

GENDER EQUALITY RECONSTRUCTION PERSPECTIVE OF HUMAN RIGHTS CONTEXT

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ABSTRACT

The journey of drafting the Gender Equality and Justice Law (RUU KKG) in Indonesia has drawn a variety of pros and cons, both men and women, this bill is important to discuss because there are still many cases of gender injustice that often occur in Indonesia, which in general women become victims. The purpose of this research is to realize equality and rebuild education as part of a cultural movement (cultural force). Fulfillment of Human Rights (HAM) and implementation of CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women), political will and real action need to be done so that in the future, women can advance together and feel the same treatment as other citizens (men), because actually women are also human beings who have human rights. The method used in this research is the statutory approach and the conceptual approach. The legislative approach is intended to find the basis for relevant rules while the conceptual approach is carried out to examine the views and doctrines that develop and are relevant to the problem under study. Legal certainty refers to the implementation of clear, permanent, consistent and consistent law. Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights (HAM) mentions the rights of women which is essentially the equality and equality of life of women with men, as contained in Articles 45 to 51, starting from equal rights in elections and appointment in its representation in the executive, legislative and judicial fields. The conclusion of this research is that women's rights have not yet been fully enforced, authoritarian power, namely gender inequality that is allowed to continue, violence against women has not become a central issue of society. Almost all laws and policies issued are directed to pursue economic growth and create national stability. However, the legal system of laws and policies that regulate women's rights in Indonesia cannot be realized in accordance with the law.

Keywords: Equality, Gender, Human Rights.

A. Introduction

Gender differences do not really matter as long as they do not give rise to gender inequalities. However, the problem is, it turns out that gender differences have given birth to various injustices, both for men and especially against women. Gender inequality is a system and structure in which both men and women are victims of the system. Gender injustice is manifested in various forms of injustice, such as: Marginalization or the process of economic impoverishment, subordination or perceived insignificance in political decisions, the formation of stereotypes or through negative labeling, violence, longer workloads and burdens, and the socialization of ideological values of

gender roles. The Gender Equality and Justice Law (RUU KKG) has drawn a variety of pros and cons from both men and women, this bill is important to discuss because there are still many cases of gender injustice that often occur in Indonesia, which in general women become victims. Although currently the government has issued Presidential Instruction (Inpres) No. 9 of 2000 concerning Gender Mainstreaming in National Development, but its legal status is still considered too low, does not have sufficient legal force to establish gender equality and equality, and seems to only run in place. The Ministry that runs the Inpres also does not have the power to run it. One of the aims of this bill is to increase women's participation in various aspects, but

men are also subject to this law. This law opens equal opportunities for both men and women. So, if at one point women were more dominant, this Law would also be corrected. Gender Equality is a problem that has been discussed globally since one hundred years ago, to reduce gender inequality and injustice among people. Commitment to reduce gender inequality applies to all aspects of human life including education, economy, politics, social and culture. The importance of the discussion is even one of the eight points of international commitment through the Millennium Development Goals (MDGs) promoted by the United Nations (UN).

The emergence of attention in gender issues is in accordance with the development paradigm shift from the security and stability approach (security) to the welfare and equality approach (prosperity) or from the production approach to humanity in a more democratic and open atmosphere. Strong relationships with social and cultural development that are rooted in society limit the achievement of gender equality and justice. But with hard struggle and continuous effort, gender ideologies that tend to bring harm to one sex will be successfully eliminated. In conclusion, if motivation occurs among the community, does this show that our society is able to make it happen? One of the Millennium Development Goals (MDGs) agreements is also an international commitment.

In the explanation of the 1945 Constitution of the Republic of Indonesia it states that the Indonesian State is a state based on law (rechstaat) not based on mere power (machstaat). The name of the rule of law has a very important meaning and meaning to guarantee public order and security, the meaning of the words in the explanation of the 1945 Constitution, among others, is that state power is limited by law and based on law, so it is not based on one's power. The aim is that people's interests and human rights can be guaranteed against the arbitrary actions of the authorities. The law in question must be able to reflect justice and protection of equal rights between individual interests and the interests

of the people (community). In the 1945 Constitution states, article 27 (1) All people have the same position before the law. From this article we can understand that there are no acts of discrimination between men and women, all receiving equal treatment before the law.

Research purposes

The purpose of this research is to realize equal rights in obtaining justice and rebuilding education as part of the cultural movement. To guarantee the fulfillment of human rights and the implementation of CEDAW (Convention on the Elimination of All Forms of Discrimination Againsts Woman), it is necessary to have political will and real action so that in the future, women can move forward together and feel the same treatment as citizens others (men), because actually women are also human beings who have human rights.

Research methods

Research Type, This research is a normative legal research or doctrinal legal research whose assessment is based on a collection of materials derived from primary legal materials or secondary legal materials relating to the object of research. Research Approach, Sources of legal materials used are: Law No. 39 of 1999 concerning Human Rights, Presidential Instruction (Inpres) No. 9 of 2000 concerning Gender Mainstreaming in National Development, Other legal sources come from research journals, legal dictionaries and other legal materials related to the object of research. Legal Material Collection Procedure, The collection of legal materials used is the study of literature with reference sources relating to consumer protection laws and sources from the internet and print or electronic media that support research. Legal Material Analysis, The legal material that has been reviewed will be analyzed and identified, then the subject matter is determined objectively and systematically.

