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Reformulation and Analysis of Regulations on Reproductive Health Services for Adolescents and School-Age Children in Government Regulation No. 28 of 2024 from an Islamic Law Perspective

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Abstract:

Reproductive health services for adolescents and school-age children are a crucial issue in the national health system, especially following the enactment of Government Regulation (PP) No. 28 of 2024, which implements Law No. 17 of 2023 concerning Health. This regulation contains provisions regarding reproductive health communication, information, and education (KIE) and the provision of services, including contraception. However, provisions regarding the provision of contraception for adolescents have sparked controversy, due to concerns that they could open up space for practices that conflict with social, cultural, and religious norms. Therefore, reformulation is needed to ensure that policy objectives remain aligned with health protection without violating moral and sharia principles. From an Islamic legal perspective, reproductive health services for adolescents must be directed towards the principles of maqāṣid al-syarī'ah, specifically the protection of life (ḥifẓ al-nafs) and offspring (ḥifẓ al-nasl). Islam permits preventive and curative reproductive health education and services, but contraception can only be justified within the context of marriage for specific medical or economic reasons. Reformulation of the relevant articles in Government Regulation No. 28/2024 needs to explicitly emphasize that contraceptives are only intended for married adolescents, with medical supervision and guardian approval. Therefore, this analysis confirms that synchronization between positive law and Islamic law is crucial for maintaining adolescent reproductive health, while protecting moral and religious values. Reformulating the regulations will provide legal certainty, avoid multiple interpretations, and ensure reproductive health services are oriented toward the well-being of Indonesia's young generation.

Keywords: adolescents; contraception; Islamic Law; judicial review; reproductive health.

INTRODUCTION

The state has guaranteed health for its citizens through the dictum of the 1945 Constitution of the Republic of Indonesia Article 28H paragraph 1 which underlines the state's obligation to fulfill all citizens' needs in obtaining health services which include all forms of activities to support health in a structured manner

which are attempted both through education (preventive) to palliative measures which are the responsibility of the state to guarantee the safety of all its citizens (Retno & Kuswanto, 2021). These provisions can be understood as part ofnon-derogable right, namely human rights that are absolute and cannot be reduced or restricted under any circumstances, not even by any state (Greene, 2020). In other words, these rights have a fundamental position in the legal system and social order because they are inherently inherent in every individual. The most essential thing about this dictum is the state's obligation to guarantee and protect the fulfillment of these rights, particularly in the context of providing a decent, clean, and healthy environment as a primary prerequisite for human quality of life. Furthermore, the state also has a constitutional responsibility to provide adequate health services and guarantees, so that everyone can enjoy the right to eternal life without discrimination (Rochmani, 2015).

The Indonesian government has taken a strategic step in the field of health regulation by establishing a legal product in the form of Law Number 17 of 2023 concerning Health. The presence of this law is intended to compile all regulations previously outlined in various legal provisions into a single integrated legal umbrella through an omnibus law approach. The regulation was then officially ratified on August 8, 2023, and introduced to the public as the Health Law (Soge, 2023). In his explanation, the Minister of Health of the Republic of Indonesia, Budi Gunadi Sadikin, emphasized that the main essence of the birth of this Health Law is to expand the reach of public access to health services, improve the quality and standards of health services, direct and reorganize the existing regulatory framework, while simultaneously restoring the role of the state as the primary regulator in the national health system.

The enactment of this law is also intended as part of the national health system transformation agenda. Its goal is to address the various challenges faced in the health sector. These challenges include the continued dominance of a curative approach to health care, the unequal availability and distribution of healthcare personnel and resources, the health system's poor preparedness for crises, the lack of independence in the pharmaceutical and medical device sectors, limited financing mechanisms, and the suboptimal use of technology in healthcare delivery. The Health Law aims to fundamentally shift the paradigm, shifting from a treatment-focused or curative system to one that places greater emphasis on preventative care, with the hope of improving the quality of life of the Indonesian people more comprehensively (Soge, 2023).

In implementing a law, implementing regulations are required, which can be in the form of government regulations or presidential regulations. Government Regulation (PP) No. 28 of 2024 concerning Implementing Regulations of Law No. 17 of 2023 concerning Health has the main objective as a guideline for improving promotive and preventive health services. However, this Health Law seems to ignore the involvement of the community or professional organizations of health and medical personnel so that it is considered unable to accommodate important issues in the health sector (Soge, 2023). Law No. 17 of 2023 concerning Health regulates various norms, one of which concerns reproductive health services as stipulated in Article 54 paragraph (2) letter b which states that reproductive health efforts as referred to in paragraph (1) include pregnancy management, contraceptive services and sexual health. Discussion on reproductive health for adolescents and school age is a strategic issue in national health development (Yuria R. A. et al., 2024).

