

Regulation of Abortion and Distribution of Contraceptives in the Context of Indonesia's Human Rights Obligations

Lecturer Nqobizwe Mvelo NGEMA¹

Abstract

The information about the usage of contraceptives and how to abort is something that is highly restricted to legally married couples. Article 408 restrict the sharing of information about the use of contraceptive and abortion methods because of the general belief that if such information is disseminated it would contribute to the moral decay of the society. It comes as no surprise that article 409 provides for a jail term of up to six months to anyone who violates the latter mentioned article. The parliament of Indonesia promulgated the new Penal Code in December 2022. However, the new Code is also riddled with many downsides. Article 411 of the Code criminalizes any sexual intercourse outside the confines of a lawful marriage (zina) and anyone who practice sexual intercourse while not yet legally married is guilty of a criminal offence. This shows beyond any doubt that the normative system of Indonesia is dominated by Islamic principles because Islamic law forbids any form of extra-marital sexual intercourse and permits child marriages to protect the family honor and avoid the shame of getting pregnant outside marriage. Living together as husband and wife while not yet married to each other is forbidden in terms of article 412 of the new Criminal Code. Any woman who intentionally abort her child can be sentenced up to four years behind the bars except where such woman is a victim of rape or sexual assault. According to article 463 and 464 of the new Criminal Code, anyone who assists a pregnant woman with an abortion can be sentenced for up to five years in prison. The disadvantage of the latter mentioned articles is that they will reduce free exchange of important information about health by parents, teachers, the media and amongst the community members. This is contrary to the rights of girls and women that are protected by international law because under international law, girls and women have a right to receive sex education and to protect their sexual and reproductive health rights and autonomy to make their own individual choices about when to have children. As a result of this, numerous rights of girls and women can be affected in the process such as the right to education, can contribute to the prevalence of child marriages and this may also endanger lives and health of girls and women.

Keywords: abortion, contraceptive distribution, Human rights obligations for Indonesia.

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1. Introduction

Abortion has been a highly restricted practice in many countries of the world because of the three main reasons, namely: (a) laws had a public intention to protect women because abortion was a very dangerous medical process back then and many women died because of practicing it, (b) abortion was generally regarded as a sin and a violation of morality. So, the laws against abortion had an intention to punish the offenders and serve as deterrence² and (c) abortion was also restricted with the purpose of protecting the life of a fetus in some or all circumstances. Risk to the life of the mother is one of the reasons that made many countries of the world to reconsider their laws that prohibit abortion and decided to permit it under certain circumstances. It is estimated that 300 000 women dies in Indonesia because of unsafe abortions on yearly basis.³ It is an undeniable fact that many females are impregnated in Indonesia on yearly basis and some of those pregnancies are not voluntary. Since the laws of Indonesia criminalize abortion, many women with unwanted pregnancies end up resorting to other means of terminating their pregnancies, such as eating pineapples or drinking black beer or doing some activities such as jumping many times with the belief that it would stop their pregnancies.⁴ As already mentioned earlier, abortion is illegal in Indonesia and with the fear of prosecution for committing abortion, some women ends up resorting to illegal abortions that are performed by unskilled people using unsafe methods that pose the risk to their health and has

¹ Nqobizwe Mvelo Ngema - Law Department, Faculty of Commerce, Administration and Law, University of Zululand, South Africa, ngemaNM@unizulu.ac.za.

² Beckwith Francis (2007) "Defending Life: A Moral and Legal Case Against Abortion Choice" Cambridge University Press, p. 17.

³ Erlangga Agustino Landiyanto "Abortion Policy in Indonesia: Rights, Law and Religious Perspectives" The Paper Presented at the 5th Asia and Pacific Conference on Reproductive and Social Health and Rights, Beijing 18th -20th of October 2009.

⁴ Ibid.

detrimental consequences that may result even to mortality.⁵ Other authors such as Suzanne Staggenborg have suggested the rights based approach for regulating the choice to abort and to improve the quality of the service providers of abortion to fight against the ever growing numbers of women who dies on yearly basis due to unsafe abortions.⁶ This paper is divided into three sections and the first section of this paper intends to begin by discussing the international human rights norms on abortion. This is so because international human rights norms are generally regarded as universal, and many countries of the world have committed themselves to the promotion and the protection of human rights through their signatures on the international and regional human rights treaties. The second section of this paper will discuss the legal framework of Indonesia on the regulation of adultery and on the distribution of contraceptives to find out whether it is in line with human rights norms or not. The third section of this paper will discuss the conclusion and the recommendations that ought to be followed by the government of Indonesia in aligning its policies with the universal human rights norms. So, the following section will discuss universal human rights norms on the regulation of abortion.

