

PROTECTION OF WOMEN'S REPRODUCTIVE HEALTH RIGHTS BASED ON INTERNATIONAL LAW AND REGULATION ON LAWS IN INDONESIA

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Abstract

Women's health is one of the 12 critical issues stipulated in the Declaration and Action Plan of the Fourth International Conference on Women in Beijing in 1995 until now the issue of reproductive health in Indonesia women are still the main study given the high mortality rate of women caused by disorders of the reproductive organs. This research focuses on the Protection of Women's Reproductive Health Rights Under International Law and Legislation in Indonesia. This type of research used in this study is normative legal research sourced from primary, secondary, and tertiary legal material whose data collection is carried out by library study techniques.

The results of the study indicate two things: (1) Protection of women's reproductive health rights in international law is found in International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination Against Women and the International Labor Organization (ILO Convention) Number 183 of 2000 concerning Protection of Pregnancy. Action plans for women's reproductive health rights include the Fourth World Conference on Women Beijing; International Conference on Population and Development Cairo; Sustainable Development Goals or SDGs. (2) Protection of women's reproductive health rights in legislation in Indonesia is regulated in; The 1945 Constitution of the Republic of Indonesia; Republic of Indonesia Law Number 39 Year 2009 concerning Health; Law Number 39 Year 1999 concerning Human Rights; the Republic of Indonesia Law No. 13/2003 concerning Manpower; the Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection. National policies related to reproductive rights include Government Regulation Number 61 of 2014 concerning Reproductive Health; Regulation of the Minister of Health of the Republic of Indonesia Number 43 of 2016 concerning Minimum Service Standards in the Field of Health. Regional policies related to Reproductive Health include Lampung Province Regional Regulation Number 17 of 2014 concerning the Provision of Exclusive Breast Milk.

Keywords: *Protection, Women's Reproductive Rights, Health*

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A. Introduction

Health is a condition where every individual can carry out their activities properly without any constraints to fulfil their lives, both socially and economically. *The World Health Organization (WHO)* defines health as a state of complete physical, mental and social well-being, and not just the absence of disease or reproductive health weaknesses handling reproductive processes, functions and systems at all stages of life.¹ Reproduction is a process of human life in producing offspring for the sake of its survival. The concept of reproduction is closely related to the future of mankind, which is determining the continuity and existence of humans on this earth. Just imagine if humans no longer reproduce, then the future of humans will disappear because there is no new human being who will replace the old humans. The conception of the state requires human beings who then live in groups to become residents in a country. The

¹ http://www.who.int/topics/reproductive_health/en/, accessed on October 21, 2018

population is one element of the formation of a country, other elements such as territory, sovereign government and recognition from other countries.² This is stated in the 1933 Montevideo Convention on the Rights and Duties of the State. Therefore, reproduction is a process to regenerate old human beings to replace them with new ones or in other meaning reproduction to maintain the existence of population in a country.

The description above shows that the existence of the population in a country is closely related to reproductive health. Reproductive health is an important component of health for men and women. But in this case, more emphasis on women because the state of the disease in women is more associated with the function and ability to reproduce and social pressure on women. Women are the subject of several diseases to bodily functions because of male influence; the pattern of the disease is different from men due to genetic, hormonal, or lifestyle behaviours. Diseases in the body system can interact with the state of the reproductive system or its function. This is due to several reasons. First, women have special health needs related to sexual and reproductive functions. Secondly, women have a reproductive system that is easily injured to become dysfunctional or sick, whether it occurs before the reproductive system is functioning or after functioning. Third, women can be affected by diseases of the same reproductive organs as men, but the pattern of the disease will be different from men because of the genetic structure of women, the hormonal environment, and lifestyle behaviours related to gender. Diseases in other body systems can interact with the condition of the reproductive system and function fourth, because women are subject to social dysfunction, which can affect physical, mental or social health. Men have a concern for reproductive health, but in their situation, men's reproductive health and behaviour affect women's reproductive health.

The development of reproductive rights is based on the basic concept of thinking about reproductive rights which is a development on the concept of human rights. First, views based on the belief that every human being is born with individual rights that are not separated from it, and secondly views that emphasize the obligation of society and the state to guarantee not only freedom and opportunity for citizens, but also ensure that citizens are able to obtain, exercise freedom, and what is rightfully his. The emergence of the concept of Women's Rights was initially interpreted with a mere logical background. Namely, women's rights are understood merely as a result of the recognition that women are also human. Therefore, women should have the protection of human rights. This statement is confirmed through the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW). CEDAW is an international agreement to eliminate all forms of discrimination against women. This convention defines the principles of women's human rights as human rights, norms and standards of obligation, as well as the state's responsibility in eliminating discrimination against women.³

One of the rights of women guaranteed by the state is the health and its relation to reproduction. Women's health is one of the 12 critical issues set out in the Declaration and Action Plan of the IV World Conference on Women in Beijing in 1995 until now the issue of women's reproductive health remains a major study given the high mortality rate of women caused by disorders of the reproductive organs. Reproductive health receives special attention from the issues raised in the international conference on population and development (*International Conference Population Development, ICPD*) in Cairo, Egypt in September of 1994, 184 countries gathered to plan an equivalence between human lives and resources available. For the first time, an international agreement on population-focused reproductive health and women's rights as a central theme. At the conference agreed on a paradigm shift in the management of population and development issues from population control and fertility reduction approaches to approaches that focus on reproductive health and efforts to fulfil reproductive rights.

