

Comparison of PMH Between Indonesia and the Netherlands

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ABSTRACT

The Netherlands has developed a broader and more flexible concept through Article 6:162 of the *Burgerlijk Wetboek* with detailed classification, strict documentation standards, and a mature legal infrastructure. On the other hand, Indonesia still applies the general concept through Article 1365 of the Civil Code without specific classifications and faces challenges in standardizing medical documentation, medicolegal awareness, and implementing digital systems. The fundamental difference can be seen in the philosophical aspects of justice, institutional capacity, proof mechanisms, and adaptation to technological developments. This study analyzes the comparison of the Unlawful Acts system between Indonesia and the Netherlands through a qualitative approach with a literature study design. Although both countries share the roots of the same legal system, the development of both shows significant differences in implementation and adaptation to contemporary needs. This research utilizes qualitative literature review methodology, and identifies fundamental differences in regulatory philosophy, classification, and implementation. The research found that the Dutch legal system is more responsive to social and technological changes, has a strong transparency mechanism, and an emphasis on communication and patient safety aspects in dispute prevention. Legal harmonization in the context of globalization is an urgent need to facilitate international cooperation. Strategic recommendations include the development of specific classifications, strengthening documentation regulations, developing a legal framework for digital technology, citizen lawsuit reform, and learning from Dutch best practices that can be adapted to the local Indonesian context to improve legal certainty and justice.

INTRODUCTION

The use of alcohol and addictive substances has become a global health problem that requires serious attention from various countries worldwide (Degenhardt et al., 2016). In the context of health services, Past Medical History (PMH) or *riwayat penyakit sebelumnya* is a fundamental component of a comprehensive clinical assessment (Ilkafah, 2020). PMH includes detailed information about previous medical conditions, past treatments, surgical history, allergies, and other health risk factors that may affect current medical diagnosis and management (Morales-Borges et al., 2020). The importance of accurate and systematic documentation of PMH cannot be overlooked, given its crucial role in clinical decision-making, prevention of medical errors, and overall improvement of healthcare quality (Sugiastuti, 2020). Indonesia and the Netherlands are two countries with interrelated historical backgrounds but have developed health systems with very different characteristics (Lueschen

& Van der Zee, 2016). Indonesia, as a developing country with a population exceeding 270 million, faces major challenges in managing its health system, including disparities in health service access between urban and rural areas, limited health infrastructure, and variability in the quality of health workers across regions. In contrast, the Netherlands, as a developed country with an established health system, boasts advanced medical infrastructure, a universal health insurance system, and high service standards (Kuipers et al., 2022). These fundamental differences create an interesting contrast in how both countries manage and document PMH in their clinical practices (Scheydt & Hegedüs, 2021).

In recent years, the digitalization of health systems has changed the paradigm of medical documentation globally (Bara-Slupski, 2016). Electronic Health Records (EHR) or *rekam medis elektronik* have become the new standard for managing patient health information, replacing the often inefficient and error-prone manual systems. EHR implementation allows for better integration of PMH data, faster accessibility of information, and more effective coordination of care among healthcare facilities. The Netherlands has comprehensively adopted EHR systems since the early 2000s, with high interoperability between institutions. Conversely, Indonesia is still transitioning to full digitalization, with implementation varying by region and facility capacity. Cultural aspects also play a significant role in how PMH is collected and documented in both countries. In Indonesia, the values of collectivism and social hierarchy influence communication between patients and health workers; patients may provide information deemed culturally significant or may withhold certain details due to social stigma, especially concerning mental health, sexually transmitted diseases, or substance use history. Meanwhile, in the Netherlands, an individualistic culture emphasizing patient autonomy fosters open communication and a health system designed to respect privacy and patients' rights to control their medical data (Widiarti et al., 2024).

