

Legal Protection for the Fulfillment of Women's Reproductive Rights in the Indonesian Health Legal System

Dino Gagah Prihadianto

Faculty of Law, Universitas Islam Sultan Agung, Semarang, Indonesia, E-mail:
dinogagahprihadianto.std@unissula.ac.id

Abstract. *This research discusses legal protection regarding the fulfillment of women's reproductive rights within the framework of the prevailing health law system in Indonesia. Reproductive rights constitute an integral part of human rights and the right to health guaranteed by the Constitution and statutory regulations. These rights include the freedom to decide the timing, number, and spacing of childbirth; access to safe, quality, and affordable reproductive health services; as well as protection from all forms of discrimination and violence related to reproductive functions. This study aims to analyze the existing legal frameworks, the forms of legal protection provided, the implementation of reproductive rights fulfillment in society, and to identify real-world challenges and solutions within the national health law system. This is a socio-legal approach, which examines law both as a set of norms and as a social reality. Qualitative data analysis is applied, supported by a descriptive-analytical method to describe, elaborate, and analyze data collected through literature study and field research. Legal materials referenced include the 1945 Constitution, Law No. 39 of 1999 on Human Rights, Law no. 17 of 2023 on Health, Government Regulation No. 61 of 2014 on Reproductive Health, and other relevant regulations. The research findings reveal that normatively, Indonesia has established a relatively comprehensive legal framework that guarantees women's reproductive rights, where the State is obliged to ensure the availability, accessibility, and quality of reproductive health services. However, from a socio-legal perspective, the implementation of such legal protection has not been fully effective or evenly distributed. There remains a gap between legal provisions and on-the-ground realities, caused among others by unequal access to health services in remote areas, low public legal awareness, sociocultural barriers, social stigma, as well as inadequate supervision and law enforcement. Based on these findings, the study concludes that although legal protection for women's reproductive rights has been formally regulated, its implementation has not been optimal.*

Keywords: *Analytical; Legal; Protection; Reproductive; Systems.*

1. Introduction

Rights to health sexual and reproductive is part from service health and also parts from right basic very important and fundamental human beings, especially for women and groups vulnerable. ¹Therefore that, thing This guaranteed directly by the Constitution as mandated in Article 28H paragraph (1) of the 1945 Constitution (UUD 1945), which reads:

"Everyone has the right life prosperous body and soul, located stay, and get environment life good and healthy as well as entitled get service health."

Right to health reproduction is the part that is not inseparable from right basic human beings that include access to information, services, and related decisions with reproduction in a way free and safe. In Indonesia, attention to protection right health reproduction has the more increase along with awareness will importance right the for welfare individuals and society. In some year lastly, the effort integrate protection right health reproduction to in framework laws and policies national has become focus main. However, even though existence progress, complex challenges Keep going appear in face problem This.

In context law, Indonesia has runway a strong constitutional that recognizes right basic humans, including right health reproduction. The 1945 Constitution, as runway main state, stressed commitment protect rights base individuals, including right health reproduction. However, implementation and respect to right the Still faced with a number of obstacles, good from aspect social, cultural, and law.

Importance protection right health reproduction located No only on the aspect health physical, but also on well-being social, economic, and emotional individual as well as family. Therefore that, the effort increase access and fulfillment right health reproduction must integrated in various aspect policy public, including education, services health and advocacy right basic human beings. However, in in practice, still there is significant gap between existing policies and their implementation in the field. Factors like inequality access, gender stereotypes, limitations source power, and lack of awareness will rights health reproduction become constraint main thing that is needed overcome.

along with development globalization and development technology information, issues related right health reproduction the more become highlight in discussion public in Indonesia. Discussion This often involves various parties, including government, non- governmental organizations, institutions self-reliance society, and society general. However, even though There is improvement awareness will importance right health reproduction, implementation related policies and programs Still face various complex constraints. One of them necessary aspects

¹Ronny Josua Limbong et al., *Study of Fulfillment of the Right to Health for Vulnerable Groups in Indonesia*, National Human Rights Commission of the Republic of Indonesia, Jakarta, 2020, p. 9.

noticed in protection right health reproduction is inclusivity and non-discrimination. Every individual, without look at type gender, social status, or background behind culture, have equal rights get service health quality and safe reproduction. Therefore that, the policies and programs that are designed must take into account needs and diversity Indonesian society.

In addition, it is also important to notice role active Woman in taking decision related with health reproduction. Women must empowered can access accurate information and get service health proper reproduction with need they. This is will help reduce gender disparity in access and fulfillment right health reproduction. In the context of this, role law as instrument protect and uphold right health reproduction becomes very important. Through framework strong law, it is hoped can created supportive environment for implementation protection policies and programs right health reproduction. However, the complex challenges faced by the reproductive system Indonesian law, including corruption, slow judicial processes, and imbalance power, to be necessary obstacles overcome.

With explore issues This in context law, article This aim give greater understanding deep about challenges and prospects protection right health reproduction in Indonesia. With greater understanding Good about framework existing laws, it is hoped can formulated a more strategic effective increase access and fulfillment right health reproduction for all individuals in Indonesia, so that created a more diverse society healthy and empowered. As a country with large and diverse population, Indonesia has challenge unique in ensure protection right health reproduction for all inhabitant his country. However, with strong commitment from various parties, including government, institutions self-reliance society, and society general, and with implementation a holistic approach that involves aspect legal, social and cultural, it is hoped can overcome various obstacle the.

