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Communication Service Communication Human Rights National Action Plan

I Made Karya

Ngurah Rai University Denpasar Bali Indonesia

Abstract: ***Since the issue of gross human rights violations both individually and institutionally in Indonesia, there has been an impression in the international community that Indonesia is less sensitive to human rights issues. The impression was then anticipated by the Indonesian government with various steps to reform both legally and institutionally. The 1945 Basic Law was amended (Article 28 A to Article 28 J), a special MPR Decree was issued concerning Human Rights (Decree No. XVII / MPR / 1998, and so on. The Universal Declaration of Human Rights, is a document that is morally binding. Some of its provisions regulate general principles of law or that describe the protection of human rights. The type of research used in the preparation of this paper is normative legal research. It is also important to understand that although natural rights are fundamental and apply universally, the development of ownership rights turns out to experience differences. This difference is more due to the element of status. This statement explains that rights are attached to certain statuses. If the status changes or changes, the right changes or changes. Nur Ahmad Fadhil Lubis said that rights will be different when the status shifts and because the status is different when faced with different parties, then that right is related to the party where the person is facing and interacting.***

Keywords: Community Communication Services and National Action Plan for Human Rights

1. Introduction

In the explanation of the 1945 Constitution, it has been explicitly stated that Indonesia is a state of law not a mere state of power. The statement at the time of the founder of the Republic of Indonesia at that time at the same time put in place control signs for anyone who was given the trust to organize the government in this republic.

Laws that become controlling signs can be realized in many forms, such as Laws, Government Regulations, or Presidential Decrees and have become a general principle in the legal system adopted in Indonesia, that the Law has a higher position than other laws and regulations , so that it is the strongest controlling sign in regulating the life of the nation and state[1]

Reality often shows otherwise or is contrary to the general principle because there are many other factors including:

Factor lack of understanding of state officials about the national legal system that has been institutionalized to date. In addition to these factors, the lack of public understanding of the applicable law and legal system (legal awareness) is often the trigger factor for the state of lawless state administrators (legal chaos). Interpretation and disagreement of legal experts, even those who are not legal experts often add "legal chaostic" to a "legal crisis" that ends at the end of public distrust of the law[2].

Public distrust of the law goes deeper because law enforcement is stagnant or even seems stagnant, especially in criminal cases, both from the time of investigation, detention, prosecution, and at court hearings. Corruption, Collusion and Nepotism (KKN) within the scope of law enforcement tasks that have developed so far, are actually malignant cancers that can at any time undermine the resilience of the nation and the unitary state of the Republic of Indonesia.

Since the issue of gross human rights violations both individually and institutionally in Indonesia, there has been an impression in the international community that Indonesia is less sensitive to human rights issues. The impression was then anticipated by the Indonesian government with various steps to reform both legally and institutionally. The 1945 Constitution was amended (Articles 28 A to Article 28 J), special MPR Decrees concerning Human Rights were born (Tap No. XVII / MPR / 1998), promulgation of Law Number 7 of 1984 (ratification of the Convention on the Elimination of Discrimination Against Women) ; Presidential Decree Number 50 of 1993 (establishment of the National Human Rights Commission); Law Number 39 of 1999 concerning Human Rights; Law Number 26 of 2000 concerning Human Rights Court, Presidential Decree Number 40 of 2004 concerning Indonesian National Human Rights Action Plan 2004-2009, and so on[3]

In addition to these legal and institutional reform measures, a number of other activities have also been carried out, which as a whole are trying to increase sensitivity among the public in general and the country's supporters in particular. Activities that aim to increase the public's authority and state officials on human rights issues in the form of dissemination of understanding and experience The concept of human rights towards the realization of the National Human Rights Action Plan in the life of the state, nation and community is carried out in the form of upgrading, up-grading, seminar, workshops, book publishing, both held by the National Human Rights Commission in collaboration with various countries (Scandinavian Countries, the Netherlands,

[1]Romli Atmasasmita, 2001, Reform of Human Rights Law & Law Enforcement, CV. Mandar Maju, Bandung, p.10
[2]Ibid
[3]H. Muladi, 2005, Human Rights Rights, Concepts and Implications in the Law and Society Perspective, PT. Refika Aditama, Bandung, p.1

Australia and so on), as well as among Universities (State and Private), as well as NGOs (NGOs)

Allegations of human rights violations communicated by the community or not / have not been communicated are the duties and responsibilities of the Central Government, Province and District / City, according to the mandate and authority of their respective agencies.