The *International Labor Organization* (ILO) is a UN body whose task is to advance opportunities for men and women to obtain decent and productive work in conditions that are independent, equal, safe, dignified. The ILO's main objectives are to promote labour rights, expand decent work opportunities, enhance social protection, and strengthen dialogue in dealing with various issues related to the world of work. In addition, to ensure equality of opportunity and treatment for male and female workers as well as the need for pregnancy protection for female workers that is a joint responsibility of the government and the community.⁴

² The Montevideo Convention on the Rights and Duties of the State 1933.

³ <https://www.komnasperempuan.go.id/reads-siaran-pers-komnas-perempuan-catatan-komnas-perempuan-33-tahun-ratifikasi-cedaw-di-indonesia>, accessed on February 28, 2019.

⁴ Convention concerning revision of the Maternity Protection Convention (Revised), 1952 (Note: Date of entry into force: 07: 02: 2002).

Maternal Mortality Rate (MMR) in Indonesia is still quite high compared to other countries in the ASEAN region. *The World Health Organization (WHO)* defines *maternal death* as the death of a woman during pregnancy or 42 days after pregnancy is terminated, regardless of the duration and location of pregnancy from various consequences related to or exacerbated by the pregnancy or its treatment, however, does not result from an accident or accidental incident. Maternal Mortality Rate (MMR) is still a serious health problem in developing countries. According to a report *World Health Organization (WHO)*, in 2014, several countries had quite high MMR such as 179,000 Sub-Saharan Africans, 69,000 South Asians, and 16,000 Southeast Asians. The maternal mortality rate in Southeast Asian countries is Indonesia 190 per 100,000 live births, Vietnam 49 per 100,000 live births, Thailand 26 per 100,000 live births, Brunei 27 per 100,000 live births, and Malaysia 29 per 100,000 live births.⁵

According to Indonesian demographic and health survey data (IDHS), the maternal mortality rate has decreased in the period 1994-2012, namely in 1994 at 390 per 100,000 live births, in 1997 at 334 per 100,000 live births, in 2002 at 307 per 100,000 births life, in 2007 was 228 per 100,000 live births. Still, in 2012, the maternal mortality rate rose again to 359 per 100,000 live births. For IMR it can be said that the decline *on the track* (continues to decline) and in the 2012 IDHS shows 32 / 1,000 KH (2012 IDHS). And in 2015, based on data from the 2015 Intercensal Population Survey (SUPAS) both MMR and IMR showed a decrease (MMR 305 / 100,000 KH; IMR 22.23 / 1000 KH).

The high MMR and the slow decline in this number indicate that the health services for maternal and child health (MCH) should be improved both in terms of service coverage and quality. Therefore, a clear regulation without overlapping and good implementation are needed for the sake of creating harmony in women's reproductive health regulations. Reproductive health is a very important aspect for the body, so many problems occur due to lack of attention to improving the quality of reproductive health in Indonesia. Maternal mortality does not only describe the health status of the mother itself but also reflects the overall status of the population and socio-economic conditions and is one indicator that is very sensitive in seeing the use and results for health services, especially mothers.⁶ So in knowing the overall status of a country's population and economic conditions whether or not it can be illustrated in how much the burden of maternal mortality in the country.

The low reproductive health of women in Indonesia compared to other ASEAN countries is closely related to women's reproductive rights that still overlap and the lack of serious attention. However, the reduction in maternal mortality in Indonesia based on current data certainly requires hard work together to continue to reduce maternal and infant mortality rates in Indonesia, even this is in line with the target of the 3rd goal set in *Sustainable Development Goals (SDGs)*. It is reducing the death ratio to less than 70 deaths per 100,000 births.⁷

One of the causes of AKI is the low knowledge of women, especially pregnant women, which is caused by the lack of information received. Other determinants that cause high AKI are 4 too, i.e. too young, too often, too close and too old. An unwanted pregnancy at a young age can be very risky for death or can have a devastating effect on the baby it is carrying and reducing the death ratio to less than 70 deaths per 100,000 births. In addition to maternal mortality, the problem in Indonesia regarding reproductive health is the prevalence of dangerous practices, namely early marriage and female circumcision, both of which have very dangerous impacts and threaten reproductive health in these women. Before the petition, it was granted a request related to the age limit of marriage by the Constitutional Court on the judicial review of Law No. 1 of 1974 concerning Marriage, specifically regarding the age limit of marriage. Indonesian law still applies 16 years for women and 19 years for men in Article 7 of Marriage Law No. 1 of 1974 [10], while the minimum age for marriage based on international agreements is 18 years. Article 1 of the Convention on the Rights of the Child, in general, defines children as persons who have not reached the age of 18 years, but in that article also recognizes the possibility of differences or variations in determining the age limit of maturity in the statutory regulations of each participating country.⁸

Early marriage will cause various impacts, one of which is related to reproductive health issues. If early marriage is carried out by someone who is still said to be a child or in other words, the age of early marriage, the perpetrators are still in the category called Children. Then there will be several possibilities that will affect reproductive health, especially women. For example is the physiological effects of miscarriage

⁵ <http://www.who.int/>, accessed on February 28, 2019.