With thus, the article This No only describe existing conditions, but also offers direction steps to front in increase protection right health reproduction in Indonesia. Through close collaboration between various parties and an integrated approach, it is hoped can created supportive environment for all individual can enjoy right health reproduction they with fully and equally, in accordance with principles right basic humanity and justice social.

Globally, Indonesia is one of the countries that participated contribution in various International Human Rights Treaty Human Rights (HAM) that upholds tall right on health specifically right health sexual and reproductive. One of the from various agreement the is Convention Elimination of All Forms Discrimination against Women, namely CEDAW (*Convention on the Elimination of All Forms of Discrimination Against Women*). The contents of the agreement the state that the State must ensure access Woman to service health, including those related to with Family Planning (KB) and action medical related pregnancy without existence

discrimination.²This is naturally put obligation positive (Positive Obligation) to the State, because obliges the State to remove obstacle to access women in service health including in context reproduction. Although guaranteed constitution and convention international (CEDAW), women Still often experience treatment No fair in service health and access to information reproduction.

Protection right health reproduction has arranged in Constitution Number 17 of 2023 concerning Health and implemented more carry on via PP no. 61 of 2014. Problems health and rights sexual as well as reproduction No can separated from gender equality. Not a few women also decide For Work become bone back and shoulder not quite enough responsible for his family. The right to health recognized all worker Good That worker man and worker women. Organization World Health Organization (WHO) has create a list of indicators health reproduction globally covering ratio death mother, percentage visiting women at least once during pregnancy to service health in connection with pregnancy, and percentage birth baby life with heavy low birth⁶. Condition baby born with low body weight (*stunting*) is still become enough problems serious problem in Indonesia. The Maternal Mortality Rate (MMR) in Indonesia is still Enough tall compared to with other countries in the ASEAN region. World Health Organization (WHO) or The World Health Organization defines maternal death as death mother) as death a Woman moment contain or 42 days after pregnancy ended, without see term time and location pregnancy from various related consequences or aggravated by pregnancy or his treatment, however No is consequence accident or incident coincidence. Almost all death This occurred at the location with low skill, and almost part can prevented. Maternal death can avoided if Woman own access in prevent or handle complications pregnancy and childbirth, in general special to expert *obstetrics*. However in the reality Lots women who have not know access prevent and handle complications in pregnancy so that condition This cause impact on mortality Mother.³ High AKI and slow decline number This show that service number health mother and child (KIA) already duly improved Good from aspect range and quality service. Therefore that, is very necessary clear settings without overlapping overlap and good implementation for the sake of creation harmonization in regulations health reproduction Woman. Reproduction health is very important aspect for body, so many problems that occur because lack of attention to improvement quality health reproduction in Indonesia. Death Mother No just describe health status Mother That itself, but also reflects the overall status population and conditions social economy as well as is one of the highly sensitive indicator in see existence utilization and effectiveness of services

²Fazia Zatila, Rus Yandi, Rifka Zuwanda, Controversy over Minister of Health Regulation No. 2 of 2025: *Its Impact on Sexual and Reproductive Health Rights*, Mahkamah Hukum Journal, Vol 2 No 1, 2025, p. 33.

³Intan Fitri Meutia, Bayu Sujadmiko, Orima Davey. Abortion; *The Child's Right to Live or Die (A Sociological Approach to Abortion Policy in Indonesia, Japan, and China*. Vol. 24. No. 2.

10 Accessed on 28 February 2018 at <http://www.who.int/>

health specifically people Mother.⁴ So that in know the overall status resident a country and circumstances economy Good or whether or not Can depicted in How many Lots burden number death Mother in the country.

Besides numbers death Mother problems that exist in Indonesia regarding health reproduction is Still the rise practice dangerous namely marriage age early and circumcision Woman second matter This have very dangerous and threatening impacts health reproduction in oneself Woman said. Before granted application lawsuit regarding age limits marriage by the Court Constitution on judicial review Law (UU) No. 1 of 1974 concerning Marriage specifically regarding age limits marriage. The law in Indonesia is still enforce 16 years for female and 19 years old for men in Article 7 of the Marriage Law Number 1 of 1974, ⁵while the minimum age limit marriage based on agreement at the level international is 18 years old. Article 1 of the Convention on the Rights of the Child general define child as a person who has not reach age 18 years, but in chapter also acknowledged possibility existence difference or variation in age limit determination maturity within regulation legislation from each participating country.⁶ The marriage was carried out in a way early will cause various one of the impacts related with problem health reproduction. If wedding early done by someone who is still it is said as a child or in other words age wedding early the the perpetrator Still in category called Children, then will there is a number of the possibility that will influence health reproduction especially women. Like for example, the impact physiological namely miscarriage (*abortion*), premature birth, low birth weight low and abnormal default, easy happen infection, anemia during pregnancy, and death mother. The importance ensure access equivalent for every individual without look at background behind socio-economic.

Reproduction health as fundamental rights of every individuals who provide guarantee in various instrument law national. Protection to facility health reproduction covers equal and quality access for all over layer public without discrimination. Law No. 17 of 2023 concerning Health emphasizes that everyone has the right get service safe, quality and affordable health care, including in aspect health reproduction. As provisions of PP No. 28 of 2024 concerning Reproductive Health, the state bears the responsibility not quite enough answer in ensure availability facility service safe, quality and affordable health care, including procurement drugs as well as equipment health support service reproduction. In connection with that, urgency protection as well as accessibility right on health reproduction for all over element society, especially group with vulnerability socio-economic, to be essential things. This action covers provision information, education, and service health reproduction in a way comprehensive,

⁴Asgar Ali Engineer. 2004. *Muslim reformist women religious reformers* . Mizan Library: Bandung. p. 266.