Health regulations and policies differ substantially between the two countries. The Netherlands' healthcare system is regulated by the Healthcare Insurance Act, requiring all citizens to have basic health insurance, with strict regulations on medical documentation and data privacy, such as the General Data Protection Regulation (GDPR). This results in high standardization in PMH management and data protection. Indonesia's National Health Insurance (JKN) system, launched in 2014, still faces challenges in standardizing medical documentation across healthcare levels. Efforts to implement a national health information system face technical, financial, and human resource barriers (Yuflikhati et al., 2025). Education and training quality also affects PMH documentation. Dutch medical and nursing curricula emphasize comprehensive clinical documentation from early training stages, including ongoing education and integration of EHR use in residency programs. Indonesia has improved its health education curriculum, but educational quality on medical documentation varies, and access to continuing education can be limited, especially in remote areas.

The burden of disease and epidemiological profiles further differentiate the countries' PMH complexities. Indonesia faces a double burden of infectious diseases like tuberculosis and malaria alongside rising non-communicable diseases such as diabetes and hypertension, requiring a PMH system accommodating diverse conditions. The Netherlands focuses more on chronic disease management and geriatric care, with a PMH system aligned to facilitate preventive care (Shihaf Ismi Salman Najib, 2024). Interoperability of health information systems remains crucial; the Netherlands' diverse EHR systems are designed for seamless PMH

information exchange, supporting clinical decision support. In Indonesia, fragmented systems and reliance on manual documentation pose challenges, though national Health Information Exchange efforts are underway. Medicolegal aspects reinforce documentation rigor in the Netherlands, where incomplete documentation could lead to legal consequences. Indonesia's enforcement and awareness of medicolegal implications are improving but remain areas for development (Sari, 2020).

This study aims to analyze the differences in PMH documentation and management between Indonesia and the Netherlands, exploring how health systems, technology, regulations, culture, education, and medicolegal awareness influence PMH practices. The goal is to identify strengths and weaknesses, offering recommendations to improve Indonesia's system based on Dutch best practices. This research provides valuable insights for policymakers and healthcare providers and supports knowledge exchange and collaboration towards enhancing medical documentation quality and healthcare safety internationally.

METHOD

This study used a qualitative approach with a literature study design to analyze the documentation and management of Past Medical History between Indonesia and the Netherlands. The qualitative method was chosen to understand the complex phenomena involving social, cultural, policy, and clinical practice aspects in both countries, allowing in-depth exploration of the context and meaning behind the phenomenon. This approach provided flexibility to explore nuances that quantitative methods could not capture and generated a holistic understanding of how health systems manage patient health history information.

Data collection involved a comprehensive literature search from credible academic and scientific sources, focusing on peer-reviewed journal articles published between 2021 and 2025 related to health information systems, medical documentation, electronic medical records, and clinical practice in Indonesia and the Netherlands. Major electronic databases such as PubMed, Scopus, Google Scholar, ScienceDirect, and ProQuest were used. The search strategy combined keywords like "past medical history," "electronic health records," "medical documentation," "healthcare system," "Indonesia," and "Netherlands," applying Boolean operators to refine results.

Inclusion criteria ensured the quality and relevance of sources by selecting English or Indonesian publications from reputable journals or official reports addressing medical documentation, health information systems, or clinical practice in the two countries. Exclusion criteria omitted opinion articles, predatory journals, or literature lacking substantive information. The selection followed a staged process of screening titles and abstracts, then full-text readings according to standard literature research protocols.

Data analysis used Thematic Analysis to identify and report patterns or themes emerging from the literature. This involved repeated readings to gain familiarity, systematic coding of relevant segments, and grouping codes into broader themes reflecting similarities and differences in PMH practices between Indonesia and the Netherlands, supported by evidence from the literature (Young et al., 2024). Source triangulation compared findings from various publication types to increase credibility.

Research validity and reliability were maintained through transparency in documenting each research stage, reflexivity to minimize bias, peer debriefing with health information

experts, and open acknowledgment of limitations such as reliance on available literature and possible publication bias. Despite these limitations, the systematic approach and methodological rigor aimed to provide a reliable understanding of PMH documentation practices comparison between the two countries.

