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Implementation of Government Regulation No. 28 of 2024 on Legal Abortion to Ensure Legal Certainty

Faika Pra Setiawati[1*], Nur Lita Juliana[2], Mohamad Siroj[3], Ari Nurhaqi[4], Rois Harliyanto[5]
Swadaya Gunung Jati University
Corresponding Author: Faika Pra Setiawati faikaprasetiawati02@gmail.com

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A B S T R A C T

Abortion is a complex and sensitive issue that involves legal, moral, social and religious aspects. In Indonesia, abortion is generally criminalized, except under certain conditions under Government Health Law No. 17 of 2023 and Government Regulation No. 28 of 2024. These regulations allow for legal abortion in cases of medical emergency or as a result of sexual violence. This study analyzes the implementation of these Government Regulations in hospitals and the response of medical personnel to them. Using normative and empirical juridical qualitative methods, data was obtained through literature study and interviews with gynecologists in Cirebon. The results show that there are still many obstacles, such as limited facilities, complicated procedures, and lack of an integrated system. Socialization, training, and clear Standard Operating Procedures (SOPs) are needed for the protection of women.

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INTRODUCTION

Abortion is a complex and controversial issue that involves medical, legal, religious and social aspects. In Indonesia, this issue continues to be debated, especially due to the high number of abortions each year. In Java alone, there were around 1.7 million abortions in 2018, with a rate of 43 per 1,000 women aged 15-49 years (Giorgio et al., 2020). Unfortunately, most abortions are performed unsafely, given the limited access to legal abortion services that are safe and in accordance with medical standards (Rahmawati et al., 2021).

This condition is exacerbated by the lack of reproductive education and limited contraceptive services, especially for non-married groups including adolescents (APRO et al., 2023). This disparity shows that the problem of abortion cannot be separated from issues of accessibility and information, which have a direct impact on women's safety and health.

As a responsive effort, the state has issued Law No. 17 of 2023 on Health, which is clarified by Government Regulation (PP) No. 28 of 2024. These regulations establish legal restrictions and procedures related to legal abortion, including in cases of medical emergencies and pregnancy resulting from rape. These provisions aim to provide legal certainty while suppressing the high-risk practice of illegal abortion (Utama & Asokawati, 2025).

However, in practice, the implementation of this policy still faces various obstacles. One of them is the lack of qualified health care facilities, as well as social and psychological pressure on women victims of sexual violence - especially if the perpetrator comes from the family environment or close relatives (Utama & Asokawati, 2025). These obstacles show that legal regulations alone are not enough without adequate structural and cultural support.

Furthermore, the social stigma attached to abortion is also a factor that discourages victims from reporting or accessing medical services openly (Damayanti et al., 2024). This stigma adds to the psychological burden and hinders the healing and recovery process of victims, while narrowing the space for them to obtain the right to proper health services.

The problem becomes even more complex when abortions are performed by teenagers or women who are pregnant outside of marriage. Based on criminological studies, the main motivations for abortion among adolescents are family shame, social pressure, and fear of disrupting their educational future (Erlita & Waluyadi, 2021). This means that sociological aspects also play a major role in encouraging the decision to have a clandestine and unsafe abortion.

From a criminal law perspective, abortions performed outside the procedures stipulated in the legislation may qualify as criminal offenses (Yunita dewi et al., 2022). However, the state has an obligation to provide legal protection to women, especially if abortion is performed as a form of reaction to pregnancy due to sexual violence (Yunita dewi et al., 2022). This emphasizes the importance of the victim's perspective in the implementation of criminal law on abortion.

In the global context, the World Health Organization has developed international guidelines on safe and human rights-based abortion services. These guidelines emphasize the importance of equal, safe, and evidence-based care to prevent maternal mortality and morbidity from unsafe abortion (WHO, 2022).

Therefore, Indonesia should consider these standards as a reference in designing and implementing national policies.

Unfortunately, in practice, there are still frequent violations of women's right to access safe abortion services. Many women obtain abortions independently or from unofficial providers, including the use of herbal medicine and other nonmedical practices (Giorgio et al., 2020). This phenomenon shows the unpreparedness of the national health and legal systems to guarantee women's reproductive rights as a whole (Rahmawati et al., 2021).

Therefore, this study aims to analyze the extent to which the implementation of Government Regulation No. 28 Year 2024 is able to guarantee the effective, fair, and rights-based implementation of legal abortion, while providing legal certainty for women and medical personnel. Using a juridical-empirical approach, this paper also examines the implementation constraints and recommends regulatory improvements for the fulfillment of women's reproductive health rights in Indonesia.