⁵Law Number 1 of 1974 concerning Marriage

⁶*Rights of the Child*

as well as family programs effective planning, in order to form a healthy and quality generation.

2. Research Methods

The approach used in this research is juridical sociological. Sociological juridical is an approach based on binding norms or regulations, so that it is hoped that from this approach it can be understood how law, which is empirically a social phenomenon, can be studied as a causal variable that gives rise to consequences in various aspects of social life. Type study juridical sociological use data primary, secondary and tertiary. Where is the data obtained direct from source. The research specifications used a descriptive analytical approach, namely presenting and analyzing data. systematically with the aim of providing the most accurate data possible about people, conditions, and other phenomena. Descriptive means that the author wants to describe and provide data as accurately, systematically, and comprehensively as possible. Analytical means grouping, combining, and comparing aspects related to the problem in theory and practice. The data used for this research are primary and secondary data. Data primary is data that obtained direct from the field or from primary sources and not yet processed by other parties. Secondary data is data obtained from library research consisting of primary legal materials, secondary legal materials, and tertiary legal materials. The data obtained is then analyzed using qualitative analysis, namely data analysis that does not use numbers, but data obtained through research. Qualitative methods are a way of analyzing research results that produce analytical descriptive data, namely data stated by respondents in writing or verbally, as well as real behavior, which is researched and studied as a whole,⁷ where with this method it is hoped that clear data will be obtained regarding the main problem.

3. Results and Discussion

3.1. Regulation of Women's Reproductive Rights in Health Legal System in Indonesia

Women's reproductive rights are an inseparable part of human rights and the right to health guaranteed by the state.⁸ In the Indonesian legal system, regulations on this matter are structured in a hierarchical manner, starting from the constitutional basis to more detailed implementing regulations, and linked to international legal obligations to which Indonesia has agreed. The following describes the applicable legal framework and how it is implemented in practice.⁹

⁷Mukti Fajar and Yulianto Achmad, *Dualism of Normative and Empirical Legal Research*, Yogyakarta, Pustaka Pelajar, 2010, p

⁸National Commission on Human Rights, *Annual Report: Fulfillment of Women's Reproductive Health Rights in Indonesia* (Jakarta: Komnas HAM RI, 2023), p. 7.

⁹Budi Wahyuni, *Reproductive Rights and Gender Equality: Legal and Policy Perspectives in Indonesia* (Jakarta: Center for Women's Studies, University of Indonesia, 2015), pp. 31–32.

Within the framework laws in force at the level constitutional according to Article 28H Paragraph (1) of the 1945 Constitution of the Republic of Indonesia, it becomes the most basic foundation, which states that " *Everyone has the right life prosperous body and soul, located stay, and get environment good and healthy life as well as entitled get service health* ". Provision This in a way implicit at a time explicit covering right on health reproduction, because health reproduction is core part of health man in a way as a whole. As right constitutional, provisions This tie all over state institutions and become base for formation regulations at a higher level low.

Leveled Constitution in Constitution Number 39 of 1999 concerning Human Rights: Article 8 states: that " Everyone has the right on protection self personal, family, honor, dignity, and property the object, and entitled for a sense of security and protection from threat afraid do or No do something that is right basic human rights". More special again, Article 45 regulates that every Woman entitled get protection special in matter pregnancy and birth, as well as right For get service decent health during that period. The provisions This confirm that protection right reproduction Woman is part from protection right basic man in a way general. In the Law Number 17 of 2023 concerning Health: As Constitution main in field health, rules This put right reproduction as one of the regulated aspects in a way detailed and comprehensive. Article 42 states that " the Government and the government area responsible answer ensure fulfillment right health reproduction for everyone, which is organized in a way safe, quality and affordable, as well as covers all over cycle life human beings". Scope regulated services covering information and education health reproduction, services pregnancy and birth, services contraception, treatment disturbance system reproduction, up to effort prevention and treatment violence gender- based related with function reproduction. In addition, the law this also regulates exception to prohibition abortion, which is only can done in case indication emergency medical or pregnancy consequence action criminal violence sexual, with strict terms and procedures in accordance with provision law applicable criminal law. In Law Number 1 of 2023 concerning the Criminal Code: Rules This arrange prohibition do abortion in a way general, but give exception in Article 463 Paragraph (2) which states that provision prohibition No valid If Woman the is a victim of an act criminal rape or violence other sexual causes pregnancy with age pregnancy No more than 14 weeks, or If There is indication emergency dangerous medical life Mother or fetus. Conditions This give protection law for victims of violence sexual and ensure security life Woman in condition emergency medical. In the Law Number 7 of 1984 concerning Confirmation Convention Elimination of All Forms Discrimination towards Women: Through ratification This, Indonesia is committed ensure right Woman on equal access to service health, including service health reproduction, as well as right For determine in a way free and responsible answer about quantity, distance, and time birth children they.

Levelled implementation is in the Regulations Government Number 28 of 2024 concerning Health: As rule implementer from Constitution Number 17 of 2023, regulations This detailing provision about health reproduction in Article 96 to Article 130. In it arranged about standard service, role power health, responsibility answer institution service health, as well as procedure implementation exception abortion. In addition, it is also regulated provision about provision tool customized contraception with age and needs, including for teenager with consider interest best for they. In the Regulation Government Number 61 of 2014 concerning Reproductive Health: Although has There is more rules new, regulations This Still become references in a number of aspects. In it arranged right Woman on service health system purposeful reproduction protect organs and functions reproduction from disturbance or disease, as well as provision more details about indication emergency medical and age limits pregnancy exception abortion consequence rape. And in the Minister of Health Regulation: Various regulation minister health has also been published ensure standard technical service health reproduction, such as standard service pregnancy and birth, standards handling disturbance system reproduction, as well as guidelines implementation exception abortion.