2. Theoritical Review

2.1 Theory of Human Rights (HR)

The Universal Declaration of Human Rights, is a document that is morally binding. Some of its provisions regulate general principles of law or that describe the protection of human rights. Article 11 (1) Universal Declaration of Human Rights states "Everyone is charged with reasoning has the right to be presumed innocent until proved guilty according to the public trial at which he has all the guarantees necessary for his*defense."*[4] .The provision clearly implies that in the criminal case examination must be carried out: first, the principle of presumption of innocence, both proof of guilt must be carried out before an open court hearing, and thirdly there is a guarantee for the suspect to be able to defend. The principle of presumption of innocence implies that a suspect / defendant cannot be considered guilty before being proven guilty by the public prosecutor and faced with a fair and impartial trial, as desired by the provisions of Article 8 of Law No. 14 of 1970 jo Article 8 of Law No. 4 of 2004 concerning Basic Provisions for Judicial Power, whose implementation is set out in Law No. 8 of 1981 concerning KUHAP

In the 1948 Universal Declaration of Human Rights (UDHR) it was written:Everyone has the right to all rights and freedoms ... with no exceptions, such as differences in race, color, sex, language, religion, politics or other views, national or social origins, property rights, birth or other positions. . (Everyone is entitled to all rights of freedom, withoutdiscrimination on any kind, such as race, colour, sex, language, religion, political or other opinion,national or socialorigin, property, bird or other status)[5].

According to To Serve and Protect, Human Rights and Humanitarian Law for Police and Security Forces, the International Committee of the Red Cross, Geneva, (1998). "Rights are demands that someone can submit to others until the demands are met. Human Rights are the Legal Rights that every human being has. This right can be violated but cannot be abolished. "[6]
According to Law Number 39 of 1999 Article 1 Number 1 is written:

Human rights are a set of rights that are inherent in the nature and existence of human beings as creatures of God Almighty and are a gift that must be respected, upheld and protected by the rule of law, government and everyone, for the honor and protection of human dignity.

Human rights are often defined as rights that are inherent in human nature, so that without those rights we cannot have dignity as human beings (inherent deignity). And because of that it is also said that these rights are rights that cannot be revoked (inalienable) and violated (Inviolable).The Universal Declaration of Human Rights (UDHR), mentioning these words in its opening section ... the recognition of the inherent dignity and equal rights of the human family, the word equal refers to the absence of differences (discrimination) in state protection or state guarantee for the rights of these individuals[7]. All of these matters related to the principles contained in the Criminal Procedure Code (KUHAP) itself are closely related as the manifestation of the protection of individual rights of citizens as a form of protection of individual freedom guaranteed by The 1945 Constitution of the Republic of Indonesia.

2.2 Theory of Legal Certainty

Peter Mahmud Marsuki said:Legal certainty contains two meanings, namely, first, the existence of general rules that make individuals aware of what may or may not be done and second, in the form of legal security for individuals from government arbitrariness because the existence of general rules that individuals can know what is may be charged or carried out by citizens against individuals. Legal certainty is not only in the articles of law but also consistency in the judge's decision between one judge's decision and another judge's decision for a similar case that has been decided[8]

Legal certainty according to Van Kant states that "the law is in charge of ensuring legal certainty in human relations."Furthermore Van Kant stated:

Legal certainty is a legal instrument of a country that is able to guarantee the rights and obligations of citizens. Legal certainty is divided into two types, namely: 1) certainty because of law, namely the law guarantees certainty between one party to the other, meaning that there is consistency in the application of law to everyone indiscriminately, and, 2) certainty in or from the law , meaning that legal certainty is achieved if the law is as much as law, there are no contradictory provisions (Laws based on logical and definite systems) are made based on legal facts (rechtswerkelijkheid) and in them there are no terms that can be interpreted in different ways (closed)[9].