Government Regulation (PP) No. 28 of 2024 concerning the Implementing Regulations of Law No. 17 of 2023 aims to strengthen the reproductive health care system by emphasizing education, accessibility, and legal protection for adolescents and school-age children. PP No. 28 of 2024 identified the following normative legal issues:

a. The government does not define the age of adolescence, and only defines the meaning of school age as stated in PP No. 28 of 2024 Article 17 letter c which states that school age is those who are born until they are before 18 years old.
b. The government has created a very risky article regarding reproductive health efforts, namely allowing the provision of contraceptives for school-age and adolescents as stated in PP No. 28 of 2024 Article 103 paragraph (4) letter e which provides the government with an obligation to provide contraceptives for school-age and adolescents but is not accompanied by regulations governing the sale and purchase of contraceptives.
c. The provisions of PP No. 28 of 2024 Article 103 paragraph (4) letter e contradict Article 103 paragraph (2) letter e which states that the Government needs to promote information regarding the importance of protecting oneself and being able to refuse sexual relations at school age and in adolescence.

Based on the points above, it is obtained biased norms in PP No. 28 of 2024 2024 concerning Implementing Regulations of Law No. 17 of 2023 by ignoring the rules for making statutory regulations as in Law No. 12 of 2011 and Law No. 13 of 2022 concerning the Formation of Statutory Regulations (Awalsari & Syam, 2025).

According to the World Health Organization (WHO), a child is anyone under 19 years of age, which includes those still in the womb (Satria et al., 2022). According to the Ministry of Health's information page, there is an age classification consisting of:

a. Infants and Toddlers aged from birth to 59 months;
b. Children aged 60-84 months to 7 or 10 years;
c. Teenagers aged 10 to 18 years;
d. Adults aged 18-59 years;
e. Seniors aged 60 and over.

The above classification serves as a guideline for the government to fulfill health services for all its citizens according to the needs of each age, including reproductive health efforts. The discussion regarding reproductive health for adolescents and school age contains biased norms in PP No. 28 of 2024 Article 103 paragraph (4) which states that "Reproductive health services as referred to in paragraph (1) at least include (Awalsari & Syam, 2025):

a. Early detection of disease;
b. Treatment;
c. Rehabilitation;
d. Counseling; and
e. Provision of contraceptives.

The elements of the contents of paragraph (4) letter e are full of various contradictions, this results in the government legalizing the provision of contraceptives for teenagers aged 10-18 years which will have an impact on triggering an increase in juvenile delinquency rates. The provisions of PP No. 28 of 2024 Article 103 paragraph (4) letter e contradict Article 1 paragraph (3) which defines health services as all forms of activities and/or a series of activities carried out in an integrated and continuous manner to maintain and improve the level of public health in the form of promotive, preventive, curative, rehabilitative and/or palliative by the central government, regional and/or community. This provision also contradicts horizontally with Article 28H paragraph 1 of the 1945 Constitution of the Republic of Indonesia which states that everyone has the right to a good and healthy living environment, which means that the Government's task in this case is to reduce juvenile delinquency in the form of free sex which is often carried out by teenagers and school age.

Based on data released by the National Population and Family Planning Agency (BKKBN) in 2023, a significant impact on adolescent sexual behavior in Indonesia was discovered. The data showed that approximately 60% of adolescents aged 16 to 17 had engaged in premarital sex, popularly known as casual sex. Furthermore, approximately 20% of adolescents aged 14 to 15 were also known to have engaged in similar practices, while the 19 to 20 age group showed a similar figure, at 20%, also engaging in casual sexual behavior (Nikmatur, 2023). These findings are supported by the results of the Basic Health Research (Riskesdas), which showed an increase in the prevalence of sexually transmitted infections, with an increase of 1.2% for syphilis cases and 0.3% for HIV/AIDS cases in the young, productive age group, namely 15 to 24 years (Yuniarty, 2024). These data clearly show that the problem of free sex among teenagers remains a serious issue, while until 2025, the government has not been able to provide a comprehensive and effective solution to address this problem.

Ironically, Government Regulation (PP) Number 28 of 2024 has sparked a new controversy. Rather than being a legal instrument capable of reducing risky sexual behavior, the regulation provides students and adolescents with easier access to contraceptives. This convenience is considered potentially counterproductive because it can indirectly encourage the normalization of promiscuous sex. On the other hand, while contraceptives can indeed prevent unwanted pregnancies, they do not provide complete protection against the transmission of sexually transmitted infections. For example, transmission can occur through the exchange of bodily fluids such as saliva during oral sex or kissing, which contraception does not facilitate.

From a legal philosophy perspective, the policy is also seen as lacking utilitarian value, as argued by Gustav Radbruch, because the primary purpose of law should not only provide certainty and justice, but also provide tangible benefits to society. In this context, providing access to contraception for adolescents is inconsistent with this principle of utilitarianism, as its existence continues to halt, and even has the potential to exacerbate, the spread of sexually transmitted diseases. Consequently, the increasing rate of promiscuity and sexually transmitted infections could negatively impact the quality of Indonesia's human resources in the future. If not addressed promptly, this situation could potentially trigger a decline in the younger generation, which should be the pillars of national development (Maulina & Purwati, 2020).