2. International human rights norms on abortion

In the 1994 International Conference on Population and Development's Program of Action (ICPD),⁷ different countries of the world gathered in Cairo (Egypt) and decided for the first time that reproductive rights are human rights that are enshrined in both international law and national laws. The conference urged states to address unsafe abortions by committing themselves to women's health and to promote access to abortion as a human right imperative. The International Conference on Population Development (ICPD) was one of the landmark international meetings where the members of the international community accepted a paradigm shift in addressing human health and reproduction. For the first time, members of the international community focused on the individual needs of women and their empowerment. The ICPD recognized that access to contraceptives and the right to practice abortion is a special need required by women alone and it ought to be one of the prioritized issues when empowering women. It also led to the emergence of new debate about the relationship between human rights and health and thereby linking new conceptions of health rights to the fight for social justice and respect for human dignity. The reproductive health approach of the ICPD is sincerely concerned about women's right to health and their general well-being. The reproductive capability of a woman was no longer about a mere issue of population control or activities in the womb of a woman but became a matter of enabling women to be at liberty to apply their sexual and reproductive rights. It is observable that according to the ICPD reproductive rights of women are not expected to be exercised in a vacuum, but their individual circumstances would be taken into consideration. So, the sexual and reproductive rights of women are implemented within their economic, social, and political contexts. Members of the international community⁸ gathered in Cairo during the International Conference on Population Development (ICPD) to have serious negotiations and compromises that led to a consensus document indicating their political will to promote and protect sexual and reproductive rights. The fundamental importance of women's autonomy when comes to their decisions pertaining their reproductive health is clearly mentioned in chapter seven of ICPD under the heading of 'reproductive rights and reproductive health.' The program of action of the ICPD defined reproductive health as: "a state of complete physical, mental

⁵ Guttmacher Institute (2008) "Abortion in Indonesia" In Brief, 2008 Series NO 2; Susilo Zumrotin and Lestari Herna (2003) "ABORSI: Fakta, Kebutuhan dan Tantangan Serta Pengaruhnya dalam Profil Kesehatam Perempuan Indonesia" accessed at <http://situs.kesrepro.info/gendervaw/sep/2003/gendervaw05.htm>. December 23, 2009.

⁶ Staggenborg Suzanne (1991) "The Pro Choice Movement: Organization and Activism in the Abortion Conflict" Oxford University Press; Boonin David (2003) "A Defense of Abortion" Cambridge University Press, p. 75.

⁷ United Nations Programme of Action Adopted at the International Conference on Population and Development, Cairo 5-13 September 1994 New York: United Nations, Department for Economic and Social Information and Policy Analysis, ST/ESA/SER.A/149 para 7.2 (ICPD).

⁸ More than 180 states.

and social well-being...in all matters related to the reproductive system.”⁹ This means that people are at liberty to have a fulfilling and safe sex life. Moreover, people have competence to procreate children and are at liberty to decide if, how often and when to do so. According to the ICPD, reproductive rights: “rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health.”¹⁰

The reading of the latter mentioned quotation shows that its formulation is like the language used in article 16 (1) (e) of the Convention on Elimination of all Forms of Discrimination against Women (CEDAW) and there is a strong likelihood that it was derived from CEDAW. The latter mentioned article of CEDAW provides that states parties shall ensure based on equality of men and women “the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.”¹¹ This is because CEDAW was promulgated earlier in 1979, which is many years before the ICPD of 1994.

The ICPD is not free from some flaws of its own because it failed to recognize a need for states to reform their laws to allow abortion. Making abortion legal is one of the ways of reducing unsafe abortions that results to maternal mortality and morbidity. It also failed to recognize a connection between lack of access to abortion and gender discrimination. A year later, the Beijing Platform for Action¹² urged states to review laws with punitive measures against women who partake in illegal abortions.