LITERATURE REVIEW

Implementation of Government Regulation Number 28 of 2024

The implementation of Government Regulation (PP) No. 28 of 2024 is a concrete step from the government in following up the provisions of Article 75 paragraph (2) of Law No. 17 of 2023 concerning Health, specifically regarding the implementation of legal abortion in conditions of medical emergency or pregnancy due to sexual violence. In the perspective of policy implementation, according to (Van Meter & Van Horn, 1975) in (Rahmawati et al., 2021), successful implementation is influenced by factors such as clarity of objectives, availability of resources, and communication between implementers. Based on the findings of (Rahmawati et al., 2021), obstacles to the implementation of this Government Regulation in the field include the lack of legal abortion service facilities, the lack of an integrated referral system for victims of sexual violence, and the low understanding of medical personnel of applicable legal procedures.

Concept of Abortion and Legal Abortion

Abortion is the termination of a pregnancy before the fetus can live outside the womb, and in the context of Indonesian law, abortion is in principle prohibited except under certain conditions regulated in the Health Law. Government Regulation No. 28 of 2024 makes it clear that legal abortion can only be performed on the basis of indications of medical emergency or pregnancy resulting from rape, with prescribed procedures and gestational limits. (WHO, 2022) emphasizes that access to safe abortion is part of reproductive health and human rights. (Giorgio et al., 2020) state that many women in Indonesia still undergo abortion without medical supervision, which poses a high risk to life safety. Therefore, it is important to examine legal abortion as a rights-based approach, not merely a violation of the law.

Legal Certainty in Legal Abortion Services

Legal certainty is one of the fundamental principles in the legal system that guarantees protection for all parties in the legal process, both patients and medical personnel. According to Gustav Radbruch, the law must guarantee the clarity of norms, so as not to cause uncertainty or multiple interpretations. (Yunita dewi et al., 2022) shows that the absence of explicit legal protection for medical personnel who perform legal abortions causes fear of criminalization, even though they act in accordance with applicable law. Therefore, legal certainty is a crucial element for legal abortion to be not only normative, but also operational and safe.

Medical Personnel Attitudes and Responses to Legalized Abortion

Medical professionals play a major role in the implementation of legal abortion, but in practice, their attitudes are often influenced by religious values, personal morals, and concerns about legal implications. Based on interviews in this study, many doctors in private hospitals are not willing to perform abortions in cases of sexual violence because they feel that there is not a strong enough legal basis and there is no clear referral system. (Rahmawati et al., 2021) noted that the reluctance of medical personnel is also influenced by the absence of specialized training related to legal abortion procedures. (WHO, 2022) emphasizes the importance of training and a medical ethics-based approach so that medical personnel can provide services safely, professionally, and in favor of victims.

METHODOLOGY

This research uses qualitative methods with normative and empirical juridical approaches. The normative approach was conducted through the study of legislation and scientific literature related to legal abortion, while the empirical approach was conducted by interviewing an obstetrician in a private hospital in Cirebon. Data analysis was conducted descriptively-qualitatively through the process of data reduction, narrative presentation, and verification of results through triangulation techniques between field data, legal documents, and literature. This approach provides a comprehensive picture of the implementation and challenges of Government Regulation No. 28 Year 2024 in medical practice.

RESEARCH RESULTS AND DISCUSSION

Implementation of Government Regulation No. 28 Year 2024 on Legal Abortion Practices in Hospitals

Government Regulation (PP) No. 28 Year 2024 is the implementing regulation of Law No. 17 Year 2023 on Health that clarifies the implementation of legal abortion in Indonesia, both for medical indications and due to pregnancy due to rape. This regulation emphasizes that abortion can only be performed by certain licensed and competent medical personnel in designated health facilities, and within certain gestational age limits, following strict examination and reporting procedures (Utama & Asokawati, 2025).

However, the implementation of this policy in the field is still not running optimally. Based on an interview with an obstetrician practicing in one of the private hospitals in Cirebon City, the implementation of legal abortion in private facilities is very selective and is only done in cases of medical emergencies, such as severe heart disease in the mother or severe fetal defects. The diagnosis process in such cases is very strict, including anamnesis, physical examination, laboratory, and ultrasonography (USG), and is limited to pregnancies with a maximum age of 22 weeks or fetal weight below 500 grams. The abortion method used is curettage, either manual or pharmacological, depending on the patient's condition and medical considerations.

The doctor further stated that he had never directly handled a case of abortion due to pregnancy resulting from rape. Patients who experience such cases only undergo an initial examination to confirm the pregnancy, and are then always referred to a government hospital. This is because private hospitals, especially in the regions, do not have an integrated system or protocol for handling legal abortions in the context of sexual violence. In addition, the absence of an official letter from the police or legal authorities, as well as no guarantee of legal protection for medical personnel, discourages doctors from taking further action. Religion and personal moral values are also strong considerations, especially for fetuses that show signs of life.