⁶ Asgar Ali Engineer, *Muslimah Reformis Perempuan Pembeharu Keagamaan* (Mizan pustaka: Bandung, 2004), 266.

⁷ Annual Directorate of Family Health Annual Report 2016.

⁸ United Nations Convention on the Rights of the Child.

(*abortion*), labor *premature*, low birth weight and congenital abnormalities, easy to occur infections, anemia of pregnancy, and maternal death.

Various problems related to reproductive health remain a challenge for Indonesia. This is because there are still legal tools (legislation) at the national level that are not yet optimal and conducive to adopting reproductive health in the new paradigm, particularly with regard to fulfilling the reproductive rights of each individual and implementing the applicable laws. Giving special treatment to women for their reproductive health is the same as giving the best gift to the next generation. The privilege is not solely for women. Women have a natural womb and starting from the womb. Children can grow and develop. Based on the background description of the problem above, the main issues to be discussed in this study are how the Protection of Women's Reproductive Health Rights under International Law is? What is the Protection of Women's Reproductive Health Rights According to Indonesian laws and regulations?

This type of research used juridical-normative-comparative. Legal research literature examines a problem based on legal norms contained in international regulations and legislation and comparing between two groups or more than a certain variable to produce a conclusion. The method in data collection used is the library study technique method, namely by studying the provisions of the legislation, international guidelines, books, documentation, journals, and accessing data on the internet related to issues within the scope of international law and the scope of national law. Data analysis was carried out by outlining and giving the meaning of each data obtained into sentences that are detailed, orderly, effective, logical and not overlapping to facilitate the author in interpreting and analyzing the data which then concludes response to the problems contained in this paper.

B. Discussion

1. The Protection of Rights of Women's Reproductive Health According to the International Law

a. International Covenant on Civil Rights and Politics (International Covenant on Civil and Political Rights or the so-called ICCPR)

The author describes the relationship of reproductive rights with the convention of civil and political rights, or the *International Covenant on Civil and Political Rights* (ICCPR) is a convention of civil and political rights, or the *International Covenant on Civil and Political Rights* (ICCPR) is an agreement to protect and protect human rights, one of which is related to the right family life and family unity. The family is a unitary community group that basically provides an understanding of the equal rights and responsibilities of the family, recognition of the same rights between men and women. Family as a place for someone's first time to get to know, learn and understand their environment. The family as a place for the first time a person to know and learn provides an understanding of reproductive rights must be instilled early on as an effort to eliminate misconceptions such as the presumption of good nutrition only for boys. Family as a place for the first time a person to learn is required to be able to provide a real understanding of the equality of men and women, equal rights and obligations, and oversee the growth and development of family members and ensure the fulfilment of rights and obligations including reproductive rights. The explanation is explained in article 23 paragraph (1, 2, 3 and 4).

b. International Covenant on Economic, Social and Cultural Rights International Covenant on Economic, Social and Cultural Rights or called ICESCR)

International Covenant on Economic, Social and Cultural Rights International Covenant on Economic, Social and Cultural Rights or ICESCR is part of the International Human Rights Bill together with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The ICESCR right is fundamental to enable people to live in dignity. This agreement covers important areas of public policy, such as the right to work; Fair and just working conditions; Social security; Adequate living standards, including adequate food, clothing and housing; Health; Education.⁹

⁹ <https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties/international-covenant-economic-social>, accessed on February 28, 2019.

The ICESCR aims to ensure economic, social and cultural rights including the right to self-determination for all people (article 1); the right to non-discrimination based on race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or another status (article 2); equal rights between men and women to enjoy the rights in ICESCR (article 3); the right to work (articles 6-7); the right to form and join trade unions (article 8); the right to social security (article 9); protection and assistance to families (article 10); the right to an adequate standard of living (article 11); the right to health (article 12); the right to education (articles 13-14); and the right to cultural freedom (article 15).

Based on the above explanation, it can be concluded that ICESCR considers obligations in agreements that are directly and indirectly related to the right to health. In this case, the relationship between the implementation of human rights and the special right to health explained article 12 establishes “the right of everyone to enjoy the highest physical and mental standards that health can achieve”. Arrangements carried out by States parties to agreements such as reduction of stillbirths and infant mortality; ensure the development of healthy children; improve the environment and industrial cleanliness; disease prevention, treatment and control; and access to medical care for all. Then in Article 12, the following is a brief summary regarding the right to health. In considering the normative content of article 12, the right to health does not mean the right to health, but rather takes into account the individual’s biological and socio-economic prerequisites, and the resources available from a country.

Article 12 emphasizes that the right to health must be understood as the right to enjoy various facilities, goods, services and conditions to achieve the highest standards that health can achieve. Article 12 underlines the right to health is an inclusive right that not only requires States parties to provide timely and appropriate health care, but also to overcome the underlying determinants of health, such as access to safe and drinking water and adequate sanitation, adequate supplies safe food, nutrition and housing, healthy work and health environmental conditions, and access to education related to health and information, including sexual and reproductive health.¹⁰

c. Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

This convention encourages the adoption of national legislation that prohibits discrimination and adopts measures to change customary and cultural practices based on the inferiority or superiority of one sex or role stereotypes for women and men. In implementing human rights, women’s rights are the same as men’s rights, and these rights as agreed internationally are included in the CEDAW Convention, namely: rights in the family (marriage), politics, employment, education, health, citizenship, economic and social and equality before the law. Various women’s rights have been accommodated in the CEDAW Convention (Law No.7 of 1984), but in this case limited only to women’s rights to health, especially reproduction, women’s rights in marriage and how women’s rights are protected and based on human rights, all of these rights in order to achieve the goals, of course, it is also mandatory to empower them. How women can access factors of production, access resources, participate in the process of making policy decisions and plans and at the same time, be able to control and oversee the policy process.