RESULTS

Legal System and Basis for Regulation of Unlawful Acts

A comparison of the legal system between Indonesia and the Netherlands in the context of Unlawful Acts shows the similarity of historical roots but with different developments. Indonesia inherited the civil law system from the Netherlands through the Civil Code promulgated in Staatblad 1847 Number 23, where the concept of PMH is basically an engagement born for the sake of the law as a result of the actions of people who violate the law. The regulation of PMH in Indonesia is contained in Article 1365 of the Civil Code which focuses on violations of legal norms and morality, with the main emphasis on providing compensation to those who suffer losses. This system was initially understood narrowly as a mere violation of the law, but later evolved to include violations of the norms of propriety, decency, and lawfully protected interests, particularly influenced by the *Lindenbaum v. Cohen* which became an important jurisprudence (Diffany et al., 2024)..

On the other hand, the Netherlands has developed a broader and more flexible concept through Article 6:162 of the *Burgerlijk Wetboek* which not only regulates violations of written legal rights and obligations, but also includes unwritten social norms. The definition of PMH in the Netherlands has undergone a substantial expansion where what is violated is not limited to reasonable social rules according to unwritten law, but also obligations imposed by law, even the settlement of violations of obligations imposed by criminal law can be directed to the provision of compensation in accordance with the settlement of PMH. This more comprehensive Dutch approach reflects a legal system that has matured and is adaptive to the development of modern society.

Fundamental differences can also be seen from the classification and categorization of PMH in the two countries. Indonesia does not classify PMH into specific forms and tends to apply a general concept without considering the intention of the perpetrator as a determining factor for accountability. In contrast, the Dutch legal system has a much deeper and more detailed classification, with more detailed arrangements, especially in special contexts such as medical malpractice where there is a separate book in the Dutch Civil Code that explains the legal position of patients and healthcare providers. This clear classification provides a more accurate guide for judges in determining fair and proportionate compensation.

Elements and Development of PMH Concept

The elements of PMH regulated in Article 1365 of the Indonesian Civil Code include five fundamental elements that must be met. The first is the existence of an act, both of which are unlawful, the third is the fault of the perpetrator, the fourth is the loss experienced by the victim, and the fifth is the causality relationship between the act and the loss that arises. These five elements must be fulfilled cumulatively so that an act can be qualified as PMH that gives rise to the obligation to provide compensation. The development of this concept of civil law does not only occur in Indonesia, but also in the Netherlands through jurisprudence that

expands the meaning of unlawful acts not only violating the law, but also violating the morality and propriety that lives and applies in society.

The evolution of the concept of PMH in Indonesia shows interesting dynamics, especially in judicial practice. The Supreme Court of Indonesia in several of its rulings has recognized the possibility of accumulating lawsuits between PMH and defaulters in one lawsuit, as seen in Decision No. 886 K/Pdt/2007. This was previously considered a breakthrough given the traditional view that the accumulation of the two was not justified. The validation of this accumulation is based on the fact that the description of *posita* has been stated separately firmly and clearly, and is qualified as objective accumulation based on the principle of *doelmatigheid process* which is linked to the existence of connectivity in terms of legal relations and legal consequences. This development demonstrates the flexibility of the Indonesian legal system in responding to the need for more comprehensive legal protection.

Documentation and Evidentiary Aspects in PMH Disputes

The documentation aspect plays a crucial role in resolving PMH disputes, especially in the context of health services. A study of Dutch disciplinary law in cases of aortic aneurysms and aortic dissection shows that adequate documentation is an important factor that judges pay particular attention to in determining whether or not there is negligence. Of the 48 cases analyzed, 40 percent were found guilty with sanctions in the form of reprimands and warnings as the most frequent forms of punishment. The importance of documentation is evident where the inability to recognize an aneurysm or dissection may or may not give rise to disciplinary liability depending on the specific circumstances of the case, and adequate documentation is the main determinant (Cevitra & Djajaputra, 2023). This underlines that in the Dutch legal system, a high standard of medical documentation is not only good clinical practice, but also a legal protection for healthcare workers.

Effective communication between healthcare providers and patients is also an important element in the prevention of FMD disputes. In many of the complaints analyzed, an inadequate communication element was found as a factor contributing to patient dissatisfaction. Patient engagement, clear communication, and implementation of changes after mistakes can improve patient satisfaction, prevent complaints, and avoid time-consuming litigation. Maintaining adequate documentation and having knowledge of the court's analytical framework is very beneficial when dealing with complaints. This aspect of communication is an important lesson for the Indonesian health system in an effort to improve the quality of services and reduce the potential for legal disputes.