Previous research entitled "Unraveling Government Bias in the Provision of Contraceptive Devices for School Age and Adolescents" by Mieke Yunita Viryadi explains the formal procedure for submitting a judicial review to the Supreme Court against PP No. 28 of 2024 Article 103 paragraph (4) letter e (Awalsari & Syam, 2025). The next study entitled "Comparative Study of Contraceptive Use among Adolescent Couples of Childbearing Age in Jayapura City" by Linda and Asriati, explains the reasons for using contraceptives that are easily accessible in various stores (Madu Pamangin & Asriati, 2023). From these two studies, the authors are interested in raising the title "Reformulation of Government Regulation No. 28 of 2024 concerning Implementing Regulations of Law No. 17 of 2023 concerning the Provision of Contraceptives for School Age and Adolescents". This study aims to review the provisions of PP No. 28 of 2024 Article 103 paragraph (4) letter e concerning the provision of contraceptives for school age and adolescents who are at risk of increasing the number of free sex among adolescents.

METHOD

This research employs a doctrinal research method, better known as normative legal research. According to (Soekanto, 1976), normative legal research is a type of research that focuses on written legal norms, making legislation, doctrine, and jurisprudence the primary object of study. This research is characterized by its focus on analyzing legal principles, legal systematics, the level of legal synchronization, and legal measurement without having to go directly into the field to collect empirical data. In the context of this research, the nature of the research is more prescriptive and applicable, as it not only describes applicable legal regulations but also provides constructive solutions to the problems raised. Similarly, a journal (Hidayat, 2021), states that normative legal research functions to discover relevant legal regulations, legal principles, and legal doctrines in addressing a legal issue. Therefore, this research is not merely descriptive but also analytical and critical in assessing the suitability and synchronization of legal norms contained in Government Regulation No. 28 of 2024 concerning Reproductive Health Services, especially when compared with other regulations such as Law No. 17 of 2023 concerning Health and other related laws.

The approach used in this research is the regulatory approach or statutory approach. Through this approach, the researcher examines the articles in Government Regulation No. 28 of 2024 in depth and then compares them with the provisions contained in Law No. 17 of 2023 and various other related regulations, including Law No. 36 of 2009 concerning Health (which has been revoked), Law No. 35 of 2014 concerning Child Protection, and Law No. 17 of 2014 concerning Child Protection. The analysis is intended to assess the harmony and consistency between regulations within the framework of the hierarchy of norms as stated by Hans Kelsen through the theory of stufenbau des recht which emphasizes the importance of every legal norm to be sourced from and not contradict higher legal norms (Asshiddiqie, 2004). Thus, this research seeks to identify both vertical and horizontal synchronization, while mapping the potential disharmony of statutory regulations.

The legal sources used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include regulations that serve as the primary legal basis, including the 1945 Constitution of the Republic of Indonesia, Law No. 17 of 2023 concerning Health, Government Regulation No. 28 of 2024 concerning Reproductive Health Services, Law No. 35 of 2014 concerning Child Protection, and Law No. 52 of 2009 concerning Population Development and Family Development. In addition, Constitutional Court decisions relevant to reproductive health and child protection issues are also used as primary legal materials. Meanwhile, secondary legal materials are used to provide explanations and reinforcement of the primary legal materials, which include law books, national and international scientific journal articles, academic papers, and opinions from relevant legal and health experts. Tertiary legal materials, in the form of legal dictionaries, legal

encyclopedias, and regulatory directories, are used as supplements to provide additional understanding of the concepts and terms used.

The legal material collection technique was conducted through a library study. As emphasized by (Waluyo, 2008), a library study is a fundamental step in normative legal research, given that all research data and information are sourced from legal documents and academic literature. Through this method, researchers explore various recent regulations, legal books, and scientific journals relevant to adolescent reproductive health issues. The legal material is then analyzed and sorted based on its hierarchy and relevance to the research problem, allowing for systematic and focused analysis.

The analysis used is qualitative descriptive analysis, an analytical technique that focuses on describing, explaining, and analyzing legal phenomena based on available legal materials. This analysis does not rely on numerical data, but rather prioritizes understanding, interpretation, and legal argumentation. According to (Alaslan, 2022), qualitative analysis is conducted by understanding the meaning behind the data, categorizing it, and linking it to relevant theories. In this study, the analysis was conducted by explaining the provisions of Government Regulation No. 28 of 2024, comparing it with other regulations to assess synchronization, and assessing the regulation through Gustav Radbruch's legal philosophy framework, which emphasizes three basic legal values: certainty, justice, and utility. In this way, this study is expected to provide a comprehensive and solution-oriented legal analysis.

To maintain the validity of the research results, source triangulation techniques were used. Triangulation was conducted by comparing data from various types of legal materials, such as legislation, expert doctrine, and research findings published in scientific journals. According to (Moleong, 2017), triangulation is an effective way to increase credibility in qualitative research because it enriches data and prevents analytical bias. Therefore, the research findings are expected to have a high level of validity and be scientifically accountable.

Through a research method designed with a normative framework, this study is expected to make a tangible contribution to the development of legal science, particularly in the field of health law and child protection. The research results are expected to not only have academic relevance in filling the literature gap regarding the legal analysis of Government Regulation No. 28 of 2024, but also be practically useful as input for policymakers and related parties in formulating more effective policies that align with applicable legal principles. With this approach, this study aims to produce prescriptive, constructive, and applicable findings in addressing legal issues regarding reproductive health services for adolescents and school-age children.

