



## Implementation of Abortion Under Law in Indonesia

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### **Abstract**

The debate on abortion in Indonesia lately is getting crowded because it is triggered by various events that rocked the joints of human life. The issue of abortion is currently not a secret any more to talk about, because abortion has become the actual thing and events are already happening everywhere and are done by anyone. Act No. 36 of 2009 concerning health and Government Regulation Number 61 of 2014 concerning reproductive health says that abortion can be done with exceptions, one of which is the result of rape. So no fear of abortion victims denounce the incident. But in reality the implementation of Act No. 36 of 2009 about health and Government Regulation Number 61 by 2014 about reproductive health does not match expectations. The substance of the writing of this is how the role of the government and related institutions implementing abortion and the obstacles encountered in making it happen. Implementation of abortion based on pregnancy due to rape based on Act No. 36 of 2009 concerning health and Government Regulation Number 61 by 2014 About reproductive health has not been optimally fulfilled there is still a lot of problems and conflicts concerning the implementation of the Act of abortion based on pregnancy due to rape. The difference of views in terms of religious, social and cultural. The lack of correlation between agencies or institutions and the time limit provided is insufficient and the presence of a constraint is internal external. Required cooperation between the legislature and the Government involved also related parties such as the health service and police.

**Keywords:** *Abortion; Implementation; Law Number 36 of 2009*

### **1. Introduction**

According to the "1945 Constitution Article 1 paragraph (3)", Indonesia is a "state of law, so human actions are based on law." Humans are social creatures because where "social beings face each other, friction or self-interest often occurs between humans so that they commit a crime." According to criminal law, "whoever commits an act of a crime, then they will be subject to criminal sanctions in terms of determining the criminal sanction, in order to determine whether he committed a crime or not, it is necessary to prove it."

The term Abortion is also known as Abortus Provocatus. Abortus provocatus is an intentional abortion, which occurs because of human actions that try to abort unwanted pregnancies, including abortion provocatus medicinalis and abortion provocatus criminalis. Abortus provocatus medicinalis is an abortion that is carried out based on medical reasons/considerations. Whereas

aborabortus provocatus criminalis, namely abortion that is carried out intentionally by violating applicable legal provisions. Etymologically, the root of the word abortion comes from English, abortion (medical surgery to about a child), in Latin, abortion means abortion. In terminology, abortion is defined as expulsion (forcibly) of a fetus in the womb before it is able to live outside the womb

what is meant by abortion is a medical terminology which means the termination of pregnancy before the gestational age of 20 weeks, abortion can occur spontaneously and can also occur with an element of intent (provokatus). The medical world recognizes the existence of pravokatus medicinalis or therapeutic abortion, which is a therapeutic effort that requires the method of termination of pregnancy. In the absence of a therapeutic principle, provocatus abortion is considered a criminal provocative abortion or abortion as regulated in the articles of the Criminal Code.

Like "the crime of murder is strictly regulated in the Criminal Code, it can be classified as a crime of ordinary murder, a crime of premeditated murder or other crimes that can kill other people." In order to convict the perpetrator, it is necessary to examine a criminal case in the judicial process to seek material truth (materiele waarheid) for the case. This can be seen from the efforts of law enforcement officers in the verification process to obtain evidence of a criminal act of murder.

The debate about abortion in Indonesia has been increasingly lively lately because it was triggered by various events that rocked the very foundations of human life. Life given to every human being is a Human Right that can only be revoked by the giver of that life. Talking about abortion, of course we are talking about human life because abortion is closely related to women and the fetus in a woman's womb. In terms of abortion or abortion we cannot be separated from the legal protection of children. Because the Child Protection Law clearly describes what is meant by a child based on Article 1 point 1 of Law no. 35 years 2014 is someone who is not yet 18 years old included in the womb. Even in Article 1 point 2 of Law no.

