



Analysis of the Mursalah Issue: Legalized Contraception Devices Among Teenagers

(Study of Article 103 Paragraph (4) Letter of Government Regulation Number 28 of 2024)

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Abstract

This study examines the legalization of contraceptive provision for adolescents under Article 103 paragraph (4) letter e of Government Regulation Number 28 of 2024 from the perspective of *maslahah mursalah* in Islamic law. The study employs normative legal research using statutory and conceptual approaches. The primary legal material consists of Government Regulation Number 28 of 2024, while secondary materials include academic literature, scientific journals, Islamic jurisprudence references, and relevant legal doctrines. The collected data were analyzed qualitatively using a descriptive-analytical method. The findings indicate that the policy aims to protect adolescent reproductive health and reduce the risks of unintended pregnancy and sexually transmitted infections. From the perspective of *maslahah mursalah*, the policy may be justified as a public interest measure *maslahah* provided that its implementation is accompanied by strict supervision, comprehensive reproductive health education, parental involvement, and adherence to moral and religious values. Therefore, balancing public health objectives with Islamic legal principles is essential to ensure that the policy achieves both legal certainty and social welfare.

Keywords: *Maslahah mursalah, Contraceptives, Adolescents.*

INTRODUCTION

Adolescence is often associated with negative images of deviance and unnaturalness. This is evident in the numerous developmental theories that discuss disharmony, emotional and behavioral disorders resulting from the pressures adolescents experience due to changes occurring within them, both caused by internal personal factors and external factors such as changes and influences from the surrounding environment.

Along with the physical, psychological, and social changes experienced during adolescence, this developmental stage is often accompanied by increased vulnerability to various risky behaviors. These behaviors may be classified into several categories. First, substance abuse, including narcotics, psychotropic substances, alcohol, and tobacco, can impair cognitive function, increase the risk of addiction, cause mental health disorders, and reduce adolescents' ability to make rational decisions regarding their sexual and reproductive health. Second, risky sexual behaviors, such as premarital sexual intercourse and unprotected sex, may lead to unintended pregnancy, unsafe abortion, sexually transmitted infections (STIs), including HIV/AIDS, reproductive tract infections, and maternal complications among adolescent mothers. Third, other forms of juvenile delinquency, including violence and criminal activities, may disrupt adolescents' education, social development, and future well-being. These interrelated problems demonstrate that adolescent reproductive health should be addressed through comprehensive legal, educational, health, and socio-religious approaches.

Adolescent reproductive health in Indonesia is an issue receiving increasing attention, particularly amidst the rise in cases of teenage pregnancy and the spread of sexually transmitted infections. In Indonesia, the number of unwanted pregnancies shows a worrying trend, including the number of teenage pregnancies in Indonesia according to a report from the World Bank estimates that as many as 46.9% of 1,000 adolescent girls in Indonesia aged 15-19 years have given birth, (Badan Kependudukan dan Keluarga Berencana, *pentingnya Edukasi Reproduksi*, 2024) so that many teenagers have abortions or other heinous acts. This certainly has negative impacts, both in terms of physical and psychological health, and contributes to broader social problems.

On July 26, President Joko Widodo signed Government Regulation (PP) Number 28 of 2024 concerning the implementation of Law Number 17 of 2023 concerning health. One of the points in this government regulation is the provision of contraceptives for students and adolescents. This policy is outlined in PP Number 28, Article 103, paragraph 4, which covers early disease detection or screening, treatment, rehabilitation, counseling, and the provision of contraceptives. (Peraturan Pemerintah (PP) Nomor 28 tahun 2024) Through PP Number 28 of 2024, the government seeks to address this challenge by formulating policies that support the use of contraceptives among adolescents. Article 103 Paragraph (4) Letter e states that this policy aims not only to provide access but also to educate adolescents about the importance of reproductive health. Although this step is considered positive, controversy and resistance from various parties, including conservative groups, have arisen regarding cultural and religious norms.

