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LEGALITY OF CONTRACEPTIVE USE IN CHILDREN AND ADOLESCENTS BASED ON GOVERNMENT REGULATION NO. 28 OF 2024

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Abstract: this study aims to find out how the legality of contraceptive use in children and adolescents is based on Government Regulation No. 28 of 2024. The method used in this study is normative juridical using a statutory approach and a conceptual approach. The focus of the research is on adolescent reproductive health rights and human rights principles, as well as the challenges and implications of such policies. Although it aims to reduce the number of unwanted pregnancies among adolescents, the regulation has raised a variety of controversies, including moral and cultural issues. The results of this study show that the legality of the use of contraceptives for children and adolescents based on Government Regulation No. 28 of 2024 is still limited by strict legal provisions. Although this policy aims to protect the reproductive health of adolescents, restricting access to contraceptives can actually increase the risk of unwanted pregnancies and the spread of sexually transmitted diseases. Therefore, there needs to be a balance between legal regulations, health education, and social values to ensure better protection for adolescent reproductive health in Indonesia.

Keywords: Contraceptives; child; adolescent; human rights.

INTRODUCTION

Pregnancy that occurs in adolescence has a serious impact, both in terms of physical, psychological, and social. In many cases, adolescents who experience pregnancy out of wedlock feel unprepared to take on the role of a parent and face social stigma. As a result, some of them

choose to bypass abortion, although this is against the law in many countries, including Indonesia¹.

Abortion in adolescents raises various legal, ethical, and health problems. From a legal point of view, abortion without a clear medical reason is considered illegal and can be subject to criminal sanctions. In addition, abortions performed secretly and without adequate medical supervision often endanger the lives and health of adolescents. In the midst of this dilemma, regulations regarding abortion in Indonesia tend to be strict, with a few exceptions only for medical conditions that threaten the mother's life or rape cases².

This problem encourages the need for a more holistic approach, both from legal, educational, and health aspects to protect adolescents from the risk of pregnancy out of wedlock and provide appropriate solutions for those who experience pregnancy due to rape or free sex. This study will discuss the factors that cause pregnancy out of wedlock in adolescents, their implications for abortion decisions, and a review of laws related to abortion in Indonesia.

However, the implementation of contraceptive use in adolescents raises various polemics, both in terms of ethics, law, and culture. In Indonesia, Government Regulation No. 28 of 2024 is one of the latest regulations that try to regulate the use of contraceptives, including among adolescents. This regulation contains provisions related to the provision of reproductive health information and services to the public, including school-age adolescents.

Meanwhile, in other countries such as the Netherlands can access contraception from the age of 12 with parental consent, but after the age of 16, they can access contraception independently. In the UK, adolescents aged 16 and over can access contraception without parental consent, while those under 16 can access it with a clinical assessment that ensures that they understand their option. Sweden has a very open reproductive health policy. Teens over the age of 15 can access contraception freely, and many schools provide access to contraceptive information as well as sexual health service³.

Although the regulation aims to reduce the number of pregnancies outside of wedlock and raise awareness of reproductive health, the policy has caused controversy. On the one hand, this policy is considered a progressive step to protect the health of adolescents. However, on the other hand, there are concerns that the provision of access to contraceptives can encourage more free sexual behavior among adolescents, and is contrary to the religious and cultural values embraced by most Indonesians.

Contraception is a method or tool used to prevent pregnancy. The use of contraceptives is very important in supporting reproductive health, both in family planning, prevention of unwanted pregnancies, and protection from sexually transmitted diseases (STDs). There are various types of contraceptives, including condoms, birth control pills, implants, birth control injections, and other types.

¹ Freedom Bramky Johnatan Tarore, "Pengguguran Kandungan Akibat Pemerkosaan Dalam Kuhp," *Lex Crimen* II, no. 2 (2013): 30–42, <https://media.neliti.com/media/publications/3020-ID-pengguguran-kandungan-akibat-pemerkosaan-dalam-kuhp.pdf>.

² Yuna Trisuci Aprillia, Asyifa Robatul Adawiyah, and Santi Agustina, "Analysis of the Use of Contraceptives Before and During the Covid-19 Pandemic," *Jurnal Untuk Masyarakat Sehat (JUKMAS)* 4, no. 2 (2020): 190–200.

³ Wiwik Afifah, "Perlindungan Hukum Bagi Perempuan Korban Perkosaan Yang Melakukan Aborsi," *DiH: Jurnal Ilmu Hukum* 9, no. 18 (2013), <https://doi.org/10.30996/dih.v9i18.277>.