Contemporary Challenges: PMH in the Digital Age and AI Technology

The development of digital technology and artificial intelligence brings a new dimension to the concept of PMH which requires adaptation of existing regulations and legal frameworks. Problems arise when AI technology is used inappropriately and causes harm to individuals, such as in the case of content dissemination *Deepfake* that damage someone's reputation. Abusive use of AI in content creation and dissemination *Deepfake* It is a violation of the principles of civil law and carries legal consequences that require the perpetrator to provide compensation for the losses caused. However, problems arise when dealing with AI's unclear legal status as a legal subject, despite its significant role in interpreting human will and

generating the output that users want (Clay, 2024). This legal dilemma raises fundamental questions about who should be responsible for the losses suffered by the victim.

In the context of the European Union and other developed countries, AI regulation is increasingly leading to risk-based regulation. However, risk regulation alone is never optimal and must be complemented by liability laws because when losses occur, the harmed individual must be compensated from a corrective justice perspective. Risk regulation may still not create the optimal incentive for all parties to take adequate precautions. This shows the importance of developing regulations that regulate the use of AI technology to ensure more effective legal protection for victims of AI abuse in the digital realm. Indonesia needs to anticipate this development by developing a comprehensive regulatory framework regarding the accountability of PMH in the context of digital technology and AI.

Practical Implications and Recommendations for Legal Harmonization

The comparison of the PMH system between Indonesia and the Netherlands provides valuable lessons for the improvement of the Indonesian legal system. The Netherlands with a broader and more flexible approach to dealing with violations, detailed classification, and an emphasis on adequate documentation can be a reference for Indonesia in carrying out legal reforms. Adoption of PMH classification and consideration of the intention of the perpetrator as in the system *Law of Torts* can facilitate the settlement of PMH cases in Indonesia and increase fairness in the determination of compensation (Warmerdam et al., 2024). A clear classification provides legal certainty and guidance for judges in deciding cases more accurately and fairly.

The harmonization of traditional legal concepts with the development of jurisprudence is necessary to ensure fair legal certainty. Indonesia needs to make regulatory adjustments to accommodate the times, including in a global context where international standards are increasingly influencing national legal practices. Legal protection based on commutative and distributive justice, especially to parties who show good faith, must be the main principle in the development of the PMH legal system in Indonesia. Thus, Indonesia's legal system can provide more effective protection while encouraging responsible behavior in society.

Medicolegal Aspects in Health Practice

A comparison of the medicolegal aspects between Indonesia and the Netherlands in the context of health services shows significant differences in terms of professional standards of practice and accountability. The Netherlands has a highly structured disciplinary legal system with government databases that are open to the public and include all disciplinary decisions since 2010, reflecting the high level of transparency and accountability in their healthcare system. The system allows for continuous learning from mistakes that occur and provides guidance for healthcare practitioners on the expected standards of care. In context *medical malpractice*, the Netherlands has a much more detailed arrangement than Indonesia, with Book 7 of the Dutch Civil Code having its own chapter explaining the legal position of patients and medical providers (Stefani et al., 2025). This regulatory clarity provides legal certainty for both parties and facilitates more efficient dispute resolution.

Indonesia still faces challenges in standardizing medicolegal practices, where awareness of the legal implications of poor documentation still needs to be increased among

health professionals. Although regulations on medical records are in place, law enforcement and awareness of the medical aspects are still uneven across healthcare facilities. However, with the increasing number of medical dispute cases and lawsuits against healthcare workers, awareness of the importance of good documentation is beginning to increase. This difference reflects the need to strengthen the education and training system of health workers in Indonesia that not only focuses on clinical competence, but also an understanding of legal aspects and adequate documentation as an integral part of responsible professional practice.

The Role of Communication and Patient Safety in Dispute Prevention

Effective communication between health workers and patients is a crucial factor in preventing FMD disputes in the health sector. An analysis of cases in the Netherlands shows that in many complaints, an inadequate communication element was identified as a significant contributing factor to patient dissatisfaction and lawsuit filing. Patient involvement in the clinical decision-making process, transparent communication about risks and treatment alternatives, and clear explanations when complications or unexpected outcomes occur can dramatically improve patient satisfaction and reduce the likelihood of formal complaints. Approach *patient-centered care* An emphasis on two-way communication and respect for patient autonomy has proven effective in preventing time-consuming and costly trials (Nugraha et al., 2025).

