



The Legal Framework of Abortion in Indonesia and Its Human Rights Implications

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Abstract: Abortion continues to be one of the most contentious problems globally, encompassing sensitive discussions across legal, ethical, and reproductive health aspects. In Indonesia, the issue is particularly critical due to the conflict between upholding the fetus's right to life and ensuring women's reproductive health rights. Recent regulatory changes illustrate this complexity: what was previously a complete prohibition under the former Criminal Code has transformed into conditional permissibility under Law No. 17 of 2023 on Health, Government Regulation No. 28 of 2024 on Reproductive Health, and Minister of Health Regulation No. 2 of 2025. These restrictions are transitional, as abortion will be fully regulated under the new Criminal Code (Law No. 1 of 2023) scheduled to be implemented in 2026. This study utilizes a normative juridical methodology, incorporating statutory and conceptual approaches, to analyze three fundamental issues: the legal status of the fetus, women's reproductive health rights, and the legal protection afforded to physicians conducting conditional abortions. The findings indicate that although the fetus is legally acknowledged as possessing a right to life from conception, these rights may be curtailed in situations such as medical emergencies or pregnancies arising from rape. Simultaneously, women's reproductive health rights are unequivocally secured at both national and international levels. Legal protections for physicians are there; nonetheless, loopholes and ambiguities permit opposing interpretations, so compromising legal certainty.

Keywords: Abortion, Health Law, Human Rights

1. Introduction

A set of fundamental rights that are inherent in every individual from the moment of their birth, even in the womb, until the end of their existence is known as human rights (El-Muhtaj et al., 2008; Fahmi et al., 2013). Some of these rights are the right to life, family, self-development, justice, autonomy, communication, security, and well-being. No one is permitted to arbitrarily deny, deprive, or diminish these rights, which is the fundamental principle. Chapter XA of the 1945 Constitution was amended to affirm the constitutional recognition of human rights. Article 28A of this chapter states that every individual has the right to live and defend their existence. The loss of life, whether intentional or unintentional, is regarded as a severe violation of human rights, as this normative element affirms that the right to life is inherent from the inception of human existence (Dzhuska et al., 2021; Lugosi, 2003; Onuegbulam, 2015; Steiner et al., 2008).

The issue of abortion has evolved into one of the most intricate debates in the realms of legal, ethical, and reproductive health discourse in this context. The right to life of the fetus and the right to reproductive health of women are the two fundamental interests that abortion impacts upon, which is why it is considered problematic. Abortion is considered to be a form of human rights violation by certain individuals due

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to the fact that it deprives the embryo of its right to life (Lan, 2021; Margolin, 2007; Mbah, 2021; Ní Ghráinne & McMahon, 2019). On the other hand, abortion may be justified in certain circumstances, such as medical emergencies or pregnancies that result from rape, to safeguard the rights and dignity of women. This debate is the reason why abortion is not only a medical or moral issue, but also a legal problem that is closely related to the preservation of human rights (Bariyyah & Muttaqin, 2016; Situmeang et al., 2022).

Adolescents are among the demographics that are susceptible to abortion practices (Espinoza et al., 2020; Munakampe et al., 2018). According to data from the National Population and Family Planning Agency in 2020, the number of unwanted pregnancies (KTD) in Indonesia is approximately 17.5%, with 19.6% of these occurring among adolescents aged 14–19. It is estimated that approximately 20% of this quantity result in abortions. This phenomenon is the result of a variety of factors, including a lack of sex education, peer influence, the strain of a consumerist lifestyle, and a low internalization of religious values. This situation presents a significant challenge, as adolescents, who are the future generation of the nation, are the group most susceptible to high-risk unlawful abortion practices.