The inconsistency in this regulation is evident when we compare Article 103 Paragraph (4) Letter e with Article 98 of the same PP. Article 98 emphasizes the importance of implementing reproductive health efforts while respecting noble values that do not demean human dignity, in accordance with religious norms. On the other hand, Article 103 paragraph (4) letter e opens access to the provision of contraceptives, which can be implicitly interpreted as legalizing access

to contraception for adolescents, including those who are unmarried. This ambiguity not only has the potential to undermine morality and social values, but also paves the way for uncontrolled reproductive behavior among adolescents. Statements by the Minister of Health and the Ministry of Health spokesperson, aimed at clarifying the regulations, have only added to the confusion. In these statements, they use the term "married adolescents," shortened to "married adolescents." This term could be interpreted as meaning that adolescents are permitted to marry.

Contraception is a method for spacing pregnancies, delaying pregnancy at a young age at high risk of health problems, and preventing pregnancy among older women who also face increased risks through the use of devices or drugs. Its use is more appropriately directed at married couples with the aim of preventing/delaying pregnancy. The problem is that the Government Regulation above authorizes the provision of contraceptives for teenagers for the purpose of reproductive health, of course this causes many problems because it seems as if the government is opening the way for teenagers to approach promiscuity. (<https://scholar.unand.ac.id/>)

These differing views demonstrate that the article on "provision of contraceptives" is open to multiple interpretations. The concern is a negative interpretation, where the state is seen as legalizing the provision of contraceptives to students as part of reproductive health and healthy sex education. Therefore, it's understandable that there are calls to repeal or amend this article. In reality, whether the article exists or not, contraceptives are already freely available on the market. Buyers can easily find them at many pharmacies, drug stores, traditional shops, and even modern stores. And the prices are affordable.

Therefore, more important than the debate over "provision of contraceptives for students" is strengthening sex education for students. The focus should not only be on reproductive health and healthy sex, but also, crucially, teaching them about religious guidelines regarding interactions with the opposite sex and sexual relations. It appears that many students lack understanding of this, leading them to engage in promiscuous relationships and casual sex without any sense of guilt, as demonstrated during Valentine's Day and/or New Year's Eve celebrations.

In fact, in Islam, adultery is considered a major sin that cannot be easily forgiven. Therefore, the strong warning in Islam is not only for adultery, but also for acts that are close to adultery, as stated in surah al-Isra' verse 32: (Hamka, 1985)

وَلَا تَقْرَبُوا الزَّانِيَ إِنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا

Do not come near to adultery, because truly adultery is a heinous act and the worst way.... (<https://quran.nu.or.id/al-isra%27/32>)

The *maslahah mursalah* approach, which focuses on public interest and public benefit, provides a relevant framework for analyzing this policy. By considering the benefits to be gained from the legalization of contraceptives for adolescents, we can explore how this policy should be implemented while respecting local cultural values. Therefore, this study aims to evaluate the legalization of contraceptives among adolescents through the *maslahah mursalah* perspective. This is expected to generate recommendations that support the implementation of a more

effective and responsive policy to adolescents' needs, as well as creating a more conducive environment for their reproductive health.

Through this *maslahah mursalah* analysis, it is hoped that ways can be identified to integrate reproductive health policies with local values, thereby increasing public understanding and acceptance of the importance of contraceptives for adolescents.

RESEARCH METHODS

The research method used in this study is normative legal research with a statute approach and a conceptual approach. This research focuses on analyzing the provisions of Article 103 paragraph (4) letter a of Government Regulation Number 28 of 2024 concerning the legalization of the provision of contraceptives for adolescents from the perspective of *maslahat mursalah* in Islamic law.

The data sources used consist of primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations related to adolescent reproductive health and contraceptive policies, specifically Government Regulation Number 28 of 2024. Secondary legal materials were obtained from scientific literature, academic journals, fiqh books, previous research results, and the opinions of Islamic scholars regarding the concept of *maslahat mursalah*. Tertiary legal materials include legal dictionaries, encyclopedias, and other supporting sources.

Data collection techniques were conducted through literature review by examining various legal documents and literature relevant to the research topic. The data obtained were analyzed qualitatively using descriptive-analytical methods to examine the suitability of the policy of legalizing contraceptives for adolescents with the principles of *maslahat mursalah*, especially in the aspects of life protection, morality, reproductive health, and social welfare in Islamic law.