Most of the women victims of pregnancy caused by rape choose to have an abortion. The reason for women victims of rape to have abortions is that giving birth to a child as a result of rape will add to their inner suffering, because the birth of the child will always remind them of the rape incident they experienced. Those who disagree with having an abortion done by a woman who is a victim of rape argue that everyone has the right to life, including the fetus in the womb of a woman as a result of rape. It is God's creation that has the right to enjoy life. For those who agree that an abortion can be performed for a rape victim, that the pregnancy does not occur at the will of the victim so it can reduce the victim's suffering both psychologically and socially, then the rape victim is given the right to be able to have an abortion.

If you draw from the history of Forensic Medicine "since 44 BC the first medical examination of bodies was carried out, for the public interest, the ancient Roman doctor, stated that the 21 wounds found were fatal wounds, it was said that this forum was called Forensics." And began to develop. In 600M, it was written by the first medicolegal in China, called "Ming Yuang Shih Lu, from 1241-1253M, a manual was published on suspicious deaths". In Indonesia, "the science of forensic medicine has begun to be developed in the late Dutch colonial period in Jakarta." A book on "forensic medicine" was published by a Dutch doctor in Jakarta at the end of the 19th century. After the Dutch doctors returned to their country, The development of forensic medicine in Indonesia is rather slow. It was only later in the 1970s that this

field began to be raised and was able to align itself as a medical specialty branch in the 1980s.” Currently there are at least 90 forensic doctors in Indonesia working in various cities, but not enough for all provinces. Meanwhile, the National Police forensic laboratory, which is based in Jakarta, has branches in many big cities, including Semarang, Denpasar, Medan, Palembang and Makassar. Forensic Medicine in Indonesia goes a step further by "entering the medicolegal and medical law fields in the medical environment, both in terms of education, service and research" It was only later in the 1970s that this field began to be raised and was able to align itself as a medical specialty branch in the 1980s.” Currently there are at least 90 forensic doctors in Indonesia working in various cities, but not enough for all provinces.

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In Indonesia, even though women's human rights as human rights have been stipulated in Law no. 39/ 99 on human rights articles (45) and (51), but long before that, women's human rights had been put on the agenda for discussion in the first world conference on women in Mexico which was held in 1975. This was based on the experience of women, that even though their country have signed the Universal Declaration of Human Rights (including Indonesia), discrimination against women continues to occur. In connection with this fact, at the UN General Assembly in 1979, the text submitted by the Commission on the Status of Women at the UN was adopted, by establishing it as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which is officially translated as the Convention on the Elimination of All Forms of Discrimination Against Women (Women's Convention).

This convention, which at the international level is an effort to promote and uphold women's rights to be free from all forms of discrimination, was ratified in Indonesia by law number 7 of 1984. Furthermore, by agreeing and participating in ratifying an international convention, the Indonesian government has bound itself morally and legally against international law. This means that Indonesia is obliged to make new laws, change policies, government regulations, or stipulations that are not in accordance with the contents of the conventions that have been ratified. Article (12) paragraph (2) of the Women's Convention regulates the obligations of the state to guarantee the availability of women's reproductive health services, namely:

1. Ensuring proper services for women in relation to pregnancy, childbirth and the postpartum period, providing free services if necessary.
2. Ensuring women get adequate nutrition during pregnancy and breastfeeding

Adolescence is a part of the human life cycle that must be passed. The transition from adolescence to adulthood is a universal process that varies widely from person to person, region, country and culture. The starting point for this transition, both for women and men related to puberty, will occur at various ages. There is no clear definition of when this transition period will end

In contrast to the Criminal Code which does not provide the slightest space for abortion, Law Number 36 of 2009 concerning Health basically prohibits abortion, however this prohibition can be exempted under certain conditions, namely the existence of indications of medical emergencies and pregnancies resulting from rape as stipulated dal

provisions of Article 75 paragraph (2) points a and b. Law Number 36 of 2009 Concerning Health, especially Article 75, Article 76, and Article 77, is confirmed again by Government Regulation Number 61 of 2014 concerning Reproductive Health, especially Article 31, Article 32, Article 33, Article 34, Article 35, Article 36 , Article 37, and Article 38. Regarding the action to be able to have an abortion, in the case of abortion based on pregnancy as a result of rape theoretically it is clearly regulated in Law Number 36 of 2009 concerning Health and Government Regulation Number 61 of 2014 concerning Reproductive Health but we have not never know the implementation. Based on the description above, the author was compelled to compile a journal entitled IMPLEMENTATION OF ABORTION BASED ON LAW IN INDONESIA.

