



Legal Basis for the Implementation of Abortion In Indonesia Post the Issue of Law No.1 of 2023 and Law No. 17 Year 2023

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ABSTRACT

The implementation of abortion is a complex and sensitive issue, especially in the legal and health contexts in Indonesia. This research discusses the legal basis for the implementation of abortion following the issuance of Law Number 1 of 2023 concerning the Criminal Code and Law Number 17 of 2023 concerning Health. Abortion, known in Latin as *Abortus Provocatus*, is the deliberate termination of pregnancy, whether by one's own intention or by others. Abortion is often associated with issues of promiscuity, technological influences, and societal norms and morals. In Indonesia, abortion was previously regulated by the Criminal Code before being revised by Law No. 1 of 2023. This change aims to improve the effectiveness of law enforcement and justice, in line with the developments in time and social and technological challenges. The implementation of abortion is also regulated through Law No. 17 of 2023. The concept of omnibus law is used to address regulatory overlaps in the health sector. However, the main challenge in implementing these two laws is legal awareness among the public and ensuring safe abortion practices in accordance with regulations. Legal awareness and training for medical personnel are needed to ensure smooth abortion services and minimize risks for women in need of these services. The conclusion of this article highlights that abortion in the latest legislation cannot be fully implemented due to the lack of appropriate systems in its execution, resulting in the continued use of previous laws when abortion occurs.

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1. | INTRODUCTION

The meaning of abortion in Latin is *Abortus Provocatus*, which is a deliberate abortion of the womb that is based on the intention of oneself or others. The principle of pregnancy is to provide happiness for the mother and those closest to her. However, there are pregnancies that the mother does not want. Two types are carried out in a planned manner; the first is *Abortus artificialis theraficus*, which is an abortion performed based on doctor's indications and the basis of medical indications; the second is *Abortus provocatus criminalis*, which is an abortion performed without the basis of medical action. The cause of the background of abortion is that there are young people today who tend to be more accessible in interacting, causing promiscuity that is increasing every year. In addition, there is also the influence of technological developments, such as free access to pornographic content.¹

Eastern cultures such as Indonesia, which have strong religious beliefs, still consider abortion as an act that is not in line with norms and morals.¹ In Indonesia itself, abortion has been prohibited and regulated in the Criminal Code article 347, article 348, and article 349. A situation that the Criminal Code does not justify is when a young woman becomes pregnant because she does not have a husband and intends to abort her pregnancy by asking a doctor to help her abort and rewarding the doctor. This falls into the situation of the criminal Act of *Abortus Provocatus Criminalistis*. The Criminal Code does not indicate the specific time of pregnancy, so juridically, there is no difference in the time of gestation in abortion.²

Apart from the Criminal Code, the legal basis for abortion is also regulated in Law No. 36 of 2009 concerning Health. In these Laws, regulated in article 75, paragraph (1) reads that there is a prohibition to perform abortion for everyone. Paragraph (2) reads that there are exceptions in the case of indications of a medical emergencies and also the existence of situations that are personal emergencies, namely pregnancy due to rape which can cause psychological

trauma for rape victims. This is done under the supervision and authority of a health professional.³

The President of the Republic of Indonesia and the Indonesian House of Representatives (DPR RI) have passed a new Criminal Code in Law No. 1 Year 2023. The basis of this change is to increase the effectiveness of law enforcement and certainty of justice in criminal cases. The essential aspect is that some additions and changes will reflect the development and challenges of the times that will be faced. This must be connected to the fast-growing social and technological developments in society. The amendment of the Criminal Code from Law No.1 of 1946 to Law No.1 of 2023 is an integral part of the law enforcement process so that it can be seen from several things. First, it can provide a comprehensive and transparent legal basis. Second, it adapts to the development of law enforcement challenges and changing times in Indonesia. Third, strengthen human rights and the protection of crime victims. Fourth, it enhances the professionalism of law enforcement officials in carrying out their duties. Fifth, it enhances the transparency of law enforcement. Sixth, it strengthens the cooperation of law enforcement officials, government, and society.⁴

