

# Legal Protection in Indonesia for Doctors to Perform Termination of Pregnancy Caused Genetic Defects

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## Abstract

Abortion is specifically regulated in Law Number 36 Year 2009 about Health. Abortion is regulated in Part Six of Reproductive health Article 75 - Article 77. Medically, the detection of genetic disorders can be done several ways maternal blood tests for prenatal genetic tests and ultrasound. New prenatal genetic tests can be done at 10-13 weeks of gestation, while ultrasonography can detect pregnancy when the pregnancy 5 weeks, but generally performed at 8-12 weeks gestation. Many countries also have laws on abortion, but with a wider age limit than Indonesia. 12-week period are found in the legislation of various countries that allow abortion. Based on the laws that exist such as Law Number 36 Year 2014 about Health Personnel and Law Number 29 Year 2004 about Medical Practice, doctors have the right to obtain legal protection for carrying out duties in accordance with the Professional Standards, Standard Service Professions, and standard Operating Procedures. Implementation of the tasks according to Professional Standards, Standards of Professional Services, and Standard Operating Procedures will be difficult to do given various new genetic abnormality detection checks can be done after 6 weeks. On the other hand, is based on the principle of legality, there is a limit up to 6 weeks of gestation. With the situation like this, the doctor will be a dilemma in doing its job, faced with a choice of legality of Law Number 36 Year 2009 about Health or the Code of Medical Ethics Indonesia which is the basic guideline in conducting various medical procedures. This is due to differences between the values contained in the legislation is written with the values contained in the Code of Medical Ethics Indonesia.

**Keywords:** Legal protection, Doctor, Termination of Pregnancy, Genetic Defects

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## I. INTRODUCTION

Based on the data available in Williams Obstetrics, chromosomal abnormalities showed a significant figure on a genetic disorder. The disorder is found in about 50 percent of spontaneous abortion, stillbirth 5 percent, and 0.5 percent of liveborn.<sup>1</sup>

Can be seen the number of infants with genetic disorders had significantly spontaneous abortion. If you do not experience spontaneous abortion, then infants with genetic disorders can be birth but have a life expectancy very low.

To determine whether there is a genetic abnormality in the baby in the womb, can do a procedure called prenatal genetic tests (prenatal genetic test).

In <http://www.acog.org/Patients/FAQs/Prenatal-Genetic-Screening-Tests>, explained that prenatal genetic tests are tests that give parents information about whether the unborn baby suffered a genetic disorder or not.<sup>2</sup>

Prenatal genetic tests can be performed in the first trimester of pregnancy (the first 4 months of pregnancy) by checking the mother's blood and ultrasound examination that could only be done at the age of 10-13 weeks of pregnancy. Apart from the two checks, can also be examined cell-free DNA testing. This examination also be at 10 weeks gestation.<sup>3</sup>

In the Implementation Guide Case Obstetrics Prenatal care is said that up to 12 weeks gestation performed aiming for early screening is the detection of abnormalities that exist in the mother and baby.<sup>4</sup>

From ultrasound, congenital abnormalities can be divided into two major defects:<sup>5</sup>

a. Abnormalities major: anatomical abnormalities visible on ultrasound, and have an interest in medical, cosmetic chirurgis or with influence on the hurtful and death

b. Minor abnormalities: abnormalities which have no medical significance, chirurgis or serious cosmetic and does not affect the normal life expectancy and lifestyle.

For Nuchal Translucency performed at 11-13 weeks of pregnancy, while to know the major congenital abnormalities at 20-22 weeks of pregnancy in order to:<sup>6</sup>

<sup>1</sup> F. Gary Cunningham et.al, *Williams Obstetrics*, Mc Graw-Hill Education, 2014, p. 260.

<sup>2</sup> The American College of Obstetricians and Gynecologists, "Prenatal Genetic Screening Test", <http://www.acog.org/Patients/FAQs/Prenatal-Genetic-Screening-Tests> diakses 14 Juni 2017.

<sup>3</sup> *Ibid.*

<sup>4</sup> Himpunan Kedokteran Fetomaternal, *Panduan Penatalaksanaan Kasus Obstetri*, 2012, p. 3.

<sup>5</sup> *Ibid.*, p. 116.

<sup>6</sup> *Ibid.*, p. 122.

- a. To ascertain whether there is abnormality or not
- b. Knowing the possibility of lethal congenital abnormalities or not.
- c. Knowing inherited disorders that may be treated intrauterine.
- d. Determining infants require post-natal follow-up because there is a potential flaw.
- e. Helping, prepare and condition the parents of infants with congenital abnormalities associated.