The United Nations Treaty monitoring bodies which manage and provide authoritative interpretation of duties of states under the UN human rights Conventions have submitted that whenever abortion is legal in terms of national law, it must be accessible in practice and any refusal or denial of access to legal abortion services would amount to an encroachment upon the right to health, privacy, non-discrimination, and freedom from cruel, inhuman, and degrading treatment. Through their comments, general recommendations and concluding observations, treaty monitoring bodies have confirmed that countries must ensure that legal abortion services are available, accessible (affordable) and be of good quality.¹³ The treaty monitoring bodies have regularly and expressly urged states to legalize and safeguard access to safe abortion services and recognized the connection between restraining abortion laws, with high unsafe abortion and maternal mortality.¹⁴ They have criticized complete prohibition of abortion as contrary to international human rights and have advised states to eliminate punishing measures for women who partake or undergo abortions and for health care service providers who deliver abortion services.¹⁵ The treaty monitoring bodies have advised states to legalize abortion, at a minimum, when:

- a) the continuation of pregnancy poses risk to the woman’s life or health,

⁹ Paragraph 7.2 of the Programme of action of the ICPD.

¹⁰ Para 7.3 of the Population and Development Programme of Action adopted at the International Conference on Population and Development, Cairo, 05 -13 September 1994.

¹¹ Article 16 (1) (e) of the Convention on Elimination of all Forms of Discrimination against Women (CEDAW) 1979.

¹² United Nations, Platform for Action and Beijing Declaration, Fourth World Conference on Women, Beijing, China 4-15 September 1995 paras 96-97 (Beijing Declaration).

¹³ Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 22 UN Doc E/C12/GC/22 The Right to Sexual and Reproductive Health 2016 CESCR; General Comment No 14 UN Doc E/C12/2000/4 The Right to the Highest Attainable Standard of Health 2000 Para 12; Human Rights Committee (HRC) Communication No 1153/2003 UN Doc CCPR/C/85/D/1153/2003; *KL v. Peru* 2005 Para 7; HRC Communication No 1608/2007 UN Doc CCPR/C/101 D/1608; *LMR v Argentina* 2011 Para 10; Committee on the Elimination of Discrimination against Women (CEDAW Committee) Communication No 22/2009 UN Doc CEDAW/C/50/D/22/2009; *LC v. Peru* 2011.

¹⁴ CESCR General Comment No 14 UN Doc. E/C12/2000/4 The Right to the Highest Attainable Standard of Health 2016 para 10; CEDAW Committee Concluding Observations on Paraguay UN Doc CEDAW/C/PRY/CO/6 2011 para. 31 (a); CEDAW Committee Concluding Observations on Chile UN Doc CEDAW/C/CHI/CO/4 2006 para 20; CESCR Concluding observations on the Philippines UN Doc E/C 12/PHL/CO/4 2008 para 31; HRC Concluding Observations on Zambia UN Doc CCPR/C/ZMB/CO/3 2007 para 8.

¹⁵ Committee on the Rights of the Child Concluding Observations on Nicaragua UN Doc CRC/C/NIC/CO/4 2010 para 59 (b); HRC Concluding Observations on Costa Rica 1999 UN Doc CCPR/C/79/Add 107 para 11; CEDAW Committee General Recommendation No 24 UN Doc HRI/GEN/1/REV 9 Women and Health 2008 ii at 358 para 14; Committee Against Torture Concluding Observations on Nicaragua UN Doc CAT/C/NIC/CO/1 2009 para 16; Concluding Observations on El Salvador UN Doc CCPR/C/SLV/CO/6 2010 para 10; CESCR Concluding Observations on Chile UN Doc E/C 12/1 Add 105 2004 paras 26 & 53.

- b) pregnancy is a consequence of rape or incest, and
- c) in circumstances where there is serious abnormality of the fetus¹⁶

The Committee on the Rights of the Child has advised states to legalize abortion to guarantee that girls have access to abortion and support services after the abortion procedure and to guarantee abortion services regardless of whether abortion itself is legal.¹⁷ In a similar vein, CEDAW Committee has advised states to guarantee that sexual and reproductive health care comprises the right of access to safe abortion services without limitation as to the lawfulness of abortion. Furthermore, it has framed abortion as part and parcel of women's autonomy.¹⁸ Human Rights Committee also concluded that the banning and prohibition of abortion constitutes a violation of international human rights law.¹⁹ So the international human rights normative system makes it categorically clear that the prohibition of abortion is against human rights law. The next section intends to discuss the Indonesian legal framework and find out how it conflicts with the international human rights norms.