However, Van Kant's opinion on the view expressed by Micheal Otto said:

[4]Paul Sieghart, 1986, *"The Lawful Rights of Mankind An Introduction to The International Legal Code of Human Rights",* oxford University Press-New York, hlm.136
[5]National Police Headquarters, 2006, "Guidebook on Human Rights for Polri Members", Jakarta, p.3
[6]Ibid,p.
[7]Ramlan, Naning, 1983, "Image and Image of Human Rights in Indonesia, Jakarta, LKU p. 7.
[8]Peter Mahmud Marsuki, 2008, Introduction to Law, Kencana Prenada Media Group, Jakarta p.157
[9]Van Kan, quoted by Utrecht and Moh Saleh J Jindang, 1989, Introduction to Indonesian Legal Basics, Iktiar Baru and Sinar Harapan, Jakarta, p. 25

Law in developing countries has historically been formed by four layers, namely the deepest layer consisting of recognized custom rules, above which is a recognized layer of religious rule, then the legal rules of the colonial and uppermost countries are modern national laws that continue to develop. In addition, there is also a fifth layer in addition, namely international law. Mixing between layers of law is very dependent on the place (country) for each jurisdiction, and in the context of time.[10]

In developing countries it usually happens that the law has not been able to become a reliable safety net if an emergency arises.For the authorities, the absence of an effective legal system is their main source of frustration. The failure of legal functions is a barrier to the implementation of development policies. The law is proven to be absolutely necessary to ensure the success of almost all important development programs, security, economic growth, participation, democratization, environmental management. Every discussion about and formulation of policy necessitates the development of new formal mechanisms and structures. If it does not work, then there is a lag.

The reason for the ineffectiveness of the law has the causes of jurists and non-jurists. Jurists in developing countries, given the shortcomings in legal sources, often have difficulty finding and finding which legal rules apply in a concrete situation, especially when they must determine which interpretations should be applied. Brief deed, there is uncertainty about what should be the law, there is no legal certainty in the formal sense.

However, there is only juridical or theoretical legal concern. Because in practice both government agencies and parties do not necessarily submit and obey the law. Sometimes it can even be said that structuring the law rarely or completely does not occur. Between the invitations and the fact found a deep gap, so there is little real legal certainty that real legal certainty actually covers the legal sense of the jurid, but at the same time more than that. Defined as the possibility that in certain situations:

1) There are clear (clear) legal rules, consistent and easy to obtain (accessible), issued by or recognized due to (power) of the state;
2) That the authorities (government) apply these legal rules consistently and also submit and obey them;
3) that most citizens in principle adjust their behavior to these rules;
4) That independent and impartial judges apply these legal rules consistently when they resolve legal disputes, and
5) That a concrete court ruling is carried out.[11]

The better a legal state functions, the higher the level of real legal certainty. Conversely, if a country does not have a legal system that functions autonomously, then the level of legal certainty is small. The level of certainty of legal nayta can almost always be described as moving from three types of factors, namely: first, from the rules of law itself, second: from institutions -the agency that forms and implements the law and which together with the law forms a legal system, and third: from a broader social environment such as political, economic and socio-cultural factors.

However, both in common law countries and civil law, if the law is more directed towards legal certainty, it means that it is more rigid and sharp in legal regulations, the more justice is pressed. Finally, it is not impossible to have an ius summiniura summon which if translated freely means the highest justice is the highest injustice. Thus, there is an antinomy between the demand for justice and the demand for legal certainty.

The scope of public communication services includes:

1) Human rights violations as stated in Article 1 point 6 of the Republic of Indonesia Law Number 39 of 1999 concerning Human Rights, namely "every act of a person or group of people including State apparatus either intentionally or unintentionally or negligence which illegally reduces, blocking, limiting, and / or revoking the human rights of a person or group of people guaranteed by this law, and not getting, or feared that they will not get a fair and correct legal settlement, based on the applicable legal mechanism.
2) Human rights violations committed by institutions / institutions as referred to in Article 74 of the Republic of Indonesia Law Number 39 of 1999 concerning Human Rights, namely "not a single provision in this law may mean that the government, party or party whichever is justified.reduce, destroy, or eliminate human rights or basic freedoms regulated in this law ".
3) It is not the case in the legal process that starts at the level of pre-trial, adjudication, and post-adjudication.

3. Method

The type of research used in the preparation of this paper is normative legal research. That is by outlining the existing problems which are then discussed and reviewed based on legal theories and then linked to legislation that applies in legal practice. So the problems that occur and arise are assessed based on the applicable legal rules.