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The use of contraception as a method of pregnancy prevention has been regulated and restricted by the state with the aim of controlling population growth and maintaining people's reproductive health. In this context, the government through various regulations, such as Government Regulation No. 28 of 2024, provides clear guidelines regarding who has the right to use contraception and how the method can be accessed by the public. This effort is also carried out as part of the family planning program to ensure a stable and sustainable demographic balance. However, with the development of contraceptive technology becoming more sophisticated, the use of this device is not only limited to pregnancy prevention, but can also be used as an effort to regulate population density in the modern era. However, the use of contraception must still be accompanied by moral limits that are closely related to cultural values and societal ethics, especially those related to sexual reproduction. The use of contraception among adolescents, especially students, poses its own challenges in terms of morality. This is because contraception is often considered an encouragement to engage in sexual activity outside of marriage, which can be contrary to the social and religious norms that apply in Indonesia.

One of the important aspects that often arises regarding the use of contraception is its relationship with abortion. In general, contraception aims to prevent pregnancy, but in some cases, especially when contraceptive methods fail or are not used correctly, abortion becomes the alternative chosen by some individuals or couples. In some circles, emergency contraception such as the abortion pill or contraceptives that work after conception are considered a form of disguised abortion. This has sparked moral and legal debates, given that abortion in Indonesia is strictly regulated by law and is only allowed under certain limited circumstances, such as when the pregnancy endangers the mother's life or as a result of rape. Based on data from the National Population and Family Planning Agency (BKKBN), it is estimated that the number of abortions among adolescents in urban areas continues to increase. This is due to the lack of knowledge of adolescents about sexual education⁴.

Adolescent reproductive health is a complex issue and continues to be a concern. In Indonesia, efforts to improve adolescent reproductive health are regulated in Government Regulation Number 28 of 2024. However, one of the articles in this regulation, which regulates the provision of contraceptives for students and adolescents, has sparked a long debate in the community. This study aims to analyze the implementation of these regulations in the field, as well as identify factors that affect public acceptance of this policy. Thus, it is hoped that a clearer picture of the challenges and opportunities in efforts to improve adolescent reproductive health in Indonesia can be obtained.

⁴ Ni Putu Ratih Puspitasari, I Made Sepud, and Ni Made Sukaryati Karma, "Tindak Pidana Aborsi Akibat Perkosaan," *Jurnal Preferensi Hukum* 2, no. 1 (2021): 135–39, <https://doi.org/10.22225/jph.2.1.3058.135-139>.

Therefore, a study on the legality of the use of contraceptives among school-age and adolescents based on Government Regulation No. 28 of 2024 needs to be carried out by prioritizing juridical, social, cultural, ethical, and implementation aspects in the field. This research is expected to provide a clearer picture of the setting ⁵.

RESEARCH METHODS

The method used in this study is a normative juridical research method using a statutory approach and a conceptual approach ⁶.

ANALYSIS AND DISCUSSION

1. LEGAL ACCESS TO CONTRACEPTIVES FOR CHILDREN AND ADOLESCENTS

Legal access to contraceptives for children and adolescents is an increasingly relevant issue in the modern context, especially with the increasing awareness of the importance of reproductive health from an early age. On the one hand, access to contraceptives is considered an effective way to reduce pregnancy rates among adolescents and prevent the spread of sexually transmitted diseases. On the other hand, debates have arisen regarding the appropriate age limit to access contraception and the role of parents and the state in providing legal protection for this age group⁷.a

Government Regulation No. 28/2024, as the implementing regulation of Law Number 17 of 2023 concerning Health, has raised debates in the community, especially related to regulations regarding the use and provision of contraceptives for school-age groups and adolescents. In the PP, it is specifically regulated regarding the provision of communication, information, education, and reproductive health services to adolescents, including the provision of contraceptives, which triggers various reactions from various parties ⁸.

PP No. 28/2024 states that contraceptives can only be accessed by individuals who meet certain requirements, such as age and marital status. Article 103 provides that adolescents can access contraceptives with the consent of a parent or guardian, or on the basis of medical

⁵ Dinda Maslahatul; Marwanto Ammah Marwanto, "Perlindungan Internasional Terhadap Hak Asasi Manusia Orang-Orang Lgbt Dengan Bantuan Pbb," *Kertha Negara : Journal Ilmu Hukum*, no. Vol 7 No 7 (2019) (2019): 1–16, <https://ojs.unud.ac.id/index.php/Kerthanegara/article/view/52029/30826>.

⁶ Peter Mahmud Marzuki, *Penelitian Hukum*, 2016.