Legal changes were also made to the Health Law. Changes were made to the concept of omnibus law. The omnibus law concept itself was initially used because there would be adjustments to the pace of investment, which would simplify the bureaucracy that caused foreign investors abroad to move to Indonesia. During his first term as president of the Republic of Indonesia, three laws used the concept of omnibus law: taxation, creating jobs, and empowering MSMEs. However, the initial plan expanded, so other laws also used omnibus law. This is influenced by the existence of Indonesian laws, which are often considered to overlap.⁵

The omnibus health law was formed to strengthen health regulations which are still divided into several different laws, such as Law No. 4 of 2019 on Midwifery, Law No. 6 of 2018 on Health Quarantine, Law No. 38 of 2014 on Nursing, Law No. 36 on Health Workers, Law No. 18 of 2014 on Mental Health, Law No. 20 of 2013 on Medical Education, Law No. 44 of 2009 on Hospitals, Law No. 36 of 2009 on Health, Law

¹ Endrayani, Ni Putu, and I. G. Ariawan. "Kepastian Hukum Pengaturan Tindakan Aborsi di Indonesia." *Jurnal Kertha Semaya* 9, no. 8 (2021).

² Suryani, Lilis. "Faktor-Faktor Pendorong dan Praktik Aborsi di Indonesia." *Jurnal Studi Gender dan Anak* 8, no. 02 (2021): 148-167.

³ Irawati, Jovita, and Sindur Pangestu Santoso. "Perlindungan Hukum Bagi Tenaga Medis dalam Melakukan Tindakan Aborsi atas Indikasi Perkosaan [Legal Protection for Medical Personnel in Performing

Abortion with Indications of Rape]." *Jurnal Hukum Visio Justisia* 2, no. 2 (2023): 127-139.

⁴ Malau, Parningotan. "Tinjauan Kitab Undang-Undang Hukum Pidana (KUHP) Baru 2023." *AL-MANHAJ: Jurnal Hukum dan Pranata Sosial Islam* 5, no. 1 (2023): 837-844.

⁵ Bagiastra, I. Nyoman. "Gagasan Omnibus Law Kesehatan sebagai Kebijakan Hukum Nasional dalam Upaya Meningkatkan Derajat Kesehatan Masyarakat di Indonesia." *Icleh* 2023 (2020): 33-46.



No. 29 of 2004 on Medical Practice, Law No. 4 of 1984 on Communicable Disease Outbreaks, Law No. 419 of 1949 on the Ordinance of Hard Drugs. From the 11 repealed laws, Law Number 17 of 2023 on Health was established and took effect on August 8, 2023. The basic principle of forming health laws due to the omnibus law is harmonizing regulations to be more straightforward. The government hopes to improve the health hierarchy in Indonesia. From the changes in laws governing abortion, this study aims to see the effectiveness of changes in the legal basis of abortion in Law No. 1 Year 2023 on Criminal Code and Law No. 17 Year 2023 on Health. Thus, overlapping regulations in the two rules governing abortion no longer occur.

2. | RESEARCH METHODS

The methodology used in this research is normative research, which is conducted by examining secondary data or library materials. Normative research focuses on analyzing legal documents and regulations as the main sources for understanding a legal issue. In this case, the legal sources used include laws, government regulations, and other relevant supporting articles related to the topic being discussed, namely the regulatory changes regarding abortion in Law No. 1 of 2023 on the Criminal Code and Law No. 17 of 2023 on Health. The approaches used in this research include the statute approach, which examines the legal norms contained in the existing laws and regulations. The conceptual approach is used to understand the legal concepts underlying the formation and amendment of these laws. Additionally, a comparative approach is applied to compare the regulations in Indonesia with those in other countries concerning the same issue, in this case, abortion regulations. This approach is expected to provide a more comprehensive understanding of the effectiveness of the legal changes and their implications for the regulation of abortion in Indonesia.