The patient *safety* aspect also cannot be separated from the discussion about PMH in health services. Accurate and comprehensive documentation of PMH plays a vital role in the prevention of medical errors, especially related to drug interactions, allergies, and medical conditions that can influence therapeutic decisions. Clinical decision support systems integrated with electronic medical records can provide automatic alerts of potential risks based on the patient's medical history, reducing the likelihood of errors that could lead to losses. The implementation of systemic change after an error occurs, including root cause analysis and procedure improvement, demonstrates the health institution's commitment to continuous learning and service quality improvement, which in turn can improve public trust and reduce litigation.

Citizen Lawsuit and Public Accountability Mechanism

Concept *Citizen Lawsuit* as a government accountability mechanism in the context of PMH shows the difference in implementation between Indonesia and other countries such as the United States. Analysis of Decision Number 118/PDT. G/LH/2016/PN. The PLK related to the forest fires in Central Kalimantan in 2015 provides an overview of the practice *Citizen Lawsuit* in Indonesia which is different from the original concept in the United States. In the Indonesian context, citizens' lawsuits cannot contain demands for the payment of damages, either to the government or to the perpetrators of arson, limiting the defendant to the government only, and cannot be filed against private parties or individuals. This restriction reduces the effectiveness of the mechanism *Citizen Lawsuit* as an instrument of legal protection and corrective justice (Clay, 2024).

The verdict in the forest fire case identified ten forms of government acts declared as PMH, which are distinguished into acts before the fire (*ex ante*) and acts after the fire (*ex post*). The legal implication of this ruling is that the government loses the right to sue in the case, so

the choice to use the *citizen lawsuit mechanism* is considered inappropriate in achieving the goal of providing compensation to victims. This shows the need to evaluate and reform the concept of *citizen lawsuit* in Indonesia so that it can become a more effective instrument in ensuring public accountability and protection of the interests of the wider community. Lessons learned from international practices, including from the Netherlands, which has a strong public accountability system, can provide inspiration for the refinement of this mechanism in Indonesia.

Harmonization of Law in the Context of Globalization

The era of globalization demands the harmonization of PMH legal concepts to facilitate international cooperation and cross-border dispute resolution. A comparison between Indonesia and the Netherlands shows that although the two countries have similar legal system roots, developments and adaptations to contemporary needs differ significantly. The Netherlands has developed a legal system that is more adaptive and responsive to social, economic, and technological changes, while Indonesia is still in the process of transformation to achieve the same level of sophistication and detail. This harmonization does not mean the outright adoption of other countries' legal systems, but rather adaptations that take into account Indonesia's social, cultural, and economic context while still referring to international standards and *best practices* that have proven to be effective.

In the context of international trade and the protection of intellectual property rights, the harmonization of the concept of PMH is becoming increasingly important. Both countries prioritize the principle *first to file* in accordance with the TRIPS Agreement in the case of trademark disputes, but there are still differences in implementation and interpretation. Indonesia through Law Number 20 of 2016 has recognized the concept of well-known brands, but it needs further adjustments to be able to operate effectively on a global scale. Regulations that do not yet explicitly regulate brand dilution, although elements such as *blurring* and *tarnishment* can be found in the regulations of each country, demonstrating the need for further harmonization to provide better legal certainty (Analysis et al., 2024). It is important not only for the protection of domestic rights, but also for attracting foreign investment and facilitating international trade.

Strategic Recommendations for Improving Indonesia's PMH System

Based on the comparative analysis that has been carried out, several strategic recommendations can be formulated to improve the PMH system in Indonesia. First, Indonesia needs to develop a more detailed and specific classification of PMH, taking into account various contexts such as health, digital technology, the environment, and trade. This classification will provide clearer guidance for judges in determining fair accountability and compensation. Second, consideration of the perpetrator's intentions must be integrated in the assessment of the PMH to reflect the level of error and determine proportionate sanctions, as is the practice in the *Law of Torts system*. Third, strengthening regulations on documentation, especially in the health sector, needs to be carried out with clear standards and effective enforcement mechanisms.