In Law Number 12 Year 2011 on the Establishment Regulation Legislation, stated that the hierarchy of legislation are as follows:

- a. Constitution of the Republic of Indonesia Year 1945;
- b. People's Consultative Assembly Decree;
- c. Law / Government Regulation in Lieu of Law;
- d. Government regulations;
- e. Presidential decree;
- f. Provincial Regulation; and
- g. Regulation of the Regency / City.

Law Number 36 Year 2009 about Health as the object of the research is in third place hierarchy of legislation in Indonesia while Indonesia's Code of Medical Ethics is not listed in the hierarchy. According the laws and the principle of legality, then the constitution, the Law about Health more recognized by the state and have a higher position on the Code of Medical Ethics Indonesia.

On the other hand, the Code of Ethics Indonesia are fundamental tenets of any medical treatment by a physician that can not be abandoned for reasons of legality of law. In ideal conditions, is expected any legislation that formed the same value to ethics. With the similarity of the content of value, then the implementation of the law will be implemented.

Given the differences in legislation and the code of conduct is causing dilemma for doctors. Doctors are faced with two choices of implementing the principle of legality by following laws or override existing laws and regulations and implement codes of conduct that have been recognized by the medical profession in Indonesia. Therefore, the need for a specific mechanism in the formation of legislation so as to meet the aspirations of the people in this case are doctors themselves. For this article take the title "Legal Protection in Indonesia For Doctors To Perform Termination of Pregnancy Caused Genetic Defects".

## II. LEGAL MATERIALS AND METHODS

According to Peter Mahmud Marzuki, legal research is discovering the truth of coherence, the norm that a command or prohibition is in line with the principle of law, and whether the action (act) someone after the law (not only in accordance with the law) or legal principles.

Legal theory based approach to the classification of the legal theory that views of aspects of the way in order to obtain data related to the research. Legal theory based approach is divided into two parts, namely:

- a. Empirical; and
- b. Normative.

In this study uses the type of normative juridical research. Normative legal theory is a theory of law which examine and analyze legal norms or seal the document rules contained in the legislation.

According to Peter Mahmud Marzuki, in legal research, there are several approaches. The approach used in the study of law is the approach of the law (statute approach), the historical approach (historical approach), a comparative approach (comparative approach), and the conceptual approach (conceptual approach).

In this study, the author will use the method of approach to the law (statute approach) and the conceptual approach.

Approach on legislation (statute approach) is done by examining all the legislation and regulation that has to do with legal issues being dealt with. The conceptual approach depart from the views and doctrines that developed in the jurisprudence. By studying the views and doctrines in the law, authors would find the ideas that gave birth to notions of law, legal concepts, and principles of law relevant to the issues faced.

## III. RESULT AND DISCUSSION

### a. Legal Protection for Doctors

#### 1. Government Regulation Number 61 Year 2014 about Reproductive Health

This Government Regulation is an implementing regulation of the Health Act specifically addresses on Reproductive Health. In this regulation, noted that reproductive health is a state of physical health, mental, and social as a whole, not merely free from disease or disability associated with the system, function and reproductive processes.

Article 2 states that the scope of regulation Reproductive Health in Government Regulation include:

- a. Maternal health services;
- b. Emergency medical indications and rape as exceptions to the ban on abortion; and

c. Reproduced with the help or pregnancy outside the natural way

#### Article 31

(1) Abortion can only be performed by:

- a. Emergency medical indications; or
- b. Pregnancy due to rape.

(2) Abortions due to rape referred to in paragraph (1) letter b shall only be conducted if the longest gestation age of 40 (forty) days counted from the first day of last menstruation.

#### Article 32

(1) Emergency medical indications as referred to in Article 31, Paragraph (1) a cover:

- a. Life-threatening pregnancies and maternal health; and / or
- b. Life-threatening pregnancy and fetal health, including suffering from severe genetic disease and / or birth defects, or that can not be repaired so difficult for the baby to live outside the womb.

(2) Handling emergency medical indications as referred to in paragraph (1) shall be implemented in accordance with the standards.

In this Government Regulation regulates more detail about the implementation of abortion. What distinguishes this Government Regulation Health Act is located on the explanation of the age of 40 days of pregnancy. In this regulation explained that the termination of pregnancy can be done before the age of 40 days as a result of rape while in the Health Act just described abortion can be performed before 6 weeks of pregnancy calculated from the first day of the last menstrual period, except in cases of medical emergencies.