3. | RESULTS

3.1. The Legal Basis for Abortion in Law No. 1 of 2023 Concerning the Criminal Code

Before the enactment of Law No. 1 of 2023 on the Criminal Code, there were legal regulations governing abortion. In the previous regulation, abortion should not

be done except in a situation that has been determined. However, there are still administrative problems, and the system of organizing abortion is not good and safe. In the latest Criminal Code, abortion is regulated in Articles 463, 464, and 465, which replace the previous regulations in Law No. 1 of 1946 concerning the Criminal Code, specifically Articles 347, 348, and 349. According to Article 463, a woman who performs an abortion can be sentenced to a maximum of 4 years in prison. However, this provision does not apply if the woman is a victim of rape or other sexual violence that causes pregnancy, as long as the gestational age does not exceed 14 weeks or if there is a medical emergency indication.⁶

Article 464 outlines the punishment for those who perform an abortion on a woman. If the abortion is done with her consent, the perpetrator may face a maximum sentence of 5 years in prison. If done without consent, the punishment increases to a maximum of 12 years. If the abortion results in the death of the woman, the punishment for the former increases to 8 years, while for the latter, the penalty rises to a maximum of 15 years. Article 465 specifically targets healthcare professionals such as doctors, midwives, paramedics, or pharmacists. If they commit the criminal acts outlined in Article 464, their sentence may be increased by one-third. Furthermore, these professionals may face additional penalties, including the revocation of certain rights, as stated in Article 86, which could involve restrictions on their ability to practice. However, if the abortion is performed due to a medical emergency or because the woman is a victim of rape or sexual violence, the healthcare professional may still face penalties.⁷

These articles regulate the legal provisions against abortion, where the purpose of the law is to provide safety, happiness, and order in society. The basis of the changes and the formation of laws related to abortion is human rights, which is the implementation of the right to life, which is also regulated in the 1945 Constitution Article 28 (a), which reads that everyone has the right to life and the right to defend life and life. With the right to life, the state must take a role to maintain and protect

⁶ Mulyana, Aji. "Perlindungan Hukum Terhadap Perempuan dan Anak Akibat Tindak Pidana Abortus Provocatus Criminalis." *Jurnal Wawasan Yuridika* 1, no. 2 (2017): 139.

⁷ Utami, Sielly Aprilia, and Tama Bahtiar. "Perlindungan Hukum Terhadap Perempuan Sebagai Pelaku Aborsi Akibat Perkosaan." *Jurnal Rechtsens* 11, no. 1 (2022): 83-94.

the right to life of every community.⁸ So the state must protect the rights of women, especially victims of rape, where they must carry a child that is not the result of their wishes, so they must have an abortion. Women who experience rape often experience fear and feel insecure. In the old Criminal Code, women who are victims of rape will still be considered violating the law and will be subject to criminal sanctions because abortion is a prohibited act. Therefore, the latest Criminal Code Law emphasizes the right of women who experience rape to be allowed to have an abortion and be free from punishment. So that with the new rules, the rights of women as victims can be fulfilled to have an abortion because the victim is experiencing an unwanted pregnancy. If the baby is a victim of rape, the victim will be able to have an abortion. With this being said, birth will cause shame for the victim and the family and will then affect the psychology of the victimized woman.⁹

