

EFFORT TO FULFILL THE RIGHT TO WOMEN'S REPRODUCTIVE HEALTH IN INDONESIA'S STATE LAW SYSTEM

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ABSTRACT

The high maternal mortality rate (MMR) is one of the indicators to determine the health status of women. In addition, MMR is one of the main targets that have been determined by WHO as an indicator of a country's health. The fulfillment of the right to women's reproductive health can be realized in the Indonesian legal state system, through legal marriage (Article 28B paragraph (1) of the 1945 Constitution). Efforts are being made to fulfill it, namely by improving maternal health, providing health service facilities as needed, low reproductive health, especially for women, will have an impact on the babies they are born. The research was done using normative juridic method. Based on the findings gathered from secondary research result and supported by primary result, it shows that reproductive health is a basic right of every person, so guaranteeing the availability of health facilities and infrastructure is a medium to guarantee and protect so that people can enjoy these basic rights. The form of this research is descriptive analytical and analyzed using normative juridical methods. Reproductive health aims to ensure the fulfillment of the reproductive rights of everyone, including women, through quality, safe, and accountable health services, as well as ensuring maternal health in reproductive age so that they are able to give birth to healthy and quality generations and reduce maternal mortality.

Key Word : rights, reproductive health, women

A. Introduction

Reproductive health is a state of perfect health physically, mentally and socially and not merely free from disease or disability in all aspects relating to the reproductive system, its functions and processes. Reproductive health is affected by pregnancy, abortion, sexually transmitted diseases (STDs), sexual violence, and by systems that limit access to clinical information and services. Reproductive health is also affected by nutrition, psychological health, economics and gender

inequalities which make it difficult for young women to avoid forced sex.(Fatimah 2019).

Women's reproductive rights are related to the organs and abilities of women's reproductive functions as a gift from God Almighty. However, the granting of women's freedom to manage their reproductive rights is also related to health, both reproductive health and fetal health, which can lead to complicated legal implications, for example: suffering from infectious diseases, birth defects of children.(Fatimah 2021).

In Law No. 36 of 2009 concerning Health, reproductive health receives special attention. This is natural because low reproductive health, especially for women, will have an impact on the health of the babies they give birth to. Even if the baby is born, people with physical and/or social problems still have the right to their survival, especially if efforts can still be made to recover them, then they need the help of their parents and/or family to get the right to their health. Reproductive health problems, starting from adolescence, are characterized by growth, change, the emergence of various opportunities, and often facing reproductive health risks. The need for improved health and social services for adolescents is increasingly becoming a concern throughout the world. Health care services are one of the efforts that can be made to improve the health status of both individuals, groups or society as a whole. (Komalawati 2002)

The problem that occurs is that the process of pregnancy, childbirth and the postpartum period is not safe, because there are still many pregnant women who do not have the opportunity or access to get good reproductive health services when they need it. This ignorance and incompetence causes them to choose unskilled personnel, such as shamans, with all the consequences. If one day they are referred, it is often too late, not infrequently in an emergency, so that the referral system which should be a transfer of responsibility from one health service unit to a higher unit, with the aim

of saving mothers and children, ends up being just a transfer of the place of death. (Martaadisoebrota 2006) Currently, this condition still occurs in remote areas where transportation is difficult to get to adequate health services (Rosita 2021).

In Indonesian society, it is also found that reproductive health problems of women who are bound in legal marriages have an impact on babies born alive with disabilities, but treatment can still be sought. However, with various backgrounds or considerations of parents and/or family, they refuse special help and decide not to start treatment, or provide only standard care, resulting in a newborn safety incident. Reproductive health problems, starting from adolescence, are characterized by growth, change, the emergence of various opportunities, and often facing reproductive health risks. The need for improved health and social services for adolescents is increasingly becoming a concern throughout the world. Spurred on by recommendations from the 1994 International Conference on Population and Development (ICPD) or the so-called International Conference on Population and Development, many organizations in various countries have created various programs to better meet the needs of adolescents in the field of reproductive health. Many lessons can be learned from the pilot projects and innovative efforts that have been made in various regions regarding the types of youth activities, both those that can produce meaningful change and those that do not. A large number of adolescents are sexually active (though

not always by their own choice), and in various regions or regions, approximately half of them are married.(Fatimah 2019). Sexual activity places adolescents at high risk for various reproductive health problems. Every year approximately 15 million adolescents aged 15-19 give birth, 4 million have abortions, and nearly 100 million are infected with curable sexually transmitted diseases (STDs). Globally, 40% of all cases of HIV infection occur in young people aged 15-24 years. The latest estimate is, every day there are 7,000 adolescents infected with HIV.(Th. Endang Purwoastuti 2015).

