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The Theory of Legal Objectives and E-Government in Health Services: The SehatPedia Telemedicine Application and Good Governance

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Abstract

Telemedicine applications promise to bring government health services closer to citizens, but whether they deliver good governance depends on the legal framework that governs them. This article asks how Gustav Radbruch's three values of law, justice, utility and legal certainty, assess SehatPedia, a Ministry of Health application for online consultation with doctors, as e-government in health services and as a means of good governance. It is normative legal research using statute and conceptual approaches, applied to Law No 17 of 2023 on Health, Government Regulation No 28 of 2024, Ministry of Health Regulation No 20 of 2019, the Personal Data Protection Law and the regulation on the electronic-based government system, with facts about the application drawn from public sources and user reviews. The analysis finds that e-government can widen access, transparency and efficiency, but that the application, as its users report it, falls short on each value: reported malfunctions and unanswered consultations weaken utility, dependence on a smartphone and connectivity risks excluding remote and vulnerable users, and the framework leaves certainty about provider qualifications, responsibility for remote diagnosis and patient data incomplete. The manuscript's earlier legal basis, repealed in 2023, is corrected. SehatPedia can support good governance only with verifiable licence information, response-time standards, a data-protection impact assessment, an accessibility audit and a named supervisory authority.

Keywords

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E-government; Telemedicine; Radbruch; Certainty; Utility; Governance

Introduction

Citizens expect good public service, yet much of it remains slow, costly and convoluted, and this keeps public demand for reform alive. A good system works to standards and mechanisms set by legal rules so that deviations can be seen and known, and quality public service is a mark of good governance.[1] Information and communication technology has given rise to e-government, which improves the relationship between government and citizens in forms such as government-to-citizen (G2C), government-to-business (G2B) and government-to-government (G2G); this study is limited to G2C. Electronic management is expected to make government more effective, efficient, transparent and accountable, and e-government uses web-based applications and digital devices to disseminate information from government to people, business partners, employees and other institutions in order to give the public affordable service.[2][3] In health care, facilities offer promotive, preventive, curative and rehabilitative services, and people often struggle to claim face-to-face services because of queues and registration times.[4]

Telemedicine is one product of this development: a remote health service between a doctor or health worker and a patient, using audio-visual communication to transmit medical information. Like conventional practice it must follow regulation to protect the integrity, security and confidentiality of health information, service quality and the health of consumers against unethical and illegal practice.[5][6] SehatPedia is the application examined here. It was introduced by the Ministry of Health in 2019 as an application offering, among its main features, remote consultation with doctors,[7] so it is a government application and not a private online clinic; the manuscript's description of medicines that can be bought and delivered through it is treated below as a separate pharmacy service whose operator must be identified. In the application patients consult doctors online, and doctors may

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[1] Neneng Siti Maryam, "Mewujudkan Good Governance Melalui Pelayanan Publik" (2016) VI:1 *Jurnal Ilmu Politik dan Komunikasi* 1.

[2] Jumadi Simangunsong, "Pengembangan E-Government di Indonesia" (2010).

[3] Herri Setiawan & Puwo Santoso, "Model Optimalisasi Peluang Pemanfaatan Media Jejaring Sosial dalam Implementasi E-Governance di Indonesia" (2013) 2013:semnasIF *Jurnal Informatika UPN "Veteran" Yogyakarta* 147.

[4] Romaden Marbun, Rea Ariyanti & Vincensia Dea, "Peningkatan Pengetahun Masyarakat Terkait Pentingnya Rekam Medis bagi Pasien di Fasilitas Pelayanan Kesehatan" (2021) 5:1 *SELAPARANG Jurnal Pengabdian Masyarakat Berkemajuan* 163, DOI: <10.31764/jpmb.v5i1.6427>.

[5] Eman Sulaiman, Trini Handayani & Aji Mulyana, "Juridical Study of Telemedicine Consulting Services in Indonesia" (2022) 7:2 *Soepra* 275, DOI: <10.24167/shk.v7i2.4035>.

[6] Insan Rekso Adiwibowo, Rokhana Diyah Rusdiati & Danu Tirta Nadi, "Pemetaan Ekosistem Teknologi Digital untuk Membantu Penanganan COVID-19" (2021) 6:3 *Journal of Information Systems for Public Health* 10.