This situation shows that private hospitals are not yet fully part of the legal abortion system stipulated in Government Regulation No. 28 Year 2024. This is in line with the findings of the Institute for Criminal Justice Reform (ICJR) that until now there has been no transparent and integrated mechanism for appointing health facilities to provide safe abortion (Rahmawati et al., 2021). Administrative barriers and weak coordination between hospitals, law enforcement officials, and victim assistance organizations exacerbate limited access to these services.

The National Commission on Violence Against Women (Komnas Perempuan) report states that victims of sexual violence in Indonesia often face dead ends in accessing legal abortion services due to social factors, family pressure, and a legal system that does not fully support victims (Komnas Perempuan, 2023). Meanwhile, the United Nations Population Fund (UNFPA) in its State of World Population 2022 report emphasized that countries must ensure access to legal abortion as part of reproductive health rights, and guarantee national health systems that are responsive to the needs of women, especially victims of sexual violence (UNFPA, 2022).

The World Health Organization in its guidelines also emphasizes that abortion should be accessed within an inclusive and non-discriminatory health system, and should be protected within a human rights framework (WHO, 2022). However, in Indonesia, abortion is often practiced clandestinely or independently. Data shows that 73% of women in Java perform abortions on their own, mostly without adequate medical support (Giorgio et al., 2020).

Fear of criminalization, social pressure, and the lack of training of medical personnel in handling legal abortion cases further strengthen the resistance of private hospitals to provide this service (Yunita dewi et al., 2022). On the other

hand, unintended pregnancies are still high, especially among adolescents, who often do not know where to seek help and tend to choose illegal abortion practices (APRO et al., 2023; Damayanti et al., 2024).

In criminological research, women's reasons for abortion are generally related to pregnancy outside of marriage, social pressure, and the desire to continue their education (Erlita & Waluyadi, 2021). This shows that abortion cannot only be seen as a medical or legal problem, but also as a social problem that demands a systemic and cross-sectoral approach.

In general, it can be concluded that the implementation of Government Regulation No. 28 of 2024 in hospitals, especially private ones, still faces various challenges: ranging from the absence of a structured service system, limited understanding of the law by medical personnel, pressure from religious values, to the absence of strong legal protection. So, in the future, there is a need to reform the coordination system between agencies, special training for medical personnel, and administrative revisions that facilitate victim rights-based services.

Attitudes and Responses of Medical Personnel towards Legal Abortion Based on Government Regulation No. 28 Year 2024

The attitudes and responses of medical personnel toward legal abortion in Indonesia after the enactment of Government Regulation No. 28/2004 vary widely and tend to be complex, influenced by legal, religious, personal moral, and hospital work systems. Although the regulation has provided a clear legal basis for abortion under certain conditions, namely pregnancy due to rape and medical emergencies, the reality on the ground shows that medical personnel do not fully have the confidence and protection to carry it out (Utama & Asokawati, 2025).

Based on an interview with an obstetrician and gynecologist at a private hospital in Cirebon City, it is known that the implementation of legal abortion in private health care facilities is still very selective and is only allowed in emergency medical conditions. These medical indications include severe fetal abnormalities that cannot be renewed, as well as chronic diseases in the mother that pose a high risk to life safety. The abortion procedure is carried out through a series of strict diagnostic stages, including history taking, physical examination, laboratory examination, and ultrasonography (USG) examination. The doctor also said that he has never directly handled a rape abortion case. In such situations, he would only conduct an initial examination of the patient and then refer her to a government hospital. This was done because she felt that she did not have a strong enough legal basis or adequate professional protection to take further medical action on her own.

This finding is in line with studies showing that legal abortion in Indonesia is generally limited to emergencies, and is often hampered by administrative constraints and legal uncertainty. According to Komnas Perempuan, (2021), there were 147 cases of forced abortion in the 2016-2021 period, with most medical personnel reluctant to deal directly with them due to the lack of legal protection. In addition, (Irawati & Santoso, 2022) stated that the legal regulations governing

abortion due to rape, although contained in Government Regulation No. 61 of 2014 and Permenkes No. 3 of 2016, have not fully provided strong protection to health workers, so many of them choose to refer patients to government facilities (Irawati & Santoso, 2022, p. 108). This finding is reinforced by data from BBC Indonesia (2022), which revealed that a number of rape victims face difficulties in accessing safe abortion services despite being legally permitted, due to limited facilities and complicated bureaucracy.

It is evident that concerns about legal liability remain a major barrier for medical personnel, especially in private hospitals that do not yet have protocols or integrated support systems for handling legal abortions. The doctor also admitted that religious considerations influenced his decision, as aborting a fetus that is showing signs of life is considered a sinful act.