Based on the explanation above, it can be drawn as a conclusion that CEDAW protects women from all forms of discrimination and ill-treatment of the rights held by women. Women’s human rights are part of human rights. Women have special protection for their rights. One of the rights that must be protected is reproductive rights. Reproductive rights are the most important part for women, and men have reproductive rights that must be protected. However, in this case, reproductive rights are more focused on women. This is because women’s reproductive rights are special because only women experience menstruation, pregnancy, childbirth and breastfeeding. It is necessary to have special reproductive health protection for women because to guarantee the reproductive system and function of women. Therefore, as the CEDAW Convention that supports the elimination of all forms of discrimination against women provide a special arrangement in the chapters related to women’s reproductive health rights namely in Article 14 paragraph 2 and Article 16 paragraph 1

d. The Convention of the International Labor Organization (ILO) No. 183 years 2000 on Pregnancy Protection

The International Labor Organization or ILO is a United Nations (UN) body that continues to strive to create opportunities for women and men to obtain decent and productive work freely, relatively, safely and

¹⁰ https://www.who.int/hhr/Economic_social_cultural.pdf, accessed on June 28, 2019.

with dignity. The main objectives of the ILO are to promote rights at work, encourage the creation of decent employment opportunities, enhance social protection and strengthen dialogue to address issues related to the world of work. The ILO is the global body responsible for developing and overseeing international labour standards.

The four main ILO Conventions that prohibit discrimination based on sex and promotion of equality are: Equal Wages Convention, 1951 (No.100), Discrimination (Employment and Occupation) Convention, 1958 (No.111), Workers with Family Responsibility Convention, 1981 (No.156) and Pregnancy Protection Convention, 2000 (No.183).¹¹ The promotion of equality promoted by the ILO includes giving equal attention to the health sector where women are placed in a special arrangement to protect the reproductive rights of women workers. The ILO pays full attention to the protection of women's reproductive rights as manifested in the Pregnancy Protection Convention, 2000 (No. 183). There are ILO standard references for legal norms that affect the protection of the reproductive rights of women workers, namely:

- 1) Protection of pregnancy;
- 2) Workers with family responsibilities;
- 3) Certain rules related to night work, underground and part-time work and other health issues.

Based on the explanation of the articles above, it can be concluded that the material coverage of the Pregnancy Protection Convention, 2000 (No.183) (Revised), includes:

- 1) Covers four main elements of pregnancy protection: Maternity leave; Financial and health benefits; Health protection; Breastfeeding.
- 2) Extends the period of leave from 12 weeks to 14 weeks, with compulsory leave six weeks after the birth of the child, during which the mother is not permitted to work.
- 3) Issue a policy of the right to additional leave if you experience illness, complications or risk of these complications that endanger the pregnancy.
- 4) Providing financial benefits at the level where women can maintain themselves and their children in a healthy condition and with a decent standard of living. The financial benefits should be as received by most working women.
- 5) Providing medical benefits including before birth, at birth and after birth and hospital treatment if needed.
- 6) Recognize the right to health protection to ensure that there is no obligation to work due to being pregnant or undergoing female care because it will harm the health of the mother and child or it is known in advance that the work will pose a risk to the health of the mother or child.
- 7) Give women an hour or more of daily rest to breastfeed or reduce work hours.

2. Action Plan for the Women's Reproductive Health Rights

a. International Conference on Population and Development or ICPD

International Conference on Population and Development (*International Conference on Population and Development*), Cairo in 1994. The important thing from the Cairo ICPD in 1994 was the agreed paradigm shift in managing population problems into an approach focused on reproductive health and efforts to fulfil men's reproductive rights. And women based on gender equality and justice. The scope of reproductive health services according to the 1994 *International Conference on Population and Development* (ICPD) in Cairo consisted of maternal and child health, family planning, prevention and treatment of sexually transmitted infections including the *Human Immunodeficiency Virus* (HIV) and *Acquired Immun Deficiency Syndrome* (AIDS), adolescent reproductive health, prevention and management of complications of abortion, prevention and treatment of infertility, reproductive health of the elderly, early detection of reproductive tract cancers and other reproductive health such as sexual violence, female circumcision and so on.¹²

The author provides his view regarding reproductive health rights that the milestone of the development of reproductive health begins with the International Conference on Population and Development (*International Conference on Population and Development*), which was held in Cairo in 1994. At that time, 179 countries signed the agreement of the population and development conference (*International Conference*

¹¹ Desy Churul Aini, Desia Rakhma Banjarani, "Perlindungan Pekerja Perempuan berdasarkan Konvensi ILO (International Labour Organization) dan Implementasinya di Indonesia", *Prosiding Seminar Nasional Membangun Budaya Adil Gender dan Ramah Anak, Bandar Lampung*, Badan Penerbitan Fakultas Hukum Universitas Lampung, (2017): 85.