The regulation of abortion in Indonesia has undergone substantial development over time from a national legal perspective (Surjadjaja, 2008; Surjadjaja & Mayhew, 2011). The prohibition of abortion in any form is expressly stated in the old Criminal Code (*Wetboek van Strafrecht*), and both the perpetrator and those who assist face criminal penalties. Nevertheless, the enactment of Law Number 36 of 2009 concerning Health, which began to facilitate conditional abortion, was a response to the evolving requirements of social and public health. This provision was subsequently clarified by Government Regulation Number 61 of 2014, which pertains to Reproductive Health. This regulation establishes exceptions for abortion in two scenarios: pregnancy that results from rape and medical exigencies. The PP was revoked and substituted with PP Number 28 of 2024 as it progressed.

Previous research indicates that the topic of abortion in Indonesia is consistently discussed within the context of human rights and the law. From a criminal law perspective, Rezqinna & Sukarya (2024) emphasizes the conflict between the right to life of the embryo and the right to maternal health. Pratiwi et al. (2025) underscores the importance of women's reproductive rights as a component of human rights; however, the implementation of conditional abortion is still impeded by stigma, limited access, and regulatory inconsistencies. In the meantime, Tristiana et al. (2025) investigated the legal protections for medical personnel, but they discovered a potential for criminalization as a result of the numerous interpretations. These three studies underscore the significance of more transparent regulations; however, they have not considered the most recent legal advancements concerning the 2023 Health Law and the 2026 Criminal Code, which are the primary focus of this research's novelty.

Indonesia is presently in a transitional phase in its abortion legal regulation, transitioning from total prohibition to conditional permissibility. This results in legal uncertainty and overlapping norms, which affect the legal status of fetuses, the rights of women seeking reproductive health, and the responsibilities of medical professionals. This research offers a prospective analysis, identifying legal repercussions and

emphasizing normative deficiencies, particularly in the context of physician protection. It provides a more comprehensive evaluation of the influence of the changing norms on stakeholders.

The objectives of this research are twofold: (1) to analyze the human rights aspects of aborted embryos in accordance with Law Number 17 of 2023 concerning Health in relation to women's reproductive health rights and (2) to evaluate the legal protections for physicians who perform conditional abortions. It is anticipated that the findings of this study will make a theoretical contribution to the advancement of legal science and offer practical guidance to policymakers on how to create regulations that are more equitable, balanced, and legally sound.

2. Materials and Methods

This study employs normative legal research, concentrating on legal norms found inside positive legal provisions. This research was undertaken through an examination of legislation, doctrines, legal principles, and expert opinions, positioning law as a system of norms applicable throughout society (Ali, 2021; Johnny Ibrahim, 2005). The methodologies employed consist of the statutory approach, which entails analyzing pertinent legal legislation at both national and international levels, and the conceptual approach, which pertains to the perspectives and doctrines of legal scholars. The legal materials employed include primary legal documents such as the 1945 Constitution, Law No. 35 of 2014 on Child Protection, Law No. 39 of 1999 on Human Rights, Law No. 17 of 2023 on Health, Law No. 1 of 2023 on the Criminal Code, the previous Criminal Code, Government Regulation No. 28 of 2024 on Reproductive Health, and Minister of Health Regulation No. 2 of 2025 on the Implementation of Reproductive Health Initiatives. Furthermore, secondary legal materials like books, journals, court rulings, jurisprudence, and other pertinent literature were utilized. The compilation of legal resources was conducted through a literature review employing inventory methods, literature searches, and snowball sampling to identify pertinent sources, which were subsequently organized systematically according to the legal hierarchy. The examination of legal materials was performed both descriptively and analytically, integrating interpretative methodologies, especially grammatical interpretation, to elucidate the meaning of legal standards derived from the text of legislation. This research prioritizes primary legal materials as authoritative sources, while secondary literature is critically assessed for scholarly quality, with opinion-based writings used only as supporting discourse. International law is integrated by comparing Indonesia's treaty obligations with national provisions, highlighting both alignments and contradictions, and applying harmonization principles where possible. To ensure balance, literature was selected through inventory and snowball sampling methods, capturing a diverse range of doctrinal, jurisprudential, and scholarly perspectives.