[7] "SehatPedia Besutan Kemenkes Sediakan Diagnosis Jarak Jauh", *Bisnis.com* (19 March 2019), online: <https://teknologi.bisnis.com/read/20190319/266/901424/sehatpedia-besutan-kemenkes-sediakan-diagnosis-jarak-jauh>.

diagnose without seeing the patient. The authors recorded more than 10,000 users and user reviews on the Google Play listing; the date of access was not recorded, so these figures are treated as indicative of user experience and not as measures of use. The principal risk is the absence of face-to-face contact.

Earlier Indonesian studies of this field have concentrated on the legal status of telemedicine and on e-government as a service model. Sulaiman, Handayani and Mulyana, in a normative study, find that there were no clear and firm rules on telemedicine, for example on the legality of practice licences and of the place of practice, medical records, accuracy of data, consent and the confidentiality and security of patient data, and call on the Ministry of Health to regulate them;[8] Maulani concludes from a literature study that the Surabaya E-Health programme improved the quality of public service, measured by the E-GovQual instrument;[9] and Atthahara examines a regional government application in Purwakarta as an innovation in e-government service.[10] These studies either describe the rules without testing a particular application against a normative yardstick, or evaluate e-government services without asking whether the law supports them. Since 2023 the legal basis has also changed, because Law No 17 of 2023 on Health replaced the earlier health and medical practice statutes.[11] This article fills the gap by testing one national application, SehatPedia, against the three values of Radbruch's theory of legal objectives, on the law now in force. It asks: (1) how does Radbruch's theory of justice, utility and legal certainty assess e-government in health services through SehatPedia; and (2) does the application, on that assessment, serve good governance? Its purpose is to identify the regulatory and operational conditions under which the application can do so.

Research Method

This is normative (doctrinal) legal research,[12] centred on the analysis of norms: principles, rules, legislation and doctrine. It uses a statute approach and a conceptual approach. The legal materials are Law No 17 of 2023 on Health and Government Regulation No 28 of 2024 implementing it; Ministry of Health Regulation No 20 of 2019 on telemedicine between health service facilities; Law No

[8] Sulaiman, Handayani & Mulyana, *supra* note 5.

[9] Wihda Maulani, "Penerapan Electronic Government dalam Peningkatan Kualitas Pelayanan Publik (Studi Kasus Program E-Health di Kota Surabaya)" (2020) 5:2 *AS-SIYASAH: Jurnal Ilmu Sosial dan Ilmu Politik* 44.

[10] Haura Atthahara, "Inovasi Pelayanan Publik Berbasis E-Government: Studi Kasus Aplikasi Ogan Lopian Dinas Komunikasi dan Informatika di Kabupaten Purwakarta" (2018) 3:1 *Jurnal Politikom Indonesiana* 66.

[11] Law No 17 of 2023 on Health (Indonesia).

[12] Ani Purwati, *Metode Penelitian Hukum* (Jakad Media Publishing, 2009).

27 of 2022 on Personal Data Protection; Presidential Regulation No 95 of 2018 on the electronic-based government system (SPBE); Law No 30 of 2014 on Government Administration; Law No 25 of 2009 on Public Service; and Law No 11 of 2008 on Electronic Information and Transactions as amended most recently by Law No 1 of 2024. Law No 36 of 2009 on Health and Law No 29 of 2004 on Medical Practice, on which the original manuscript relied, were repealed by Law No 17 of 2023 and are used only to explain what changed. The conceptual yardstick is Radbruch's account of the values of law. Facts about the application come from the Ministry's public description and press coverage of it and from user reviews recorded by the authors on the Google Play listing, which are used as illustrations of reported problems because the sampling and the date of collection were not recorded. No usage data, provider records or terms of use were examined, and no interviews were held. The materials were collected by library and online research and analysed qualitatively by interpretation of the norms against each of the three values.