Maternal Mortality Rate (MMR) is one indicator to see the health status of women. In addition, MMR is one of the main targets that have been determined by WHO as an indicator of a country's health. From the survey results, the MMR in Indonesia has decreased from time to time, but is still relatively high compared to other Asian countries. The number of maternal mortality rates in Indonesia (national figures) in 1991 was 390/100,000 live births, in 2012 it was 359/100,000, in 2015 it decreased to 305/100,000 live births, while in 2017 it decreased to 177/100,000 live births. This condition is still far from the target that is planned to be achieved in 2030, which is as many as 70/100,000 live births.(Sali Susiana 2019)

From the problems that arise over the right to reproductive health, it also results in conditions, where families and residents or the community are unable to realize their goal of forming a

strong and prosperous family.. For this reason, this study was conducted to examine efforts to fulfill the right to women's reproductive health in the Indonesian legal system.

B. Method of Implementation

The form of descriptive-analytical research, with a normative juridical approach, is legal research using a theoretical approach, in the form of human rights theory, and analytical methods included in dogmatic legal disciplines. The research is focused on examining the rules or norms in positive law according to a literature study. The data generated or obtained from literature studies and field studies were analyzed using qualitative juridical methods, namely analyzing the data without using mathematical or statistical calculation formulas, the analysis was carried out to reveal the existing reality. The research results obtained are presented in the form of descriptions and explanations of the problems discussed.

C. Result and Discussion

Reproductive Health Regulations in Indonesia.

Health is a human right and is one of the most important elements of well-being must be realized in accordance with the ideals of the Indonesian nation as referred to in Pancasila and the Preamble to the 1945 Constitution. This statement means that everyone, whoever he is, female or male, wherever he is, has the right to live a healthy, physical and non-physical life. . This also means that everyone has the

freedom to be able to maintain their own health properly. Definition of health according to Law no. 36 of 2009 concerning Health: Health is a state of health, both physically, mentally, spiritually and socially that enables everyone to live socially and economically productive lives. Everyone has the right to get good and proper health services that are protected by the state. Health services received must be in accordance with health procedures according to health standards,

The term reproduction comes from the word "re" which means to return and the word production which means to make or produce. So, the term reproduction has the meaning of a process of human life in producing offspring for the sake of survival. While what is meant by reproductive organs are organs that function for human reproduction.(Rohan 2017).

In Indonesia, a number of legal regulations governing reproductive health can be found:

- a. The 1945 Constitution of the Republic of Indonesia, Article 28 H paragraph (1), Article 34 paragraph (2), Article 34 paragraph (3).
- b. Law of the Republic of Indonesia Number 36 Year 2009 concerning Health, sixth part, Reproductive Health, Article 71, Article 72, Article 73, Article 74, Article 75, Article 76, Article 77. seventh part, Family Planning, Article 78.
- c. Law of the Republic of Indonesia Number 52 of 2009 concerning Population Development and Family Development. Principle, Article 3.

Chapter III Rights and Responsibilities of Residents, Article 5 letter c and letter l. Family Planning, Article 20, Article 21. Reduction of Mortality Rate, Article 30, Article 31.

- d. Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights. Article 45, Article 49 paragraph (2), Article 49 paragraph (3).

- e. Government Regulation Number 87 of 2014 concerning Population Development and Family Planning Development, and Family Information Systems.

- f. In particular, the regulation of reproductive health rights is regulated through Government Regulation no. 61 of 2014 concerning Reproductive Health, regulates the responsibility of the government and local governments.