Temporary in implementation in the field, Implementation framework the law above has bring change positive in fulfillment right reproduction women, but Still there is various challenges faced. Progress achieved in the form of Expansion of Service Access where Blessing clear settings, access Woman to various type service health reproduction the more expanding. Currently, the service like inspection pregnancy, childbirth, provision tool contraception, and treatment disease system reproduction available in various level facility health, starting from community health center until House Sick reference. The government has also integrate service This to in the guarantee program health national, so that cost service become more affordable for all over layer community. Protection for Victims of Violence Sexual Where Provision about exception abortion for victims of violence sexual has give road go out law and medicine for those who experience suffering double consequence the crime he experienced. With existence clear rules, power health can give safe and secure service without Afraid violate law, as long as fulfil established terms and procedures. Apart from that, it also has formed mechanism references integrated between institution enforcer law, institutions protection women and children, as well as facility health For ensure the victim gets comprehensive help. And also Improvements Awareness and Education Where Based on provision mandatory law provision information and education, various programs have been implemented by the government and organizations public civil For increase knowledge Woman about right reproduction, how to guard health reproduction, as well as danger inappropriate behavior healthy. This is has help Woman For take decision alone and responsible answer on life reproduction.

Challenges faced Where the Access Gap that though access has expanding, still there is gap between area urban and rural, as well as between group economy up

and down. In remote areas or not enough developing, facilities adequate health and manpower trained health Still limited, so that women there are difficult get appropriate service with his rights. In addition, the costs service certain things that have not been fully covered by guarantee health national also becomes obstacle for group earning low. Although guaranteed by law, still there is social stigma and views restrictive culture fulfillment right reproduction women. For example, the discussion about problem sexual and reproductive Still considered taboo in some society, so that Woman reluctant look for help or information. In addition, the views that decision about matter reproduction is right husband or family Still Enough strong in some area, which makes Woman difficult determine his fate Alone. In practice, it is still there is difference interpretation and implementation rules between institutions and personnel health. For example, in matter exception abortion, there is power health that is still in doubt or reject give service although fulfil condition law Because concern will not quite enough answer law or pressure social. In addition, the procedures established sometimes considered too complicated and time consuming time, so that make it difficult for the victim to get service appropriate time.

In a way Overall, Indonesia has own framework sufficient law complete and structured protect right reproduction women. However, success implementation still very dependent on effort continuously overcome various existing challenges, both in matter provision facilities and resources power, increase awareness society, as well as enforcement consistent and fair laws.

Efforts to maximize not quite enough state responsibility in ensure protection to rights reproduction is an integral part of right basic recognized human being in a way international, as arranged in various convention international like *Conventio on the Elimination of All Forms of Discrimination Against Women (CEDAW)* which has ratified by Indonesia. This right No stand alone, but rather is embodiment from principles base right basic man like right on life, rights on health, rights on freedom personal, as well as right free from all form discrimination, violence, and degrading treatment dignity human. Law Number 17 of 2023 concerning Health is regulation new in Indonesia that brings update significant for sector health. Designed For replace Constitution Number 17 of 2023, the rules This aim increase access and quality service health, strengthening system health national, as well as adapt regulations health with modern demands and challenges. In addition Constitution This covers things like effort promotive, preventive, curative, and rehabilitative. The goal is increase quality service health, protection for society, as well as arrange authority and responsibility answer power health.¹⁰

Attitude power health to the latest Health Law diverse. Some welcome Good Because Constitution This considered give runway more laws clear and

¹⁰Setia Indira, Ahmad Riza, and Siti Maesaroh. "Implementation of National Health Policy Based on Law Number 17 of 2023." *Journal of Health Policy and Management* 12, no. 1 (2025): 45–52

strengthening system service health. However, no few people behave critical, especially to articles assessed multi-interpretable, such as provision about authority power health, sanctions law, practice power foreigners, as well as arrangement about use technology health such as telemedicine. Some issue This even trigger action peace from a number of organization profession, which demands existence clarification or revision to content laws.¹¹ On the other hand, regulations This still become foundation important in development system health national, including in matter protection right on health reproduction. Related matter said, the country has not quite enough answer main formulate and implement far- reaching policies more ensure ensure own access to service health safe, fair, and dignified reproduction. These efforts can realized through various strategies, including formulation comprehensive policy, education law to society, socialization rights health reproduction, as well as strict supervision to practice service health.¹²

In order to maximize not quite enough state responsibility towards protection right health reproduction, education law to public become element crucial. Legal education This No only done through formal channels, but also through counseling law Yan nature preventive. Counseling law as confirmed in Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.01-PR.08.10 of 2006 is form real dissemination information law to society, including related rights health reproduction. Extension This aim increase awareness law society, so that they capable understand and claim rights and obligations on health reproduction in a way conscious and responsible answer. Therefore that, activity socialization about rights and obligations health reproduction No only become part from service health, but also to be an integral part of the education strategy law national support realization culture participatory and inclusive law. In addition to reaching public adult, effort education law and socialization about health reproduction is also necessary directed to circles young, including teenagers and children age school, so that awareness to rights and obligations reproduction can built since early. The socialization carried out since age young will become foundation important in form comprehensive understanding, preventing practices risky, as well as strengthen ability generation young in take responsible decisions answer to health reproduction. This is in line with approach educative in development health national that is not only focused on healing, but also empowerment knowledge and change behavior positive since age early.