Fourth, the development of a special regulatory framework for PMH in the context of digital technology and artificial intelligence is an urgent priority given the rapid development

of technology and the potential losses that can be caused. This regulation should clarify the accountability of various parties in the AI technology chain and provide adequate protection for victims. Fifth, capacity building and awareness of professionals, especially health workers, on the medicolegal aspects and the importance of adequate documentation needs to be carried out through continuous education and training programs. Sixth, evaluation and reform of *the citizen lawsuit* mechanism is needed in order to become a more effective public accountability instrument. Finally, harmonization with international standards while maintaining local values should be a guiding principle in any legal reform, with active learning from *the best practices* of developed countries such as the Netherlands that can be adapted to the Indonesian context.

Philosophical Differences and Justice Approaches

The fundamental difference between the Indonesian and Dutch PMH systems lies not only in the technical aspects of regulation, but also in the underlying philosophy of justice. The Indonesian legal system is still very focused on providing compensation to those who suffer losses as a form of corrective justice, without too much emphasis on the prevention and deterrence aspects of perpetrators. This approach is different from the system developed in common law countries such as the United Kingdom, where *the Law of Torts* aims not only to provide compensation but also to prevent future violations and provide a deterrent effect to potential perpetrators. These philosophical differences affect how the legal system is designed and implemented, including in terms of determining the amount of compensation and the type of sanctions imposed.

The concept of justice applied in the settlement of PMH cases in Indonesia also reflects the values of commutative and distributive justice, especially in providing protection to parties who show good faith. This can be seen in the acceptance of the accumulation of PMH lawsuits with defaults, where the court recognizes that the contractual legal relationship is not an obstacle for the plaintiff to file a PMH lawsuit, and the principle of good faith in a contractual relationship is not only applied at the time of contract execution but can also reach the abuse of circumstances both in pre-contract, contract execution, and post-contract conditions (Abdurrahman, 2024). This holistic approach demonstrates the efforts of the Indonesian legal system to provide comprehensive protection, although it still requires further development in terms of classification and standardization.

Implementation Challenges and Institutional Capacity

The effective implementation of the PMH concept depends not only on the quality of regulations, but also on the institutional capacity to enforce those rules. The Netherlands has significant advantages in terms of legal and institutional infrastructure, with an efficient judicial system, a transparent and accessible database of verdicts, and a strict professional supervision mechanism. The government's database system, which is open to the public and includes all disciplinary decisions, reflects a commitment to transparency and continuous learning from the cases that occur. Indonesia still faces challenges in terms of accessibility of legal information, consistency of court decisions between regions, and the effectiveness of professional supervision mechanisms in various sectors.

Human resource capacity is also a critical factor in the implementation of an effective PMH system. Judges, prosecutors, advocates, and other professionals need a deep

understanding not only of the technical aspects of PMH law, but also of the context of its application in areas such as health, technology, the environment, and commerce. The Netherlands has developed a system of legal education and professional training that integrates learning about recent developments in PMH law, including landmark cases and jurisprudence that shape contemporary interpretations. Indonesia needs to strengthen its legal education and ongoing training system to ensure that legal practitioners have adequate competencies to handle the complexities of modern HRM cases, including those involving advanced technology and transnational issues.

Transnational and Jurisdictional Dimensions

The era of globalization brings a transnational dimension to the cases of PMH which requires clarity on the jurisdiction and applicable law. When an unlawful act involves parties from different countries, or when losses occur in one country as a result of acts committed in another, the question of which courts has jurisdiction and which laws of which countries should be applied become very complex. The Netherlands, as part of the European Union, has the advantage of regional legal harmonization and well-established mechanisms of judicial cooperation, including the recognition and enforcement of court judgments between member states. Indonesia needs to strengthen bilateral and multilateral cooperation in the legal field to facilitate the settlement of cases of PMH that have foreign elements.