3.2. Legal Basis for Abortion in Law Number 17 of 2023 Concerning Health

In addition to the Criminal Code, the latest law that applies to abortion is Law No. 17 of 2023 on health, originally a fragment of several laws. The old law previously regulated abortion itself, Law No. 36/2009 on Health. The principle of the regulation for abortion is that it must be in line with the existing criminal law, which prohibits abortion except for specific indications such as rape or medical measures. Thus, the new regulations will protect women and the medical personnel performing them. In Law No. 17 of 2023 on health, abortion is regulated in Article 60, which explains in paragraph one that everyone is prohibited from having an abortion, except with criteria that are allowed by the provisions in the criminal code. In the article, it is evident that abortion is an act that is prohibited to be done by everyone. However, if it is allowed to perform abortions as stipulated in Article 463 of Law No. 1 of 2023 concerning the Criminal Code, then paragraph two in Article 60 of Law No. 17 of 2023 explains who can perform abortions. The article explains that those who may do so are medical personnel or health workers who have the competence

and authority, health facilities that meet the requirements set by the minister, and with the consent of the woman concerned and her husband (if not a victim of rape). Apart from who does it, to defend and protect women's rights. Article 17 of Law No. 17 of 2023 explains that the central government, local governments, and communities are responsible for preventing unsafe abortions that are contrary to the provisions of laws and regulations. Article 62 of Law No. 17 of 2023 states that further provisions regarding abortion, as referred to in Article 60 and Article 61, shall be regulated by Government Regulation. The government regulation in question to date is PP No. 61/2014 on Reproductive Health.

PP No. 61/2016 itself was formed based on reproductive health, which falls within the scope of human rights. Regarding health in general, the Universal Declaration of Human Rights (UDHR) by the United Nations in 1948 Article 25, Paragraph One explains that everyone has the right to a standard of living adequate for the health and welfare of themselves and their families. Meanwhile, the second paragraph states that mothers and children are entitled to special care and assistance. Thus, the government is responsible for the health of every individual, without exception for mothers and children. All children, born within or outside marriage, should receive the same social protection. So in the context of the UDHR, children born from rape should still be protected, which has caused much debate.¹⁰

In principle, Indonesia prohibits abortion.¹² This also relates to a woman's reproductive health if she has an abortion. If abortion is performed independently, it falls into the category of unsafe abortion. Unsafe abortion will lead to a greater risk of death, as data from 2003 - 2012 found that 7.9% of maternal deaths were due to unsafe abortion. However, the data does not reflect the actual incidence because many still need to be reported. This is one of the reasons, from a health perspective, that there are exceptions for abortion based on medical indications and rape victims. When a rape victim in a dilemma is prohibited from having an abortion, she will be subjected to social pressure and may seek unsafe abortions. In addition, repeated

⁸ Dameria, Fiorella Angella, and Tundjung Herning Setyaningsih. "Perlindungan Hukum Terhadap Pelaku Aborsi Korban Perkosaan Dalam Konteks Kesehatan Reproduksi." *Prosiding Serina* 2, no. 1 (2022): 739-746.

⁹ Irwanto, Engga Lift. "Tinjauan Yuridis Terhadap Perbuatan Aborsi Akibat Pemerkosaan Berdasarkan

Ketentuan Peraturan Perundang-Undangan." *Unes Journal of Swara Justisia* 7, no. 4 (2024): 1294-1307.

¹⁰ Rani, Nabella Puspa. "Perlindungan Hak Reproduksi Perempuan di Provinsi Riau." *Jurnal Mahkamah: Kajian Ilmu Hukum dan Hukum Islam* 2, no. 1 (2017): 27-58.



abortions have an impact on reproductive health. So, this is one of the reasons from a health perspective, except abortion based on medical indications and rape victims.¹¹ When a rape victim in a dilemma is prohibited from having an abortion, she will be subjected to social pressure and may seek unsafe abortions. In addition, repeated abortions have an impact on reproductive health. It can lead to infection and bleeding, which increases the risk of maternal mortality. There are also long-term side effects of abortion, such as blockage of the fallopian tubes, which can lead to infertility. Abortion should be performed by professionals by the law so that women who have abortions are not considered to be breaking the law and are safer to avoid the side effects of unsafe abortion.¹²