¹² <https://www.kebijakanidsindonesia.net/id/dokumen-kebijakan/download/17-peraturan-pusat-national-regulation/968-pp-ri-no-61-tahun-2014-tentang-kesehatan-reproduksi>, accessed on June 28, 2019.

on *Population and Development*, ICPD). These countries agreed on a paradigm shift in managing population and development issues, which initially focused on population control and fertility reduction, then prioritizing health services for the fulfilment of individual reproductive rights, both men and women throughout their life cycle, this was explained in the scope of Reproduction health services according to the *International Conference on Population and Development* (ICPD).

The Cairo Conference contains an understanding of reproductive rights and reproductive health in a broad sense because of the reproductive and reproductive health rights which include among others: A

- 1) state of complete physical, mental and social well-
- 2) being. Satisfying and safe sex life.
- 3) Men and women's rights to obtain information and have access to safe, effective and affordable family planning methods.
- 4) The right to obtain appropriate health care services, which enable women to survive pregnancy and childbirth.
- 5) Provide opportunities for couples to have healthy babies.
- 6) Methods, techniques, and services that support reproductive health
- 7) Sexually transmitted diseases.

b. Fourth World Conference on Women (FWCW)

Fourth World Conference on Women (FWCW) Results of the World IV Conference on Women, Beijing, 1995. The 1995 Fourth World Conference on Women in Beijing marked a significant turning point for the global agenda for gender equality. The Beijing Declaration and Platform for Action were adopted unanimously by 189 countries. The Beijing Declaration and Platform for Action is an agenda for women's empowerment and are considered as the main global policy documents on gender equality. *This Platform for Action* focuses on 12 critical areas, namely:

- 1) Women and Poverty;
- 2) Women and Education;
- 3) Women and Health;
- 4) Violence against Women;
- 5) Women and Armed Conflict;
- 6) Women and Economy;
- 7) Women in Power and Decision Making;
- 8) Institutional Mechanisms for Advancing Women;
- 9) Human Rights for Women;
- 10) Women and Mass Media;
- 11) Women and the Environment;
- 12) Girl.

The Beijing Conference builds on political agreements reached at the previous three global conferences on women and consolidates five decades of legal progress aimed at securing women's equality with men in law and in practice.¹³

The author explains that the *Fourth World Conference on Women* (FWCW) in Beijing is a significant turning point in the global agenda for gender equality. *The Platform for Action* provides a focus of attention on women and health as 12 critical focus areas. Women's health is still a problem that must be prioritized and addressed, especially related to reproductive health. This is because the maternal mortality rate in some developing countries such as Indonesia is still high. According to a report, *World Health Organization* (WHO) maternal deaths generally occur due to complications during and after pregnancy.¹⁴ For this reason, paying attention to supporting efforts to uphold women and health, especially reproductive health rights, is very important to prevent complications during and after pregnancy to reduce maternal mortality.

c. Sustainable Development Goals (SDGs)

Sustainable Development Goals (SDGs) is a global action plan agreed by world leaders, including Indonesia, to end poverty, reduce inequality and protect the environment. The SDGs contain 17 Goals and

¹³ <http://www.unwomen.org/en/how-we-work/intergovernmental-support/world-conferences-on-women>, accessed on May 5, 2019.

¹⁴ <http://www.who.int/mediacentre/factsheets/fs348>, accessed on June 30, 2019.

169 Targets that are expected to be achieved by 2030.¹⁵ Countries jointly declare intergovernmental These goals in the UN resolution issued on October 21, 2015, as a joint development ambition until 2030. In this case women's health is one of the objectives of the SDGs are set in the third and fifth goals. The author describes the fifth goal as follows:

The fifth goal is achieving gender equality and empowering all women and girls. Strategy:

- 1) Increasing understanding and commitment on the importance of integrating gender perspectives in various stages, processes and areas of development, at the national and regional levels.
- 2) Implementing gender-responsive planning and budgeting (prrg) in various fields of development, especially in education, health, employment, politics, economics, and law.

Analysis: the fifth goal of SDGs marriages performed by women before the age of 18 or in this case called the practice of early marriage will affect the conditions of women's reproductive readiness. The condition of immature reproduction will endanger the woman herself or when the woman conceives will be at high risk of congenital disabilities and will even have an impact on the baby's death due to immature or prepared reproduction of women who marry before the age of 18 years. In addition, the assumption that women are weak people makes women often get gender injustice treatment such as subordination, marginalization to violence experienced by women both physically and sexually. Such treatment is very detrimental to women when recalling the existence of gender equality. There should be no mistreatment experienced by women especially women have a uterus that must be adequately guarded and so as much as possible to avoid physical and sexual violence. Therefore, the fifth objective of the SDGs is concrete evidence of support and efforts to create gender equality and empower all women and girls and eliminate discrimination and harmful practices such as early marriage that will have an impact on reproduction for women.