Socialization in a way sustainable become it is important that the values awareness law and health reproduction can spread wide until to layer the lowest

¹¹Setia Indira et al., "Implementation of National Health Policy," pp. 53–56; see also Indonesian Medical Association. *IDI Position Statement on Several Controversial Articles of Law No. 17 of 2023*. Jakarta: IDI Press, 2024, pp. 7–9.

¹²Satria Indra Kesuma. "The Role of the State in Ensuring Access to and Quality of Reproductive Health Services in Indonesia." *Journal of Health and Humanitarian Law* 9, no. 2 (2024): 178–195.

levels of society. This will strengthen awareness collective as well as narrow down room for action arbitrary or violation by the provider service health or by the country itself. No less important, strict and accountable supervision to institution service health as well as implementation policies must also be done. For ensure that the whole process is running in accordance standard and not go out from corridor the law that has been set.

Based on framework theory protection law put forward by Philipus M. Hadjon, law functioning give protection to citizens of action arbitrary as well as ensure existence certainty law. In the context of this, the country does not only play a role as a regulator, but also as protector fundamental rights of citizens. This theory confirm that the state has obligation present instrument law that is capable regulate and supervise implementation service health reproduction so as not to happen deviation, violation, or injustice in access and services. Implementation theory the in context right health reproduction demand the state to compile clear, progressive, and principle - based policies justice as well as gender equality. Regulations the must covers aspect prevention to practice discriminatory, guarantee service health quality reproduction, as well as mechanism effective complaints if happen violation rights. In addition, the state also needs give education law to public increase understanding about rights health reproduction, so that public capable demand his rights in a way aware and informed. Analysis discussion done with using two bases theory main, namely the Theory of Legal Certainty and the Theory of Legal Protection, as well as approach descriptive analytical.

According to theory certainty law, law must can give certainty, having clear structure, no multi-interpretable, and can enforced in a way consistent. settings right reproduction in the Health Law and the Human Rights Law have give certainty that right the is rights recognized by the state. This is fulfil element *ius constituendum* (laws that are formed). In its implementation, the aspects certainty law Still less than optimal because rules technical Not yet adequate. Ambiguity procedures and mechanisms cause apparatus enforcer law and provider service health own freedom overly broad interpretation broad (*vrijheid van beoordeling*). This matter potential cause injustice Because implementation laws that do not the same between One case with case others. In order to realize certainty law, regulation must more specific arrange standard service, procedures operational standards (SOP), and mechanisms change clear loss.

Protection theory law emphasize that law aim protect subject law from conflicting interests and provide a sense of security as well as justice. Protection law to right reproduction Woman should nature *preventive* (prevention) and *repressive* (action / recovery). Based on results research, protection preventive Still weak Because socialization and supervision that has not been maximum. Meanwhile that, protection repressive Not yet effective because victims often have difficulty

in access track law, good Because costs, complicated procedures, and hard evidence fulfilled. Protection law Not yet fully in favor of women. Required efforts to ensure that the law No only written above paper, but also provides a sense of security (*rechtszekerheid*) and justice social for Woman in determine choice related reproduction without fear or coercion.

System law health in Indonesia is designed protect patients and ensure quality service. However, in context right reproduction, there is dualism role: in one side doctor own obligation *indication based practice*, but on the other hand, patients own right autonomy give agreement (*informed consent*). Still often happen conflict between consideration medical with desire patients who do not completed through mechanism clear law. This is show that synergy between legal norms, medical norms, and social norms Not yet walk harmonious.

Reviewed from Islamic perspective, rights reproduction Woman own runway strong in sharia principles, especially mark benefit (*maṣlaḥah*), justice (' *adl*), as well as objective Islamic law, namely *hifẓ al- nafs* (guarding) soul / life) and *hifẓ al- nasl* (guarding descendants), all of which demand protection full on body, health, and dignity Woman.¹³

Harmonization between law Positive and Islamic values in Indonesia are also visible through role The Indonesian Ulema Council (MUI) issued a fatwa in line with state regulations, including Fatwa Number 4 of 2005 concerning Reproductive Health and Family Planning, which permits arrangement amount children and distance birth for health mother and child, and Fatwa Number 4 of 2005 concerning Abortion that is permitted action the in condition emergency medical or consequence rape, in line with regulated exceptions in Health Law. This prove that arrangement the law in Indonesia does not only legitimate by the state, but also accepted and supported by the views religious, because the main thing is You're welcome aim protect rights, health and dignity Woman as man completely.¹⁴

Although thus, implementation in the field Still face challenge in the form of misunderstanding or interpretation narrow religious teachings that sometimes limit access and autonomy women. However according to the views of contemporary scholars and experts Islamic law, everything detrimental restrictions health, causing danger, or remove right Woman is contradictory with principle the basis of Islam, because sharia was revealed solely goodness and well-

¹³Masdar Farid Mas'udi, *Women's Reproductive Rights in the Perspective of Islam and National Law* (Jakarta: Mizan, 2002), pp. 35–38; Budi Wahyuni, *Reproductive Rights and Gender Equality* (Jakarta: PSW UI, 2015), pp. 40–42.