## 1.2 Formulation of the Problem

From the main problems explained in the background in this paper, the formulation of the problem is:

- a. How is the content contained in the law in the crime of abortion?
- b. How is the implementation of the criminal act of abortion based on Law Number 36 of 2009 concerning Health

## Research Methods

The legal research conducted is normative legal research, namely research conducted on positive legal norms in the form of statutory regulations and identifying the legal concepts and principles used. In connection with the type of research used is normative, the approach used is:

1. The statutory approach is taken to examine the rules regarding copyright, namely what if there is a violation of film copyright against sites that provide free movie download services on internet media.
2. The conceptual approach is used to understand copyright concepts so that it is hoped that normalization in the rule of law will no longer allow ambiguous and vague understandings so that protection for film creators for sites providing free movie download services on internet media becomes clear.

Steps taken in collecting legal materials:

Literature study, namely by studying primary legal materials and secondary legal materials where the method of obtaining data is carried out by searching, finding various laws and regulations as well as legal opinions in the form of literature, internet, journals, research results, newspapers and scientific magazines.

The data analysis method used in this study is through a qualitative approach, meaning "data processing and analysis with an emphasis on the quality of the data obtained. Data obtained directly from library data and informants were analyzed in depth, holistically and comprehensively

Then systematization of positive law is carried out in two ways, namely:

1. Vertical systematization, namely systematization related to statutory regulations that are tiered from top to bottom.
2. Horizontal systematization, namely systematization related to similar laws and regulations.

In addition, secondary legal material will be analyzed by looking for similarities and differences in legal opinions, as well as comparing legal opinions regarding the implementation of abortion based on pregnancy resulting from rape. In drawing conclusions, deductive reasoning procedures are used. Deductive reasoning procedures are reasoning procedures that start from statutory provisions and end with drawing conclusions from a legal fact that should occur in society. In this study, the authors will draw conclusions starting from Law Number 36 of 2009 concerning Health and Government Regulation Number 61 of 2014 concerning Reproductive Health and ending with a conclusion, namely the implementation of abortion according to law in Indonesia.

### **3. Results and Discussion**

#### **I. The Law that Regulates the Prohibition of the Crime of Abortion**

We call this crime several formulations of the definition of a crime or the term "crime as a substitute for the term *Strafbaar Feit*, if the perpetrator fulfills the elements. Whereas in our country's legislation the term is a criminal act or delict. Seeing what is meant above, the legislators are now consistent in using the term criminal act." The following is the definition of a crime as stated by several legal experts including:

1. According to Simons

*Strafbaar Feitis* "behavior (*Hendeling*) which is punishable by crime that is against the law, which is related to mistakes and which is carried out by people who are capable of being responsible. Elements of a crime." That *Strafbaar feit* or criminal incident, is "an unlawful act which is related to the fault (*schuld*) of someone who is capable of being held responsible. Mistakes in a broad sense which include *dolus* (intentionally) and *culpa lata* (negligent and negligent)."

Regarding the Abortion Law in Indonesia, there are several laws related to the issue of abortion that are still in effect today, among these laws the most relevant are:

1. Law number 1 of 1946 concerning the Criminal Code Articles 346-349 of the Criminal Code categorize abortion as a crime, as the full text of these articles reads below:
  - a. Article 346: "A woman who deliberately aborts her womb or kills her womb or orders another person to do so, is punishable by a maximum imprisonment of four years
  - b. Article 347:
    1. Any person who with deliberate intent aborts the womb or causes the death of a woman's womb without her consent, shall be punished by a maximum imprisonment of twelve

years.