- g. International Conference on Population and Development (International Conference on Population and Development), Cairo in 1994. The important thing from ICPD Cairo in 1994 was the agreement to change the paradigm in the management of population problems to a focused approach on reproductive health and efforts to fulfill male reproductive rights and women based on gender equality and justice.

- h. Beijing Declaration and Platform for Action (BPFA). Results of the Fourth World Conference on Women, Beijing, 1995. Critical Areas C, Women and Health Strategic Goals Item 95 and Item 96.

- i. The Global Development Goals contained in the Sustainable Development Goals (SDG's) 2015-2019. Family Planning and Reproductive Health are contained in the SDG's goal number 3, which is to ensure a healthy life and promote well-being for all at all ages and number 5, which is to ensure gender equality and empower all women.
- j. National Policy: 1) Regulation of the Head of BKKBN Number 199/PER/E4/2014 concerning Guidelines for the Implementation of Promotion and Counseling of Reproductive Health in the Population Program for Family Planning and Family Development. 2) Regulation of the Head of BKKBN Number 18/PER/B4/2014 concerning Guidelines for the Development of Structural and Functional Relationships in the Implementation of Population Control, Family Planning and Family Development. 3) Regulation of the Minister of Health No. 97 of 2014 concerning Health Services for the Pre-pregnancy, Pregnancy, Childbirth, and Postnatal Periods, Implementation of Contraceptive Services, and Sexual Health Services, the government guarantees maternal health, reduces morbidity and mortality rates for mothers and newborns, ensures the achievement of quality of life and fulfillment of reproductive rights, and maintain and improve the quality of quality, safe and useful maternal and newborn health services in accordance with the development of science and technology. Reproductive health policies have a very important role, one of which is in achieving health development goals, considering that Indonesia still faces various problems related to reproductive health, which can be seen through indicators of Maternal Mortality Rate, Total Fertility Rate, unmet need for family planning, teenage pregnancy and so on. (Fatimah 2019).
- The reproductive function is basically to preserve species or breed. This function is a blessing and bounty of Allah SWT which is a great benefit of the creation of pairs (Azwajan). This is explained in the Qur'an including in Surah Ash-Syura (42): 11 and An-Nisa (4): 1. Reproductive function is closely related to sexual function, the two of which cannot be separated. In the Qur'an, it is explained that both of these are human needs or nature so that they are carefully regulated so that the function runs well and remains in His pleasure. (Hardisman 2014).
- Women's Reproductive Health Rights**
- Rights are everything that must be obtained by everyone who has been there since birth even before birth (still in the womb). Rights are interests that are protected by law, while interests are individual or group demands that are expected to be fulfilled. Interest essentially contains power that is guaranteed and protected by law in carrying it out. (Mertokusumo 1999).
- HJJ Leenen provides an understanding of Health Law as a whole

legal regulation that is directly related to the provision of health services and its application to civil law, administrative law, and criminal law (Is 2015a), whereas according to Van der Mijl that, : Health law can be formulated as a collection of arrangements relating to the provision of care and also its application to civil law, criminal law and administrative law. (Is 2015b). According to the Articles of Association of the Indonesian Health Law Association (PERHUKI): Health Law is all legal provisions that are directly related to health care/services and the implementation of rights and obligations, both for individuals and all levels of society, both as recipients of health services and as health service providers. in aspects, organization, facilities, guidelines for medical service standards, health science and law, as well as other legal sources. (M. Jusuf Hanafiah 2016)

Health law including law "*lex specialis*", specifically protecting the duties of the health profession (provider) in the human health service program towards the goal of the declaration of "health for all" and special protection of "receiver" patients to obtain health services. (Triwibowo 2014). By itself this health law regulates the rights and obligations of each service provider and service recipient, either as individuals (patients) or community groups.

Therefore Health law is a series of legal provisions, both written and unwritten, that are directly or indirectly related to health, the relationship between patients/or the community and

health workers in the implementation of health services. (Asyhadie 2017).