#### 2. Code of Civil law

The relationship between doctor and patient arises when a patient comes to the doctor or to the hospital, with a desire of patients to seek treatment and the efforts of doctors to cure the patient. This process occurs in an agreement between doctors and patients. According to the Code Article 1313 Civil Code, the agreement is an act by which one or more persons bind himself to one or more persons. The relationship between doctor and patient is an engagement relationship. Article 1233 Book of the Law of Civil Law, engagement was born because of an agreement or because legislation.

Masrudi Muchtar said there are two types of engagement, which is the first model of engagement that promises a result (*resultaatsverbintenis*), while the second model is a promising engagement of a business (*inspanning verbintenis*).<sup>1</sup> Doctor-patient relationship is not limited to contracts, but takes place in the framework of the covenant. That means, he continues to be concerned with the patient and should not leave him, too, if there is something unexpected.<sup>2</sup>

Terms of the validity of a treaty under Article 1320 Book of the Law of Civil Law, namely:

- a. They agreed that bind himself;
- b. Ability to create an engagement;
- c. A certain thing; and
- d. A cause that is allowed.

The first requirement is the existence of an agreement between the two parties. This agreement marked by deals either in writing or writings in the form of informed consent between physicians and patients. A second requirement is proficiency. If the patient is an adult, the patient can determine his own choice, but if not, then the choice is made by the patient representative. The third requirement is a certain thing. It is the existence of a business that made a doctor of the patient. Last requirement is agreement that do not violate the laws in force.

Subekti in his book "Law of Treaties" understanding distinguish between engagement with the agreement. Subekti stated that the relationship between engagement and agreement is that agreement it publishes engagement. Agreement is a source of engagement, in addition to other sources. An agreement also called agreement, because the two parties have agreed to do something.<sup>3</sup>

Engagement is in the practice of medicine is an engagement that is promising an undertaking (*inspanning verbintenis*), in which a doctor provides a service in an effort to treat patients.

In this engagement between doctors and patients there is a process in which doctors ask consent of the patient, both orally and in writing. It is named as informed consent. Informed consent is an obligation that must be carried out by a doctor to the patient before performing a medical procedure.

*Informed consent* meant that the patient freely and without being forced approve a medical follow, after the doctor delivered the necessary information about the meaning of the action, its inherent risks, the benefits that

<sup>1</sup> Masrudi Muchtar, *Etika Profesi & Hukum Kesehatan Perspektif Profesi Bidan Dalam Pelayanan Kebidanan di Indonesia*, Yogyakarta: Pustaka Baru Press, 2016, p. 156.

<sup>2</sup> K. Bertens, *Op.cit*, p. 314.

<sup>3</sup> Hukum Online, "Perbedaan dan Persamaan dari Persetujuan, Perikatan, Perjanjian, dan Kontrak, <http://www.hukumonline.com/klinik/detail/lt4e3b8693275c3/perbedaan-dan-persamaan-dari-persetujuan-perikatan-perjanjian-dan-kontrak> diakses pada 17 Juni 2017.

can be expected, and the alternatives available.<sup>1</sup> *Informed consent* not enough when the doctor informed. That information must also be delivered in a way that can be understood by the patient.<sup>2</sup> So with the transfer of information from physician to patient well, the patient can understand the condition. Around this time, the patient may consider and take decisions in accordance with the choice.

From the above, the relationship between doctor and patient is a unique relationship. This relationship is different from the relationship in general, such as a business relationship or other relationship.

### 3. Law Number 8 Year 1999 about Consumer Protection

In Law Number 8 Year 1999 about Consumer Protection explained that the service is any service in the form of work or achievement provided for the public to be used by consumers. So it can be concluded that the relationship between physician engagement as businesses and consumers patients as stipulated in this Act so that doctors as entrepreneurs have equal rights and obligations as set out in this Act.

Rights of the businesses are:

- a. right to receive payment in accordance with an agreement on the conditions and the exchange rate of the goods and / or services traded;
- b. the right to legal protection of customer actions bad faith;
- c. the right to defend themselves properly on the legal settlement of consumer disputes;
- d. rehabilitation right to a good name if it is proved legally that consumer loss is not caused by the goods and / or services traded;
- e. the rights set out in the provisions of other legislation.