2. If said act results in the death of the said woman, it shall be punished by a maximum imprisonment of fifteen years.
- c. Article 348:
1. Any person who with deliberate intent aborts or kills the womb of a woman with her consent, shall be punished by a maximum imprisonment of five years and six months.
  2. If said act results in the death of the woman, it shall be punished by a maximum imprisonment of seven years.
- d. Article 349:

"If a healer, dukun or medicine man helps commit one of the crimes described in articles 347 and 348, then the sentence specified in that article can be added to one third and he can be dismissed from the position used to commit the crime"

2. Law number 23 of 1992 concerning Health. Even though abortion is technically illegal in the Criminal Code but in 1992, a more liberal Act emerged namely, Law number 23 of 1992

*Although abortion was technically illegal under the criminal code, a judicial interpretation in the early 1970s permitted medical professionals to offer the procedure so long as they were discreet and careful. The numbers of medical abortions carried out in Indonesia rose dramatically, and there was evidence of matching declines in the incidence of morbidity and mortality caused by dangerous illegal procedures. Medical and community groups campaigned for a more liberal abortion law to protect legal practitioners and stamp out illegal traditional practices(Studies In Family Planning, 1993; 24, 4: 241-251).*

In Article 15 paragraphs 1, 2 and 3 of this Law relating to abortion it reads as follows:

- a. In an emergency as an effort to save the life of a pregnant woman and/or her fetus, certain medical measures may be taken.
- b. Certain medical actions as referred to in Paragraph 1 can only be carried out:
  1. Based on medical indications that require this action to be taken.
  2. By health workers who have the expertise and authority for this and are carried out in accordance with professional responsibilities and based on the considerations of a team of experts.
  3. With the consent of the pregnant woman concerned or her husband or family.
  4. There are certain health facilities.
  5. Further provisions regarding certain medical procedures as referred to in paragraphs (1) and (2) shall be stipulated in a government regulation.

The law governing abortion in Indonesia has also been regulated in Law No. 36 of 2009 concerning Health and the Criminal Code (KUHP). However, based on Article 75 of the Health Law, it is stated that there are only two exception conditions for an abortion, according to medical reasons, including:

1. There are indications of a health emergency at an early age of pregnancy that threatens the life of the mother and/or fetus, the fetus suffers from severe genetic disorders, or congenital defects that cannot be cured, making it difficult for the fetus to survive outside the womb.
2. Pregnancy as a result of rape which causes trauma.

If an abortion is performed outside of the two conditions above, it will be declared as something illegal and a violation of the law. As written in article 194 of the Health Law, that is, every person who is involved in an illegal abortion can be sentenced to a maximum of 10 years in prison and a maximum fine of Rp. 1 billion.

The popular term for abortion is abortion. What is meant by the act of aborting a womb is carrying out an act in whatever form and method it takes against a woman's womb which results in the birth of a baby or fetus from within the woman's womb prematurely born according to nature. This act of forcing the birth of a baby or untimely fetus is often called abortion provocatus or sometimes abbreviated as just abortion.

Types of abortion can be grouped into 2 different categories:

1. Spontaneous abortion, namely abortion that occurs naturally without any outside effort or human intervention, including spontaneous abortion (accidental abortion) and natural abortion (natural abortion)
2. Abortus provocatus, namely intentional abortion, occurs because of human actions that try to abort unwanted content, including
  - a. Abortus provocatus medicalanalis

Namely an abortion that is carried out based on medical reasons / considerations. An example is abortion provocatus therapeuticus (abortion to save the mother's life).

- b. Namely an abortion that is carried out intentionally by violating various applicable legal provisions. For example: abortion induced / abortion provoked (intentional abortion for various other reasons, for example embarrassment to neighbors, not being able to have children and so on).

## **II. Implementation of the Abortion Crime based on the Abortion Crime Act based on Law Number 36 of 2009 concerning Health**

The mechanism in Indonesia that regulates Forensic Medicine in Forensic Medicine is only intended for the benefit of the judiciary, but the development of the times has resulted in its utilization in fields that are not for the judiciary. Because it is a "specialist branch of medical science, the basic scientific paradigm is still the medical paradigm, as are the basics of scientific methodology."

The "main function of forensic medicine is to assist the process of law enforcement and justice, especially in criminal cases involving the human body, health and life".

