

PUBLIC SERVICES IN HUMAN RIGHTS PERSPECTIVE

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Abstract

Public services can be provided by the government or by the private sector in the form of goods, services and public administration that can be used to meet the needs and interests of the community. The implementation of available services by administrators does not rule out human rights violations. One of the characteristics of the rule of law is respect for human rights. The most basic human rights given by the Powerful are obliged to be recognized, respected by everyone. However, the reality is that in the implementation of public services, there is a possibility that actions that violate human rights may occur. Formulation of how public servants from the perspective of human rights and efforts to prevent violations of human rights in available services. The purpose of writing is to find out public services from a human rights perspective. The method used in this research is literature research using secondary data in the form of primary legal materials, secondary standard materials, and traditional tertiary materials. The analysis is normatively supported by empirical research and qualitative research types. In conclusion, public services must heed human rights. To prevent human rights violations in available services, organizers must act based on statutory regulations, discretion, and general principles of good government (Good Governance).

Keywords: public service, human rights

INTRODUCTION

Public services are provided by the private sector and/or the government in the form of goods and services or administrative services provided for the interests or needs of the community. (Cahyadi, 2016; Siti Maryam, 2017) Public services are required for government intervention to run in an orderly manner and not to violate community rights and to meet the needs or interests of the community. (Brown & Osborne, 2012) Government intervention is necessary so that there is no uncertainty in public service activities. (Atmosudirjo, 1994)

Public services are part of the duties of state administrators included in the field of State Administrative Law. (Anggraeni, 2014; Triwulan, 2016) Available services are provided by the government and the private sector based on Law Number 25 of 2009 concerning Public Services. The general explanation of the Preamble to the 1945 Constitution states, Indonesia is a constitutional state; every action of citizens and state officials acting must be based on law.

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(Anggriani, 2012) Therefore, not a single citizen who lives in the country of Indonesia is above the law. The rule of law in the direction of law is to uphold human rights.(Nasution, 1997; Setiadi, 2012)

Public services are carried out by state administrators carrying out their duties and authorities based on the law (legality principles) and enforcing the regulations of good governance (Good Governance), with the aim of not causing violations of people's rights and human rights. Likewise, public services by the private sector must comply with the principle of legality.(Lockwood, 2010)

Public service is "an activity or a series of exercises to meet the need for assistance following the laws and regulations for every citizen and with the rules and regulations for every citizen and resident of the goods, services, and administrative services provided by the service provider the public. (Cahyadi, 2016; Suandi, 2019)

Based on Article 1 number 1 of Law Number 25 of 2009 concerning Public Servants, it is concluded that public services are provided to every citizen by the government or private parties, providing the needs and interests of community members for goods and services and public administration, based on statutory regulations.

Public services can be provided by state administrators, corporations, independent institutions, and legal entities deliberately formed under the law aimed at carrying out available service activities. The phenomenon in the public service community is carried out not in accordance with Law Number 25 of 2009, does not always give satisfaction to the community, such as slow service, not transparent, discriminatory, unfair, unbalanced so that the goal of public servants to provide satisfaction to society cannot be realized.

Article 1 paragraph 1 of Law Number 39 of 1999 concerning Human Rights that Human Rights are rights granted by the Almighty to humans as creatures that must be respected, upheld, given the protection of their dignity as a human being by the State, law, and government. Public services must pay attention to human rights.

Facts in the community of public services by the organizers do not always give satisfaction to the community. This is what motivates the author to write about "Public services in a human

rights perspective." The problem is how to realize public services from a human rights perspective.

METHODOLOGY

The research method used in this research is library research using secondary data in the form of primary legal materials, secondary standard materials, and tertiary materials. Primary traditional materials in the form of statutory regulations include the 1945 Constitution, Law Number 39 of 1999, and Law Number 25 of 2009 concerning Public Services. (Gumilang, 2016) Secondary legal materials consist of books, expert opinions related to Public Services, and Human Rights. Tertiary standard materials are in the form of a dictionary to explain primary and secondary legal materials.(Anggito & Setiawan, 2018)

The data obtained from the literature research is in the form of secondary data; the data is analyzed systematically scientifically to answer the problem formulation. Research is normative juridical and is supported by empirical data based on experience, observations in society, and types of qualitative research.

RESULT AND DISCUSSION

In-Law Number 39 of 1999 concerning Human Rights, it regulates the types of human rights, namely the right to life, the right to have a family and continue offspring, the right to develop oneself, the right to obtain justice, the right to personal freedom, the right to taste. Safe, the right to welfare, the right to participate in government, women's rights, and children's rights. The administration of public services must not conflict with human rights. In connection with the kinds of human rights contained in Law number 39 of 1999 concerning Human Rights, that State apparatus in public servants provide goods and services to meet the needs and interests of the community and may not commit acts that are contrary to human rights.

During the outbreak of the Coronavirus, public services are not only carried out by State

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officials as public officials but can also be carried out by private parties. Public services provided by the State apparatus to citizens relating to the right to life. is that the government may not take away the right to life of its citizens without valid legal reasons, for example shooting dead, killing citizens, because it is a violation of human rights. The State executes its citizen by firing, or a policeman shoots the perpetrator of a crime in accordance with applicable legal procedures, it is not a violation of human rights.