3. Discussions

3.1 The Human Rights Aspects of Aborted Embryos

Women's reproductive health is recognized as a human right in various international conventions and treaties, with an emphasis on autonomy, non-discrimination, and access to quality healthcare services (Merali, 2000; Shalev, 2000). This framework is primarily strengthened by two key instruments: the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Program of Action of the International Conference on Population and Development

(ICPD) in Cairo. Known as the "Bill of Rights" for women, CEDAW obligates state parties to take all appropriate measures to eliminate discrimination against women. In the context of reproductive health, this convention ensures that women have equal access to healthcare services as men, including those related to family planning. Article 12 of the Convention on the Elimination of All Forms of Discrimination Against Women recognizes women's right to access healthcare services, including those related to family planning. This article emphasizes that the state must ensure adequate services during pregnancy, childbirth, and the postpartum period. The CEDAW Committee has further interpreted this article by stating that discrimination in access to healthcare services, including unsafe abortion, constitutes a violation of women's right to health (Kismödi et al., 2012). The committee strongly advises states to criminalize unsafe abortion and ensure access to safe abortion services, especially in cases of sexual violence.

As for the 1994 International Conference on Population and Development (ICPD), this conference marked a paradigm shift from a focus on population control to individual rights and needs. The ICPD explicitly defines reproductive health as a human right. In the ICPD Program of Action, it is affirmed that reproductive rights are the right to make free and responsible decisions about one's body and reproductive life. This includes the right to decide the number and spacing of children's births, as well as the right to obtain information and means to do so. The ICPD Program of Action also calls for the availability of comprehensive reproductive health services, including the prevention and treatment of sexually transmitted infections, the prevention of unwanted pregnancies, and safe pregnancy and childbirth care. In Indonesia, the rights outlined in the ICPD document and the CEDAW (Convention on Elimination Discrimination Against Women) document are recognized as stated in: the Human Rights Law, Law No. 10 of 1992 concerning Population Development and Family Welfare, and the Child Protection Law. This provides a legal framework for guaranteeing the recognition and fulfillment of reproductive rights in Indonesia.

The relationship between the fetus and reproductive health is very close and mutually influential. Reproductive health, both before and during pregnancy, is a major determining factor for healthy fetal development. Conversely, fetal conditions can also affect the mother's reproductive health. The fetus will develop thru genetic structures, which, in line with current technological advancements, are particularly relevant to the medical field. Some people are making the most of this progress, while others are using it in ways that contradict moral demands. What is often overlooked is the importance and value of each other's presence. Some people take extreme measures, such as intentionally aborting the fetus to avoid becoming a mother.

In Indonesia, the right to life is explicitly regulated in Article 28A of the 1945 Constitution, which states that every person has the right to life and the right to defend their life and livelihood. This provision is also affirmed in Article 4 and Article 28 of Law Number 39 of 1999 concerning Human Rights. Protection for the fetus is understood from Article 53 of the law, which states that every child, from conception, has the right to life, to maintain life, and to improve their standard of living. Therefore, there is a view that abortion, if performed outside the legal provisions, can be considered a form of human rights violation. Reproductive health rights are also an important part of this. On

one hand, the fetus is protected by the right to life guaranteed by various national laws and regulations. However, on the other hand, women as individuals also have the right to reproductive health, which is recognized in international law. CEDAW affirms that states must take steps to eliminate discrimination against women in healthcare, including access to safe abortion services. Indonesia's abortion law is restrictive, allowing termination only in cases of medical emergencies or rape, placing it closer to countries like the Philippines than to Singapore or Vietnam, where abortion is broadly permitted. Compared to many European and some Latin American states, Indonesia remains on the restrictive side, though its gradual shift toward recognizing women's reproductive rights signals partial alignment with international standard.