3. Protection of Women's Reproductive Health Rights According to Laws in Indonesia

The Indonesian government has sought to change the concepts and strategies of existing reproductive health and family planning services. In accordance with the conditions and situation in Indonesia, five priorities in the field of reproductive health were chosen, which included four essences and five comprehensively. The four components of Essential Reproductive Health Services (PKRE) are (1) Maternal and Child Health (MCH), (2) Family Planning (KB), (3) Youth Reproductive Health (KRR), (4) Prevention and prevention of STIs including HIV / AIDS. If PKRE is added by the fifth component, namely elderly reproductive health services, then these services become Comprehensive Reproductive Health Services (PKRK).

In addition, someone has the right to be free from the possibility of contracting sexually transmitted infections that can affect reproductive function. The implementation of reproductive health services by the Indonesian Ministry of Health is carried out integrally prioritizing the four components of reproductive health which are a major problem in Indonesia, called the Package for Reproductive Health Services (PKRE), namely:

- a. Maternal and newborn health.
- b. Family planning.
- c. Adolescent reproductive health.
- d. Prevention and treatment of reproductive tract infections, including HIV/AIDS.

Whereas Comprehensive Reproductive Health Services (PKRK) is consists of PKRE plus reproductive health at an advanced age. Women's reproductive rights, it can be understood in advance that in Islam, women's reproductive rights are nothing but rights which must be guaranteed due to their reproductive function. In relation to the regulation of reproductive health in Indonesia, a number of legal umbrella can be found that regulate both the form of laws and national policies. The author describes the laws and regulations relating to women's reproductive health rights, including:

- a. The 1945 Constitution of the Republic of Indonesia, Article 28 A, Article 28 H paragraph 1, and Article 34 paragraph (3).
- b. Law Number 36 of 2009 concerning Health, Articles 71-78.
- c. Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights, Article 45 and Article 49.
- d. Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower, Article 76, Articles 81-83.

¹⁵ <https://www.sdg2030indonesia.org/#modalIconDefinition>, accessed on June 30, 2019.

- e. Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, Article 4 and Article 8.
- f. Government Regulation Number 61 of 2014 concerning Reproductive Health
- g. Regulation of the Minister of Health of the Republic of Indonesia Number 43 of 2016 concerning Minimum Service Standards in the Field Health.
- h. Lampung Province Regional Regulation Number 17 of 2014 concerning the Exclusive Provision of Breast Milk.

4. Policy on Women's Reproductive Health Rights in Indonesia

Maternal Mortality Rate (MMR) is still a serious health problem in developing countries. According to a report *World Health Organization* (WHO), in 2014, several countries had quite high MMR such as 179,000 Sub-Saharan Africans, 69,000 South Asians, and 16,000 Southeast Asians. The maternal mortality rate in Southeast Asian countries is Indonesia 190 per 100,000 live births, Vietnam 49 per 100,000 live births, Thailand 26 per 100,000 live births, Brunei 27 per 100,000 live births, and Malaysia 29 per 100,000 live births.¹⁶ In 2015, based on data from the 2015 Intercensal Population Survey (SUPAS) both MMR and IMR showed a decrease (MMR 305/100,000 KH; IMR 22.23/1000 KH).

Based on these data, especially in Southeast Asia, Indonesia's maternal mortality rate appears to be in the highest position compared to other countries. Then in Indonesia alone, the maternal mortality rate has not so significantly decreased. This situation is a reality that must be accepted by Indonesia as a developing country with a large population. Maternal mortality is a serious problem. Maternal mortality rates illustrate the health conditions of women in a country. In addition, the maternal mortality rate also illustrates the economic conditions and various health problems, especially the reproductive health of a mother. The maternal mortality rate is the adverse impact of suboptimal health services and implementation of the implementation of legislation related to health and reproductive rights. Government regulation number 61 of 2014 concerning Reproductive Health has not been optimal in the application of all aspects of reproductive health. The high maternal mortality rate in Indonesia is due to lack of knowledge of the importance of reproductive health rights as well as other access to reproductive health services. The goals of reproductive health and rights are as follows:¹⁷

- a. To ensure comprehensive, factual and varied information about reproductive health care services available, affordable and acceptable.
- b. To enable and support voluntary and responsible decisions regarding pregnancy and their family planning methods and other methods of choice in terms of fertility arrangements that are not against the law and have information, education and ways to obtain them.
- c. To meet the needs of reproductive health that change throughout the life cycle and do so in a manner that is sensitive to the diversity of local community conditions.

The author analyzes from article 71 of Law 36 of 2009 concerning Health that every person has the right to have children, including the right not to have children, the right to get pregnant, the right not to get pregnant, and the right to determine the number of children desired. The understanding of reproductive health includes the right of everyone to obtain safe, effective and affordable reproductive health services. Law number 17 of 2007 concerning the National Long-Term Development Plan (RPJPN) 2005-2025 states that in order to realize the quality and competitive human resources (HR), health together with education and increasing family purchasing power / The community is the three main pillars to improve the quality of human resources and the Human Development Index (HDI) of Indonesia. Health development is an investment in improving the quality of human resources. Health development carried out on an ongoing basis in the last three decades has significantly improved the degree of public health. The degree of public health has shown improvement as can be seen from the infant mortality rate, maternal mortality rate and life expectancy. Quality human resources are the subject and at the same time the object of development. Although the degree of public health can be improved, the health status in Indonesia is still inadequate.¹⁸

¹⁶ Zainal Fatoni, Yuly Astuti, Sari Seftiani, Augustina Situmorang, Widayatun, dan Sri Sunarti Purwaningsih, "IMPLEMENTASI KEBIJAKAN KESEHATAN REPRODUKSI DI INDONESIA: SEBELUM DAN SESUDAH REFORMASI", *Jurnal Kependudukan Indonesia* 10, no. 1 (2015): 65-74.