How public officials act in order not to violate human rights, must be in accordance with applicable legal provisions. The medics provide health services to save the lives of Covid-19 victims, including the implementation of human rights. The medical profession is called the hero of humanity.

The right to live in the right of every person which is inherent in himself as a human being as a gift from God Almighty, which must be respected, upheld by everyone, the government, and the State. Therefore, it is only God Almighty to lose one's life. Every person, including the State, may not take a person's life arbitrarily, because it is a violation of human rights. The removal of the right to life or life of a person is allowed if it has been carried out following applicable legal procedures. The Republic of Indonesia is a constitutional state as stated in the Preamble to the 1945 Constitution, as the rule of law, the State of Indonesia upholds human rights.

Public service providers in acting and acting to meet the needs and interests of the community for goods and causing the loss of the lives of the people they serve may be prosecuted for violations of human rights. On the other hand, the actions of public service providers following applicable legal procedures, even though they cause the loss of the right to life of the people they serve, are not included in the category of violations of human rights. In this critical situation, the current outbreak of the coronavirus has caused public services to be stopped or delayed, and public services are focused on meeting the needs and interests of people affected by Covid-19. Actions taken by available service providers are currently directed at meeting the needs and interests of people affected by Covid-19, including the implementation of human rights. These public services include health services, educational services,

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transportation services, economics, and social assistance services. Available services carried out by organizers to tackle the spread of the Covid-19 outbreak are aimed at meeting the general needs and interests of the people affected by Covid-19.

The right to have a family is one of the types of human rights that must be respected and respected by the State towards its citizens. The government must not prevent citizens from realizing their right to have families. The right to have a family must be exercised in accordance with the applicable legal provisions as regulated in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage. A state that does not give permission to a citizen who has met the requirements in accordance with the applicable legal provisions to form a family is a violation of human rights. All actions taken by the organizers of the public service against citizens who will create a family must be based on the provisions of the applicable law, and even if they provide policy (discretion) must prioritize the public interest. Public services related to the right to have a family for members of the community are not following applicable legal provisions, including violations of human rights.

Public services provided by the government for citizens to form families as part of the implementation of human rights must be based on legal provisions. A citizen who gets married in accordance with the procedures stipulated in the Marriage Law then the government refuses to register his marriage, this is a violation of human rights, the right to have a family.

The right to justice, Everyone, both as citizens and state officials, is obliged to be treated fairly because acting legally is part of the implementation of human rights. Public services provided by State institutions, for example, assistance in the field of justice in courts to the State, Judges as state officials in making decisions must fulfill a sense of justice to justice seekers and community justice. Judges' decisions that take sides and do not provide a sense of justice to justice seekers include human rights violations committed by the State against its citizens.

The right to provide a sense of security is part of the types of human rights. The government, in acting to provide public services to meet the needs and interests of its people for goods and / or services, must be able to create a sense of security for citizens, for example, with the impact caused by the danger of the Corona virus currently causing a sense of insecurity

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for people to leave the house to meet their needs his life. Therefore, in the framework of implementing Human Rights by the government for citizens, the State must be able to guarantee a sense of security for the community, the availability of basic necessities for the district, provide assistance to people affected by Covid-19 in the form of social service in the way of money, basic needs, credit subsidies, cutting electricity payments. For members of the community who were directly affected by COVID-19. Actions are taken by the State in the framework of public services, including the implementation of human rights.

Human rights for welfare, the government in providing public services to citizens must be able to create interest for the community. A government that allows citizens to live in the poverty line, allowing the poor and neglected children as regulated in Article 34 of the 1945 Constitution, is part of a violation of human rights. The State, as the provider of public services, must be able to provide welfare to the community by meeting the needs and interests of community members. Likewise, private parties appointed by the laws and regulations as providers of public services must be able to meet the needs and interests of the people being served to strive to provide the general requirements for services of existing goods / or public services.

Rights in government, part of the implementation of human rights as contained in the 1945 Constitution, states that all people are equal in law and government and are obliged to uphold the law and government. About public services in the field of government, the State may not prohibit citizens from sitting in government that has met the requirements stipulated in statutory regulations, such as to become members of the MPR, DPR, and others from sitting in government institutions. State administrators that prevent their citizens from participating in government are including human rights violations. Every citizen of the State has the same rights and opportunities to sit in the government of origin following the procedures regulated by law.

Women's rights, related to the implementation of human rights, the government in providing public services to women's rights is in the labor law, the right of a woman to be given menstrual leave and maternity leave. In certain places, in the context of providing public

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services, the government has prepared general facilities for mothers who breastfeed their children. Available services on public transportation are given the right to pregnant women, older women, women with toddlers to get priority seats. In the context of implementing human emancipation, the position of women is equal to that of men. Women have the same opportunity as men to sit in government as long as they have followed the applicable legal procedures. Children's rights, including the implementation of human rights. Neglected children are the responsibility of the State. The State in terms of the government in the framework of public services for neglected children So in the framework of public services by the government to realize children's rights, neglected children must be made State children, the State bears all the needs of children's rights, for example to get education, the right to be cared for by the State to realize the in front of the child. Abandoned children, exploited by their parents as a source of income, children victims of rape are a violation of human rights. Public services by the government for the implementation of Human Rights embody children's rights, including neglected children by the State who are cared for by the State, perpetrators of any crime against children, in the framework of protecting children's rights, perpetrators of crimes against children must be processed and sentenced following legal provisions applies. Legal protection given to children by the State includes the implementation of human rights. Child victims of domestic violence have violations of children's rights, so their parents can be convicted of domestic violence.