The complications that result when performing an unsafe abortion are certainly devastating, but if performed by a professional, it will reduce the risk of developing these complications. Several methods can be used to perform an abortion. The first is using drugs such as anti-progesterone, mifepristone, and prostaglandin analog, misoprostol, which has a 95% success rate in the first trimester or is most effective in less than 49 days. Second, Manual Vacuum Aspiration (MVA) has a higher success rate of 98 - 99%. Of course, with these methods, we must follow the rules in Indonesia about who can do it. Law No. 17 Year 2023 article 60, paragraph two explains that the implementation of abortion can only be done by medical personnel and assisted by health workers who have the competence and authority. However, point (c) must also include the consent of the pregnant woman concerned. So, with this rule, other people who are not mentioned in the provisions may not perform abortions. This aims to prevent unsafe abortions because the person performing the abortion is not competent.

Safe abortion WHO recommends one of them is a medical abortion with a gestational age of fewer than 12 weeks by recommending to undergo a medical process with health workers, pharmacists, nurses, midwives, general practitioners, and specialists. Then, the maximum gestation period is ten weeks for abortions performed by non-doctors. For pregnancies under 12 weeks, a combination of mifepristone and misoprostol may be used. The planning for legal changes in the

Criminal Code and Health Law aims to adjust to the evolving times and regulatory needs, ensuring clear harmonization of abortion-related regulations. The continuity between Law No. 1 of 2023 on the Criminal Code and Law No. 17 of 2023 on Health reveals several key differences and objectives that contribute to this harmonization.

In terms of objectives, Law No. 1 of 2023 focuses on the legal approach to abortion, addressing both illegal abortion and the requirements for legal abortions. It stipulates that individuals who perform illegal or unsafe abortions will face criminal penalties. On the other hand, Law No. 17 of 2023 adopts a health-centered approach, emphasizing safe abortion services to prevent unsafe procedures, and focusing on maintaining the health and well-being of the individuals involved. When it comes to the understanding of abortion, Law No. 1 of 2023 views abortion as a criminal offense that can lead to felony charges, while Law No. 17 of 2023 treats abortion as a health measure that falls within the scope of a woman's right to reproductive health, prioritizing physical health considerations. Regarding the conditions under which abortion is permitted, Law No. 1 of 2023 places strict restrictions on the number and circumstances under which abortion may be performed. In contrast, Law No. 17 of 2023 provides a broader framework that governs permissible abortions, focusing on the health needs of the individual involved.¹³

Access to health services is another point of differentiation. While Law No. 1 of 2023 primarily addresses the criminal aspects of abortion, it does not regulate health services for abortion. Law No. 17 of 2023, however, outlines the standards for implementing permissible abortions and regulates the health services involved. In terms of healthcare professionals, Law No. 1 of 2023 criminalizes doctors, midwives, paramedics, or pharmacists who perform illegal abortions. Conversely, Law No. 17 of 2023 regulates the qualifications and responsibilities of medical professionals who may perform abortions, detailing the conditions and restrictions for such procedures. Both laws also address the rights of women. Law No. 1 of 2023 allows women to seek abortion without facing criminal charges if they are victims of rape or sexual

¹¹ Alipanahpour, Sedigh, Naeimeh Tayebi, Mahnaz Zarshenas, and Marzieh Akbarzadeh. "Short-term physical and psychological health consequences of induced and spontaneous abortion: a cross-sectional study." *Shiraz E-Medical Journal* 22, no. 12 (2021).

¹² Wijayati, Mufliha. "Aborsi akibat kehamilan yang tak diinginkan (ktd): Kontestasi Antara Pro-Live dan

Pro-Choice." *ANALISIS: Jurnal Studi Keislaman* 15, no. 1 (2017): 43-62.