⁷ Fenita Dhea Ningrumsari, "PERLINDUNGAN HUKUM TERHADAP PEREMPUAN KORBAN KEKERASAN SEKSUAL (Suatu Kajian Feminist Legal Theory) LEGAL PROTECTION FOR WOMEN AS VICTIMS OF SEXUAL VIOLENCE (A Study of Feminist Legal Theory)," 2021.

⁸ M. Chaerul Risal, "Perlindungan Hukum Terhadap Korban Kekerasan Seksual Pasca Pengesahan Undang-Undang Tindak Pidana Kekerasan Seksual : Penerapan Dan Efektivitas," *Al Daulah : Jurnal Hukum Pidana Dan Ketatanegaraan* 11, no. 1 (2022): 75–93, <https://doi.org/10.24252/ad.v1i2.34207>.



considerations. This poses an obstacle because many adolescents do not get support from their families to access reproductive health services.

One of the main aspects that causes polemics is the legality of the use of contraceptives by school-age teenagers, who are still legally classified as minors. On the one hand, the government sees this policy as a proactive step to reduce the number of unwanted pregnancies, the spread of sexually transmitted diseases, and increase adolescent awareness of reproductive health. However, on the other hand, there are concerns that providing access to contraceptives for adolescents will lower moral limits, encourage promiscuity, and undermine the social and cultural values embraced by the majority of Indonesian society⁹.

Juridically, the articles in Government Regulation No. 28/2024, especially Article 103 paragraph (1) and paragraph (4), which regulate the provision of information and the provision of contraceptives for adolescents, are the main basis for this policy. These articles provide technical guidance on the mechanism for administering contraceptives, including the requirements and objectives of the policy. Even so, the big question that arises is whether this regulation is in accordance with the legal framework in Indonesia and whether its implementation does not conflict with other norms, such as child protection and religious values.

Socially and culturally, public acceptance of the use of contraceptives by adolescents is still very diverse. Many parents, educators, and the general public are uncomfortable with this discourse, thinking that this policy can give the wrong signal and actually encourage more permissive sexual behavior among adolescents. Further research needs to be conducted to understand public perceptions, especially among parents and teachers, regarding the implementation of these regulations.

In terms of health, this policy is expected to reduce the number of unwanted pregnancies and reduce the risk of sexually transmitted diseases among adolescents. However, the success of this policy depends on comprehensive and targeted education. Adolescents must have complete and correct information about contraceptives, their functions, and the risks of using them in order to make responsible decisions regarding their reproductive health.

Ethical dilemmas are also a significant challenge in the implementation of this policy. On the one hand, adolescents have the right to adequate information and health services, including those related to reproductive health. However, on the other hand, the protection of adolescents as a vulnerable group is a priority that must be maintained. Does providing access to contraceptives in adolescents violate children's rights or is it a form of protection against greater risks.

⁹ Elvira Damayanti et al., "Urgensi Pembentukan Peraturan Daerah Terhadap Pembelian Alat Kontrasepsi Jenis Kondom Di Samarinda Seberang Perspektif Maqashid Syariah," *Journal of Chemical Information and Modeling* 7, no. 02 (2019): 259–80, <https://doi.org/10.54298/tarunalaw.v2i02.199>.

In addition, the challenges of implementation in the field cannot be ignored. The provision of contraceptives among school age requires the readiness of health infrastructure, competent health workers, and correct and not misleading educational materials. Case studies in several regions can provide a clearer picture of how these regulations are implemented and what challenges arise in the field¹⁰.

This PP allows the provision of contraceptives for adolescents, but does not provide specific provisions regarding the conditions that must be met by adolescents who want to access these services, such as minimum age requirements, parental permission, or the need for pre-contraceptive counseling. Without clear guidance, these services may be accessed without adequate supervision or understanding on the part of adolescents or their families, potentially posing a risk of abuse or psychological and social impacts for young users.

In general, Government Regulation Number 28 of 2024 can be said to be in line with efforts to fulfill basic adolescent reproductive health rights. However, there are a number of challenges that need to be overcome, especially in terms of social stigma related to reproductive health and contraception for adolescents. In some communities, the use of contraceptives by adolescents is still considered taboo and often misinterpreted. This has the potential to hinder adolescents from utilizing the services provided by this policy, as well as have an impact on the low effectiveness of planned reproductive health education programs¹¹.