¹⁴National Commission on Violence Against Women, *Women's Reproductive Rights: Legal Instruments and Implementation* (Jakarta: National Commission on Violence Against Women, 2018), pp. 25–27.

being human, male and women.¹⁵ Therefore that, the system law Indonesian health which recognizes and guarantees right reproduction Woman Actually in line fully with Islamic values, and become form real implementation principle justice as well as protection right basic in a legal state framework based on Pancasila.¹⁶

3.2. Legal protection for the fulfillment of women's reproductive rights in the Indonesian health legal system

Legal protection for women's reproductive rights extends beyond written recognition in legislation; it also encompasses guarantees that these rights can be accessed, enjoyed, and upheld by every woman without hindrance. In the Indonesian health legal system, this protection is realized through three main aspects: *preventive protection (prevention)*, *repressive protection (enforcement)*, and protection through guaranteed access and services. These three aspects complement each other to ensure that women's reproductive rights are protected from all forms of violation, neglect, or discriminatory treatment.

Based on various applicable laws and regulations, legal protection for the fulfillment of women's reproductive rights in Indonesia is realized in the following forms:

- 1) Protection Through Guarantee of Rights and Freedoms Determining Reproductive Fate is one of the form the most basic protection is guarantee right for Woman For determine in a way free and responsible answer about related matters with function reproduction. This is arranged in a way firm in Constitution Number 39 of 1999 concerning Human Rights Humans and Laws Number 17 of 2023 concerning Health. In the provisions the stated that every Woman entitled:
 - a. Get complete, accurate and easy information understood about health reproduction, how to take care of it, and possible risks arise;
 - b. Choose type service health reproduction and tools appropriate contraception with needs and conditions, without coercion or pressure from other parties;
 - c. Determine amount children, distance birth, and time considered appropriate for own child;
 - d. Reject action medical or procedure health related with function reproduction If no in accordance with his wish, except in condition emergency medical threats life and according with provision law.

¹⁵MUI Fatwa Commission, *Reproductive Health Fiqh Guidebook* (Jakarta: MUI, 2017), pp. 12–15; Ridwan HR, *State Administrative Law* (Jakarta: Rajawali Pers, 2018), pp. 62–64.

¹⁶Satjipto Rahardjo, *Legal Science* (Bandung: Citra Aditya Bakti, 2006), pp. 90–92; Ministry of Religious Affairs of the Republic of Indonesia, *Islamic Law in Indonesia: Harmonization of Values and Regulations* (Jakarta: Directorate General of Islamic Community Guidance, 2020), pp. 41–43.

Protection This confirm that Woman is subject applicable law equal and have authority full on body as well as his life alone, so that No may made into object or treated in accordance desire other parties.

2) Protection To System Health Risks and Hazards law Indonesian health also provides protection special protect Woman from various risks and dangers that can occur bother health reproduction, even endanger his life. Protection This realized through mandatory provisions government and organizers service health:

- a. Provide service health quality mother start from pregnancy, childbirth, to the postpartum period, in order to prevent death mother and baby;
- b. Ensure availability medicines, tools health and technology safe, quality medical care, and affordable handling disturbance or disease system reproduction;
- c. Regulate and supervise practice medical as well as use technology reproduction so as not to cause impact negative for health physique and psychological Woman;
- d. Forbid practices traditional or other dangerous actions health reproduction women, such as circumcision dangerous woman, marriage child, or abortion content that is carried out in a way No safe and violate law.

Provision This in line with mandate in Constitution and The CEDAW Convention has ratified by Indonesia, which requires the country to take necessary steps to improve level health women and protect them from danger.

3) Protection To Violence and Discrimination Where Protection the law is also directed prevent and take action all form violence as well as related discrimination with function reproduction women. In various regulation legislation arranged that:

- a. Every Woman entitled protected from all form violence, good physical, psychological, sexual, and economy, which occurs in scope life personal, social, and service health;
- b. Service health reproduction must given in a way equal and not differentiate ethnicity, religion, race, class, social status, age, and marital status;
- c. Provider service health forbidden do degrading treatment dignity, humiliating, or reject give service only Because related reasons with condition reproduction Woman;
- d. Victims of violence sexual resulting in pregnancy entitled get protection law and services health special, including access abortion content in accordance terms and procedures permitted by law.

Sanctions criminal and administrative dropped for Who only those who violate provision this, okay That individual, group society, as well as organizer service

health. This is poured out in Constitution Number 12 of 2022 concerning Action Criminal Sexual Violence, Law Number 1 of 2023 concerning the Criminal Code, as well as regulation related other.

4) Protection Through Guaranteed Access and Affordability Where Protection law No will meaningful If guaranteed rights No can accessible Because constraint cost, distance, or lack of facilities. Therefore that, the system law Indonesian health also regulates guarantee access and affordability as form real protection. Provisions in The Health Law affirms that:

- a. Government must provide facility health reproduction in each region, starting from level village / sub-district until level district / city, with quality established standards;
- b. Service health reproduction basic and service Mother pregnant as well as labor guaranteed financing through National Health Insurance, so that can accessible to all layer public including group earning low;
- c. Government area must allocate budget special For increase quality and reach service health reproduction in their respective regions;
- d. In remote areas or difficult reachable, government must provide service health around or form other services that make things easier access for the people there.

Rights Enforcement and Protection Mechanism To ensure effective legal protection, the Indonesian health legal system provides various rights enforcement mechanisms that women can access if their reproductive rights are violated or not fulfilled. These mechanisms include legal and non-legal channels:

1) There is a legal route in 2 ways namely the Judicial Path where women experience violation right reproduction can submit lawsuit or report to institution justice, good That court general and state administrative court, depending on the type violations that occur. For example, if violation carried out by the provider service health or state apparatus, women can submit demands change make a loss and demands fulfillment right through track Judicial and Prosecution Paths Criminal where If the violation is committed including in category action criminal (such as violence sexual, abortion content illegal, or neglect services that result in death), perpetrator can sued in a way criminal in accordance with provision in the Criminal Code and Constitution special other.