Reproductive health is very influential on the continuity and integrity in fostering a household. Reproduction is wronga natural law that applies to all living things, including humans. Reproductive health is a state of complete physical, mental and social well-being in all matters relating to the function, role and reproductive system. Reproductive health is intended for both men and women, but in this case women get more attention because of the complexity of female reproductive organs. Reproductive health discusses various matters relating to the health of one's reproductive organs. In addition, reproductive health also discusses the life cycle and problems faced by every woman. (Irianto 2015).

Health development aimed at increasing the level of public health. In order to achieve a high degree of health, women as health recipients, family members, and health service providers must play a role in the family, so that children grow up healthy and mature as young people.

Women, should be given attention because (Irianto 2015):

- a. Women face special health problems that men do not face with regard to their reproductive functions;
- b. Women's health directly affects the health of children conceived and born;
- c. Women's health is often forgotten and it is only an object in the name of development such as the family

planning program (KB) and population control;

- d. The issue of women's reproductive health has become an international agenda, and Indonesia agreed on the results of the Conference on reproductive health and population (Beijing and Cairo);
- e. There are still traditional customs that are detrimental to women's health in general and to pregnant women;
- f. In various parts of the world there are still various discriminations that have a negative impact on women's health and reproductive rights;
- g. There are inequalities for women in access to education, employment, decision-making and available resources.

Based on the above thought, women's health is the most important aspect due to its influence on children's health. Therefore, in which women are given the freedom to determine what is best according to themselves according to their needs where she herself decides on her own body.

Women who are classified as vulnerable groups (*vulnerable people*) has a special place in the regulation of guarantees for the protection of human rights, in general the rights granted to women are more emphasized, the very basic principles of human rights for women include: gender perspective rights and anti-discrimination, meaning that women have the same opportunities as men to develop themselves, such as in the world of education, work, political rights, legal position, citizenship, rights

and obligations in marriage.(Sochmawardiah 2013).

Reproductive rights are part of human rights that are inherent in humans from birth and are protected,so that the restraint on reproductive rights means the restraint of human rights. Reproductive rights are generally defined as rights owned by individuals, both men and women, related to their reproductive conditions.

The responsibility to use their reproductive function, for a woman is a right, but if that right is given freedom, of course there will be many women who have abortions, then the protection of women's reproductive rights in Indonesia is only given at the time of, or in the context of life planning, for example the program. The BKKBN gives freedom of choice before marriage, butif has stepped into the institution of marriage, there needs to be a conception. The function of reproductive health is a special thing for humans. Therefore, it must be propagated in Indonesia, not only as a women's human right that must be demanded, but must be fought for. Understanding gender equality does not only mean that these women only maintain their dignity, but violate their nature, in conflicts, as mothers who are pregnant and giving birth. Regarding abortion in Indonesia, including women's freedom and responsibility, that women's freedom is subject to the law, as stated in Article 28J paragraph (2) of the 1945 Constitution which states that,"In exercising their rights and freedoms, everyone is obliged to comply with the restrictions stipulated by law for

the sole purpose of guaranteeing the recognition and respect for the rights and freedoms of others and to fulfill fair demands in accordance with considerations of morals, religious values, security and public order in a democratic society". Abortion in Indonesia is prohibited unless there is a medical emergency that threatens the life of the mother and/or fetus, as well as for rape victims, exceptions for rape victims due to psychological trauma, and will refuse pregnancy, will not be willing to maintain the womb or pregnancy.

The rules regarding abortion in Indonesia are contained in Law No. 36 of 2009 concerning Health and Government Regulation No. 61 of 2014 concerning Reproductive Health. Abortion in Indonesia is neither permitted nor prohibited, with the exception of medical emergencies, which threaten the life of the mother and/or fetus, as well as for rape victims. An abortion on the basis of a medical emergency can only be carried out after receiving consent from pregnant women and their partners (except for rape victims) and certified health care providers, as well as through counseling and/or pre-action consultations carried out by competent and authorized counselors. (Fatimah 2021).

Indonesian Law State System.

