

Implementation of Human Rights Friendly Principles in the District Government of Pakpak Bharat

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ABSTRACT

The regional government must pay special attention to respect, to protect, and to fulfill of human rights to all citizens in the area. In this case, the quality of services provided by local governments to the extent that local governments respect human rights in practice. Regions that have formulated into Regional Regulations and carried out the principles of Human Rights District, namely Wonosobo Regency. The Regional Government of Pakpak Bharat Regency is a government that has planned for a Human Rights Friendly District with the formulation of a Regional Reporting Plan in 2018, but it has not yet been approved in the provisions of the Regional Regulation. Based on the explanation above, the problem is formulated as follows: What is the arrangement of the principles of Human Rights Friendly District?; How is the application of the principle of Human Rights Friendly District in the Regional Government of Pakpak Bharat Regency?. The principle of Human Rights Friendly Districts is the responsibility of the Regional Government in respecting human rights, protecting and fulfilling human rights for every citizen, especially those in the regions. The application of the Human Rights Friendly District Principle to the Pakpak Bharat District Government is still in the plan of the Human Rights District Regulation of the Pakpak Bharat Government, but in its development the Pakpak Bharat Regency Government has implemented to fulfill of human rights as stated in Law No. 39 of 1999 concerning Human Rights, human rights.

Keywords: Application, Regional Government, Friendly, Human Rights, Pakpak Bharat

INTRODUCTION

The protection, advancement, enforcement, and fulfillment of human rights are the responsibility of the State, especially the government. It is reflected in article 28I subsection (1) CONSTITUTION 1945, and article 8 of LAW number 39 year 1999. Article 71 and article 72 LAW No. 39 of 1999 reinforce the responsibility, that the Government is obliged and responsible for respecting, protecting, enforcing, and promoting human rights governed by the ACT, other legislative regulations, and International Law on Human Rights received by the Republic of Indonesia. These obligations and responsibilities include effective implementation measures in the areas of law, politics, economics, social, cultural, state security defenses, and other areas.

The conception of responsibility means that the State's obligation to human rights is an obligation for every state and government institution, including local governments. The executive, judicial and legislative as well as other State institutions both at the central and regional level assume responsibility for the respect, protection and fulfillment of human rights for all citizens. This conception that laid the groundwork for the local government to also carry out responsibility for the rights that have been established and secured in the Indonesian Constitution and various statutory regulations.

The tasks of local government related human rights can be classified in three main categories: the task to respect, the task to protect and the task to fulfill.

Duty to respect means district officials should not violate human rights with their actions. This task requires that local governments refrain from hindering the rights and freedoms of all persons in their jurisdiction. For example, in connection with the freedom to obtain employment. The obligation to protect the demands of measures to ensure that third parties do not violate the rights and freedoms of individuals. In order to carry out the obligation to fulfill individual rights in order not to be discriminated, local human rights mechanisms such as Ombudsman or special anti-discrimination agencies may be established.

Local governments should pay particular attention to the protection and promotion of the rights of vulnerable groups and disadvantaged groups, such as disabled, ethnic minorities, indigenous peoples, victims of sexual discrimination, children and seniors. In this regard, the quality of service provided by local governments to such groups "tests" the extent to which local governments respect human rights in practice. The area that has formulated into the local regulation and is running the principle of human rights Regency, Wonosobo regency.

The district government of Pakpak Bharat is a government that has planned the human rights district with the formulation of regulation regional design in the year 2018, but has not been ratified in the provisions of local regulations. It was held a scientific article with the title of the implementation of the human rights friendly Regency in the Regency government of Pakpak Bharat.

LITERATURE REVIEW

The "Human Rights City" is one of the initiatives developed globally with the aim of localizing human rights. This notion is based on recognition of the city as a key player in the advancement and protection of human rights and generally refers to a city whose government and population are morally and legally governed by the principles of human rights. The initiative

departs from the idea that, in order for international human rights norms and standards to be effective, all townspeople must understand and understand human rights as a framework for sustainable development in their communities. The concept was launched in 1997 by the people's Movement for human Rights Education, a nonprofit international organization engaged in service. This concept was further developed, primarily as a normative concept, by the world human Rights Cities Forum which takes place annually in the City of Gwangju (Republic of Korea).