If viewed from the Article 6 letter e, the right doctor has specifically regulated in the Act, such as the Law Number 36 Year 2009 about Health, Law Number 36 Year 2014 about Health Workers, Law Number 29 Year 2004 about Medical Practice.

### 4. Law Number 29 Year 2004 about Medical Practice

In this Act, the rights and obligations of Doctor or Dentist stipulated in Article 50.

#### Article 50

The doctor or dentist in performing medical practice has the right:

- a. obtain legal protection throughout the duties in accordance with professional standards and standard operating procedures;
- b. provide medical services in accordance with professional standards and standard operating procedures;
- c. obtain complete and honest information from patients or their families; and
- d. receive payment for services.

Right to the doctor are correlated with the discussion of this chapter is to obtain legal protection throughout the duties in accordance with professional standards and standard operating procedures. However, as described earlier, the Association of Medical Fetomaternal which is part of the Society of Obstetrics Indonesia, did not specify guidelines for abortion.

### 5. Law Number 36 Year 2014 about Health Workers

Article 57 says that the health personnel in carrying out the practice entitled:

- a. obtain legal protection throughout the duties in accordance with the Professional Standards, Standards of Professional Services, and Standard Operating Procedures;
- b. obtain complete and correct information on the Receiver of Health Services or his family;
- c. receive payment for services;
- d. obtain the protection to health and safety, treatment in accordance with human dignity, morals, morals and religious values;
- e. get a chance to develop their profession;
- f. Recipients resist the desire of Health Services or another party as opposed to the Professional Standards, codes of ethics, standards of service, Standard Operating Procedures, or the provisions of legislation; and
- g. acquire other rights in accordance with the provisions of legislation.

In addition to Article 57, there is also Article 75 concerning the Protection of Health and Health Care Recipients

#### Article 75

Medicals in the running practices deserve legal protection in accordance with the provisions of Regulation Legislation.

Little contrast with the Medical Practice Act, the legal protection that is described in this Act is in accordance with the Standards for Professional, Professional Service Standard, and Standard Operating Procedures. Equipped with Article 75, adding medical personnel are entitled to legal protection in accordance

<sup>1</sup>K. Bertens, Op.cit, p. 132.

<sup>2</sup>*Ibid*, p. 138.

with the provisions of Regulation Legislation.

#### 6. Fatwa Council of Ulama Indonesia

Fatwa Council of Ulama Indonesia (MUI) in 1983 stated as follows:

Abortion including "menstrual regulation" (MR) in any manner prohibited by the soul and spirit of Islam, is *haram*, both when the fetus is already dead (over 4 months in the womb) or at a time when the fetus is not dead (yet ber 4 months old in the womb), because it includes murder covert action which is prohibited by Islamic law, except to save the life of the mother.<sup>1</sup>

No background of medical abortion provisions. Permissible termination of pregnancy (abortion), with a record of the fetus has not aged twelve weeks (three months). Why is the benchmark of three months? Because this is a new medicine since ages audible heart sounds. The shape is complete only the size is still very small. Before reaching it has not declared alive because there is no heartbeat. In accordance with the word of Allah in the letter as-Sajda paragraph 9, at the age of Allah breathed a soul, it is considered a new fetal life.<sup>2</sup>

From the above explanation that contains various rights of doctors, it can be concluded that the right doctor is set in both the Act above is almost the same, with the main points regarding the rights of physicians as described from each of the Act, namely:

Law Number 36 Year 2014 about Health Workers

"Medicals in the running practice are entitled to legal protection throughout the duties in accordance with the Professional Standards, Standards of Professional Services, and Standard Operating Procedures".

Law Number 29 Year 2009 about Medical Practice

"Your doctor or dentist in performing medical practice have the right to obtain legal protection throughout the duties in accordance with professional standards and standard operating procedures".

Moreover, under Article 75 of the Medical Practice Act explained also that of Health in carrying out the practice are entitled to legal protection in accordance with the provisions of legislation. However, the basic problem is that if there are differences in perception if viewed in terms of medical and legal terms, that will cause a confusion for practitioners of medicine.

#### b. Principle of Legality and Ethics Doctor

Virginia Bill of Rights in 1776, said that no one can be prosecuted or arrested without the power of legislation. This principle is already there in the Habeas Corpus Act of 1779 and the Magna Carta in 1215, but still formal review that provide valid legal process, whereas a material limitation was first mentioned by Montesquieu in a book entitled *De l'esprit des lois* 1784.<sup>3</sup>

Fernando, in his book says that Van Bemmelen formulate ideas Montesquieu, Rousseau and Beccaria on the principle of legality as *nullum crimen, nulla poena sine praevia lege poenali*.<sup>4</sup> This means that a person can not be punished except for acts that have been set in the legislation that has already exist.

