encourages hospitals to build an effective monitoring system, carry out ongoing training, and cultivate collective accountability in clinical governance. In the long term, consistent and progressive implementation of vicarious liability will strengthen the integrity of the national health system and improve the standards of professionalism and ethics in medical service practices.

3.4. Implications of the Application of Vicarious Liability Principle on the Patient Legal Protection System and Accountability of Health Institutions

The vicarious liability principle in the health care sector not only impacts norms but also significantly influences the patient legal protection system and the governance of health institutions. In the context of civil law, this principle allows hospitals as institutions to be held accountable for errors or negligence committed by medical personnel under their supervision. This reflects a paradigm shift from individual responsibility to structural responsibility, which emphasizes the importance of institutional accountability in ensuring the quality of health services provided to the community.

In many cases, the losses experienced by patients do not solely come from the negligence of medical personnel but also from systemic weaknesses, such as poor supervision, non-implementation of standard operating procedures, or minimal evaluation of internal hospital risks. Hospitals have legal responsibilities that cannot be separated from the actions of their medical personnel, especially in the context of a weak and unaccountable service system. This emphasizes that the principle of vicarious liability is essential to ensure fair legal protection for patients (Jeremia et al., 2025).

This principle is also closely associated with the realization of citizens' constitutional rights to health services. Article 28H paragraph (1) of the 1945 Constitution underscores the right of all individuals to access health services as a component of the right to a prosperous life. Additionally, Article 34, paragraph (3), mandates that the state is accountable for the provision of sufficient health care facilities. As a concrete legal instrument to evaluate institutional responsibility, the principle of vicarious liability is present when a hospital, as a representative of a public service institution, fails to ensure the safety and security of patients as a result of systemic negligence. In this instance, the fulfillment of the right to health is no longer merely a formality; it serves as a legal foundation for patients to demand accountability from those who possess administrative and structural authority over the medical service process.

In addition to enhancing legal protection for patients, this principle also promotes the establishment of a culture of transparency and accountability in the delivery of health services. The reputation of a hospital is now not solely influenced by the physical quality of the facilities or the sophistication of technology; it is also determined by the institution's integrity in responding to legal disputes in a fair, open, and responsible manner. The public will have a greater level of trust in hospitals that actively implement the principle of institutional responsibility, whereas those that avoid responsibility will experience a decrease in moral legitimacy. Accountability is no longer a mere symbol; it has evolved into a standard for institutional professionalism that exemplifies exemplary governance in the health sector.

Individual responsibility is not entirely eliminated by the application of the vicarious liability principle. Hospitals that have compensated patients retain the right to pursue legal action against medical personnel who have been found to have committed errors or negligence (Maharani, 2023). This is consistent with Article 1830 of the Civil Code, which stipulates that a party who assumes responsibility for another individual's debt has the right to seek compensation from the party who is actually at fault. Consequently, this principle fosters a more robust professional discipline in the hospital work environment by striking a balance between the collective responsibility of the institution and individual responsibility.

In general, the vicarious liability principle has the potential to significantly enhance the legal protection system for patients in Indonesia. In addition to serving as a legal accountability mechanism, this principle also promotes the internal reform of health institutions by fortifying risk management, enhancing medical personnel training, and developing stringent operational procedures that prioritize patient safety. In the long term, the incorporation of this principle into the Indonesian legal system will establish a health service system that is more accountable, more equitable, and supports the rights of patients as citizens.

4. Conclusions

The application of vicarious liability principle in the context of medical malpractice by health workers is a critical step in the strengthening of the civil law liability system in Indonesia. This principle establishes a legal foundation for patients to obtain more comprehensive justice by imposing responsibility on hospital institutions as employers, in addition to upon medical personnel personally. The study's findings indicate that, despite the fact that Article 1367 of the Civil Code regulates this principle, its practical application continues to be impeded by obstacles such as the absence of special jurisprudence, the difficulty of establishing employment relationships, and weak sectoral regulations. Consequently, it is imperative to implement rigorous legal reform and establish judicial guidelines. In addition to enhancing legal protection for patients, the implementation of this principle also promotes enhanced accountability of health institutions and enhancements in the governance of medical services as a whole. In summary, the principle of vicarious liability serves as both a legal mechanism and a method for reorganizing the relationship of responsibility in health services in a more transparent and equitable manner. The recommendation that needs to be implemented by the government and law enforcement officials in Indonesia is to strengthen regulations and clarify regulations regarding responsibilities in the event of a case of malpractice. The application of vicarious liability in medical malpractice cases has long-term implications for three main sectors: for the government, it encourages regulatory reform and a more accountable healthcare system; for law enforcement officials, it demands a multidisciplinary approach and a more complex capacity to prove institutional negligence; and for healthcare workers, it creates a push to improve professional standards while simultaneously reducing the risk of defensive medicine practices if not accompanied by adequate legal protection. Overall, this principle strengthens patient protection but also demands cross-sectoral structural reforms to prevent them from being counterproductive to the quality of healthcare services.

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