Results and Discussion

Good Governance and Health Services

Indonesia adheres to the concept of good governance. Law No 30 of 2014 on Government Administration is a legal basis for improving the quality of government administration, and Law No 25 of 2009 on Public Service sets standards for the services the government provides.[1314] The United Nations Development Programme lists eight characteristics of good governance: participation, rule of law, transparency, responsiveness, consensus orientation, equity, effectiveness and efficiency, and strategic vision, which can be implemented in stages according to administrative capacity, civil society and market mechanisms.[15] In health care, good governance means sound and accountable management of services through transparency (clear information on policy, cost and quality), accountability (monitoring, reporting and complaint mechanisms), participation (community committees and advocacy), effectiveness (services based on science and best practice) and the rule of law (a clear legal framework, consistent enforcement and legal protection of patients and providers). Because governance is essentially interaction, government communication should be interactive, and social media

[13] Law No 30 of 2014 on Government Administration (Indonesia).
[14] Law No 25 of 2009 on Public Service (Indonesia).
[15] Sedarmayanti, *Membangun Sistem Manajemen Kinerja guna Meningkatkan Produktivitas Menuju Good Governance* (inaugural professorial address, 2004).

and applications offer that opportunity.[16] E-government is the use of information and communication technology in public service, and in health it can improve transparency, accountability, participation, efficiency and accessibility. Its limits are also known: in developing countries the awareness of civil servants to give the best service is still weak, and technology cannot replace it.[17]

E-Government, Electronic Information and Personal Data Law

Three instruments must be distinguished. E-government as such is regulated by Presidential Regulation No 95 of 2018 on the Electronic-Based Government System (SPBE), which governs how government agencies provide electronic services, integrate their systems and manage them.[18] The Electronic Information and Transactions (ITE) Law, as amended most recently by Law No 1 of 2024, does not regulate e-government but supplies the general rules that an application relies on: the recognition of electronic documents and signatures as legally valid and as evidence, security of electronic systems and obligations of system operators.[19] Personal data, which the manuscript identified as a central certainty issue but did not analyse under the statute meant for it, are governed by Law No 27 of 2022 on Personal Data Protection. Health data and information are specific personal data that attract stricter protection, and a controller that processes them on a large scale must assess the impact on data protection. The statute's two-year transition ended in October 2024, so it is now fully applicable.[20] SehatPedia, a mobile application giving access to health information and doctors, is therefore subject to the SPBE rules as a government system, to the ITE Law as an electronic system, and to the Personal Data Protection Law as a processor of health data. To be consistent with good governance it must meet strict data security and privacy standards and widen access for people with limited technology, in collaboration with health providers and other stakeholders.

The Telemedicine Framework Now in Force

The original analysis measured SehatPedia against Article 7 of Law No 36 of 2009 on Health, which provides for the right to balanced and responsible health information and education, and against Articles 36 and 37 of Law No 29 of 2004 on Medical Practice, which require a doctor to hold a practice licence limited to a

[16] Setiawan & Santoso, *supra* note 3.
[17] Maryam, *supra* note 1.
[18] Presidential Regulation No 95 of 2018 on the Electronic-Based Government System (Indonesia).
[19] Law No 1 of 2024 on the Second Amendment to Law No 11 of 2008 on Electronic Information and Transactions (Indonesia).
[20] Law No 27 of 2022 on Personal Data Protection (Indonesia), arts 4(2), 34.

certain number of places.[2122] That legal basis is no longer valid: Law No 17 of 2023 on Health repealed both statutes, so the standard of legal certainty must be drawn from the new Law and its regulations.[23] The Health Law defines telemedicine as the provision and support of clinical services through telecommunications and digital communication technology and requires such services to be safe, of good quality and effective; it also provides for the use of information technology through telehealth and telemedicine integrated with the national health information system.[24] Government Regulation No 28 of 2024 elaborates the services (including remote consultation and remote pharmacy services), the facilities that may provide them, and requirements on infrastructure and the competence of health workers.[25] Ministry of Health Regulation No 20 of 2019 remains the ministerial regulation most often cited for telemedicine, but by its title it governs the provision of telemedicine between health service facilities, so it does not directly regulate a consultation between an individual patient and a doctor through a consumer application. Its status after Law No 17 of 2023 and Government Regulation No 28 of 2024 has not been settled in the sources available to this study, and has to be confirmed by the Ministry.[2627] Table 1 shows what each instrument contributes.