As a form of alignment between the rights of the fetus and the rights of women, it is important to place the principle of human rights limitations within a constitutional context. Article 28J of the 1945 Constitution states that every person is obliged to respect the human rights of others in the order of social, national, and state life, and in exercising their rights and freedoms, every person must be subject to limitations established by law. Article 28J paragraph (2) states that in exercising their rights and freedoms, every person is obliged to be subject to limitations established by law solely to ensure recognition and respect for the rights and freedoms of others, and to meet just demands in accordance with moral considerations, religious values, security, and public order in a democratic society.

The term "fetus" refers to a vertebrate creature in the stage of development before birth or hatching, specifically after the basic organs or main body structures characteristic of its species begin to form (Rousseaux & Bolon, 2018). Law No. 39 of 1999 concerning Human Rights contains protection for the rights of the fetus. In Article 53, it is stated that, "Every child, from conception, has the right to life, to maintain life, and to improve their standard of living." Therefore, everyone must treat the fetus with dignity and care during its early stages of development because one day the fetus will become a human being and continue the cycle of life.

Referring to Article 53 Paragraph 1 of Law Number 39 of 1999 concerning Human Rights, it can be understood that the Human Rights Law clearly affirms the rules regarding the protection of children's right to life from being harmed, including abortion. Meanwhile, some people view abortion as an exception for rape victims, as a form of psychological protection for the victim due to the rape they experienced. The presence of a child in the womb cannot be separated from the mother's pregnancy condition. In this case, pregnancy reflects the presence of a child, in any stage of development, within a mother's womb. The term "however simple" refers to the early stages of embryonic development, which begins with the fertilization process between an egg cell and a sperm cell. The form of a child in the womb does not have to resemble a physically born baby. This understanding is important as a basis for assessing whether there is a relationship of inheritance between the prospective heir and the child still in the womb.

Although a mother has the freedom to control her own body, the Human Rights Act regulates the protection of the unborn child. It's important to remember that laws limit the fundamental rights of every individual. Human rights allow for abortion in medical emergencies where the life of the mother or fetus is threatened. This is because

pregnant women also have the right to live and defend themselves. Because there are laws and regulations governing abortion, it cannot be said that an abortion performed in a medical emergency violates a child's rights.

Children's rights are human rights that must receive legal protection, even from the time a child is still in the womb. These child rights are enshrined as part of the human rights provisions in the 1945 Constitution of the Republic of Indonesia, and are recognized in international legal instruments, namely the United Nations Convention on the Rights of the Child. Based on Article 28B paragraph 2 of the 1945 Constitution, which states that every child has the right to survival, growth, and development. Furthermore, Article 28I paragraph (1) of the 1945 Constitution explicitly states that the right to life is one of the seven human rights guaranteed as non-derogable rights by the constitution under any circumstances.

Humans in the early stages of their existence, before birth and gaining full legal status, are called fetuses. Just like all of God's creatures, a child or fetus still in the womb also has value and dignity that must be respected. Although not yet born, a fetus still has fundamental rights inherent from conception. This is in line with the provisions of Article 9 paragraph (1) of Law Number 39 of 1999 concerning Human Rights, which states that every person has the right to life, to maintain their life, and to improve their standard of living.

3.2 Legal Protection for Doctors Performing Abortions

Legal protection is a distinct aspect of the protection concept that is legally focused exclusively on the guarantees that are provided through applicable legal provisions (Oberman & Lehmann, 2023; Vanderwalker, 2012). This protection is inextricably linked to the rights and responsibilities that are inherent in individuals as legal subjects within the legal framework of their relationships with others and their social environment. Every individual has the right to obtain protection for their legal interests and the obligation to act in accordance with legal provisions when performing legal acts in their capacity as legal subjects.