The name Visum et repertum is a name that is found in "Staatsblad No 350 of 1937" but in the Limit "Visum et repertum in the Criminal Procedure Code has a different meaning where in the meaning of Visum et repertum in the Criminal Procedure Code".

"Article 1 Staatblad No 350 of 1937"

"Visa reperta from doctors made under an oath of office sworn at the time of completing medical studies in the Netherlands or in Indonesia, or a special oath as referred to in Article 2, has evidence in criminal cases, insofar as it contains information about what seen by the doctor on the object being examined.

The legal basis for making a visum et repertum is "Article 133 of the Criminal Procedure Code,

namely if the person being examined is a human being as a victim or suspected of being a victim of a crime, whether alive or dead. Examination of the suspect does not use the legal basis of Article 133 of the Criminal Procedure Code.

“Article 133 of the Criminal Procedure Code”.

- (1) "In the case of an investigator for the sake of justice dealing with a victim, either injured, poisoned or dead, presumably due to an event constituting a criminal act, he has the authority to submit a request for expert information from a medical expert of the judiciary or a doctor and or other expert.
- (2)(1) The request for expert testimony as referred to in paragraph (1) shall be made in writing in which it is explicitly stated in the letter for examination of wounds or examination of corpses and/or examinations of post-mortems.
- (3) A corpse that is sent to a medical expert at the judiciary or a doctor at a hospital must be treated properly with full respect for the corpse and be given a label containing the identity of the corpse, given a position stamp attached to the big toe or other part of the body.

The role of *Visum et repertum* is valid proof of expert testimony made in writing as stipulated in "Article 187 of the Criminal Procedure Code". Because "*Visum et repertum* is made based on the results of a medical examination and is shown for the benefit of the judiciary as a copy or copy of the evidence accompanied by the opinion of the doctor making it about the results of the examination".

Based on the explanation above regarding premeditated murder in accordance with "Article 340 of the Criminal Code", therefore it can be seen that "the role of forensic medicine is very necessary in the world of justice, because with the help of forensic medicine a judge can determine whether or not a defendant is convicted for his actions".

"Types of *Visum et repertum* and their manufacture are related to the material being examined and the underlying examination, known as the grouping of types of *Visum Et Repertum*" as follows:

1. "*Visum et repertum* remains.
2. *Visum et repertum* living victim
3. *Visum et repertum* poisoning
4. *Visum et repertum* crime".

The role of *Visum et repertum* itself is "as evidence that is considered valid as expert testimony that has been made in writing which has been regulated in the Criminal Procedure Code and the legal basis is regulated in Article 187 of the Criminal Procedure Code."

**“Article 187 of the Criminal Procedure Code”**

The letter as referred to in "Article 184 paragraph (1) letter c", made under oath of office or confirmed by oath, is: (c) "a statement from an expert containing an opinion based on expertise regarding a matter or a situation which was formally requested of him;" while valid evidence is in accordance with the Criminal Procedure Code." is:

**“Article 184 paragraph (1) of the Criminal Procedure Code”**

- 1) "Witness testimony
- 2) Expert statement
- 3) Letter
- 4) Instruction



5) "Defendant statement."

Therefore "Visum et repertum is made in accordance with medical examination results to be shown for the benefit of the judiciary as a valid means of proof, because it can be understood that Visum et repertum which seems to act as a copy or copy of evidence accompanied by opinion by the doctor regarding the results of the examination.

There are several types of visum et repertum and how they are made:

Visum et repertum is related to the material to be examined but in the examination it must be based on it, therefore the grouping of "types of visum et repertum" is known, as follows:

1. Psychiatric (psychiatric) visum et repertum

Visum et repertum of this type of psychiatry "is made to be able to explain the psychological status experienced by a person using this psychiatric knowledge which is matched with the results of a psychiatric examination."

2. Physical visum et repertum.

In making "Visum et repertum this is to use more medical science which is based on the results of a medical examination of the physical victim of a crime."