3. Legal framework of Indonesia

Many countries that are signatories of the international human rights instruments usually undergo a Universal Periodic Review at the United Nations Human Rights Council. As recent as May 2012 the Republic of Indonesia has undergone its Universal Periodic Review (UPR) in the 13th session of the Human Rights Council. Some of the recommendations to Indonesia pertaining to the right to family planning were as follows:

To absolutely abolish all laws that discriminate against women based on their civil status and those that encroaches upon their sexual and reproductive rights. Another recommendation was that Indonesia must ensure that young women are properly educated on how to undergo family planning and to enjoy their reproductive health rights. However, this latter mentioned recommendation seems to have fallen on deaf ears and this is one of the reasons it has not yet yielded any positive results because unmarried women are still excluded from the enjoyment of reproductive health services such as the right of access to contraceptives and access to safe abortion.

Section 75 of the Health Act 36 of 2009 forbids any practice of abortion within the jurisdiction of Indonesia.²⁰ However, the abortion forbidden in section 75 (1) can be excused in section 75 (2) based on the following reasons:

- a) if there is any signal of medical emergency discovered right from the moment of inception or early stages of the gestation period. This medical emergency must threaten the life of the pregnant mother or the life of the fetus or if the fetus is suffering from a severe hereditary disease that cannot be cured and thereby making the survival of the fetus out of the womb to be extremely difficult; or
- b) if the woman conceived because of rape and it appears that such pregnancy may lead to psychological trauma for her as a victim of rape.²¹

The abortion referred to in the above subsection 2 may only be carried out after going through pre abortion counseling or mentoring and post abortion counseling. Such counseling must be carried out by the authorized and competent counselors.²² Abortion may only be practiced if the gestation

¹⁶ Committee on Elimination of Discrimination Against Women (CEDAW Committee) Communication No. 22/ 2009 UN Doc CEDAW/C/50/D22/2009; *LC v. Peru* 2011 para 12 (b); Committee on the Rights of the Child Concluding Observations on Chad UN Doc CRC/C/15/Add 107 1999 para 30; Committee on the Rights of the Child Concluding Observations on Costa Rica UN Doc CRC/C/CRI/CO/4 2011 para 64 (c); HRC Concluding Observations on Guatemala UN Doc CCPR/C/GTM/CO/3 2012 para 20; CESCR Concluding Observations on Dominican Republic 2010 UN Doc E/C 12/DOM/CO/3 para 29.

¹⁷ Committee on the Rights of the Child General Comment No 20 Implementation of the Rights of the Child during adolescence 2016 UN Doc CRC/C/GC/20 para 60; Committee on the Rights of the Child General Comment No 15 Rights of the Child to the Enjoyment of the Highest Attainable Standard of Health UN Doc CRC/GC/2013/15 2013 para 70.

¹⁸ CEDAW Committee General Recommendation No 30 Women in Conflict Prevention, Conflict and Post-Conflict Situations CEDAW/C/GC/30 2013 para 52 (c); CEDAW Committee Concluding Observations on Sierra Leone 2014 UN Doc CEDAW/C/SLE/CO/6 para 32.

¹⁹ HRC Communication No 2324/2013 Un Doc CCPR/C/116/D/2324/2013; *Mellet v. Ireland* 2016.

²⁰ Section 75 (1) of Health Act 36 of 2009.

²¹ Section 75 (2) of Health Act 36 of 2009.

²² Section 75 (3) of Health Act 36 of 2009.

period is not more than six weeks calculating from the last day of menstruation. However, there is an exception if there is a situation of medical emergency.²³ Abortion may be performed by a qualified health worker with necessary authority as provided by the minister.²⁴

The agreement of the pregnant mother must be attained before the abortion is performed.²⁵ The permission of the husband of a pregnant mother serves as one of the prerequisites for the performance of abortion. On the face of it, this appears as a form of discrimination against women and a failure to recognize the existing biological differences between men and women. Abortion is an obvious special need of women alone and not men. Naturally a man cannot fall pregnant and would never experience the need for abortion. So, to allow a man to poke his nose on special issues pertaining to women such as the one of abortion is not fair. Pregnancy comes up with its own unique challenges and complications such as morning sickness, food cravings and back aches, to name but a few. Other challenges are not physical in nature but are social and economic in nature. It is a right of a woman to decide out of her own free will and volition about keeping pregnancy or terminating it. Such a decision is normally reached after a careful consideration of numerous factors that might be economic or social in nature. However, there is an exception on the permission of the husband, if the pregnant mother is one of the rape victims. As a result of this, if a pregnant mother conceived because of rape, she is not expected to seek her husband's permission to undergo an abortion procedure.²⁶ Moreover, abortion may be performed by any health service provider provided that such a service provider meets the requirements that are stipulated by the minister.²⁷