According to Bambang Sunggono, in his book the legal research methodology says:

Normative legal research is also called theoretical or dogmatic legal research, because it does not examine the implementation or implementation of law, legal discovery in criminal or civil cases, systematic law, legal synchronization, legal comparison and legal history. In this research, what is meant by legal research is the study of academic law which contains normative and doctrinal characteristics to answer various problems raised.[12]
In this study, a statue approach and conseptual approach are used. The statutory approach (statue approach) was chosen because what will be examined is the various laws relating

[10] an Michiel Otto, 2010, Reele Rechtszekerheid In Ontwikkelingslanden, (Legal Certainty in Developing Countries, Translation. Tristam Moeliono, First Print, National Law Commission of the Republic of Indonesia KHN-RI, Jakarta), p.4
[11] Ibid,p.6
[12] Bambang Sunggono, 2003, Legal Research Methodology, PT Raja Grafindo Persada, Jakarta, p.41

to public communication services for national human rights action plans. The statue approach is carried out by examining all laws and regulations relating to the legal issues being addressed.[13]

Approach Concept (conceptual approach) departs from legislation and doctrines that develop in law. By studying the views and doctrines in law, research finds ideas that give birth to legal notions, legal concepts, and legal principles that are relevant to the issues at hand. Understanding of legislation and these doctrines is a support for researchers in building a legal argument in solving the issues at hand[14].

Approach to the concept (conceptual approach) will be used to discuss the concepts of regulation regarding public communication services on national human rights action plans.

4. Discussion

The proclamation of August 17, 1945 was not only seen as an important momentum for the founding of the Unitary State of the Republic of Indonesia, but at the same time as a political statement, that the Indonesian State was a state of law. Regarding the principle of the rule of law adopted by Indonesia according to Indiarti Soeprapto is the "State of the law of management"[15], and if carefully examined the concept of the rule of law approached the concept of welfarestate, or the concept of the State of welfare law, which is also commonly called "the state of the material law " the adoption of the welfarestate concept can be understood through the opening of the 1945 Constitution, specifically contained in paragraph IV, which was subsequently formulated "The state protects the entire nation and all of Indonesia's bloodshed, advances public welfare, educates the nation's life, and participates in carrying out world order based on independence, eternal peace, and social justice ".

Based on the statement above, in accordance with the objectives of the State, the formation of the Indonesian government is directed at achieving social welfare, through the implementation of public interests. in order to realize the objectives of the country, the government is required to carry out various functions and tasks, which generally consist of the task of regulating and the task of taking care of[16], but actually the function and purpose of government includes a very broad scope that covers almost all tasks State functions are not held by legislative and legislative functions. Among these functions and tasks can be exemplified for example regarding the provision of certain subsidies, public health services, public works, legal protection for the community, poor community benefit programs and other taskswho are outside the State of law making and the duty to try.

To carry out government functions and duties in the context of administering public interests, the government is provided with instruments in the form of government authority, to carry out government actions, which in the Dutch administrative law are known as "berturbandeling", or in Indonesian administrative law literature called with the term government action, or not government[17].

The amendments to the 1945 Constitution, which were carried out several times, starting from 1999 to 2002, which as a whole four times, have had a significant influence on the duties and functions of the government, especially local governments, especially in relation to the implementation of public services to the public. these changes have laid the constitutional basis for the holding of public services by the local government in the framework of regional autonomy. then regarding changes related to the duties and functions of the regional government can be seen in the provisions of Chapter IV article 18 of the 1945 Constitution concerning Regional Government, which based on the second change in 2000 added with 2 (two) Articles, namely Article 18A and article 18B, which were subsequently formulated:

Article 18

1) The Unitary State of the Republic of Indonesia is divided into provincial regions and the province is divided into Regencies and cities, which each province, district, and city has a regional government, which is regulated by Law.
2) The provincial, regency and city governments govern and administer government affairs according to the principle of autonomy and supporting duties.
3) The provincial, regency and municipal governments have the God of Regional Rakyt Representatives whose members are elected through general elections.
4) Governors, Regents and Mayors as heads of the provincial, regency and municipal governments are democratically elected.
5) The regional government carries out the widest possible autonomy, except for government affairs which the Law determines as Central Government affairs.
6) The Regional Government has the right to stipulate regional regulations and other regulations to implement autonomy and assistance tasks.
7) The structure and procedures for administering regional government are regulated in the Law.