The principle that is the one of the legal principles adopted by the State of Indonesia. The principle of legality is clearly stated in the draft Penal Code, Article 1 and Article 2.

article 1

An act can not be convicted, except by the power of the criminal law provisions that already exist

Section 2

Whenever there is a change in the law after the deed is done, the defendant applied to the most advantageous conditions.

In Article 1 of the Code of Penal, have the same meaning as *nullum crimen, nulla poena sine praevia lege poenali*. Whereas in Article 2 supports the principle of legality in the event of a change in legislation, it will apply the most favorable to the person.

With the principle of legality is ensuring legal certainty for everyone. This legal certainty can be viewed from two things, namely the provision of criminal penalties can not be given without a clear cause and the provision of criminal law may be granted if there is a breach of a rule set out in the legislation.

The purpose of the legality principle in ensuring legal certainty is met if the legislation is formed is a good rule. The point is that not all legislation overall there are faultless. Here is one quote an article published by Sindonews.com containing the Interior Minister revoke Thousands of Local Regulation

Ministry of the Interior (Home Affairs Ministry) presented a number of reasons for revocation 3,143 local regulations (regulations) are considered problematic. Cancellation regulations do because they inhibit the process of licensing and investment in the region.<sup>5</sup>

From the above quotation, does not correlate directly with the topic of the research, but from the quote

<sup>1</sup> Dadang Hawari, *Aborsi Dimensi Psikoreligi*, Jakarta: Balai Penerbit FKUI, 2009, p.66.

<sup>2</sup>*Ibid.*, Hlm.66.

<sup>3</sup> E. Fernando M. Manullang, *Legisme, Legalitas dan Kepastian Hukum*, Jakarta: Prenadamedia Group, 2011.

<sup>4</sup>*Ibid.*

<sup>5</sup> Sindonews.com, "Kemendagri Paparkan Alasan Cabut Ribuan Perda", <https://nasional.sindonews.com/read/1117254/12/kemendagri-paparkan-alasan-cabut-ribuan-perda-1466071352>

above, it can be concluded that not all laws are formed. So the principle of legality which aims to ensure legal certainty be met.

In his book, Fernando expression Gustav Radbruch that the law containing the rule consists of three aspects, namely the law provides public benefits, legal justice, and the law provide certainty. Furthermore Radbruch argue legal certainty could even justify laws unwise and unfair.<sup>1</sup> Fuller, in book *Legisme, Legality and Rule of Law*, said that the moral and legal (law) can not be separated from each other. No legal authority was formed not above the law, even above the moral foundations of society.<sup>2</sup>

Laws can only be seen from the principle of legality alone, the principle of legality be good if the legislation is formed either. However, if the legislation is not good, the principle of legality only be a justification tool in the implementation of such legislation. As a solution it needed the element of morality to ensure the establishment of a legislation that is good.

Existing law actually held to a certain tujua, so it is dynamic. This dynamic is illustrated clearly in social and communicative process between individuals, and that's where the function and purpose of the law. Thus, the law is an interactive process, involves not only between individuals, but also to engage citizens and rulers because among them there is cooperation. The whole nature must exist in the law, because it must reflect the content of the internal morality in the law.<sup>3</sup>

Ethics, according to Indonesian Dictionary is "the science of what is good and what is bad and about right and moral obligation (moral)". Is more concerned about the ethics of conscience, the mind of the perpetrator. In the context of ethics we have to distinguish between right and wrong. First and foremost is the size of the self that must be done honestly.<sup>4</sup>

How do we know that our behavior is morally good or bad? What criteria? We know because of conscience. If our behavior is morally good, conscience will praise us and will make us feel satisfied with what we have done. Conversely, if our behavior is morally bad, conscience would reproach us and make us feel guilty with what we have done.<sup>5</sup>

It can be concluded that the parameters of an ethic of honesty and conscience. Basically conscience can not be deceived. The conscience is owned by everyone. If there is something that is true then conscience would say so, and vice versa. Likewise with honesty. Honesty here is honesty both to themselves and to others.

In general ethics can be divided into 2 groups:<sup>6</sup>

a. Conduct related to politeness (etiquette, fatsoensnoren) in pegaulan daily, either in the public order and in ordinances professional organizations;

b. Ethics related to attitude-acts, a person's behavior, especially in a profession that is referred to as the Code of Professional Ethics.