The Gwangju declaration on the Human Rights city passed on 17 May 2011 defines the city of human rights as a local community or socio-political process in a local context where human rights play a key role as Fundamental values and guiding principles. A human rights city requires a shared human rights governance in a local context, where regional governments, regional parliaments (DPRD), civil society, private sector and other stakeholders work together to improve the quality of Lives for all people in the spirit of partnership based on human rights standards and norms. The human rights approach to local governance includes the principles of democracy, participation, responsible leadership, transparency, accountability, non-discrimination, empowerment and legal supremacy. The concept of the human rights city also emphasizes the importance of ensuring broad participation of all actors and stakeholders, especially the marginal and vulnerable groups, and the importance of effective and independent human rights protection as well as mechanisms monitoring involving everyone. This concept recognizes the importance of interregional and international cooperation and the solidarity of various cities involved in the advancement and protection of human rights. The following factors can be referred to as the main reason that has led to the emergence of "City of Human Rights": (a) The shift from standard determination to

implementation, especially at the level of governance, i.e. local government, which becomes the place Best for realizing human rights, especially economic and social rights; (b) Global tendencies, beginning in the 1980, toward the decentralization of government power – in fact, over the last few decades most countries in the world bestowed important authorities into local governments; (c) A change in global demographics: In 2008, for the first time in history, more than half of the world's population lives in large and small cities, and this number is expected to rise to nearly 5 billion in the year 2030.

The city has a unique potential for human empowerment and for social and environmental problem solving. At the same time, the city faces important challenges in the field of social cohesion. In the presence of people from different regions and backgrounds that are often moved to the city in search of individual autonomy, citizens and governments alike are trying to identify a discourse that unites the population and forming a joint reference frame to establish mutual expectations between the city and its inhabitants. The Gwangju guiding principles for the city of Human rights passed on May 17, 2014 in a meeting of the Fourth World human Rights Forum, contains the principles of a human rights city as follows: The right to the city; Non-discrimination and affirmative action; Social inclusion and cultural diversity; Participatory democracy and accountable governance; Social justice, solidarity and sustainability; Political leadership and institutionalization; The human rights mainstreaming; Coordination of effective institutions and policies; Education and human rights training, and the right to compensation. Other concepts are developed, both in doctrine and practice, which are essentially the same. One of them is the "right to the city" first proposed by the French philosopher Henri Lefebvre; This concept primarily refers to the rights of citizens and the "users" of a city to participate in local public affairs and establish a spatial layout of the city. So far

the concept of "right over the city" has been instituted on a limited basis, for example the Brazilian City Regulation (2001), the Montreal Charter on Rights and Responsibilities (2006) and the Mexico City Charter for the right to the City (2010). The latter mentions six fundamental principles that are indispensable for the promotion of the right to the city: (a) The full implementation of human rights within a city; (b) The social functions of the city, land and property; (c) Democratic management of the city; (d) The production of democratic cities and production in the city; (e) Ongoing management and responsible for the public property (natural heritage, culture and energy resources) existing in the city and its surroundings; and (f) a democratic and fair city evenly.

The rights to the city are specifically stipulated in the World Charter for the rights to the City (2005), various organisations and networks, including UNESCO and UN-HABITAT, participating in the preparation of such important documents. This Charter defines the right to the city as the utilization of a fair-equitable city in accordance with the principles of sustainability, democracy, equality and social justice. This is the collective right of citizens who give them the legal right to act and administer, based on their respect for their differences, expressions and cultural practices, with the intention of exercising their right to determine the fate Achieve a decent standard of living. The rights to the city are dependent on other internationally recognised human rights, including civil, political, economic, social, cultural and environmental rights as defined by the various human rights agreements International.

METHODOLOGY

This research is a juridical research empirical by examining the implementation of the principle of human rights friendly Regency in the local government of Pakpak Barat North Sumatera Regency.

The primary Data obtained from Empris Juridical research by conducting FGD against the regional government of Pakpak Barat is comprised of OPD and village devices as well as indigenous peoples and leaders in 2018 during the academic script. In addition to using primary data obtained also secondary data in the form of official documents, books related to the research object, the results of research in the form of reports, and laws and regulations. Secondary Data consists of:

1). Primary legal Data

The legal material consists of the following legislation: In the Constitution 1945 article 28I subsection (1) mentioned that the protection, advancement, enforcement, and fulfillment of human rights are the responsibility of the State, especially the government. Article 8 of law No. 39 year 1999 of human Rights. Article 71 and article 72 ACT No. 39 Year 1999 and

2). Secondary legal Data

The legal material consists of book literature, legal papers and internet related to the formulation of research issues.