RESULTS AND DISCUSSION

Construction of Norms in PP No. 28 of 2024 Article 103 Paragraph (4) Letter e

Government Regulation Number 28 of 2024, a derivative regulation of Law Number 17 of 2023 concerning Health, has caused problems for the public since its inception. The most controversial article is Article 103 paragraph (4) letter e, which contains provisions regarding the provision of contraceptives for school-age groups and adolescents. This provision raises fundamental problems because, although formally intended as a state effort to provide access to reproductive health, in substance it presents serious problems in the form of unclear meaning, potential for multiple interpretations, and conflicts with a number of regulations of a higher standing.

When explained from a legal construction perspective, it is apparent that the use of the terms "adolescent" and "school age" in the article is not accompanied by detailed definitions. This vague formulation creates normative bias. In fact, clarity of formulation is a fundamental principle in the formation of legislation. This is expressly stated in Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation. The law emphasizes that every regulation must meet the criteria of purpose, clarity of formulation, adherence to hierarchy, and the principle of effective implementation. This means that legal norms must use clear terminology, avoid ambiguity, and be consistently understood by all parties subject to the law. When norms use vague or multi-interpretable terms, their implementation has the potential to cause confusion, misunderstanding, and even violations of citizens' constitutional rights (Hidayat, 2021).

The weaknesses in the legal construction of this article have broad implications. For example, if the term "school age" encompasses children from elementary to high school, then this provision normatively provides room for minors to access protection. This situation is clearly problematic because it contradicts

the principles of child protection as stipulated in Law Number 35 of 2014 concerning Child Protection. This regulation emphasizes that children are individuals under the age of 18 and must receive special protection from all forms of exploitation, including those related to sexual and reproductive health.

Article 103 paragraph (4) letter e also creates internal conflicts with other articles in the same PP. For example, Article 103 paragraph (2) letter e requires the government to provide education to adolescents and school-age children so that they are able to refuse invitations to sexual relations. This provision focuses on educational and preventive aspects. However, on the other hand, the provision of contraception in paragraph (4) letter e actually gives the impression that the state indirectly legitimizes premarital sexual activity at school age. This inconsistency shows the weak logistical consistency in the preparation of regulations, where one norm can conflict with another norm within the scope of the same regulation.

The controversy surrounding this provision further underscores the weaknesses in the norm-making process. Rather than being a legal instrument that provides certainty and clear policy direction, the article creates confusing ambiguity, both for the public, who are the subject of the law, and for government officials who must implement the provisions. In law-making theory, internal consistency is an absolute requirement for norms to be implemented effectively and fairly. If an evolution contains contradictions or ambiguities, its implementation will face significant obstacles in practice (Asshiddiqie, 2004).

Inadequately formulated norms also have the potential to have negative social and psychological impacts on school-age groups. If these norms are loosely enforced, access to contraception for young children can be considered legally permissible. This can lead to the misperception that sexual practices at school age are normal, thus undermining moral values and social norms long held in Indonesian society. In this context, the law loses its function as a means of social control and the formation of national morality.

From a constitutional law perspective, failure to establish clear articles can also be categorized as a violation of the principle of constitutionality. The 1945 Constitution emphasizes that all regulations must uphold legal certainty and protect human rights, including the right of children to grow and develop healthily. Therefore, provisions that open up opportunities for school-age children to access contraception without a clear educational and moral basis can be legally challenged, either through regulatory review mechanisms in the Supreme Court or through academic studies as input for public policy.

Therefore, Article 103 paragraph (4) letter e in Government Regulation No. 28 of 2024 serves as a concrete example of the weak formulation of legal norms in Indonesia. This norm is not only problematic from a editorial aspect, but also has implications for child protection, legal consistency, and the social value system of society. Therefore, a review is necessary, either in the form of a revision of the regulation or the elimination of the article through judicial review. This step is necessary to ensure that laws and regulations remain in line with the principles of a state based on law that upholds the principles of legal certainty, justice, and the protection of citizens' constitutional rights.

Normative Conflict and Its Impact on Adolescent Reproductive Health

The conflicting norms in Government Regulation Number 28 of 2024, particularly Article 103 paragraph (4) letter e, not only raise legal issues but also have direct implications for adolescent reproductive health. Provisions governing the provision of contraception for school-age groups and adolescents without clear boundaries can be interpreted as a form of legalization of early sexual practices. Rather than functioning as a protective instrument, this regulation has the potential to send the wrong message that premarital sexual activity is something normal for children and adolescents. This condition is very dangerous, because it encourages an increase in promiscuous sexual behavior among students, which ultimately has serious health consequences in the form of the spread of sexually transmitted diseases (STDs) and an increase in the number of unplanned pregnancies.

This phenomenon aligns with findings confirming that high rates of casual sex among adolescents are directly correlated with an increased prevalence of sexually transmitted infections. Providing contraception without a comprehensive educational framework cannot be viewed as a preventative measure. Instead, it can be perceived as a form of state facilitation of risky behavior. In public health literature, preventive efforts consistently emphasize prevention through education, counseling, and family- and community-based approaches. Therefore, providing contraception without prior education in moral values and risk awareness will only be a false solution (Yuria R. A. et al., 2024).