2) Non-Legal Path consists of from the Women and Children Protection Agency in each area has formed functioning institutions accept report, provide mentoring, as well as facilitate settlement related issues with violation right women, including right reproduction. Health Supervisory Agency if violation done by manpower health or facility health, women can report it to service health local, medical

board, or institution supervisor other For done inspection and imposition sanctions administrative. And settlement in a way family or mediation Where in a number of case violations that occurred in scope family or society, solution can done through mediation with help figure public or institution associated with condition still ensure interests and rights the woman concerned.

Evaluation Implementation Legal Protection in general, system law Indonesian health has provide framework adequate protection complete and comprehensive for fulfillment right reproduction women. Various form protection and mechanisms existing enforcement show that the country has fulfil his obligations ensure right said. However, in implementation Still there is a number of things to do note:

a. Aspects Positive: protection law has reach various aspect life reproduction women, start from aspect medical, social, to law criminal, so that give comprehensive guarantee; Mechanism diverse enforcement allows Woman For choose method the most suitable solution with needs and conditions; There is integration service to in guarantee health national has help reduce gap access consequence factor economy.

b. Remaining Challenges: Knowledge Woman about rights and mechanisms available protection Still limited, so that Lots case violations that are not reported or No followed up; Implementation rules that have not been consistent across areas, especially in rural areas which are still strong influenced by views culture and customs that sometimes contradictory with law national; Limitations source power in institutions enforcer law and institution service often hinder the handling process case violation right reproduction in a way fast and precise.

Protection right health reproduction in Indonesia is based on a framework laws that cover various relevant articles and regulations. The Indonesian Constitution, which is runway main in uphold right basic human, admit right on health and a decent life for every citizens, including right health reproduction. Articles as Article 28H and Article 34 of the 1945 Constitution affirm importance protection right health reproduction as part from right basic human beings who are not Can disturbed sue. Apart from the constitution, there are also various regulation more legislation specific related with right health reproduction. For example, the Law Number 17 of 2023 concerning Health provides base law for organization service health quality and equitable reproduction throughout Indonesia. Articles in Constitution This set obligation for government For provide easy and affordable access to service health reproduction for all over society. However, the implementation from framework law This Still face a number of challenges. One of them is inequality access to service health reproduction, especially for those who live in the area remote or earning low. This is cause gap in fulfillment right health reproduction between various group public.

In a way narrow, right on health often only understood as right every individual For get service health, such as access to facility health, medicines, and power trained medical personnel. However, the approach This Not yet fully covers various other aspects that are also essential in fulfillment right on health, such as environment clean living, access to information health, as well as protection to health reproduction.

4. Conclusion

The regulation of women's reproductive rights in the Indonesian health legal system has been comprehensively structured, hierarchically structured, and has a very strong legal basis, both from a national and international legal perspective. Legally, this regulation is based on the State Constitution, namely the 1945 Constitution of the Republic of Indonesia, specifically Article 28D Paragraph (1) concerning the right to legal certainty and Article 28H Paragraph (1) concerning the right to health. This regulation is further clarified and detailed in Law Number 39 of 1999 concerning Human Rights, and Law Number 17 of 2023 concerning Health as the main law in the health sector. Technically, these provisions are outlined in Government Regulation Number 61 of 2014 concerning Reproductive Health and other derivative regulations. This regulation also represents Indonesia's implementation of its international obligations after ratifying the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) through Law Number 7 of 1984, and adopting the agreement of the 1994 Cairo International Conference on Population and Development (ICPD). Viewed from an Islamic perspective, this regulation of reproductive rights is fully in line with sharia principles, especially the objectives of Islamic law (Maqasid Syariah) which are to protect lives, protect offspring, and the principles of justice and welfare. This is reinforced by the Fatwa of the Indonesian Ulema Council which supports the fulfillment of reproductive health rights for the welfare of mothers and children. In substance, the regulated material includes the right to information and education, the right to determine the number and spacing of births, the right to receive safe and quality services, and the right to be free from discrimination, coercion, and violence throughout a woman's life cycle. Legal protection for the fulfillment of women's reproductive rights in the Indonesian health legal system has been regulated in two forms, namely preventive legal protection and repressive legal protection, but in its implementation has not been fully optimal and equitable. First, preventive legal protection is realized through the recognition and guarantee of rights expressly enshrined in laws and regulations, the state's obligation to provide health facilities and services, and guaranteed access to information and education aimed at preventing rights violations from occurring early on. This form of protection provides legal certainty that reproductive rights are fundamental rights that must be respected and fulfilled. Second, repressive legal protection is realized through the regulation of criminal, administrative, and civil sanctions for parties who violate or obstruct the fulfillment of women's

reproductive rights, as well as mechanisms for restoring rights and redress for victims of violations. These provisions are contained in the New Criminal Code (Law No. 1 of 2023), the Law on the Elimination of Sexual Violence, the Health Law, and other related regulations. Although the legal framework is comprehensive and aligned with religious values, the impact of this legal protection has not yet been fully felt on the ground. Obstacles remain, including unequal access to services, misunderstandings among the public, narrow cultural or religious interpretations, and lax enforcement of the law against violations. Consequently, the well-written legal guarantees have not yet been fully realized and experienced by all Indonesian women, particularly those in remote areas or marginalized communities. Therefore, fulfilling women's reproductive rights requires a strong commitment from the state, policy support, budgetary support, and ongoing outreach to ensure that legal protection is not merely normative but also becomes a living and protected right in practice.