B. Context of Upholding Human Rights

Evidence of women's limited human rights can be objectively calculated. Statistics from the United Nations reinforce this statement. Women are one of the first victims of unfair development patterns. Keep in mind, the Universal Declaration of Human Right is far broader than ideal. The narrowing of the interpretation that occurs indicates an indication of intentional or inadvertent manipulation (by men), so that many human rights concerning economic and social rights are ignored. Although gender relations are within the private sphere, in reality the state increasingly plays a role in regulating personal life through taxation, social security, immigration and national law, hunting regulations in addition to the Marriage and Family Law. In Indonesia, since the establishment of the Republic, it is explicitly stated in the 1945 Amendment regarding the existence of equal rights and obligations between men and women, including in: Article 27 Amendments to the 1945 Constitution: Every citizen has the right and duty to participate in efforts to defend the state. Article 28: Everyone has the right to live and defend his life and lives.

The new Law No. 39 of 1999 concerning Human Rights also mentions women's rights which are essentially the equality and equality of life of women with men, as contained in Articles 45 to 51, starting from equal rights in elections and lift in representation in the executive, legislative and judicial fields, equal rights in obtaining education and teaching in all fields, gender equality and special protection in the performance of work and equality in matters of marriage. Also in this new Law on Human Rights is the National Commission on Violence against Women.

In the legal system of legislation and policies governing women's rights in Indonesia, especially since the new order is inseparable from the economic and political interests of the government. As it is known to rebuild the country's economy that went bankrupt in the old order, the government

intensively conducted various programs to pursue economic growth in political stability as its main prerequisite. Almost all laws and policies issued are directed to pursue economic growth and create national stability. The assumption that men are breadwinners and women are housewives whose lives are supported by their husbands are also used in employment policies, especially regarding wages and prohibition of employers from employing women at night in dangerous places.

But in the field of employment, violations of the rights of women workers, such as the provisions regarding wages, working hours, the provision of shuttle services, occupational health and safety, as well as violations and manipulations of menstrual leave, pregnancy and childbirth often occur. Besides that they also often experience violence in the form of sexual harassment by both male colleagues and employers. Though this kind of thing has been regulated in new legislation namely Law No. 39 of 1999 concerning Human Rights. Article 49 (2) which reads: Women have the right to get special protection in the implementation of their work or profession against matters that threaten their safety and or health with regard to women's reproductive functions. Article 49 paragraph (3) which reads: Special rights inherent in women due to their reproductive function, guaranteed and protected by law.

The condition of women in Indonesia due to the prolonged economic crisis? in other countries, research shows the economic crisis has led to the feminization of poverty (Féminisation of Poverty), which is a condition that shows the deteriorating conditions of women's lives as a result of the economic crisis, so that poor women become poorer, the number of poor women becomes increasingly increased, and when compared to men, women were the poorest group both quantitatively and qualitatively.

With all the backwardness it has, it is not impossible that the economic crisis will cause Indonesian women to suffer the same fate, even worse than their counterparts in

other countries. For example, the looting incident which was followed by acts of sexual harassment, especially the rapes experienced by many ethnic Chinese women, which were widely reported in the media a few years ago, further add to the burden of suffering that must be borne by women, not only the victim, but other women in the form fear and anxiety such tragic events will also befall him. Indications of increased crime in the form of mugging and robbery in the streets, markets and public transportation are starting to appear and women are always the main victims. All that will further narrow the space for women to survive in a crisis situation like this.

Dengan berdasarkan pada keterangan tersebut diatas, maka penulis kesimpulan bahwa proses implementasi konsep HAM mengalami kegagalan/kesalahan dalam penerapannya. Hal ini disebabkan karena:

1. The condition of the people who are still suffering from poverty, so they are unable to meet human rights demands such as equality before the law and government.
2. Many human rights values conflict with customary law and religious law.
3. Gender discrimination does not always have a bad connotation.
4. Erroneous implementation of human rights, the rights of criminals or perpetrators are more indicated than victims.

It is well known that reform in the field of law faces significant obstacles and limitations. The heterogeneity of Indonesian society has added to the existing political and ideological constraints. Incorporating women's agendas into all plans for change will be a challenge in itself given the highly patriarchal structure of society. Increasing the representation of women in decision-making institutions, especially those that have a wide impact on women, is a necessary thing to do. To accelerate the affirmative action policy must be applied in all aspects of life.

C. Closing

Based on the discussion above, the following conclusions can be drawn: From the various problems experienced by women as

illustrated above, it shows that women's rights are still not fully enforced, even though various international legal systems have been ratified and many national legal products that guarantee the rights women are already widely available. Authoritarian power, gender inequality that is allowed to take place or rapid social change are the causes of various violations of human rights, including women's human rights. The basic thing is the problem of removing the causes of female subordination. As long as patriarchal ideology and socio-cultural values that are gender biased tend to discriminate against women and continue to be deeply rooted and live in society, women will always be in a backward, suffering, poor and persecuted situation.

The process of implementing the concept of human rights in legislation turned out to have failed in its application which is due to: a. The condition of the people who are still under the suffering of poverty, so they are unable to meet H AM's demands such as equality before the law and government, Many human rights values conflict with customary law and religious law, c. Gender discrimination is not always clearly connoted. d. Errors in the application of human rights are aimed more at the rights of criminals or perpetrators than victims of crime. It turns out that in this modern life violence against women has not become a central issue of society to be prevented and tackled. There are several reasons, namely, First: The issue of human rights is still regarded only as a public problem so violence against women committed in the domestic sector is not considered a violation of human rights. Second: Community perception is no exception to the community of women themselves about violence against women is still limited to physical violence (rape). Third: Violence against women is still seen as a problem between individuals, and has not been seen as a problem related to all forms of torture, violence, cruelty and neglect of women's rights as God's creature. Fourth: There is a dangerous symptom of cynicism in some societies that violence against women is

seen as a cause that is raised by women themselves.

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