The World Health Organization emphasizes that reproductive health policies for adolescents should emphasize a comprehensive, education-based approach. This education should include providing accurate information about sexual health, counseling tailored to adolescents' psychosocial needs, and involving parents and teachers in the health education process. The WHO rejects approaches that rely solely on contraceptive distribution without integrating educational programs. According to the organization, such policies have the potential to increase sexual exploration among adolescents before they have achieved sufficient psychological and social maturity (Organization, 2002).

The policy of providing contraception to school-age children could have negative implications for the long-term development agenda, particularly the achievement of the 2045 golden generation target. Adolescents who engage in promiscuous sex, contract STIs, or experience unwanted pregnancies at an early age will face serious obstacles in their lives. These obstacles include dropping out of school, decreased productivity, and limited opportunities for decent employment. A further impact is a declining quality of life for the younger generation, leading to a weakening of the competitiveness of Indonesia's human resources in the global era (Yusnia et al., 2022).

The quality of human resources (HR) is a key factor in determining the success of national development. If state policies fail to protect adolescents from risky behavior, it will pose a significant burden on development. Instead of producing a healthy, intelligent, and productive generation, misguided policies can create a generation vulnerable to health, social, and economic problems. Within the framework of sustainable development, this clearly contradicts the principle of investing in people, which is a top priority for national development.

It is important to emphasize that providing contraception cannot be understood as the sole solution to adolescent reproductive health issues. This policy must be viewed within a broader framework, namely the need for prevention-oriented reproductive health education, the instilling of moral values, and the strengthening of the role of families and schools. Ideal reproductive health education not only provides biological knowledge but also equips adolescents with the skills to make responsible decisions, understand health risks, and respect prevailing social and cultural values.

Family-based education plays a very strategic role. Parents are the closest people to their children, so their involvement in providing an understanding of sexuality is crucial. However, reality shows that many parents still consider discussing sexuality with their children taboo. As a result, children often seek information from unreliable sources, such as social media or peer groups, which can be potentially misleading. This is where the government's role is crucial, not in the form of providing contraception, but through public education programs that encourage open communication between parents and children about reproductive health (U.N.E.S.C.O, 2018).

Schools also play a crucial role as agents of formal education. A curriculum that includes comprehensive reproductive health education can help students understand the risks of early sexual behavior, both scientifically and normatively. Programs such as Comprehensive Sexuality Education (CSE), recommended by UNESCO, have been proven to reduce risky sexual behavior among adolescents, provided they are delivered using culturally appropriate methods and involve trained educators. Therefore, the most appropriate solution is not to provide access to contraception for school-age children, but rather to develop a reproductive health education model based on collaboration between schools, families, health workers, and the community. This approach is more aligned with the principles of child protection and aligns with the constitutional mandate, which affirms that every child has the right to protection from all forms of violence and discrimination.

The Ambiguity of the Definition of School Age and Adolescence from a Legal Perspective

One of the fundamental issues arising from Government Regulation Number 28 of 2024 is the use of terminology lacking conceptual clarity. This regulation mentions two terms: "school age" and "adolescent," without specifying specific age limits. Clear definitions are crucial in legal formation because they directly impact legal certainty and smooth implementation. This ambiguity not only creates confusion but can also lead to inconsistencies in policy implementation, even contradicting the principles of child protection established in various national regulations.

In various regulations and academic literature, the definitions of "adolescent" and "school-age child" are not uniform. The Ministry of Health of the Republic of Indonesia (2014), for example, defines adolescents as individuals between the ages of 10 and 18. This definition is oriented towards a health

approach, where this age is considered a transitional period from childhood to adulthood, marked by physical, psychological, and social changes. Meanwhile, Law Number 35 of 2014 concerning Child Protection expressly states that a child is anyone under 18 years of age, including those still in the womb. This definition is more normative and serves as the legal basis for protecting children's rights (Buhari et al., 2024).

Developmental psychology literature has a somewhat different view. Adolescents are individuals aged 12 to 21. This definition suggests that adolescence doesn't end at 18, but can extend into the early twenties, given that a person's psychosocial development and emotional maturity are not yet fully stabilized during this age range. This difference in definition emphasizes that the term "adolescent" can vary depending on the perspective used, whether from a health, legal, or developmental psychology perspective (Fahyuni, 2019).

Meanwhile, Article 17 letter c of Government Regulation Number 28 of 2024 states that "school age" refers to those under 18 years of age. This means that the term "school age" in this regulation is positioned equivalent to the age limit for children under the Child Protection Law. However, in practice, the term "school age" is often understood more narrowly, namely those currently undergoing formal education in elementary, junior high, or high school. This difference in perspective creates potential confusion in implementation (Hilala, 2025).