On the contrary, the Indonesian Penal Code²⁸ criminalizes both the usage of contraceptives and abortion completely without providing for any exceptions. The Penal Code makes it categorically clear that any person intending to give treatment to a woman that may control her pregnancy or educating her about the probability of controlling her pregnancy shall be penalized with a maximum imprisonment sentence of four years or a fine that do not exceed three thousand Rupees.²⁹ The latter mentioned provision forbids any usage of contraceptives and penalizes anyone who assists a woman to obtain any form of contraceptives. If the wrongdoer who acted in a quest for financial gain is a doctor, midwife or pharmacologist, the penalty may be higher with one third.³⁰ If the person found guilty commits the crime in his profession he may be released from his duties.³¹ The punishments mentioned above are harsh enough to send shiver on the spine of anyone who considers assisting any woman with contraceptives or any information pertaining to it.

"Any woman who with deliberate intent causes or lets another cause the drifting off or the death of the fruit of her womb shall be punished by a maximum imprisonment of four years."³² It is noticeable that the Penal Code is very harsh on anyone who performs abortion without the consent of a pregnant woman by providing that "any person who with deliberate intent causes the drifting off or the death of the fruit of the womb of a woman without her consent shall be punished with a maximum imprisonment of twelve years."³³ An additional three years is imposed to any culprit whose actions results to the death of a woman and the penal code provides that "if the fact results in the death of the woman, He shall be punished by a maximum imprisonment of fifteen years."³⁴ The Indonesian law is little bit lenient to any person who with a deliberate intention causes abortion with a pregnant woman's consent and shall be penalized with an imprisonment sentence of not more than five years and six months.³⁵ However, if such an abortion leads to the death of a pregnant woman who attempted

²³ Section 76 (a) of Health Act 36 of 2009.

²⁴ Section 76 (b) of Health Act 36 of 2009.

²⁵ Section 76 (c) of Health Act 36 of 2009.

²⁶ Section 76 (d) of Health Act 36 of 2009.

²⁷ Section 76 (e) of Health Act 36 of 2009.

²⁸ Indonesian Penal Code (Act No. 16/Perpu/1960).

²⁹ Section 299 (1) of the Indonesian Penal Code (Act No. 16/Perpu/1960).

³⁰ Section 299 (2) of the Indonesian Penal Code (Act No. 16/Perpu/1960).

³¹ Section 299 (3) of the Indonesian Penal Code.

³² Section 346 of the Indonesian Penal Code.

³³ Section 347 (1) of the Indonesian Penal Code.

³⁴ Section 347 (2) of the Indonesian Penal Code.

³⁵ Section 348 (1) of the Indonesian Penal Code.

to abort, he shall be penalized with an imprisonment sentence that does not exceeds seven years behind the bars.³⁶ The punishment is even harsher for medical personnel because the Penal Code makes it clear that “If a physician, midwife or pharmacist is an accomplice to the crime in article 346, or is guilty of or is an accomplice to one of the crimes described in articles 347 and 348, the sentence laid down in said articles may be enhanced with one third, and maybe deprived of the exercise of the profession in which he commits the crime.”³⁷ The news about the promulgation of the new Penal Code brought a glimpse of hope regarding the protection of reproductive rights. The Code was eventually promulgated by the parliament of Indonesia in December 2022.

However, the new Code is also riddled with many downsides. Article 411 of the long-awaited new Code criminalizes any sexual intercourse outside the confines of a lawful marriage (*zina*) and anyone who practice sexual intercourse while not yet legally married is guilty of a criminal offence. This shows beyond any doubt that the normative system of Indonesia is dominated by Islamic principles because Islamic law forbids any form of extra-marital sexual intercourse and permits child marriages to protect the family honor and avoid the shame of getting pregnant outside marriage. Living together as husband and wife while not yet married to each other is forbidden in terms of article 412 of the new Criminal Code. It comes as no surprise if the government of Indonesia is not yet showing any true political will to stop denying unmarried women the right of access to contraceptives and abortion services.