RESULTS AND DISCUSSION

Adolescence is a transitional period from childhood to adulthood and is synonymous with the search for identity, marked by physical changes and emotional and psychological changes that remain highly unstable and vulnerable to negative actions. (Sumadi, 2005) According to Gunarsah, adolescence is the transitional period between childhood and adulthood, occurring between the ages of 12 and 21. (Gunarsa, 1989) Mappiare, on the other hand, defines adolescence based on gender: 12 to 21 for females and 13 to 22 for males. Therefore, it can generally be said that adolescents are those between the ages of 12 and 22.

Juvenile delinquency in the modern era has exceeded reasonable limits. Many minors are already exposed to cigarettes, drugs, free sex, and are involved in numerous other criminal activities. This fact is undeniable, as we can see the brutality of today's youth. The rising crime rate in Indonesia is not only committed by adults, but also by many teenagers.

Maslahah is defined as anything that benefits humans, whether in the sense of attracting or producing benefits, such as generating profit or pleasure, or in the sense of repelling or avoiding harm or damage. Therefore, anything that contains benefits deserves to be called *maslahah*, even if the intended benefit has two sides: bringing good and preventing harm or damage. (Amir Syarifuddin, 2009) In every legal decision, establishing certain conditions is essential to ensure that the decision is in accordance with the intended spirit. In the case of *maslahah*, the goal is to ensure that the resulting output does not contradict the texts of the Quran and the Sunnah. (Muhammad Abu Zahrah, 1994)

In this case, the *maslahah murshalah* is used to assess the recent approval of contraceptives for adolescents by President Jokowi. This approval aims to address reproductive health issues and reduce the number of unwanted teenage pregnancies. The importance of efforts to bring goodness and benefit to other human beings is in accordance with Surah al-Baqarah verse 195:

وَأَنْفِقُوا فِي سَبِيلِ اللَّهِ وَلَا تُلْقُوا بِأَيْدِيكُمْ إِلَى التَّهْلُكَةِ وَأَحْسِنُوا إِنَّ اللَّهَ يُحِبُّ الْمُحْسِنِينَ ﴿١٩٥﴾

It means:

"Spend in the way of Allah, do not plunge yourself into destruction, and do good. Indeed, Allah loves those who do good." (QS. Al-Baqarah: 195)

Article 103 Paragraph (4) of Government Regulation Number 28 of 2024 regulates the use of contraceptives for adolescents, with the stipulation that adolescents must obtain consent from their parents or guardians. This provision demonstrates recognition of the need for adolescents to have access to contraception as part of efforts to prevent unwanted pregnancies and other reproductive health issues. (PP Nomor 28 Tahun 2024)

From a legal perspective, this policy aims to protect adolescents' rights to access safe reproductive health services. However, this policy must also address aspects of adolescent protection to prevent abuse or decisions not based on careful consideration by parents or guardians. Therefore, strict supervision and adequate education for adolescents and parents are crucial in implementing this policy. From a health perspective, legalizing contraceptive use among adolescents has clear benefits. Adolescent pregnancy can pose various health risks to both the mother and the fetus. Pregnant adolescents are at greater risk of pregnancy complications and giving birth to low-birth-weight babies. Furthermore, unwanted pregnancies are often associated with social and economic problems, which can impact the quality of life of adolescents and their families.

Approval of contraceptives for adolescents, with adequate supervision, can help reduce the rate of unintended pregnancies and reduce the risk of health complications in adolescents. *Maslahah mursalah* applies here, as contraceptive use can be seen as a policy that brings long-term benefits by reducing adolescent pregnancies and improving their reproductive health. However, it is important to note that this policy must be accompanied by comprehensive sex education and health counseling so that adolescents understand contraceptive use well and can make responsible decisions.

While there are many potential benefits to be gained from this policy, the main challenge lies in its implementation. Some potential issues include a lack of parental understanding of the importance of contraception for adolescents, social stigma that considers contraception contrary to social or religious norms, and a lack of access to adequate health information and services in certain areas. Furthermore, there is the potential for misuse of contraceptives among adolescents if not accompanied by adequate education about sexual and reproductive health. Therefore, this policy must be balanced with preventive measures, such as sex education based on moral and religious values, and strengthening the role of parents and the community in providing support to adolescents.