From the division above it is clear that, ethics in the first group are in daily social life which are not written ethics, ethics here evolved from the public to judge what is good and what is bad. While the second ethics ethic is written, and specifically governing the organization of certain profession. Just like the first ethics, professional ethics is basically also contains what is right and wrong are defined in the rules and restrictions.

Codes of ethics are intimately associated with certain professions. Ethics is a set of behavior of members of the profession in relation to others.

The characteristics of professional conduct is as follows:<sup>7</sup>

- a. Applicable for professional environment;
- b. Compiled by professional organizations concerned;
- c. Contains obligations and prohibitions; and
- d. Evocative humane attitude.

From the above, it can be concluded that the exclusive professional ethics in every profession, every profession has a code of ethics of different professions. Professional code of ethics contains regulations that bind the profession with the aim of improving humanity.

Professional workers generally have the following characteristics:<sup>8</sup>

- a. Education according to national standards;
- b. Giving priority to humanitarian calls;
- c. Based on professional ethics, binding for life;
- d. Legal through licensing;
- e. Lifelong learning; and

<sup>1</sup> E. Fernando M. Manullang, *Op.Cit.*, p. 127.

<sup>2</sup> *ibid.*, p. 130.

<sup>3</sup> *ibid.*

<sup>4</sup> Guwandi, *Medical Error dan Hukum Medis*, Jakarta: Balai Penerbit Fakultas Kedokteran Universitas Indonesia, 2007, p. 126.

<sup>5</sup> K. Bertens, *op.cit.*, p. 12

<sup>6</sup> J. Guwandi, *ibid.*

<sup>7</sup> M. Jusuf. Hanafiah dan Amri Amir, "*Etika Kedokteran & Hukum Kesehatan*", Jakarta: Penerbit Buku Kedokteran, 2017, p. 2.

<sup>8</sup> *Ibid.*

f. Members join a professional organization.

In the United States there are two main books which the development of the ethics of biomedical research around the world, namely *The Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research* issued by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research and *Principles of Biomedical Ethics* issued by Tom Beauchamp and James Childress. The Belmont Report this suggests three principles: respect persona, doing good, and justice, while in *Principles of Biomedical Ethics* there is an additional one principle of "do no harm".<sup>1</sup>

*The Belmont Report* and *Principles of Biomedical Ethics* is the forerunner of medical ethics in the world. Medical ethics is the basis for the establishment of codes of medical ethics in each country. The code of ethics for the profession of medicine Indonesia specifically stipulated in the Code of Ethics Indonesia.

In the opening of the Code of Medical Ethics Indonesia 2012, norms of ethical medical practice standardized function as a feature and how to guide physicians in the act, act and behave professionally, so easily understood, followed and used as a benchmark responsibility perlayanan profession that often precedes the freedom of the profession itself.

J. Guwandi found what is considered bad by ethics, generally - but not always - considered so by law.<sup>2</sup> From these statements Guwandi agrees that the value contained in the ethics equal to the value contained in the law. On the other hand, implicitly Guwandi also agree that sometimes differ from the legal ethics. Problems arise if there is a difference in law and Code of Ethics Indonesia. This is certainly cause confusion for doctors and other health practitioners in making decisions. In such conditions a doctor would be faced with the choice of a dilemma.

#### IV. CONCLUSION AND SUGGESTION

Under the existing legislation such as Law Number 36 Year 2014 about Health Personnel and Law Number 29 Year 2004 about Medical Practice, doctors have the right to obtain legal protection for carrying out duties in accordance with the Professional Standards, Standard Service Profession and Standards Operational procedures. Implementation of the tasks according to Professional Standards, Standards of Professional Services, and Standard Operating Procedures will be difficult to do given various new genetic abnormality detection checks can be done after 6 weeks. On the other hand, is based on the principle of legality, there is a limit up to 6 weeks of gestation. With the situation like this, the doctor will be a dilemma in doing its job, faced with a choice of legality of Law Number 36 Year 2009 about Health or the Code of Medical Ethics Indonesia which is the basic guideline in conducting various medical procedures. This is due to differences between the values contained in the legislation is written with the values contained in the Code of Medical Ethics Indonesia. Law Number 36 Year 2009 about Health, Law Number 36 Year 2009 about Health must meet the protection aspects of the doctor and the principle of justice for pregnant women.

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