3. Visum et repertum jenajah

"In the examination of the body, this section has been divided into three parts", namely:

- a. "External examination, namely "examination of the outside of the body without carrying out invasive measures, including examination of the corpse's packaging, clothing one by one or layer by layer, detailed descriptions of all parts of the body and examination of injuries or injuries.
- b. Internal examination (corpse surgery), namely "examination of the inside of the body by opening the cavities of the head, neck, chest, abdomen, pelvis, and if necessary opening the limbs of the body
- c. Laboratory examination and other supporting examinations, namely "follow-up examination of samples taken from the body of the corpse along with the clothes."

4. Visum et repertum for the living victims

These sections consist of:

- a. "Judging from the results of a thorough examination, both physical examination and laboratory examination and supporting examinations
- b. Performing an action and treatment indicated by the reasons for not taking the action that should have been taken
- c. For the circumstances of the victim's history, this condition concerns sequelae and defects in the victim's body (the victim's five senses) which is important to be able to conclude so that it is explained clearly."

5. Visum et repertum injuries

In "Visum et repertum corpse, this section contains at least the type of injury or disorder, the type of violence or disorder that caused it, and the cause of death. Victims of injuries, the cause of death is replaced by the qualification of injuries."

#### 6. Visum et repertum Poisoning

This poisoning post mortem is where cases are like, "doctors often forget to take materials for toxicological examinations, because they are already preoccupied with actions that are usually delegated to nurses."

#### 7. Visum et repertum against crime

In "Visum et repertum victims of sexual crimes, in addition to injuries, conclusions are also needed regarding whether or not sexual intercourse occurred and when it occurred (if possible), indications regarding whether or not there were signs of coercion or unconsciousness, as well as instructions regarding coercion or unconsciousness, as well as instructions about the offender."

Based on the provisions of Article 75 paragraph (3) of Law Number 36 of 2009 concerning Health, namely abortion can be carried out after going through pre-action counseling and/or counseling and ending with post-action counseling carried out by a competent and authorized counselor. In the provisions of Article 76 of Law Number 36 of 2009 concerning Health, abortion can only be carried out if:

- A. Before 6 (six) weeks of pregnancy, counting from the first and last menstruation, except in cases of medical emergencies
- B. By health workers who have the skills and authority who have certificates, which are determined by the Minister
- C. With the consent of the pregnant woman concerned
- D. With husband's permission, except for rape victims
- E. Health service providers who meet the requirements set by the Minister

The implementation of abortion regulated in Law Number 36 of 2009 concerning Health is further emphasized in Government Regulation Number 61 of 2014 concerning Reproductive Health in Article 35 namely:

1. Abortion based on medical emergency indications and pregnancy due to rape must be carried out in a safe, quality and responsible manner.
2. Safe, quality and responsible abortion practices as referred to in paragraph (1) include:
  - Performed by a doctor according to standards
  - Performed in health service facilities that meet the requirements set by the Minister
  - At the request or consent of the pregnant woman concerned,
  - With husband's permission, except for rape victims
  - Do not give priority to material rewards
3. In the event that the pregnant woman referred to in paragraph (2) letter c is unable to give consent, the family concerned can give consent for abortion
4. In the event that the husband cannot be contacted, permission as referred to in paragraph (2) letter

d is given by the family concerned.

In the provisions of Article 37 Government Regulation Number 61 of 2014 concerning Reproductive Health also regulates abortion, namely:

1. Abortion based on medical emergency indications and pregnancy due to rape can only be carried out after counseling.
2. Counseling as referred to in paragraph 1 includes pre-action counseling and ends with post-action counseling and ends with post-action counseling carried out by the counselor.
3. Pre-action counseling as referred to in paragraph (2) is carried out with the aim of:
  - a. Assess the needs of women who wish to have an abortion
  - b. Convey and explain to women who wish to have an abortion that an abortion may or may not be performed based on the results of a clinical examination and supporting examinations
  - c. Explain the stages of the abortion that will be carried out and the possible side effects or complications
  - d. Helping women who want to have an abortion to make their own decision to have an abortion or cancel the desire to have an abortion after receiving information about abortion
4. Post-action counseling as referred to in paragraph (2) is carried out with the aim of:
  - a. Observing and evaluating the patient's condition after the abortion
  - b. Helping patients understand the state or physical condition after undergoing an abortion
  - c. Explain the need for a repeat visit for further examination and counseling or referral action if needed
  - d. Explain the importance use tool contraception for prevent occurrence of pregnancy