Justice is the outcome of a process of objective thought, which is accompanied by the execution of actions in a fair and honest manner, and by the acceptance of responsibility for each action taken. In order to achieve legal justice that is consistent with the social conditions of society, which seeks to establish order, security, and peace, the enforcement of a sense of justice and legal norms must always be based on positive legal provisions. This principle of justice must be established in accordance with the legal ideal (*rechtidee*) within the framework of a rule of law state (*rechtsstaat*), rather than within a system of power state (*machtsstaat*). The fundamental principles of law can be outlined as follows: (a) legal certainty, which ensures that legal norms are unambiguous; (b) utility of law (*zweckmassigkeit*), which implies that law must offer tangible advantages to society; (c) legal justice, which entails the establishment of equal rights and responsibilities for all individuals in relation to the law; and (d) effective legal protection, which emphasizes the appropriateness of ensuring that every individual is safeguarded by the law.

The primary purpose of law is to safeguard the interests of individuals in the realms of social, national, and state affairs. In order to safeguard those interests, the law must be enforced in a professional manner and in accordance with the relevant legal standards. The professional application of the law will establish a social environment that is safe, orderly, and tranquil. Law enforcement efforts are required when legal standards are violated. The objective of law enforcement is to establish legal certainty, which is a form of justiciable protection against the potential for arbitrary actions by any party. Society has expectations regarding the presence of legal certainty, as it is through legal certainty that order, security, and harmony can be established and sustained within the social order.

The law is a mechanism that safeguards the rights and responsibilities of all individuals in the context of community life. The general objectives of law, which include the establishment of order, security, tranquility, prosperity, harmony, truth, and justice, can be achieved through robust legal protection. The behavior of individuals within society is regulated by both written and unwritten legal norms, such as legislation. These regulations establish guidelines for interaction in both interpersonal relationships and between individuals and the broader community. Additionally, the existence of these legal norms restricts the ability to take action or impose legal obligations on individuals. Consequently, the consistent enforcement of legal regulations will establish legal certainty for all members of society.

A profession is considered noble if it possesses specific characteristics, including knowledge (specialized and in-depth knowledge), cleverness (intellectual ability and technical skills), devotion (dedication to the public interest), and purity both physically and mentally in the performance of professional responsibilities. In any profession, knowledge is the most essential component, particularly in the healthcare sector. This is due to the fact that the acquisition of such knowledge will direct a professional, such as a doctor, dentist, nurse, or midwife, toward a specific level of competence, standards, and ethics that will allow them to perform their healthcare service responsibilities in a professional and responsible manner. The fundamental requirement has been medical knowledge, which at the time was limited to knowledge of medicinal plants and traditional treatments, since the Charaka Samhita. In addition to knowledge, intellect or cleverness is also a critical attribute in the medical field. This is due to the fact that medical personnel are obligated to possess critical thinking skills, technical proficiency, meticulousness, and the capacity to make medical decisions in order to accurately, swiftly, and effectively address a variety of patient health issues in the practice of healthcare. The medical profession is equally reliant on devotion, or the spirit of service. This spirit of service is essential because a medical professional will always prioritize the interests of patients and society above personal interests through a foundation of humanity and sincerity of intention. This attitude will function as a moral and ethical framework for the performance of their responsibilities and service in the healthcare sector.

In the interim, the final quality that healthcare personnel must possess is purity, whether it be physical or mental. A clear mind and a pure physical appearance, which symbolize purity, will inspire confidence and trust in the medical staff's integrity and

professionalism in the public and patients. Consequently, this component is essential for the establishment of public confidence in the medical profession, which will subsequently have a beneficial influence on the overall efficacy of healthcare services.

Competence is a prerequisite for a profession, and it is defined as the ability to perform specific duties and roles. Competence is an indispensable prerequisite for healthcare professionals, as this sector does not qualify as a natural privilege that may be pursued by anyone. In contrast, the privilege of practicing medicine is granted to individuals who have exhibited competence through professional oaths, certification, and testing. In the name of the Almighty God, a professional oath, such as the Hippocratic Oath for physicians, the Nightingale Pledge for nurses, or the Midwives' Oath, is essentially a declaration of moral and ethical commitment to society. This oath has legal and social repercussions, specifically the obligation to preserve the integrity of relationships with the Creator (*hablum minallah*) and with society (*hablum minannas*). Consequently, competence encompasses not only technical and scientific skills, but also ethical responsibilities and morality in the context of professional service.