Author's Analysis

Based on the issues above, the policy of legalizing the use of contraceptives for adolescents can be viewed as an effort based on the principle of *maslahah mursalah*, namely,

bringing long-term benefits and avoiding harm, particularly related to reproductive health issues and unwanted pregnancies.

However, despite the clear benefits of this policy, challenges remain in its implementation. Some potential obstacles include a lack of parental understanding of the importance of contraception for adolescents, social stigma that considers contraceptive use contrary to religious or cultural norms, and limited access to health information and services in some areas. Therefore, to effectively achieve the goals of this policy, comprehensive sex education, strict supervision, and a strengthened role of parents and the community in providing support to adolescents are needed. The following table compares the perspectives of Positive Law and Maslahah Mursalah regarding the goals, benefits, and challenges that the government and society (parents) will face in the context of the policy of legalizing contraceptives for adolescents:

Aspek	Positif Law	Maslahah Mursalah
Legal basis	Based on applicable laws and regulations, such as PP No. 28 of 2024.	Based on the principle of maslahat or benefits that do not conflict with the texts in the Qur'an and Hadith.
Objective	Improving access to reproductive health services for adolescents, reducing unwanted pregnancies, and maintaining adolescent health.	Bringing long-term benefits to the community, preventing teenagers from the dangers of unwanted pregnancies and health complications.
Approach	Normative: Emphasizes legal provisions that must be complied with, such as parental consent (Article 103 Paragraph 4 of PP No. 28 of 2024).	Pragmatic: Emphasizing the end result that brings goodness, even if there is no direct text in the Qur'an or Hadith that regulates this.
Policy Focus	Legalization of contraceptives as part of public health policy for adolescents.	Assess policies based on the public good and efforts to protect adolescents from greater social and health harm.
Profit	1. Reduce the number of unwanted pregnancies.	1. Prevent long-term damage from teenage pregnancy.
	2. Improve adolescent reproductive health.	2. Improve the physical and mental well-being of adolescents.
	3. Reduce the socio-economic burden on families.	3. Help teenagers to plan for a better future.
Parental Involvement	Parental consent is required to ensure that decisions are made with careful consideration.	Parents have a role in accompanying teenagers, but focus on the welfare of teenagers without violating moral and religious principles.
Challenges and Risks	1. Parental rejection of the use of contraception by teenagers.	1. Potential for abuse of policy if not accompanied by comprehensive sex education.
	2. Social stigma and religious norms that oppose contraception.	2. The possibility of different interpretations of what is considered a benefit.
	3. Limited access to health services in certain areas.	3. There are no strict rules regarding use under certain conditions.
Supervision and Education	Strict supervision of the distribution of contraceptives and sex education for teenagers and parents.	Education based on moral and religious values, as well as strengthening the role of parents in providing support.
Implementation Example	1. Parental consent for the use of contraception.	1. Use of contraception to avoid risky teenage pregnancies.
	2. Reproductive health programs in schools.	2. Training and education on sexual health based on moral values.

From this comparison, it can be concluded that Positive Law is more normative and bound by clear regulations, while Masalah Mursalah is more flexible and focuses on broader goals and the welfare of the community. The two complement each other: positive law provides the legal basis for the policy, while the principle of masalah mursalah provides moral justification and broader goals for the welfare of adolescents. Implementing this policy requires a balance between the two aspects to achieve its effectiveness.

CONCLUSION

The approval of contraceptives for adolescents, as stipulated in Article 103 Paragraph (4) of Government Regulation Number 28 of 2024, can be viewed as a policy in accordance with the principle of masalah mursalah, which aims to maintain adolescent reproductive health and reduce the number of unwanted pregnancies. This policy provides significant benefits, both in health and social aspects, provided it is implemented with good supervision, appropriate education, and full support from parents or guardians.

However, to achieve optimal results, it is crucial that this policy be accompanied by efforts to address existing challenges, such as social stigma and public misunderstanding of the importance of contraception. In this way, this policy can have a sustainable positive impact on the health and well-being of adolescents in Indonesia.

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