3). Tertiary Law Data

Legal material consisting of legal dictionary, Encyclopedia (wikipedia).

Qualitative descriptive by describing the overall research result by analyzing on the principle of human rights-friendly regency in the implementation of the District Government of Pakpak Barat.

RESULTS

The setting of the principles of the human rights city in Indonesia is a setting on the human right in Indonesia which can be seen in the 1945 Act of the 2nd Amendment, Law No. 39 year 1999 on Human rights, as well as various conventions The Indonesian human rights that have been in session with the Republic of Indonesia. Among other things: ILO convention on the Elimination of Forced Labour (ratified by law No. 19 year 1999); ILO Convention on the Minimum age to be allowed to work (ratified by Law No. 20 of 1999); International Convention on the

Elimination of any form of Racial discrimination 1965 (ratified by Law No. 29 year 1999); International Convention on Economic and Socio-Cultural Rights (ratified by Law No. 11 year 2005); and the International Convention on Civil and Political Rights (ratified by Law No. 12 of 2005). In addition, human rights are also governed by specific laws regarding the protection of women, the children, and others.

Under the provisions of article 28A-28J of Law 1945, human rights are covered:

1. The right to life and the right to sustain life and life.
2. The right to establish a family and continue descent through legitimate marriage.
3. The right of the child on the survival, growing, and developing as well as the child's right to protection from violence and discrimination.
4. The right to develop themselves through the fulfillment of basic needs, the right to gain education and benefit from science and technology, arts and culture, to improve the quality of his life and for the welfare of mankind.
5. The right to advance himself by championing his rights collectively to build society, nation and country.
6. The right to acknowledgement, guarantee, protection, and fair legal certainty and the same treatment before the law.
7. Right to work and be rewarded and fair and appropriate treatment in working relationship.
8. Right to gain equal opportunity in government.
9. Rights to his nationality status.
10. The free right to embrace religion and worship according to religious, choose education and teaching, choose a job, choose citizenship, choose a residence in the country and abandon it, and the right to return.
11. The right to freedom of belief, expressing thoughts and attitudes, according to the conscience.

12. The right to freedom of union, assembly, and issuing opinions.
13. The right to communicate and obtain information to develop personal and social environment,
14. The right to seek, acquire, possess, store, process, and convey information using all types of channels available.
15. The right to protection of personal self, family, honour, dignity, and property under his control,
16. The right to security and protection from the threat of fear of doing or not doing something of a human right.
17. The right to free from torture or the degrading treatment of human dignity
18. Right to obtain political asylum from other countries.
19. Prosperous and inner life rights, dwelling, and gaining a good and healthy living environment
20. Right to obtain health services.
21. The right to obtain convenience and special treatment for the same opportunities and benefits in order to achieve equality and fairness.
22. The right to social security that allows for the full development of itself as a dignified human.
23. The right to have a private property and such proprietary rights shall not be taken over arbitrarily by anyone
24. Right to life, the right to not be tortured, the right of freedom of mind and conscience, religious rights
25. The right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted in retroactive legal grounds is a human right that cannot be reduced under any circumstances
26. The free right of the treatment is discriminatory on any basis and the right to obtain protection against such discriminatory treatment.
27. Identity rights of cultural and traditional peoples ' rights are respected in accordance with the development of times and civilizations.

Meanwhile, under the provisions of the law No. 39 year 1999 on Human rights, human rights are divided into at least 10 (ten) types of rights, namely:

1. Right to Life
2. Family rights
3. The right to develop
4. Right of obtaining justice
5. Right to personal freedom
6. The right to security
7. Right to welfare
8. Right to participate in government
9. Women's rights, and
10. Child rights

Obligation to respect: the state has an "obligation to respect" (obligation to respect) means that the State is obliged to refrain from intervening, except for lawful law (legitimate). This obligation contains prohibitions of certain actions that may impair the rights. For example, with regard to the right to education, it means that the Government must respect the freedoms of parents to establish private schools and to ensure that religious and moral education of their children according to their beliefs own.