The current development of health law is increasingly focused on the critical issue of legal protection for the medical profession. The medical profession is frequently exposed to legal discrimination as a result of medical outcomes that fail to meet the expectations of patients or their families, which places it in a precarious position (Suphanchaimat et al., 2015). In actuality, it is not appropriate to reflexively classify a doctor's failure to cure a patient as a criminal offense or unlawful act, both legally and ethically. It is crucial to recognize that every medical procedure is subject to the risk of failure, which may result in mortality, even if the procedure is conducted in accordance with professional standards and standard operating procedures. It is impossible to establish doctors as a profession that can guarantee the cure of every patient. The societal paradigm that implies that every medical action must result in the patient's recovery is a flawed and potentially misleading understanding if it is used to evaluate a doctor's legal responsibility.

It is imperative that the public recognizes the limitations of a doctor's medical capabilities as a medical professional. In practice, physicians are obligated to make a variety of professional decisions that, in their opinion, are the most advantageous for the patient, taking into account the clinical conditions, professional standards, and their level of competence. Nevertheless, it is unavoidable that the ultimate result of these medical interventions will not always correspond with the patient's expectations, despite the fact that each of these decisions is rooted in the principles of prudence and good faith.

The expectation of patients is that the medical decisions made by their physicians will result in the most favorable outcomes, such as recovery. The physician is frequently reported to criminal law enforcement agencies when patients and their families interpret the medical decision as negligence or malpractice, even if it does not result in a cure or has unexpected consequences, and they later discover that other medical options may have been available. In healthcare practice, this circumstance exposes the vulnerability of doctors' positions and emphasizes the necessity of legal protection for the medical profession to fulfill its responsibilities.

Both patients and physicians may experience detrimental psychological consequences as a consequence of this condition. The perpetual pressure that physicians experience in their endeavors to satisfy patients' expectations of success can result in an unproductive work environment. In contrast, patients are at risk of injury as a result of the psychological pressure that medical personnel experience when providing medical services. In these circumstances, the likelihood of medical errors tends to rise. The accuracy of clinical decision-making can be influenced by the psychological stress that physicians experience, which can range from minor procedural errors to severe and fatal ones. This situation is in stark contrast to the ideal expectation that physicians should consistently be capable of delivering professional, optimal healthcare services that are rooted in medical ethical principles and competency standards.

Consequently, the legal protection framework for physicians serves as a safeguard for patients. This protection is guaranteed by guaranteeing that medical personnel, particularly physicians, are capable of fulfilling their responsibilities and obligations in a mental state that is stable and free from undue stress. Consequently, physicians are afforded sufficient professional space to make the most rational, standard-compliant, and effective medical decisions in the patient's best interest.

Conversely, patients must also alter their paradigm of thought and assume responsibility for their health recovery. This is in accordance with the provisions of Article 4 of Law Number 17 of 2023 concerning Health, specifically point d, which stipulates that each individual has the right to independently and responsibly determine the healthcare services they require. This clause guarantees that patients are permitted to select the medical personnel and healthcare services that are most suitable for their requirements without any type of coercion. Additionally, point h stipulates that patients are entitled to decline any or all of the treatments that have been planned or administered, provided that the decision is made consciously and after a thorough understanding of the potential medical hazards. Consequently, patients are obligated to have a comprehensive understanding of the risks and repercussions of the medical interventions they elect or decline.

The provisions of that article actually have a clear implication that one of the fundamental obligations of medical personnel, particularly physicians, is to provide medical information to patients in a clear, accurate, and comprehensive manner. The doctor has essentially obtained legal protection by fulfilling this obligation, provided that the information provided is not misleading or contains errors. This provision also emphasizes the significance of effective communication skills for medical professionals. Effective communication skills are not only a preventive measure to prevent potential legal issues that may arise from a disparity between patient expectations and the outcome of medical procedures, but also a means of educating patients. Doctors can reduce the likelihood of misunderstandings that could result in litigation in the future by utilizing open and proportionate communication.