¹⁷ Mariana Amiruddin, "Women's Health and Reproductive Rights", *Women's Journal Foundation and the Japan Foundation Indonesia*, 2003.

¹⁸ Departemen kesehatan RI, *Rencana Pembangunan Jangka Panjang bidang Kesehatan 2005-2025* (Jakarta: Departemen Kesehatan RI, 2009), 48.

According to the author's analysis based on health regulations at this time it is not enough, both the number, type, and effectiveness. So that there is confusion in the implementation of activities in the field, including legal protection for the implementation of health services. Health information systems in this era are experiencing obstacles. The data and information obtained are still fragmented and do not fully describe health problems. Health development planning has not been as expected because there are still disparities in the ability of inter-regional planning planners. Nationally, the interrelation of the planning flow is not optimal, especially related to the relationship between long-term health development planning (RPJPN), medium-term (RPJMN and strategic plan or strategic plan) and annual planning (Renja KL or Work Plan of ministries and / or institutions) and RPJMD, Renstrada and Renja SKPD (regional work unit).

Then the author provides an explanation that health science and technology have developed rapidly but cannot be utilized optimally because of the low quality of human resources. The government has not yet been able to carry out effective, efficient and quality health development in accordance with the principles of good *governance*. The ideal foundation of national development is Pancasila, and the constitutional foundation is the 1945 Constitution. Health development is an integral part of national development. Therefore, health development is also held based on Pancasila and the 1945 Constitution.

Health as a human right is expressly mandated by the 1945 Constitution, in which it is stated that everyone has the right to live in physical and spiritual prosperity, to live, and to have a good and healthy living environment and the right to obtain health services. Internationally, the 1948 Constitution of the World Health Organization (WHO) also states that "*Health is a fundamental right*", which contains an obligation to heal the sick and maintain and improve the health. This underlies the idea that healthy as a human right and healthy as an investment.

Health development is prioritized on the empowerment and independence of the community, as well as health efforts, especially promotive and preventive efforts, which are supported by the development and empowerment of human health resources. In providing health services promotive, preventive, curative and rehabilitative, this is explained in article 1 of Government Regulation number 61 of 2014. Then, with the enactment of the 2015-2019 RPJMN, the Ministry of Health prepares a 2015-2019 Strategic Plan. The Ministry of Health Strategic Plan is an indicative planning document containing health development programs that will be implemented by the Ministry of Health and becomes a reference in the preparation of annual planning. The formulation of the Ministry of Health Strategic Plan is carried out through approaches: technocratic, political, participatory, *top-down*, and *bottom-up*. Health development in the 2015-2019 period is the Healthy Indonesia Program to improve the health status and nutritional status of the community through health efforts and community empowerment supported by financial protection and health service delivery.

The main targets of the 2015-2019 RPJMN are: (1) improving the health and nutrition status of mothers and children; (2) improvement of disease control; (3) increasing access and quality of basic and referral health services especially in remote, underdeveloped and border areas; (4) increasing coverage of universal health services through the Indonesia Healthy Card and the quality of the management of the National Social Security System (SJSN) Health, (5) meeting the needs of health workers, drugs and vaccines; and (6) increasing the responsiveness of the health system. In this case the Strategic Plan which is a basic form in the implementation of health development places its primary attention on efforts to improve the health status and nutritional status of the community through health efforts and community empowerment supported by financial protection and health service delivery.

In the 2020-2024 RPJM, the welfare of the community continues to increase. It is shown by remembering the quality and competitive human resources supported by increasing the degree of health and nutritional status of the community, increasing optimal growth and development, child welfare and protection, the realization of gender equality, and the survival of conditions and population grows in balance. According to the authors, the goals of *Sustainable Development Goals* or SDGs are in line with the 2015-2019 RPJMN. It is closely related to the goals of *Sustainable Development Goals* Evenor SDGs such as efforts to reduce maternal mortality, eliminate violence against women and the welfare of all ages in the health and other fields in order to benefit the people and the welfare of the Indonesian people in particular. *Sustainable Development Goals* or SDGs will be implemented not only on a national scale but at the regional level and with the hope of being able to work together in national development to achieve the goals of the SDGs and national development.

Goal 5 (Five) SDGs. This goal talks about ending violence and discrimination against women and ensuring they have equal opportunities in all aspects of life. Local governments can act as examples of

gender equality and women's empowerment through the provision of services that do not discriminate against their population and fair work practices. Local governments are at the forefront in identifying and dealing with violence and behaviours that endanger women.

Lampung Province does not yet have a policy related to Regional Legal Products or Regional Regulations that specifically regulate Reproductive Health. But in this case, as we know of Law Number 23 of 2014 concerning Regional Government, health is one of six affairs *concurrent* that is mandatory and is related to basic services. Governmental affairs are gradually handed over from the Central Government to Regional Governments (Pemda), and this is in accordance with article 18 paragraph (6) of the amendment to the 1945 Constitution which states that regional governments carry out the broadest possible autonomy.