Obligation to protect: the state has an obligation to protect its rights not only against violations made by the State, but also against violations or actions taken by entities or other Parties (non-states) that would interfere with Protection of human rights. The State's obligation to respect is the most basic obligation. The state has extensive authority in connection with this obligation. For example, the right to personal integrity and security requires the state to combat the widespread phenomenon of domestic violence against women and children. Although not every violent act committed by a husband to his wife, or by parents to their children, is a violation of human rights, which may be the state responsible, the government has a responsibility to Take positive action--to reduce the incidence of domestic violence.

Obligation to comply: countries are required to take positive action to ensure that human rights can be implemented. It is the obligation of the State to take legislative,

judicial, and practical administrative measures, which are necessary to ensure the implementation of human rights. In connection with the right to education, for example, the State must provide ways and means for free basic education and mandatory for all, free secondary education, higher education, vocational training, adult education, and blind elimination Letters (including steps such as establishing a sufficient public school or providing enough teachers).

Under the provisions of the Constitution 1945, basically everyone is obliged to respect the human rights of others in order of community life, nation and state. Nevertheless, in exercising its rights and freedoms, each person shall be subject to a limitation set by law with the sole intent to ensure recognition and respect for the rights and freedoms of others and to Meet fair demands in accordance with moral considerations, religious values, security, and public order in a democratic society.

The local government is a decentralized principle executive where the central government submits some of its business to the area to be managed independently. In this context the local government is given the freedom to regulate itself in order to implement regional autonomy, among others through the issuance of regional legal products. Through its authority, the local government is essentially a good opportunity to implement the idea of the emerging human rights city. The local government has the responsibility of the State's obligations in the exercise of human rights. Nationally, human rights have become part of Indonesian law.

Responsibility, authority and duty of the local Government on human rights pursuant to article 18 Constitution 1945, the implementation of local love is done decentralised through the provision of regional autonomy. The implementation of a decentralized principle in the administration of this government can be said to have been universally accepted as a solution of a condition that not all governmental matters

can be organized centralised. Especially given the geographical condition, the complexity of the development of society, the diversity of local social and cultural structures as well as the demands of democratization in governance.

The authority of the local government in regulating human rights reaffirmed with the emergence of the joint regulation of the Minister of Law and Human Rights and the Minister of Home Affairs No. 20 of 2012 and 77 year 2012 on human rights parameters in Establishment of regional legal products.

The duties of human rights local government can be classified in three main categories, namely: the task to respect, the obligation to protect and the task to fulfill. Duty to respect means that local officials should not violate human rights through their own actions. The local government needs to refrain from actions that could disrupt its citizens enjoying its rights and freedom in its jurisdiction. For example, in relation to religious freedoms, the local government must not prohibit religious believers, outside the allowable boundaries, to use public spaces or city buildings for religious celebrations. In respect of health rights, the local government may not revoke certain public or group access to health care facilities.

Pakpak Barat Regency is a regency of North Sumatra province. Pakpak Barat Regency was formed under the law No. 9 year 2003 on the formation of South Nias Regency, Pakpak Barat Regency, and Humbang Hasundutan Regency in North Sumatera province.

Geographically, Pakpak Barat Regency is located on line 2015 '00' '-3032 '00 "North latitude and 96000 '00' '-98031 '00' ' East longitude. The north is bordered by Dairi Regency, the east by Toba Samosir Regency, south to Aceh knocked out and Humbang Hasundutan Regency, and in the west with Aceh knocked out district. The overall area of Pakpak Barat Regency is 1,218.30 km², consisting of 8 (eight) sub-districts namely Salak Sub-district,

government district, Sitellu Tali Urang Jehe subdistrict, Tinada subdistrict, Siempat Rube Sub-district, Sitellu Tali Urang Julu subdistrict, Pergetteng Getteng Sengkut subdistrict and Pagindar subdistrict. (The central statistical body of Pakpak Bharat, regency of Pakpak Bharat in numbers 2017, 2017) Meanwhile, the total occupation of Pakpak Bharat in 2016 was 4.6392 people with a composition of 50.42% males and 49.58% of females. (The Central Statistical Body of Pakpak Bharat, Regency of Pakpak Bharat in Numbers 2017, 2017)