Table 1. Legal framework applicable to SehatPedia

Instrument	Status	Relevance to SehatPedia
Law No 36 of 2009; Law No 29 of 2004	Repealed by Law No 17 of 2023	No longer a standard; the original analysis was based on them
Law No 17 of 2023 on Health	In force	Defines telemedicine; safety and quality duties; licensing of health workers; health information
Government Regulation No 28 of 2024	In force	Types of telemedicine service; eligible facilities; infrastructure and competence
Minister of Health Regulation No 20 of 2019	Status to be confirmed	Telemedicine between health service facilities; not a direct-to-patient application
Law No 27 of 2022	Fully applicable since October 2024	Health data as specific personal data; impact assessment
Presidential Regulation No 95 of 2018	In force	Electronic-based government system; applies to a government application

Source: compiled by the authors from the legislation cited.

Radbruch's Theory of Legal Objectives

Radbruch identified three values that law serves: justice, purposiveness or utility (Zweckmäßigkeit) and legal certainty. Justice means treating equals equally and giving each person what is due; utility asks whether the law and its institutions in

[21] Law No 36 of 2009 on Health (Indonesia) (repealed).
[22] Law No 29 of 2004 on Medical Practice (Indonesia) (repealed).
[23] Law No 17 of 2023, *supra* note 11.
[24] *Ibid*.
[25] Government Regulation No 28 of 2024 on the Implementing Regulations of Law No 17 of 2023 on Health (Indonesia), art 561.
[26] Minister of Health Regulation No 20 of 2019 on the Provision of Telemedicine Services between Health Service Facilities (Indonesia).
[27] Government Regulation No 28 of 2024, *supra* note 25.

fact serve the common good; and legal certainty requires that law be positive, clear and stable, so that people know what the law demands. The values can conflict. In his post-war statement Radbruch held that, in a conflict between justice and the certainty of positive law, certainty and the authority of enacted law ordinarily prevail, even where a statute is unjust or not useful, unless the injustice reaches an intolerable degree.[2829] No such extreme conflict arises with a health application, so in this article the three values are used as criteria of assessment and not as a ranking: the question is whether each is met, and where one is weak, whether the weakness can be cured without sacrificing another.

A legal problem is evident in the model of service. Many online medical applications diagnose only generally and indirectly, so that patients follow advice without physical examination. A patient who consults about a headache may receive a diagnosis and a medicine recommendation although the headache is not ordinary and needs direct treatment, and an error in handling the patient follows. Telemedicine is lawful only if it is safe and effective, which implies that a doctor must recognise the limits of remote consultation and refer the patient for direct examination.[30] The three values are applied to SehatPedia in turn.

Justice. SehatPedia should treat all users fairly and without discrimination, with regard to individual needs. Access that is limited to those who can pay, who own a capable smartphone or who have a good connection creates inequality, and an application that does not consider the special needs of vulnerable groups or remote areas could worsen unequal access. Waiting times in consultations should also be managed so that access is not unfairly distributed among users. On the available evidence, which consists of user reviews and the design of the service and not of usage data, the application does not show that it has addressed these needs: it relies on a digital device and connection and, so far as the sources show, offers no alternative channel for people without them. Radbruch's value of justice therefore requires equal and non-discriminatory access, and for a government application it requires an accessible alternative.

Utility. Utility asks whether the application in fact serves its purpose of giving people timely and appropriate health advice. Users complain on Google Play that many features do not work, that doctors respond late or not at all and that the application is heavy and difficult to run. If these reports are accurate, the application

[28] Gustav Radbruch (translated by Bonnie Litschewski Paulson & Stanley L Paulson), "Statutory Lawlessness and Supra-Statutory Law (1946)" (2006) 26:1 *Oxford Journal of Legal Studies* 1.
[29] Gustav Radbruch, "Five Minutes of Legal Philosophy (1945)" (2006) 26:1 *Oxford Journal of Legal Studies* 13.
[30] Law No 17 of 2023, *supra* note 11.

is of little use, whatever its design. A service that may also not take account of the patient's specific medical condition, or give appropriate treatment recommendations, could harm health. The weakness lies in operation and not in the statute, and it is measured by response times, failure rates and resolution of complaints, which the application should publish. Since the user reviews were not systematically sampled, they show what is reported and not how often it happens.