Indonesia which adheres to and applies the concept of a state of law that has its own characteristics in accordance with the conditions and soul of the Indonesian nation, namely the concept of a state of law Pancasila. The Pancasila

state law has the concept of God Almighty, so that in the context of fulfilling reproductive health rights, and ensuring the fulfillment of women's reproductive functions, as well as the formation of a family that aims to produce offspring, it must be carried out through legal marriage, as stated in Article 28B paragraph (1) of the Law. 1945 Constitution: "Everyone has the right to form a family and continue the lineage through a legal marriage". In Article 2 Paragraph (1) of Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage. Legal marriages are marriages carried out according to the law of each religion and belief. In paragraph (2), each marriage is recorded according to the applicable laws and regulations. Legal marriage as part of a form of protection from the state against citizens.

The concept of women's rights in the beginning interpreted by background. Sheer logic, in the sense that women's rights are understood only as a result of the recognition that women are also human beings, and should receive protection of human rights. One of the things that is guaranteed is the issue of women's health, women's health is one of the 12 rights set out in the Declaration and Plan of Action of the Fourth World Conference on Women in Beijing in 1995. Since women's rights were declared Until now, women's reproductive health problems are still the main study, given the high maternal mortality rate, which is caused by disorders of their reproductive organs. In Article 3 of Government Regulation no.

61 of 2014 concerning Reproductive Health, it is emphasized that, Reproductive Health aims to ensure the fulfillment of the reproductive health rights of everyone, including women through quality, safe, and accountable health services, as well as ensuring maternal health in reproductive age so that they are able to give birth to a healthy and quality generation. and reduce maternal mortality.

Reproductive health is a basic right of every person, so guaranteeing the availability of reproductive health facilities and infrastructure is a medium to guarantee and protect, so that people can enjoy these basic rights. Matters related to women's reproductive health must be regulated, for several reasons as follows(Purwanti 2013):

- a. Women face special health problems that men do not face with regard to their reproductive function.
- b. Women's health directly affects the health of children conceived and born.
- c. Women's health is often forgotten and it is only an object in the name of "development" such as family planning programs and population control.
- d. The issue of women's reproductive health has become an international agenda including Indonesia agreeing on the results of the conference on reproductive health and population.

Women's reproductive rights are related to the organs and abilities of women's reproductive functions, and it is a gift from God Almighty. However, the granting of women's freedom in

managing their reproductive rights is also related to the health of both their own reproductive health and the health of the fetus in a woman's womb.. This can lead to complicated legal implications, such as birth defects. Reproductive health is very influential on the continuity and integrity in fostering a household, including to get offspring. Reproduction is a natural law that occurs for all living things, including humans.(Fatimah 2021).

Basically providing information on reproductive health is not solely the responsibility of the government, but the government has an obligation to ensure the availability of information facilities and reproductive health service facilities, as stated in Article 73 of Law no. 36 of 2009 concerning Health. Providing this information is also the responsibility of all parties, be it parents, medical professionals, educators, religious leaders and those concerned, such as teenagers. If you have received information and education about reproductive health, but there are still behaviors that result in unwanted pregnancies, then it is still necessary to take several counseling steps before elective abortion becomes the last alternative. Many women are not responsible for using their reproduction,

Reproductive rights include human rights that are recognized in national law, international human rights documents and the relevant United Nations consensus. These rights are based on the recognition of the human rights of all couples and individuals to determine freely and responsibly the

number of children, and to determine the time of birth of their children, to have information and how to obtain it, and the right to achieve the highest standards of sexual and sexual health. reproduction. Thus, in essence, reproductive health is a human right, reproductive health is a basic right of every person, so guaranteeing the availability of reproductive health facilities and infrastructure is a medium to guarantee and protect so that people can enjoy these basic rights.

D. Conclusion

PFullfillment of the right to women's reproductive health can be realized in the Indonesian legal state system, through legal marriage (Article 28B (1) of the 1945 Constitution) and efforts made to fulfill it, namely by improving maternal health, providing health service facilities as needed, low reproductive health especially in women will have an impact on the baby they are born. Reproductive health is a basic right of every person, so guaranteeing the availability of health facilities and infrastructure is a medium to guarantee and protect so that people can enjoy these basic rights. Reproductive health aims to ensure the fulfillment of the reproductive rights of everyone, including women, through quality, safe and accountable health services.

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