This unclear definition has serious implications for policy implementation. If the term "school age" is broadly interpreted as children up to 18 years of age, then normatively, children attending elementary school and reaching puberty have free access to contraception. This situation is highly risky because it has the potential to weaken parents' role in supervising and guiding their children, particularly regarding sexual behavior. The unclear use of terms in legal norms can violate child protection principles and potentially open up opportunities for abuse of authority and discrimination (Siregar, 2021).

Definitional ambiguity in a regulation can pose various risks. First, the risk of discrimination, where the implementation of norms can lead to disparate treatment of certain groups of children due to inconsistent interpretations. Second, the risk of abuse, because unclear norms allow officials or certain parties to interpret the rules arbitrarily. Third, the risk of misunderstanding, both from the general public and implementing officials, which can lead to practices that conflict with the goals of child protection. Thus, the unclear terminology in Government Regulation No. 28 of 2024 is not merely a technical editorial issue, but also a legal and sociological problem that has the potential to harm the younger generation.

Within the framework of legal certainty theory, clarity of definition is an absolute requirement. Good law must provide certainty to legal subjects regarding who is regulated, what their rights and obligations are, and how the protection mechanisms operate. If the boundaries between school age and adolescence are not clearly defined, the law loses its function as a tool of social control and protection of the rights of citizens, especially children as a vulnerable group. Therefore, the step that legislators need to take is to harmonize definitions to avoid overlap between one regulation and another. This harmonization is crucial by referring to umbrella regulations, such as the Child Protection Law and the National Education System Law. Clarity of definition also serves as a means to reinforce the state's commitment to providing constitutional protection to children.

The formulation of clear terms in legislation not only serves to facilitate technical implementation, but also to ensure the fulfillment of children's rights as guaranteed in the 1945 Constitution. Article 28B paragraph (2) emphasizes that every child has the right to survive, grow and develop, and has the right to protection from violence and discrimination. Thus, the clarity of the definition of school age and adolescence is a concrete form of the implementation of the state's constitutional obligation to protect children.

Gustav Radbruch's Theory of Legal Certainty as a Basis for Analysis

To understand the complexity of the legal issues contained in Government Regulation Number 28 of 2024, especially Article 103 paragraph (4) letter e, the theory of legal certainty introduced by Gustav Radbruch is very relevant. Radbruch, a German legal philosopher, proposed the idea of three fundamental values in law, namely legal certainty (Rechtssicherheit), justice (Gerechtigkeit), and utility (Zweckmäßigkeit). According to him, these three values are interrelated and are the main pillars that support the sustainability of the legal system. However, among the three, legal certainty has the most important position, because without legal certainty, justice and utility will never be achieved. Uncertain

laws will cause confusion, multiple interpretations, and ultimately eliminate the justice and benefits that should be provided to society (Kuberka, 1911).

In the context of Article 103 paragraph (4) letter e of Government Regulation No. 28 of 2024, the main problem that arises is the unclear terms "adolescent" and "school age." The norm does not provide an explicit explanation of the intended age range, thus opening up room for multiple interpretations. This ambiguity indicates the absence of legal certainty. In fact, the law should provide a clear definition of who the legal subjects are regulated, what rights and obligations are attached to them, and what protection mechanisms are in place when violations occur. The unclear norms ultimately not only harm the aspect of legal certainty, but also create the potential for real harm to society, especially for children and adolescents as the social groups most vulnerable to the impacts of these regulations (Hidayat, 2021).

Legal certainty is not simply a matter of the existence of written regulations, but also of the quality of normative formulation, ensuring clarity and consistency. Vague norms open the door to differing interpretations among policymakers, implementing officials, and the public as the regulated party. Consequently, the implementation of regulations can lead to discrimination, abuse of authority, and even violations of citizens' constitutional rights. Within Radbruch's framework, such conditions clearly contradict the very nature of law itself, which should provide certainty, justice, and benefit.

A similar view is also emphasized by Satjipto Rahardjo (2006), who developed the concept of progressive law. According to him, law should not be understood solely as a normative text, but must also be viewed from a humanitarian perspective. Good law should side with vulnerable groups who require greater protection from the state. In this context, children and adolescents are vulnerable groups whose protection should be prioritized. If a norm has the potential to cause harm, such as legitimizing access to contraception for school-age children without educational support, then the norm loses its moral legitimacy. This means that laws that fail to protect the vulnerable contradict the purpose of their existence (Priyatno & Aridhayandi, 2018).

Legal certainty is also closely related to substantive protection of human rights. Article 28B paragraph (2) of the 1945 Constitution affirms that every child has the right to survive, grow, and develop, and to be protected from violence and discrimination. Therefore, legal norms that are vague and pose risks to children are in fact contrary to the constitutional mandate. Radbruch emphasized that the law must contain concrete certainty, not only in the form of written regulations, but must also be able to guarantee substantive justice for the community it serves.

When examined using Radbruch's value framework, it is clear that Article 103 paragraph (4) letter e fails to fulfill the three fundamental dimensions of law. First, from the aspect of legal certainty (Rechtssicherheit), this norm is weak because it does not provide a clear definition of the legal subject, namely who is meant by "school age" and "adolescent." Second, from the aspect of justice (Gerechtigkeit), this article has the potential to violate children's rights to protection, because it allows them to access contraception without parental supervision or adequate education. Third, from the aspect of utility (Zweckmäßigkeit), this norm does not provide benefits to the wider community, but instead opens up opportunities for increased premarital sexual behavior and reproductive health problems among children and adolescents.