¹³ Utamie, R. Aj Nindya Rizky. "Studi Komparatif Aborsi di Indonesia dan Korea Selatan dalam Perspektif Feminist Legal Theory." *Jurnal Jendela Hukum* 10, no. 2 (2023): 217-229.

violence, or if they have a medical emergency. Law No. 17 of 2023, on the other hand, emphasizes women's reproductive rights, ensuring that abortion is performed with their consent and encouraging the involvement of the government and society in protecting women from unsafe abortions.¹⁴

3.3. Challenges and Prospects for Implementing Abortion-Related Laws

Socialization of the law on abortion to the community needs to be done because the law of abortion will be operated by the community, especially by women. In addition to the public, there are also medical professionals and health workers involved in the implementation of abortion. Understanding of abortion prohibited by law must be understood so that the profession involved can know the limits that will be done in carrying out abortion. Socialization is done so that those who will be involved in abortion is the latest legal counseling abortion.¹⁵ So that there are no more people or professions that still do not know the law of abortion in Indonesia, which later will create legal awareness. Four indicators form legal awareness. First, knowledge of abortion law, which is the knowledge of the public and health professionals about what is prohibited and allowed related to abortion regulated in Law No. 1 of 2023 concerning the Criminal Code and Law No. 17 of 2023 concerning Health. Second, the understanding of abortion law is the information possessed by the public and professionals regarding the law's content, purpose, and benefits. Third, legal attitude, which is the tendency to accept or reject abortion laws because they know that abortion laws are made, will provide an element of usefulness. Fourth, the pattern of legal behavior is about the extent to which abortion law applies to society and the profession. Legal awareness can cause the people involved to appreciate the law of abortion so that the challenge in the

socialization of abortion law is to form legal awareness about abortion.¹⁶

In addition to the socialization of abortion law, abortion implementation is also needed from Law No. 1 of 2023 on Criminal Code and Law No. 17 of 2023 on Health. Implementation required for the implementation of abortion can be in the form of support for the regulation and implementation of legal abortion. There should be no administrative barriers to the implementation of abortion. In addition, some challenges must be resolved, starting with a safe and adequate abortion delivery system. The new law on abortion does not yet indicate legal and safe abortion facilities. An implementation challenge that is needed in terms of the professionalism of medical and health workers is abortion training, which the government should provide. This training will provide knowledge about abortion services and safe abortion methods that should be recommended.¹⁷

Efforts to provide safe abortion services should be made at the local level with government involvement. The shortcomings of abortion in Indonesia include the lack of designated primary healthcare services and the lack of certified training for medical and health workers. So, precise abortion services are still challenging to find in healthcare facilities. Another country, Nepal, has recently revised its abortion laws. The country continues to use local health facilities that are certified to perform safe abortions. Government involvement is crucial and will influence both the decision to deploy human resources and the process of implementing services. The country also developed guidelines for safe abortion services in 2021 so that local abortion facilities can have guidelines for safe abortion. The guidelines were designed with the involvement of the government, NGOs, private providers, and medical societies. Indonesia still does not have policies that regulate the services of safe abortion, so abortion services performed in Indonesia have not been maximized.¹⁸

¹⁴ Lal, Bibek Kumar, Rajesh Sambhajirao Pandav, Mohammad Khurshid Alam Hyder, Shveta Kalyanwala, Ulrika Rehnström Loi, Sameena Vaidya Rajbhandari, Aliza Singh, and Amrita Kansal. "Policy change to improve access to safe abortion care in federal Nepal." *International Journal of Gynecology & Obstetrics* 164 (2024): 61-66.

¹⁵ Samandari, Ghazaleh, Merrill Wolf, Indira Basnett, Alyson Hyman, and Kathryn Andersen. "Implementation of legal abortion in Nepal: a model for rapid scale-up of high-quality care." *Reproductive health* 9, no. 1 (2012): 7.

¹⁶ Puri, Mahesh, Anand Tamang, Susheela Singh, and Lisa Remez. "Advocacy Case Study: Addressing the Challenges of Delivering Safe Abortion Services at Province and Local Levels in Nepal." (2023).