Public officials in acting to provide services to meet the needs and interests of the community must comply with the prevailing laws and regulations (legality principle). (Bovaird, 2007; Rhodes & Wanna, 2007) Actions of public officials that are not following the direction of legality to provide services to the public can lead to violations of human rights.

In certain circumstances, public officials acting can deviate from the principle of legality because there is no statutory regulation that regulates it, so to overcome problems faced by the community, available service administrators can make discretion/policies aimed at the public interest, not in the name of that group. Certain. Public services that are not based on statutory regulations or for the benefit of certain groups, then include human rights violations.

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Public service organizing activities must pay attention to the principles of good governance. The aim of the guide of good management (Good Governance) is to create a State apparatus that is clean, efficient, effective, authoritative, and capable of carrying out general government tasks as well as possible based on enthusiasm and devotion to the nation and the State. To avoid violations of human rights in the provision of public services by the government, public officials must act following the principles of good governance.

The general principles of good governance include, among other things, the focus of legal certainty, that the government as a public servant serves the needs and interests of the public regarding goods and services that act must be able to guarantee legal certainty for the people it helps. Legal certainty that the government acts must be based on clear standard rules. Decisions or stipulations that have been given by the government in providing public services to the public may not be withdrawn, except for reasons that can be justified by law. If the rights that have been given by the government to the community are later withdrawn without a valid reason, then there is no legal certainty, and this is a violation of human rights.

The principle of balance, public servants, must be able to create credit, such as imposing penalties (sanctions) for members of the public who commit mistakes or violations must be punished according to the actions they have committed. This means that in the same case, law enforcers as public services must provide the same punishment to members of the public who commit violations. Everyone is treated equally before the law. In acting, available service providers must treat members of the people who are served in the same case equally. Public service providers act to cause harm to members of the community they serve, are obliged to provide compensation in proportion to the losses suffered by members of the city did. The principle of equality that public services are directed at the government sector requires equality before the law and the government, which is obliged to uphold law and government without exception. Public officials must treat citizens equally before the law, regardless of their background, position, position, ethnicity and religion, gender. Everyone is treated equally before the law as a form of the implementation of human rights.

The principle of acting carefully, public servants so that public administrators in

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providing available services to the community must always work carefully, carefully so as not to cause harm, violate community rights, which could potentially violate human rights as members of the community they serve. People don't get what they should.

The principle of not mixing up the mix of authority, public service demands that available service providers take care of the interests and needs of the community following the power given to them. In acting, public service providers may not take action to mix up the tasks and authorities that have been given to them, mixing up a complaint of power, including a violation of human rights.

The principle of proper play, this principle requires that the implementation of public services in serving the community provides the widest possible opportunity to get correct and fair information, for example, services in the field of communication with the Covid-19 outbreak, communication media between electronic media, social media to inform the public. The development of COVID-17 in Indonesia and other countries in the world. Providing satisfactory public services benefits the community, including the implementation of human rights. The principle of justice and fairness requires the delivery of public services to the community, and the organizers must act reasonably as well as possible to meet the expectations of the city from the community served. For example, people who need services in the field of law in the court of judges to examine and decide disputes submitted by community members must be able to provide a sense of justice to justice seekers and to the community. The judge's siding verdict is considered a violation of the human rights of members of the community seeking justice. The principle of negating the consequences of a canceled decision, this principle hinders, if the public service provider has recorded an event, all the results of the cancellation are invalid or negated, and the available service provider must provide compensation to the community that has been decided. The government cancels one example of the impact of the Covid-19 outbreak by public service providers in the field of land transportation, people who have bought train tickets between provinces for homecoming with compensation for returning 100% of the ticket prices that have been purchased by the community.

The principle of protection of a private view of life requires that public service providers

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are prohibited from committing an act that regulates the freedom of their personal life according to their way of life, for example. Available service providers may not be part of the private life of members of the public in carrying out their worship according to their religion and belief.

The principle of organizing the public interest demands that public service providers in providing public services must prioritize public interests over private interests or certain groups, for example, community members reject the presence of private parties who will build factories in densely populated settlements, people reject the presence of private parties who will build factories because it causes pollution to people like him. Public service providers prioritize public interests by refusing to grant licenses from private parties, which is only for the benefit of the private sector, including violations of human rights.

CONCLUSION

Public services provided by the private sector or by the government so as not to conflict with human rights must be based on statutory regulations, general principles of good governance, and discretion/policies for the public interest.

To prevent human rights violations in public services, administrators of available services must act according to statutory regulations, discretion, and general principles of good governance.

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