Based on the analytical framework of Gustav Radbruch's legal certainty theory, it can be concluded that Article 103 paragraph (4) letter e of PP No. 28 of 2024 is not worthy of being maintained. This norm should be revised in depth or even abolished altogether in order to maintain the consistency of the national legal system. The abolition or revision is not only to meet technical standards of legislation, but also to ensure that the law continues to have moral legitimacy and substance of protection for the community, especially children. As a corrective step, lawmakers need to harmonize regulations by referring to consistent definitions in the Child Protection Law, the Health Law, and relevant academic literature. Thus, the law is not only present as text, but also as a real instrument of protection, in accordance with Radbruch's ideas and Satjipto Rahardjo's progressive legal views.

Urgency of Judicial Review of Article 103 Paragraph (4) Letter e

Judicial review, or testing of statutory regulations, is a crucial instrument in the Indonesian legal system, used to ensure that every legal product aligns with the regulatory hierarchy and constitutional principles. In the context of the controversy raised by Article 103 paragraph (4) letter e of Government

Regulation Number 28 of 2024, judicial review is the most relevant mechanism. This provision is considered problematic because it contains norms that potentially conflict with the principles of child protection and citizens' constitutional rights.

In the Indonesian constitutional system, the authority to test laws and regulations under the law, including government regulations, lies with the Supreme Court as stated in Article 24A paragraph (1) of the 1945 Constitution. This means that if an article in a Government Regulation is proven to be in conflict with the law, the Supreme Court can declare the article null and void and no longer has binding force. In this context, Article 103 paragraph (4) letter e deserves to be tested because it is considered to be in conflict with Law Number 35 of 2014 concerning Child Protection and even has the potential to violate the 1945 Constitution.

From a legal perspective, there are at least three main reasons that can be used as a basis for filing a judicial review of this provision. First, there is a deviation from the substance of the norm. Article 103 paragraph (4) letter e only emphasizes the provision of contraceptives for school-age children and adolescents without integrating educational and preventive approaches. This contradicts the principle of child protection, where the state should prioritize prevention efforts through comprehensive reproductive health education, rather than simply providing contraceptive instruments that have the potential to normalize sexual practices at an early age (Yuria R. A. et al., 2024).

Second, this article creates a normative conflict with several higher-ranking regulations, such as the Child Protection Law and the Health Law. The Child Protection Law affirms that every child has the right to protection from sexual exploitation and abuse. If contraception is provided to school-age children without supervision and education, this norm could actually contradict the mandate of the law. Furthermore, the Health Law also emphasizes the importance of a promotive and preventive approach in health services, including reproductive health.

Third, from an international legal perspective, this article has the potential to violate universally recognized general principles, particularly the Convention on the Rights of the Child (CRC), which Indonesia ratified through Presidential Decree No. 36 of 1990. The Convention affirms that every child has the right to receive special protection according to their age and maturity, including in reproductive health. Providing contraception to school-age children without education can be seen as a form of disregard for the principle of the best interest of the child, which is the basis of the CRC.

The theory of internal legal morality put forward by Lon Fuller further strengthens the urgency of judicial review of this article. Good law must fulfill a number of principles of internal morality, including clarity of norms, consistency, non-contradiction, and not create impossible difficulties for citizens in its implementation. Article 103 paragraph (4) letter e clearly fails to fulfill these criteria because it does not provide a clear definition of who is meant by school age and adolescents, and is inconsistent with other articles in the same PP which emphasize education in preventing sexual behavior. In other words, this norm contains internal contradictions that weaken its legal legitimacy (Fuller, 1969).

From a rule of law perspective, a legal norm can only be enforced if it meets the principles of legal certainty, justice, and expediency. Norms that are vague, open to multiple interpretations, and contradict higher-level regulations not only undermine legal certainty but also erode substantive justice. Children who should be protected can instead become victims of policies that do not serve their best interests. Therefore, judicial review is a crucial mechanism for correcting these normative imperfections.

The filing of a judicial review also has a strategic dimension. If the Supreme Court decides that Article 103 paragraph (4) letter e is in conflict with the Child Protection Law and the 1945 Constitution, then the article will be declared invalid and no longer applicable. This will encourage the government to reformulate adolescent reproductive health policies with a more educational, preventive approach, and in accordance with the principles of child protection. This step is crucial for maintaining the integrity of the national legal system while ensuring that the resulting regulations do not harm the younger generation. And it is clear that judicial review is not merely a legal technical mechanism, but also a means to ensure that the law remains within the corridors of morality, justice, and legal certainty. In the case of Article 103 paragraph (4) letter e, judicial review is a crucial corrective instrument to protect children from the negative impacts of inconsistent policies, while maintaining the supremacy of law in the Indonesian constitutional system.