Efforts to support reproductive health in Lampung Province local government gave its policy by stipulating Lampung Provincial Regulation No. 17 of 2014 concerning exclusive breastfeeding. The existence of Lampung Province Regional Regulation No. 17 of 2014 concerning exclusive breastfeeding is an effort to protect, support and promote exclusive breastfeeding. It needs to be done to improve support and the Government, Local Government, Health Service Facilities and Health Workers, the community and family, so that mothers can provide exclusive breastfeeding to infants. Various major issues or problems in exclusive breastfeeding in Lampung Province include that there are still many parties who do not realize the importance of exclusive breastfeeding, there are still many parties who do not realize the importance of early breastfeeding initiation, some of these obstacles are caused by mothers not confident that they are able to breastfeed properly so as to meet all the nutritional needs of infants. This is partly due to the lack of knowledge of the mother, lack of family support, lack of support from health workers and lack of community support about the benefits of exclusive breastfeeding. The content contained in the US is the most complete and most suitable food for babies that babies need for their growth and development. Through breastfeeding, babies will also get immunity from their mothers. Exclusive breastfeeding can prevent death in infants. Besides being important for babies, exclusive breastfeeding is also beneficial for mothers. Breastfeeding can help the mother to accelerate the return of the uterus to its original form. Breastfeeding can also spoil pregnancy. The most important thing about breastfeeding is to increase the closeness of the inner relationship and affection between mother and baby.

Based on counselling data conducted by AIMI Lampung to Breastfeeding Mothers who have breastfeeding constraints various obstacles are felt by Breastfeeding Mothers in Lampung Province including the lack of information and education received by Lactating Mothers, lack of support from the family when Lactating Mothers face breastfeeding constraints, and the difficulty of finding health facilities (health facilities) and health workers (health workers) that support the process of breastfeeding in the early days of birth. Most of the clients who consulted with AIMI Lampung stated that they did not do IMD (Early Breastfeeding Initiation) and *Room In* immediately after delivery even though the baby was stable or there were no medical indications.¹⁹

Based on the explanation above, it can be concluded that the Regional Regulation of Lampung Province No. 17 of 2014 concerning exclusive breastfeeding is a form of commitment of the Regional Government in supporting Lampung Province to be a Province that is friendly to women and children. In addition, the Lampung Province Regional Regulation No. 17 of 2014 concerning exclusive breastfeeding provides evidence that the Provincial Government of Lampung has given its concern for the health of women and children. Lampung Province Regional Regulation Number 17 of 2014 concerning exclusive breastfeeding is a form of support that every child born in Lampung province must grow and develop properly without constraints related to nutrition. As we all know the various benefits of exclusive breastfeeding, among others, have a large contribution to the growth and development and endurance of children, children who are given exclusive breastfeeding will grow and develop optimally and not get sick easily. Breastfeeding has a series of benefits for babies and mothers. It is even a universal solution that can improve the health and well-being of mothers and children in various parts of the world. Breastfeeding is one solution to overcome the problem of hunger and malnutrition and all its forms. Besides, breastfeeding ensures the availability of intake for babies, especially in crisis situations. Nutrition, food availability, and poverty reduction are key to achieving the *Sustainable Development Goals* (SDG) set by the United Nations.²⁰

¹⁹ Results interview with Ms. Upi Fitriyanti, Chairperson of the Association of Indonesian Breastfeeding Mothers (AIMI) Lampung Branch, the date of the interview was taken on May 15, 2019.

²⁰ Upi Fitriyanti, "Menyusui Sebagai Fondasi Kehidupan", *Lampung Post*, edition Tuesday, August 7, 2018.

C. Conclusion

Protection of women's reproductive health rights in international law is found in; Article 23 paragraphs (1,2,3 and 4) of the International(Covenant on Civil and Political Rights International Covenant on Civil and Political Rights or referred to as the ICCPR); Article 7, Article 10 paragraph 2, Article 11 paragraph 1, Article 12 paragraph 1 and 2 of the International(Covenant on Economic, Social and Cultural Rights International Covenant on Economic, Social and Cultural Rights or called ICESCR); Article 14 paragraph 2, Article 16 paragraph 1 CEDAW (Convention on the Elimination of all Forms of Discrimination Against Women)and International Labor Organization (ILO Convention) Number 183 of 2000 concerning Protection of Pregnancy. Action plans for women's reproductive health rights include Beijing's Fourth World Conference on Women (FWCW); International Conference on Population and Development (ICPD) Cairo; the fifth goal in the Sustainable Development Goals or SDGs.

Protection of women's reproductive health rights in legislation in Indonesia is regulated in; The 1945 Constitution of the Republic of Indonesia; Article 71-78 of Republic of Indonesia Law Number 39 Year 2009 concerning Health; Article 45 and Article 49 of Law Number 39 Year 1999 concerning Human Rights; Article 76, Articles 81-83 of the Republic of Indonesia Law No. 13/2003 concerning Manpower; Article 4 and Article 8 of the Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection. National policies related to reproductive rights include Government Regulation Number 61 of 2014 concerning Reproductive Health; Regulation of the Minister of Health of the Republic of Indonesia Number 43 of 2016 concerning Minimum Service Standards in the Field of Health. Regional policies related to Reproductive Health include Lampung Province Regional Regulation Number 17 of 2014 concerning the Provision of Exclusive Breast Milk.

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