2. SUITABILITY OF THE USE OF CONTRACEPTIVES FOR ADOLESCENTS WITH THE PRINCIPLES OF HUMAN RIGHTS AND REPRODUCTIVE HEALTH

The right to health, including reproductive health, is part of an internationally recognized human right. Under the Convention on the Rights of the Child, every child has the right to access adequate health information and services, including reproductive health education.

However, in Indonesia, restrictions on access to contraceptives for adolescents are still considered to violate these rights, especially for adolescents who are in vulnerable situations. Although PP No. 28 of 2024 aims to protect people's reproductive health, this regulation is not fully in line with the principles of human rights and reproductive health recognized in international law.

The use of contraceptives for adolescents in the context of reproductive health needs to be analyzed from the perspective of human rights (HAM) and reproductive health. Government Regulation Number 28 of 2024 aims to expand access to health services for adolescents, including access to contraception, as part of efforts to protect their health rights. This is considered important, especially given the right of adolescents to receive appropriate reproductive health information and services in order to protect themselves from health risks.

¹⁰ Damayanti et al.

¹¹ Gita Karisma and Khairunnisa Simbolon, "Kerentanan Wilayah Konflik Dan Upaya Negara Dalam Mengatasi Covid Di Wilayah Konflik Asia," *Jurnal Ilmiah Hubungan Internasional* 19, no. 1 (2023): 60–78, <https://doi.org/10.26593/jihi.v19i1.6409.60-78>.



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According to human rights, every individual, including adolescents, has the right to information and health services that support their physical and mental well-being. Regulations that provide access to contraception to adolescents are one way to respect these rights¹², as long as the information provided is age-appropriate and can be understood well by adolescents. With this access, adolescents are expected to be able to make better decisions regarding reproductive health, especially in preventing unwanted pregnancies and sexually transmitted infections¹³.

The provision of reproductive health services must be in accordance with the principle of non-discrimination recognized in human rights. Adolescents should not be prohibited or made difficult to access health services just because of age factors or social stigma. However, policies must still pay special attention to relatively young adolescents, so support from health workers, families, or parents is urgently needed to ensure that access is done carefully¹⁴.

The importance of comprehensive access to information for adolescents is the cornerstone of reproductive health. With enough information, adolescents can better understand the implications of existing health choices. This is in accordance with the principle of human rights which emphasizes that every individual has the right to information that allows them to make decisions based on correct knowledge. In this case, health workers are expected to be able to provide appropriate education according to the needs of adolescents¹⁵.

Regulations that allow the use of contraceptives for adolescents also need to consider the psychological and health impacts that may occur. While the use of contraception can help avoid the risk of early pregnancy, it still requires assistance so that teens feel safe and prepared. Therefore, health workers need to provide constructive counseling and support adolescent mental health in this process. Health workers act as the main source of information and as counselors for adolescents. They must provide proper education about contraception and consider the emotional aspects that adolescents may face in using contraception. In addition,

¹² Osgar Sahim Matompo and Wafda Izziyana, "Perlindungan Hukum Bagi Pekerja Migran Perempuan Indonesia Non Prosedural Di Saudi Arabia Berdasarkan Hak Konstitusional Warga Negara," *Egalita Jurnal Kesetaraan Dan Keadilan Gender* 17, no. 2 (2022): 44–53, <https://doi.org/10.18860/egalita.v17i2.18282>.

¹³ Ni Putu Ratih Puspitasari, I Made Sepud, and Ni Made Sukaryati Karma, "Tindak Pidana Aborsi Akibat Perkosaan."

¹⁴ Tarore, "Pengguguran Kandungan Akibat Pemerkosaan Dalam Kuhp."

¹⁵ Utami Diah Kusumawati, "Tercatat Angka Aborsi Meningkat Di Perkotaan," n.d., <https://www.cnnindonesia.com/nasional/20141029111311-12-8642/tercatat-angka-aborsi-meningkat-di-perkotaan>.

the role of the family as the immediate environment is important in supporting and guiding adolescents to feel safe in making reproductive health decisions.

CONCLUSION

The legality of the use of contraceptives for children and adolescents based on Government Regulation No. 28 of 2024 is still limited by strict legal provisions. Although this policy aims to protect the reproductive health of adolescents, restricting access to contraceptives can actually increase the risk of unwanted pregnancies and the spread of sexually transmitted diseases. Therefore, there needs to be a balance between legal regulations, health education, and social values to ensure better protection for adolescent reproductive health in Indonesia. Health workers act as the main source of information and as counselors for adolescents. They must provide proper education about contraception and consider the emotional aspects that adolescents may face in using contraception. In addition, the role of the family as the immediate environment is important in supporting and guiding adolescents to feel safe in making reproductive health decisions.

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