Legal certainty. Positive law must apply with certainty, so that users know who is treating them, on what authority and with what protection. Four uncertainties appear. First, the application may not give adequate certainty on the qualifications and licences of the health providers listed in it, which raises doubt about their competence and credibility and damages patients' trust; under the Health Law health workers who practise must be licensed, and the application should display and verify licence status.[31] Second, the legal status of the ministerial regulation on telemedicine, which concerns services between facilities, leaves a gap for direct-to-patient consultations that Government Regulation No 28 of 2024 only partly fills.[32][33] Third, responsibility for an error in remote diagnosis is not stated in the application's materials examined here and depends on the general law of medical liability. Fourth, patient data are specific personal data, and the application's obligations as a controller, including an impact assessment, breach notification and the rights of the data subject, have to be made visible to users.[34]

Table 2 summarises the assessment and the standard that would remedy each weakness. The conclusion on each value is cautious because the evidence is documentary.

Table 2. Assessment of SehatPedia against Radbruch's three values

Value	Finding	Remedy
Justice	Digital divide; no alternative channel evident; waiting times not managed	Accessibility audit; telephone or facility-based alternative; targets for waiting time
Utility	Reported malfunctions, late or missing replies and heavy application	Response-time targets; published failure and complaint statistics
Certainty	Provider licences unclear; direct-to-patient rules incomplete; liability and data duties not visible	Licence verification displayed in the app; confirmation of regulatory status; data-protection impact assessment

Source: authors' analysis.

Comparison with Earlier Research

[31] *Ibid*.
[32] Minister of Health Regulation No 20 of 2019, *supra* note 26.
[33] Government Regulation No 28 of 2024, *supra* note 25.
[34] Law No 27 of 2022, *supra* note 20.

The findings agree with Sulaiman, Handayani and Mulyana that the legal framework for telemedicine leaves uncertain the legality of practice licences, the accuracy and confidentiality of data and the responsibility of doctors;[35] they show that the gap remains after Law No 17 of 2023, in particular for direct-to-patient applications. They differ from Maulani's conclusion that an e-health programme improved the quality of public service:[36] that study assessed a municipal programme by service-quality indicators, while the reviews examined here indicate that an application can fall short on utility even where access is formally widened. They add to studies of government applications such as Atthahara's by supplying an explicit normative yardstick, and they correct the manuscript's own legal basis.[37]

Conclusion

Assessed against Radbruch's three values, SehatPedia as e-government in health services does not yet meet the requirements of good governance, although it has the potential to do so. On justice, access is fair in principle but risks a digital divide for poorer, remote and vulnerable users. On utility, reported malfunctions and late or missing replies show that the application's benefit is not assured. On certainty, the qualifications of providers, the regulatory status of direct-to-patient telemedicine, the responsibility for remote diagnosis and the protection of patient data are not made clear. The earlier reliance on Law No 36 of 2009 and Law No 29 of 2004 was mistaken because Law No 17 of 2023 repealed them. Four testable measures follow. The Ministry of Health should display and verify the licence of each provider in the application; set and publish response-time targets for consultations; require a data-protection impact assessment under Law No 27 of 2022 and publish the result in summary; and carry out an accessibility audit and provide a non-digital alternative for users without suitable devices. A named authority, which could be the unit of the Ministry responsible for digital health, should oversee compliance, and the status of Ministry of Health Regulation No 20 of 2019 should be settled in a new regulation on direct-to-patient telemedicine. The study is limited: it is normative, it did not examine usage data, provider records or the application's terms of use, and the user reviews were not systematically sampled. Further research should test the findings with usage data, interviews with users and providers, and a review of the terms of use.

[35] Sulaiman, Handayani & Mulyana, *supra* note 5.
[36] Maulani, *supra* note 9.
[37] Atthahara, *supra* note 10.

Ethics and Data Availability

This normative legal research is based on legislation, published literature and publicly available descriptions and reviews of an application. It did not involve human participants or personal data, so ethical approval was not required. All materials used are publicly available in the sources cited.

Use of Generative AI

Generative AI was used only to improve the language of this article (grammar, clarity and style). The authors reviewed the output and are responsible for the content of the article.

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