The information about the usage of contraceptives and how to abort is something that is highly restricted to legally married couples. Article 408 restrict the sharing of information about the use of contraceptive and abortion methods because of the general belief that if such information is disseminated it would contribute to the moral decay of the society. It comes as no surprise if article 409 provides for a jail term of up to six months to anyone who violates the latter mentioned article. Any woman who intentionally abort her child can be sentenced up to four years behind the bars except where such woman is a victim of rape or sexual assault. According to article 463 and 464 of the new Criminal Code, anyone who assists a pregnant woman with an abortion can be sentenced for up to five years in prison. The disadvantage of the latter mentioned articles is that they will reduce free exchange of important information about health by parents, teachers, the media and amongst the community members. So, the right to family planning education is important for reproductive choice and a key to the implementation of sexual and reproductive rights of women. Such education would empower women to be in a good space to make an informed decision about the continuation of pregnancy or its termination. What is important here is choice. This right of access to educational information and advice on matters relating to family planning is guaranteed by one of the international human rights instruments. CEDAW is the only treaty out of six human rights instruments in the United Nations system that calls for the educational information on family planning.³⁸ It is advisable for the government of Indonesia to initiate legislation and policies that will allow dissemination of information about family planning to all women without any form of discrimination based on their societal status. The current regulation of the distribution of contraceptives and abortion in Indonesia is not in line with its international human rights obligations. On the 29th of July 1980 Indonesia signed CEDAW and ratified it on the 13th of September 1984 and this makes it to be a fully-fledged member state to the convention and is expected to adhere to its provisions by aligning its domestic laws with the convention. The current restriction on the distribution of contraceptives and abortion is contrary to the rights of women that are protected by international human rights law because under international law, women have the right to receive sex education and to protect their sexual and reproductive health rights and autonomy to make their own individual choices about when to have children. As a result of this, numerous rights of women are violated in the process such as the right to life and the reproductive rights.

Indonesian law criminalizes abortion but permits it only under limited circumstances such as when the continued pregnancy will be detrimental to the health of the mother or the fetus and when

³⁶ Section 348 (2) of the Indonesian Penal Code.

³⁷ Section 349 of the Indonesian Penal Code.

³⁸ Article 10 (h) of CEDAW.

pregnancy was because of rape. It is generally believed that there are many abortion incidents that happens outside the latter mentioned legal parameters and occurs in the conditions that are not safe for women's health.³⁹ Common sense dictates that the need for contraceptives and abortion is not a need that is unique to married women, but it is equally a need for the unmarried women too. However, the laws of Indonesia have not yet come into terms with that obvious reality because it continues to preserve it only for those couples who are in a matrimonial relationship to the exclusion of the unmarried ones. In fear of prosecution some women end up resorting to other means of abortion that may put their lives at risk, such as the traditional herbal medicines that are not scientifically proven. Many maternal deaths and morbidity can be easily avoided if the reproductive health services are distributed to women without being discriminated based on their marital status. It is arguable that one of the main duties of States is to provide affordable and quality health services that would avert maternal deaths and morbidity.

4. Conclusion and recommendations

The legal framework of Indonesia does not provide family planning rights to unmarried lovers. Unmarried lovers have no legal right to access contraceptives or to undergo an abortion procedure. This is clearly reflected in the interpretation of section 76 of the Health Act 36 of 2009 which requires the consent of the pregnant woman together with the consent of her husband. The consent of the husband is only excluded if her wife conceived because of rape, and this is done to safeguard the raped woman from going through psychological trauma caused by an incident of rape. Unmarried women are left out in the cold and the legislation does not cater for them. This leaves unmarried women in a situation where they have opted for unsafe abortion procedures that are performed by unqualified personnel. As already mentioned earlier, more than 300 thousand women dies on yearly basis because of undergoing unsafe abortion in the Republic of Indonesia. Therefore, the government of Indonesia ought to adopt rights approach when regulating the issue of contraceptives and abortion. According to the rights approach, a woman will have a complete autonomy to take her own decisions regarding the use of contraceptives and abortion procedures. This will have a huge contribution in reducing and eventually eliminating mortality ratio that is associated with unsafe abortion. The treaty monitoring bodies of the United Nations are responsible for providing an authoritative interpretation of the duties of states under the UN human rights conventions. These monitoring bodies have made it categorically clear that the denial of access to legal abortion services constitutes a violation of many rights of women such as the right to health, right to privacy, non-discrimination, and the right not to be treated in a manner that is cruel or inhuman. The latter mentioned monitoring bodies have recommended countries to make legal abortion services to be available to the women in need of it regardless of their social status (i.e., whether married or unmarried). Moreover, the monitoring bodies have recommended for good quality abortion services that are also affordable at the same time.

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³⁹ www.guttmacher.org, consulted on 1.10.2023.

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