

The Perspective on Legislation of Human Rights Development: Empirical Evidence in Indonesian Community

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Abstract. A number of issues related to human rights usually started from a simple friction at the community. It is actually might be avoided or minimize on the country that upholds the rule of law, democracy, and respect of diversity. Human beings have a sense of need of treatment and appreciation of the value associated with a world of justice, prosperity and happiness for example in the embrace of certain religious beliefs, happiness and prosperity in life.

The objective of this study was to describe and explain the enforcement and the development of human rights on legislation perspective. This study utilized normative-legal approach. Data and information were analyzed using both descriptive as well as qualitative methods. In addition, the study was also applied the statute or regulations and historical approaches.

Development of the human mind and the imposition of certain norms in the legislation and the treatment can lead to problems of human rights injustices. Demands of human rights must start from the aspects of the legislation and the ability of legislators in updating rights as demanded by the development of Indonesian society. Consequently, legislators are required to always be sensitive and progressive thinking related to the legislation of human rights. It will be necessary so the products might enforce to the system of checks and balances to stakeholders involved, including in carrying out the judge's decision.

Keywords: Development, Human rights, Legislation, Perspective.

1. Introduction

The issue of human rights started from modest frictions in everyday life that actually it does not need to happen in a country that upholds the rule of law, democracy and respect for the diversity that is such in the presence of unity in diversity but in fact they are still widely violations of human rights legislation in perspective simply because the interests and political pressures.

As the most perfect creature among creatures that exist in this world, who have common sense would require treatment and appreciation of the value associated with a world of justice, prosperity and happiness, like freedom of religious belief in particular embrace, happiness, and prosperity in life. To make it happen required a guarantee from the state, was a guarantee from the state through its legislation is not enough product to break down human rights issues, the paradigm shift of population administration and civil rights of people who should be the obligation of the population.

There was once one of the city government regulations in Surabaya (Local Government 2, year 2007) is set in the context of both administrative and criminal sanctions as a tool for residents forced to perform an obligation, not to mention child protection issues. Hot mudflow caused by *Lapindo* actions not only resulted in the loss of land and homes but property, securities, life and social institutions, jobs, education. Social inequality and injustice in the handling and care in obtaining identity cards, civil registration and the requirement for a Permanent Stay Permit Card for Chinese group is a requirement that is difficult to be implemented not to mention child protection issues are ignored by the government as a result of regulations issued, resulting in the protégé who have international reputations cannot continue their education at higher levels because of its national exam does not pass, and still there are some human rights issues that will require attention for its completion.

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2. Objectives

The objective of this study was to describe and to explain enforcement and development of the perspective on human rights legislation. The specific objectives are: (1) to assess the development of legislation on human rights, (2) to analyze the regulatory aspects of human rights, (3) to formulate a treatment pattern in human rights enforcement.

3. Methods

Data collected through interviews and discussions with stakeholders and policy makers. This study uses normative legal research (Soekanto, 1996) and (Hartono1986) as well as the nature of the descriptive and qualitative analysis (Moleong, 1997). In addition, statute or regulation and historical approach were also utilized.

4. Results and Discussion

From an inventory of legislation point of view, this study suggests that the development perspective of human rights in Indonesia Legislation in people's lives everyday become better and indicates positive progress. Progressive development of human rights in the beginning of the setting:

- Second Amendment of the Constitution of the Republic of Indonesia Year 1945 Chapter XA on a more accommodation human rights principles of basic human rights. As Article 28 A which states that every person has the right to live and to defend life and living, of Article 28B paragraph (1) which states that every person has the right to form families and continue the descent through legal marriage, even the rights of children has also been accommodated in the paragraph (2) second amendment of Constitution of the Republic of Indonesia Year 1945 in Article 28B. Every child deserves to live, grow and develop and are entitled to protection from violence and discrimination, while in Article 28 paragraph (5) ensure the enforcement and protection of human rights guaranteed, regulated , and set forth in the regulations given in the Constitution only regulates state subjects only, left to the implementing regulations of legislation and even the obligation to respect human rights of others in an orderly society, nation and the state also have been stipulated in the Constitution.
- The exit of Law. 39 of 1999 on Human Rights
- Court of Human Rights in the form of Law. 26 of 2000 and Law no. 12 of 2005 on Ratification of International Covenant on Civil and Political Rights

Further findings from this study indicate that the government has provided opportunities and efforts to find a way out of the norm of law enforcement by certain powers in the legislative process for the sake of power that can damage the normative principles that have been organized and regulated in the Constitution by providing rights to community groups or individuals filed an objection to the Supreme Court and Constitutional Court (MA and MK) for the proposed Judicial Review the validity of legislation, especially in the current study focused on the regulation of human rights in conflict with the Constitution and laws and regulations more high. The impact of this is to minimize the Judicial Review against the imposition of norms in the legislation when it was made with less attention to the interests of the people that ultimately people do not get justice, even the legal protection of the welfare state. Treatment patterns in the subsequent enforcement of rights associated with this research is to enforce the system of checks and balances to all state organs including the execution of the verdict.

5. Conclusion

Legislation in the perspective of human rights developments in the life of Indonesia experienced significant improvement beginning of the second amendment of the 1945 Constitution which was then followed by the release of a law on human rights, human rights court and the arrangement of the Judicial Review (related imposition of certain norms in the legislation) even though its implementation there are still some issues that include the category of human rights violations remains unresolved it requires priority

handling. No later than the completion of due diligence and present human rights violations can lead to foreign intervention so that the required sensitivity of policy makers and legislators (*wetgever*) to always think progressively and also aspire legislation that products are not Judicial Review.

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