So far, from observing Law Number 36 of 2009 concerning health and Government Regulation Number 61 of 2014 concerning Reproductive Health, they have not been implemented optimally and perfectly, especially regarding abortion. Due to the time difference between the Law and PP and the SOP that we have, if you look at Article 76 of Law Number 36 of 2009 concerning Health it only gives about 6 weeks counting from the first day of the last menstruation while in Government Regulation Number 61 of 2014 concerning Reproductive Health in Article 31 paragraph (2) only 40 days are counted from the first day of the last menstruation

In carrying out the procedure before the victim is declared able to have an abortion it is very difficult if based on Law Number 36 of 2009 concerning Health and Government Regulation Number 61 of 2014 concerning Reproductive Health because there is a report from the victim to the authorities to be able to provide recommendations to the next agency while in the related service or the next intended agency does not yet have a special field to deal with abortion problems in the agency or service that is given the authority to give permission to have an abortion. This is the factor that hinders the implementation of abortion based on pregnancy due to rape. This implementation was constrained because the perception of law enforcement officials was different from that of other agencies such as PKBI in terms of defining rape. Law enforcers still use the general definition of rape based on the Criminal Code. Therefore, the implementation of abortion is hampered and cannot be carried out properly. Law Number 36 of 2009 concerning Health and Government Regulation Number 61 concerning Reproductive Health do not clearly regulate the definition of abortion due to rape.

## **Conclusion**

Based on the description that has been presented in the discussion, it can be concluded as follows:

- a. There are still many problems and conflicts regarding the study of abortion based on rape as a

result of pregnancy, namely:

- i. In the implementation of abortion based on pregnancy due to rape based on Law Number 36 of 2009 concerning Health and Government Regulation Number 61 of 2014 concerning Reproductive Health it has not been carried out optimally due to the absence of reports obtained by the Health Service regarding abortions based on pregnancy resulting from rape which by PKBI
  - ii. Law Number 36 of 2009 concerning Health and Government Regulation Number 61 of 2014 concerning Reproductive Health regarding the time it is permissible to have an abortion are still considered confusing so that it becomes an obstacle to abortion based on pregnancy resulting from rape.
- b. Obstacles faced in the study of abortion based on pregnancy as a result of rape, namely:
- i. Internal constraints, namely: Correlation between related institutions both in providing recommendations or giving permission to have abortions which are considered confusing for women victims of rape to be able to have healthy and safe abortions.
  - ii. Obstacles that are external, namely: Lack of understanding about the permissibility of having an abortion with certain indications by the community so that people still think abortion is not permissible. Lack of community participation in the involvement of reproductive health education provided by related agencies. Many people still cover up cases of pregnancy caused by rape either by their own family or someone else and choose to remain silent. There are differences of opinion among the public regarding the permissibility or prohibition of abortion from a social, cultural and religious perspective

### **Suggestion**

From these conclusions the writer can provide the following suggestions:

1. Body legislature or the Government to revise Law Number 36 of 2009 concerning health and Government Regulation Number 61 of 2014 concerning Reproductive Health concerning abortion so that abortion, especially pregnancies resulting from rape, can be carried out properly, safely and without confusion for those who wish to have an abortion.
2. The state must facilitate agencies or institutions involved in handling abortions so that agencies or institutions can carry out abortions due to pregnancies resulting from rape safely and healthily.

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- Lexy Moleong, *Metodologi Penelitian Kualitatif* (Bandung:PT. Remaja Rosda Karya, 2006). Sebagai pembanding, menurut Lexy Moleong, penelitian kualitatif merupakan penelitian yang ingin menghasilkan prosedur analisis yang tidak menggunakan prosedur analisis statistic, angka-angka atau

kuantifikasi lainnya. Hal ini mengingat tujuan dari penelitian kualitatif adalah ingin membangun pandangan secara rinci, dibentuk dengan kata- kata dan bersifat holistic.

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