5. References

Journals:

- Ana Fauzia, Fathul Hamdani, dan Deva Gama Rizky Octavia, *"The Revitalization of the Indonesian Legal System in the Order of Realizing the Ideal State Law,"* Progressive Law Review 3, no. 1 (2021): 12–25, <https://doi.org/10.36448/plr.v3i01.46>.
- Ahmad Zainuddin. *"Harmonisasi Pengaturan Hak Reproduksi Perempuan antara Hukum Positif dan Hukum Islam di Indonesia"*. Jurnal Hukum Islam dan Perundang-Undangan 15, no. 2 (2023): 112–130.
- Fazia Zatila, Rus Yandi, Rifka Zuwanda, *Kontroversi Peraturan Menteri Kesehatan No. 2 Tahun 2025 : Dampaknya Terhadap Hak Kesehatan Seksual dan Reproduksi, Mahkamah Hukum Journal*, Vol 2 No 1, 2025, 33.
- Fitriani, Anisah. *"Perlindungan Hukum Terhadap Hak Reproduksi Perempuan Berdasarkan Undang-Undang Kesehatan"*. Skripsi, Fakultas Hukum, Universitas Islam Sultan Agung, 2023.
- Intan Fitri Meutia, Bayu Sujadmiko, Orima Davey. *Aborsi; Hak Anak untuk Hidup atau Mati (Pendekatan Sosiologis Kebijakan Aborsi di Indonesia, Jepang dan China*. Vol.24. No.2.
- Sudikno Mertokusumo dalam Siti Halilah dan Mhd Fakhurrahman Arif, *"Asas Kepastian Hukum Menurut Para Ahli,"* Siyasah: Jurnal Hukum Tata Negara 4, no. 2, (2021).
- Siti Aminah. *"Perlindungan Hukum Hak Kesehatan Reproduksi Perempuan Berdasarkan Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan"*. Jurnal Hukum dan Pembangunan Masyarakat 10, no. 1 (2024): 45–62.
- Siti Aminah. *Modul: Perlindungan Hukum Hak Asasi Manusia di Bidang Kesehatan*. Semarang: Pusat Pendidikan Unissula, 2024
- Fathul Hamdani et al., *"Fiksi Hukum: Idealita, Realita, dan Problematikanya di Masyarakat,"* Primagraha Law Review 1, no. 2 (2023): 71–83.

James R. Maxeiner, "Some Realism about Legal Certainty in Globalization of the Rule of Law," *Houston Journal of International Law* 31, no. 1, (2008): 36.

Books:

- Asgar ali engineer. 2004. *muslimah reformis perempuan pembeharu keagamaan*. Mizan pustaka : Bandung. hlm. 266.
- Erik Claes, Wouter Devroe, dan Bert Keirsblick, *Facing the Limits of the Law* (Singapore: Springer, 2009), 92–93.
- Heather Leawoods, "Gustav Radbruch: An Extraordinary Legal Philosopher," *Wash. UJL & Pol'y* 2, (2000): 489.
- Kartono Muhammad. 1998. *Kontradiksi Dalam Kesehatan Reproduksi*. Pustaka Sinar harapan. Jakarta.
- Kartono Muhammad. 2006. *Kesehatan Perempuan dalam Undang-Undang Kesehatan, Jurnal Perempuan: Untuk Pencerahan dan Kesetaraan*. Yayasan Jurnal Perempuan. Jakarta.
- Kusmiran, Eny. 2012. *Kesehatan Reproduksi remaja dan wanita*. Salemba Medika. Jakarta.
- Mariana Amiruddin. 2003. *Kesehatan dan hak reproduksi perempuan*. Diterbitkan atas kerjasama Yayasan Jurnal Perempuan dan Japan Foundation Indonesia.
- Mark Fenwick dan Stefan Wrba, (ed.), *The Shifting Meaning of Legal Certainty* (Singapore: Springer, 2016), hlm. 6.
- Masdar F. Mas'udi. 1997. *Islam dan Hak-hak Reproduksi Perempuan: Dialog Fiqih Pemberdayaan*. Mizan. Bandung.
- Muchsin, *Perlindungan dan Kepastian Hukum bagi Investor di Indonesia*, (Surakarta; magister Ilmu Hukum Program Pascasarjana Universitas Sebelas Maret, 2003), hal. 14.
- Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, Yogyakarta, Pustaka Pelajar.
- Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, Kencana Prenada Media, Jakarta, 2006.
- Philipus M. Hadjon, *Perlindungan Bagi Rakyat di Indonesia*, PT. Bina Ilmu, Surabaya, 1987.
- Ronny Josua Limbong et al., *Kajian Pemenuhan Hak Atas Kesehatan Bagi Kelompok Rentan di Indonesia*, Komnas HAM RI, Jakarta, 2020.
- Satjipto Rahardjo, *Ilmu hukum*, (Bandung: Citra Aditya Bakti, Cetakan ke-V 2000). hal. 53.
- Satjipto Rahardjo, *Teori Hukum Strategi Tertib Manusia Lintas Ruang dan Generasi*, Genta Publishing, Yogyakarta, 2010.

Regulation:

- Constitution Base Country Republic Indonesia Year 1945;
- Law No. 7 of 1984 concerning the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Law No. 39 of 1999 concerning Human Rights

Law No. 17 of 2023 concerning Health (Latest Law, Replaces Law No. 36/2009)

Government Regulation No. 28 of 2024 concerning the Implementation of the
Health Law

PP No. 48 of 2016 concerning Health Service Guarantees

Minister of Health Regulation No. 36 of 2025 concerning Reproductive Health
Service Standards