¹⁷ Rogers, Claire, Sabitri Sapkota, Anita Tako, and Jaya AR Dantas. "Abortion in Nepal: perspectives of a cross-section of sexual and reproductive health and rights professionals." *BMC women's health* 19 (2019): 1-14.

¹⁸ Singh, Susheela, Aparna Sundaram, Altaf Hossain, Mahesh C. Puri, Zeba Sathar, Chander Shekhar, Marjorie Crowell, and Ann M. Moore.



Looking from the doctor's point of view as a medical professional, challenges in the implementation of abortion take place. The challenge is in the form of evidence of their violation of the doctor's oath. The doctor's oath reads, "I will respect every human life from conception." From this sentence, the doctor should if the doctor as a medical worker performs abortions that have been excluded by Law No. 1 of 2023 and Law No. 17 of 2023. The doctor has directly violated the oath. In addition to violating the oath, abortion is considered to have violated the Indonesian Medical Code of Ethics (KODEKI) article 11, which states that every doctor must never forget his obligation to protect the life of human beings. This article is in line with the doctor's oath.¹⁹

In addition, there are also challenges in the implementation of Law No. 17 of 2023 on Health in Article 60 paragraph (1), which states that the Criminal Code can make exceptions to abortion. From this article, the Criminal Code in question is Law No. 1 of 2023 concerning the Criminal Code, which has reorganized the article regarding abortion as previously explained. Then, Law No. 17 of 2023 Article 62 describes the further provisions of Article 60 and Article 61 regulated by Government Regulation. Currently, the Government Regulation governing the implementation of abortion and abortion prevention has not yet been established. So, the implementation of Law No. 17 of 2023 regarding abortion still needs to wait, which means that if an abortion occurs during the period when the Criminal Code has not entered into force in 2023. If there is no Government Regulation on abortion, the rules set out in Law No. 36 of 2009 concerning Health will be used. The legal basis for determining this is by Law No. 17 of 2023 article 453 point (c), which explains the validity of Law No. 36 of 2009 as long as it does not conflict with the provisions of the Act.²⁰

4. | CONCLUSION

The legal basis for abortion in Indonesia has undergone significant changes after the issuance of Law No. 1 of 2023 on the Criminal Code and Law No. 17 of 2023 on Health. Previously, abortion was regulated in the Criminal Code and the Health Law. The revisions aim to improve the effectiveness of law enforcement

and justice in line with the times and social and technological challenges. The implementation of these two laws highlights critical challenges in the socialization of the law to the public and the implementation of safe abortion according to regulations. Permitted abortion in the context of the Health Law emphasizes women's right to reproductive health, while the Criminal Code emphasizes the criminal law side of abortion. Implementation challenges include socializing the law to the public and training medical personnel, but the outlook is for strengthening women's rights and safety and increasing legal awareness in the community. Abortion in the new law has not yet been implemented, so when an abortion occurs, it still uses the old law governing abortion, Law No. 36 of 2009 concerning Health.

There is a need for clarification and systematization to regulate adequate health facilities for safe abortion. Thus, healthcare facilities continue to be standardized. There is a need for reconsideration of the laws governing abortion, especially those that mention medical personnel or doctors. The regulation should reconsider the professional ethics that have been violated for performing abortions allowed by the Act. This will provide legal certainty for doctors who perform abortions. If legal certainty is obtained, then medical personnel or doctors who are described as allowed to perform abortions should get legal protection.

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¹⁹ Wu, Wan-Ju, Sheela Maru, Kiran Regmi, and Indira Basnett. "Abortion care in Nepal, 15 years after legalization: gaps in access, equity, and

quality." *Health and human rights* 19, no. 1 (2017): 221.

²⁰ Dangol, Deeb Shrestha, Nisha Gyawali, N. K. Joshi, S. Karki, K. Lamichhane, P. P. Phuyal, S. Joshi et al. "Service Readiness for Safe Abortion Services." *Journal of Nepal Health Research Council* 22, no. 1 (2024): 80-86.

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