Pakpak Bharat Regency has a high commitment in implementing the development agenda in the region through various fulfillment of citizens' rights in relation to public service. The Agenda for development and public service creates satisfactory access to the respect, promotion and protection of human rights. This is not separated from the commitment of local government and regional head of Pakpak Bharat in the advancement, protection, and fulfillment of human rights, which is based on goodwill to carry out its vision and mission and provide excellent service to the Community and development to achieve prosperity. The fulfillment of human rights is also based on implementing a good public service in line with the implementation of the affairs to the local government in the form of 26 mandatory affairs and 8 selected affairs as stipulated in PP 38 year 2007 on the Division of government Affairs between the Government, the distribution of provincial districts, and the local government of the Regency/city. (<https://www.pakpakbharatkab.go.id/berita/2014-11-05/bupati-pakpak-bharat-narasumber-rakor-panitia-ranham-provinsi-dan-kab-kota>)

The commitments are also seen in development priorities in the year 2018 which include: (i) improving the quality of education organizing; (ii) Improving the quality of health services; (iii) accelerated poverty reduction; (iv) The economic development of the District; (v) Improved infrastructure quality; and (vi) bureaucracy

reform and governance. These priorities are an important part of the fulfillment of human rights, which is not only related to granting access, but already at the stage to improve the quality of service, in this case is the improvement of education and health quality, as well as the improvement of life quality with poverty reduction programs, economic development of the people, and quality of infrastructure. In the context of human rights, the advancement in the fulfillment of the right of the right to education, health, and welfare is a form of human rights implementation that is progressively realization.

In addition to the commitment and implementation of human rights, the regional government of Pakpak Bharat has also conducted the mainstreaming of human rights for local government Apaftrat. This effort is done by working with various institutions, including National Commission of Human Rights and Infid. Training to local government Staff and civil society organisations on human rights.

The policies and implementation of this make Pakpak Bharat district can be considered to carry out the adequate human rights agenda and gain recognition from various circles. This is evident from the concern as the city/district Care about Human Right five times in a row from 2013 to 2017 from the Ministry of Justice and Human rights. That aspect of the assessment in the district/city concerned human rights, for example the 2017 award, includes the right to health, education, women and children, population, occupation, sustainable environment, and the implementation of the action of human rights 2016-2017. This assessment process was conducted through a questionnaire given by Kemenkum HAM by looking at the mission vision of Pakpak Bharat Regency, Policy, RPJMD, Rensta 5 years, a yearly work plan across all regional devices.

As a record, the central government also recognizes the achievement of human rights by inviting the regent of Pakpak Bharat, Remigo Y. Berutu, as the only

regional chief who participated in the Indonesian delegation to the "27th session of the Universal Periodic Review" (UPR) of Human Rights in Geneva, Switzerland in May 2017. Other recognition is the participation of the district representative of Pakpak Barat in the 7th World Human Rights City Forum or the World Human Rights Cities Forum (WHRCF) in Gwangju of South Korea in 2017, where the Regent Pakpak Barat was honored to be the speaker in the event and read the final statement which is a declaration of the activity.

(<https://www.pakpakbharatkab.go.id/berita/2014-11-05/bupati-pakpak-bharat-narasumber-rakor-panitia-ranham-provinsi-dan-kab-kota>)

CONCLUSION

Based on the explanation above, the following conclusions:

1. That the principles of the human rights friendly Regency is the responsibility of the local government in awarding the human right, protecting, and fulfilling human rights for every citizen, especially those in the region.
2. Implementation of the principle of human rights friendly Regency in the district government of Pakpak Barat is still in the plan of regional regulation of the local human rights government of Pakpak Baharat, but in the development of the Regency government Pakpak Barat has implemented Fulfillment of human rights as stated in Law No. 39 year 1999 of Human rights, human rights are divided into at least 10 (ten) types of rights, namely: the Right to life; Family rights; The right to develop themselves; Right to obtain justice; Right to personal freedom; Right to the sense of AMA; Right to welfare; The right to participate in the Government, the rights of women, and the rights of children listed in some regional regulations or implementing regulations

of the regent of Pakpak Barat Regency Government.

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