A complex challenge that is deeply entrenched in long-standing social constructs is the paradigm shift that posits health as the personal responsibility of the patient. The public's perception that physicians and healthcare institutions, particularly hospitals, are the sole source of medical solutions is one of the hindering factors. The public's high

expectations of medical personnel and advancements in medical technology are also reinforced by a healthcare system that prioritizes curative rather than preventive efforts. Consequently, patients are frequently depicted as passive recipients of services, rather than as individuals who are actively involved in and accountable for their own health.

Within the Indonesian legal system, the implementation of abortion by physicians for pregnant victims of rape is a rather intricate matter. The Criminal Code (KUHP) and Law Number 17 of 2023 concerning Health differ significantly in their normative approaches, which generates substantial debate. In practice, the implementation of legal provisions regarding the protection of physicians who administer abortions in this context is not always successful. The boundary that separates actions that could potentially be classified as criminal offenses under the Criminal Code and abortion permitted under the Health Law remains a source of ambiguity and uncertainty among medical practitioners and law enforcement officials.

According to the most recent Criminal Code, Law Number 1 of 2023 concerning the Criminal Code, a woman who intentionally aborts or kills her pregnancy or instructs another individual to do so is subject to a maximum prison sentence of four years. Additionally, Article 463 of Law Number 1 of 2023 concerning the new Criminal Code (KUHP) stipulates that: (a) A maximum of four years in prison may be imposed on any woman who administers an abortion. (a) Nevertheless, this criminal provision is not applicable to women who are the victims of rape or other forms of sexual violence that result in pregnancy, provided that the gestational age does not exceed 14 weeks or there is a medical emergency.

Article 463 of the Criminal Code in Indonesia aims to protect a woman's pregnancy, with criminal provisions excluded in cases of rape or other sexual violence that results in pregnancy or a medical emergency. In Indonesia, abortion is generally prohibited but permitted under specific circumstances, such as rape-induced pregnancies and medical emergencies. Abortion procedures are strictly regulated and require consent from qualified medical professionals. However, challenges remain, such as unclear gestational age limits for conditional abortion and administrative requirements that delay access to safe abortion services. As Indonesia transitions towards full enforcement of the new Criminal Code in 2026, greater legal clarity and protection are expected. More detailed rules, simplified procedures, and stronger legal safeguards for medical practitioners are urgently needed to fully realize justice and humanitarian principles.

4. Conclusions

The regulation of abortion in Indonesia is a multifaceted procedure aimed at balancing fetal rights with women's rights. Historically, abortion was unequivocally forbidden under the previous Criminal Code; however, recent amendments have established conditional exceptions, notably in instances of medical emergency or pregnancies resulting from sexual assault. The existing framework, comprising Law No. 17 of 2023 on Health, Government Regulation No. 28 of 2024 on Reproductive Health, and the revised Criminal Code, signifies a transition from total prohibition to a more nuanced, human rights-focused paradigm. In this context, the fetus is acknowledged as a legal being entitled to life from conception, however this right may be constrained to safeguard the

mother's health and dignity. Simultaneously, women's reproductive health rights are clearly enshrined in both national and international law, mandating the state to provide safe and accessible reproductive health treatments. This research is distinctive in its examination of abortion law during the transitional period from stringent ban to conditional permissibility, while anticipating the complete implementation of the new Criminal Code. In contrast to prior research, it highlights deficiencies in legal safeguards for physicians and amalgamates national legislation with international human rights commitments, providing a progressive outlook on the future of reproductive health governance. The temporary character of the existing framework hinders implementation, highlighting the necessity for improvements to resolve normative discrepancies, streamline bureaucratic processes, and enhance protections for medical personnel.

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