The Institute For Criminal Justice Reform (ICJR) notes that the absence of officially designated health facilities and weak inter-agency coordination leaves medical personnel in a dilemma between performing their professional duties and fear of criminalization (Rahmawati et al., 2021). This situation is exacerbated by the absence of a strong complaint mechanism and legal protection if medical personnel face allegations of violations in carrying out legal abortions.

Similar attitudes were found in a journal discussing legal protection for women who have abortions due to rape, where the authors highlighted the importance of protection for medical personnel who provide legal abortion services. Without these protections, medical personnel may choose not to engage (Dewi et al., 2022).

Another study showed that some medical personnel had minimal knowledge of the restrictions and procedures in Government Regulation No. 28 Year 2024. They do not fully understand that this policy is a legal and legitimate criminal exception, so there is still fear or hesitation in taking action (Damayanti et al., 2024).

The WHO emphasizes the importance of training medical personnel in sensitive approaches to victims of sexual violence, as well as the provision of safe and equal abortion services. Without proper training, there will be discrimination in services and violation of women's health rights (WHO, 2022). (UNFPA, 2022) also highlights that access to safe abortion is part of women's reproductive rights and it is the duty of states to ensure its implementation through responsive and inclusive national health systems (UNFPA, 2022).

Komnas Perempuan in its Annual Report stated that victims of sexual violence, especially women, still have difficulty accessing legal abortion services due to the absence of an integrated service line, as well as the lack of understanding of medical personnel and legal officials about applicable procedures. This exacerbates the mental and physical burden on victims who are already the most disadvantaged (Komnas Perempuan, 2023).

This is exacerbated by the fact that the majority of medical personnel in Indonesia have not received formal training on legal abortion and reproductive care ethics. The implementation of legal abortion still depends on personal knowledge, interpretation of the rules, and work culture in each hospital (Giorgio et al., 2020).

As a result, medical personnel tend to reject or avoid legally and socially complex cases, such as rape abortion. They are more comfortable handling cases that are medically obvious, such as fetal abnormalities or dangerous maternal medical conditions (APRO et al., 2023).

In conservative social contexts such as Indonesia, medical personnel's attitudes are also influenced by local religious and moral values, which still view abortion as a sinful act, regardless of its legality. This is also explained by criminological studies which found that most abortionists, both patients and medical personnel, choose to abort secretly due to heavy moral and social pressure (Erlita & Waluyadi, 2021).

Thus, it can be concluded that the implementation of Government Regulation No. 28 Year 2024 has not sufficiently changed the conservative attitudes and legal fears that exist among medical personnel. To address this, systematic national training, guaranteed legal protection, and internal hospital campaigns are needed to foster a collective understanding of the rights and obligations of medical personnel in legal abortion cases.

CONCLUSIONS AND RECOMMENDATIONS

The implementation of Government Regulation No. 28 Year 2024 as the implementing regulation of Law No. 17 Year 2023 on Health is a progressive step by the state in emphasizing the implementation of legal abortion which is limited to two conditions, namely medical indications and pregnancy due to rape. Based on the findings of the research, the implementation of this policy in hospitals, especially the private hospitals used as research sites, still faces many structural and cultural barriers. Not all health facilities have integrated systems or protocols, trained human resources, or a thorough understanding of the applicable legal provisions. Administrative barriers, disharmony between regulations, and lack of coordination with law enforcement officials and victim assistance agencies further narrow the access space for women who need this service.

On the other hand, the attitude and response of medical personnel towards legal abortion is also a crucial factor affecting the effective implementation of this policy. Fear of criminalization, lack of training, and the dominance of religious values and personal morals make most medical personnel reluctant to get involved, especially in cases of pregnancies resulting from sexual violence. Under these conditions, they prefer to refer patients to government hospitals or even refuse to provide services, which has the effect of inhibiting women's right to safe reproductive health services.

As explained by the World Health Organization, United Nations Population Fund (UNFPA), and Komnas Perempuan, safe and legal abortion is part of human rights that must be protected by a responsive and inclusive health system. Therefore, to realize an effective and pro-victim implementation of Government Regulation No. 28 Year 2024, strategic steps are needed in the form of national training of medical personnel, establishment of a legal protection system, strengthening cross-sector coordination, and internal education within

the hospital to encourage changes in attitude and moral courage in carrying out legal mandates.

ADVANCED RESEARCH

This research has limitations in terms of methodology as well as geographical coverage. The main analysis focused on normative rules and observations of selected cases, which did not fully capture the diverse realities in different regions of Indonesia. It is therefore recommended that future research expand the coverage of health care institutions and legal practitioners specifically in underserved areas. This will provide a more comprehensive understanding of the implementation of the policy.

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