Social, Legal Implications, and Policy Recommendations

The policy of providing contraception for school-age children and adolescents as regulated in Article 103 paragraph (4) letter e of Government Regulation Number 28 of 2024 has quite broad and complex social implications. These implications not only impact the legal system, but also the moral, cultural, and role of the family in Indonesian society.

First, from a moral perspective, this policy could shift long-held values within society. Providing contraception to school-age children could create the perception that premarital sex among students is normal or acceptable. However, in Indonesia's social and cultural context, extramarital sex, particularly among school-age children, is still viewed as contrary to religious and customary norms. If state policy allows for such behavior, it could gradually erode society's moral values. Consequently, there is the potential for social change that is inconsistent with the values of Pancasila, particularly the second and fifth principles, which emphasize civilized humanity and social justice (Asshiddiqie, 2004).

Second, this policy has the potential to weaken the function and role of families in educating and supervising children. The family, as the smallest unit in society, plays a central role in providing moral education, social values, and monitoring children's behavior. If the state directly provides contraception to school-age children, the role of parents could be marginalized. Children may feel they no longer need family guidance in making decisions about sexuality because they have legitimate access from the state. This situation can create distance between children and their parents and reduce the effectiveness of open communication-based parenting, which should be the foundation of sexuality education within the family.

Third, from a legal perspective, the policy has the potential to conflict with children's rights to protection as guaranteed in the 1945 Constitution of the Republic of Indonesia. Article 28B paragraph (2) of the 1945 Constitution states that every child has the right to survive, grow, and develop, and has the right to protection from violence and discrimination. Providing access to contraception to school-age children without an educational, moral, and psychosocial approach can actually lead children to engage in risky behavior. Thus, this policy can be seen as violating the principle of the best interest of the child, which should be the basis of every state policy.

Given these implications, a more appropriate policy step would be to repeal the provisions of Article 103 paragraph (4) letter e and replace them with regulations that emphasize the importance of comprehensive reproductive health education. Reproductive health education must be based on education, morality, and social values. The Comprehensive Sexuality Education (CSE) model recommended by UNESCO (2018) can be used as a reference. CSE is an approach to sexuality education that addresses not only biological aspects but also psychological, emotional, social, and ethical dimensions. This approach has been proven to be more effective in reducing risky sexual behavior in adolescents than simply providing contraception (U.N.E.S.C.O, 2018).

Comprehensive reproductive health education should involve three main elements: schools, families, and health workers. Schools can serve as formal educational settings with a curriculum that includes structured reproductive health materials. Trained teachers can deliver information using age-appropriate approaches. Families serve as primary educators, instilling moral and religious values. Meanwhile, health workers can provide accurate information about the risks of sexually transmitted infections and the importance of maintaining reproductive health. The collaboration of these three elements will create a healthier ecosystem and support children's holistic development.

The state also needs to harmonize regulations regarding the use of the terms "child," "adolescent," and "school age." Currently, differing definitions in various regulations create ambiguity. For example, the Child Protection Law defines a child as an individual under 18 years of age, while the Ministry of Health defines adolescents as those aged 10–18, and developmental psychology literature defines adolescents as those up to 21 years of age (Fahyuni, 2019). This harmonization of definitions is crucial to prevent overlapping, discriminatory, or multiple interpretations of policy implementation. Legal certainty can be achieved if the state is able to formulate age limits consistently across all regulations.

In any reproductive health policy for children and adolescents, an educational approach must be a top priority. Policies that emphasize education align with the principles of prevention in public health, while simultaneously upholding the nation's moral and cultural values. The principle of the best interest of the child must serve as a foundation to ensure that policies are truly oriented toward the child's best interests, rather than short-term interests that risk causing future harm. Therefore, policies that provide contraception

for school-age children and adolescents carry serious social, moral, and legal implications. A more appropriate solution is to replace this approach with comprehensive reproductive health education involving schools, families, and health workers, along with regulatory harmonization to better align with child protection principles in the constitution and international law.

CONCLUSION

A study of Article 103 paragraph (4) letter e of Government Regulation Number 28 of 2024 shows that the norm has fundamental weaknesses both in terms of legal construction and social empowerment. The unclear use of the terms "adolescent" and "school age" has given rise to multiple interpretations and is contrary to the principles of child protection as regulated in Law Number 35 of 2014 concerning Child Protection and the 1945 Constitution. This norm not only creates legal certainty, but also creates internal conflicts with other articles in the same PP, thereby reducing the effectiveness of its implementation.

From a reproductive health perspective, providing contraception to school-age children without an educational approach can increase the risk of premarital sexual behavior, sexually transmitted infections, and unwanted pregnancies. This has implications for the decline in human resource quality and disrupts the development agenda toward the golden generation of 2045. Definitional ambiguity also increases the potential for discrimination, including violations of the principle of legal certainty.

An analysis using Gustav Radbruch's theory of legal certainty states that this norm fails to meet the values of legal certainty, justice, and utility. Therefore, judicial review is a relevant mechanism for assessing norm inconsistencies while maintaining the rule of law. Going forward, child and adolescent reproductive health policies should focus on comprehensive education based on schools, families, and health workers, with regulatory harmonization to better align with the principle of the best interests of the child.

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