In the context of digital technology and AI, the transnational dimension is becoming increasingly relevant given the nature of the internet that knows no geographical boundaries. Content uploaded in one country can be accessed and cause harm in another, creating complex questions about jurisdiction and applicable law. The European Union has developed a comprehensive regulatory framework such as *the General Data Protection Regulation (GDPR)* and *the AI Act* that apply not only to entities operating within the EU but also to entities outside the EU that offer goods or services to individuals in the European Union. Indonesia needs to develop a similar regulatory framework to protect its citizens from harm posed by digital and AI activities, while also considering extraterritorial jurisdictional aspects that may be necessary for effective law enforcement.

The Role of Insurance and Alternative Compensation Mechanisms

The professional liability insurance system plays an important role in the management of PMH risks, particularly in the health sector and other high-risk professions. The Netherlands has a mature professional liability insurance system that is integrated with the legal system, ensuring that victims can obtain compensation even when the perpetrator does not have the financial ability to pay compensation directly. This insurance system not only provides financial protection, but also encourages more prudent and professional practices as insurance premiums can be adjusted based on the claim record and risk level. Indonesia is still developing a comprehensive professional liability insurance system, with limited penetration, especially outside the health sector and large corporations.

Alternative dispute resolution mechanisms are also an important component in an efficient PMH management system. Mediation, arbitration, and other alternative forms of dispute resolution can provide a faster, less expensive, and more flexible solution compared to formal litigation in court. The Netherlands has developed a robust alternative dispute resolution

system with clear regulatory support and trained practitioners. In the context of medical disputes, for example, there is a complaint and settlement mechanism through a professional disciplinary body that can provide a resolution without having to go through a civil court. Indonesia needs to strengthen alternative dispute resolution mechanisms by developing a clearer regulatory framework, increasing the capacity of mediators and arbitrators, and building public confidence in the effectiveness of these mechanisms as a legitimate and fair alternative to PMH dispute resolution.

Adaptation to Social and Technological Developments

The ability of the legal system to adapt to social and technological developments is an important indicator of its effectiveness and relevance. The Netherlands has demonstrated high adaptability through progressive jurisprudential interpretation and regulatory updates that are responsive to new developments. The expansion of the concept of PMH to include not only violations of written law but also unwritten social norms demonstrates the flexibility of the legal system in responding to the evolution of social values and standards. In the context of technology, the European Union including the Netherlands has been proactively developing regulations to address the challenges posed by AI, digital platforms, and other technologies before mass losses occur.

Indonesia faces greater challenges in terms of adaptation given the high pace of social and technological change, while the process of legislation and regulatory reform often takes a long time. Jurisprudence plays an important role in filling regulatory gaps and providing relevant interpretations of new situations, but the consistency and quality of court decisions still vary. A more proactive approach is needed in anticipation of technological developments and social change, including through in-depth academic studies, consultations with experts and stakeholders, and learning from the experiences of other countries such as the Netherlands that have successfully developed adaptive regulatory frameworks. Investment in legal research and analytical capacity building among policymakers, judges, and legal practitioners is key to ensuring that the Indonesian PMH legal system remains relevant and effective in the face of the dynamics of ongoing change.

CONCLUSION

A comparison of the Unlawful Acts system between Indonesia and the Netherlands highlights shared historical roots but divergent evolutions. The Netherlands has developed a more comprehensive and flexible legal framework under Article 6:162 of the *Burgerlijk Wetboek*, featuring detailed classifications and stricter medical documentation standards, stronger focus on communication and patient safety, and a mature legal infrastructure with transparent and accessible judgment databases. Indonesia, meanwhile, applies the more general Article 1365 of its Civil Code with limited classification and faces challenges in standardizing medical documentation, uneven medicolegal awareness, incomplete electronic medical record implementation, and less effective citizen lawsuit mechanisms. The rise of digitalization and artificial intelligence introduces new legal complexities requiring regulatory adaptation in both countries, especially regarding liability for technology-related losses. There is an urgent need for legal harmonization to support international cooperation and cross-border dispute resolution, and Indonesia could benefit from adopting adaptable best practices from the Dutch

system to enhance legal certainty and justice. Future research should explore practical frameworks for integrating digital and AI-related legal challenges within the Unlawful Acts systems of both countries, emphasizing cross-border legal collaboration and technology-driven dispute resolution.

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