Philosophically, taking into account the contents of the provisions of article 18 of the 1945 Constitution as formulated above, related to the regional government can be stated as follows:
First, that constitutionally the regional government carries out the widest possible autonomy, except government affairs which by law are determined as central government affairs, secondly, the Regional Government has the right to stipulate regional regulations and other regulations to carry out autonomy and auxiliary duties, third, structure and the procedure for administering regional government regulated in the Regional Autonomy Law is also more evident given the constitutional authority to hold the election of the highest

[13]eter Mahmud Marzuki, 2007, Legal Research, Kencana Prenada Media Grup, Jakarta, p. 93.
[14]Ibid,p.95
[15]Maria Farida Indrati Soeprapto, 1998, Law Science (Basics and Formation), Kanisius, p.1
[16]N.M. Spelt Ten Berge, in Phillipus M. Hadjon, 1991, Penganter of Licensing Law, Dutch Indonesian Legal Cooperation, Airlangga University, Surabaya.
[17]Kuntjoro Pubopranoto, 1972, several Governance Law Notes and Judicial State Administration, Bandung Alumni, p.44

regional leaders and regional legislative institutions through direct, free and confidential general elections.[18]

Besides that, it can also be seen other changes related to the granting of regional autonomy, namely regarding the division of authority between the center and the regions, which in the past seemed centralistic, after the amendment to the 1945 Constitution, the relationship was clearly divided between the center and the regions. including public services. Regarding this matter can be seen in the provisions of article 18 A paragraph (1), which is formulated "Financial relations, public services, utilization of other resources between the central government and local governments are regulated and carried out fairly and in harmony based on the Law".[19]

To distinguish natural law and legal rights, Audi further said:
Legal rights are advantegous positions under the law of society. Other species of institutional rights are conferred by the rules of privete organizations, of the moreal code of a society, or even of some game. These who identity natural rights with moral rights, but some limit natural rights to our most fundamental rights ant contrast them with ordinary mord rights.[20]

From this statement, it can be stated explicitly that legal rights constitute a person's right in his capacity as a legal subject that is legally stated in the applicable law. While natural rights are human rights in toto. Thus, it can be said that legal rights emphasize formal legality, while natural rights emphasize the natural human being. The latter is also called an inseparable human rights (inalienable rights).

Although both of them appear to be different, it does not mean that they are separate Natural rights require formal legality to be valid and applied in a concrete way in life. Likewise, vice versa, legal rights must have a fundamental framework in the form of philosophical values in a natural frame of human beings that are embedded in natural rights.

It is also important to understand that although natural rights are fundamental and apply universally, the development of ownership rights turns out to experience differences. This difference is more due to the element of status. Audi gave an explanation of this as he said:

Thus, rights are also clasified by status. Civil rights rights are those one possesses as a citizen, human rights are possessed by vituc of being human. Presumatly women's rights, parent's rights, and the rights of blacks as such analogous[21]

This statement explains that rights are attached to certain statuses. If the status changes or changes, the right changes or changes. Nur Ahmad Fadhil Lubis said that rights will be different when the status shifts and because the status is different when faced with different parties, then that right is related to the party where the person is facing and interacting[22]

5. Conclusion

From the discussion and analysis that the author has described above, conclusions can be drawn as follows:

1) The National RANHAM Committee submits a yearly Public Communication Service report addressed to the President of the Republic of Indonesia at the end of March of the following year, which contains a compilation of reports on the Community Communication Service of the Provincial RANHAM Committee and Community Communication Services conducted by the National RANHAM Committee.
2) The Provincial RANHAM Committee submits Community Communication periodically every 6 9 six months to the Governor and Committee of the National RANHAM no later than August of the current year and at the end of February of the following year, which contains a compilation of reports from the Community Communication Committee of the Ranham District Committee / Existing cities are in their territory and Community Communication services are carried out by the Provincial RANHAM Committee.
3) The Regency / City RANHAM Committee submits a report on Community Communication Services periodically every 6 (six) months to the Regent / Mayor and the Provincial RANHAM Committee no later than the end of July of the current year and at the end of January of the following year.

6. Suggestion

Reporting on Public Communication Services by the Provincial RANHAM Committee and the Regency / City RANHAM Committee periodically every 6 (six) months should contain:

1) Introduction, background, background, goals and objectives of community communication services.
2) The condition of prominent human rights issues (actual) containing data and information on human rights issues communicated, as well as a brief description of human rights issues that are not / have not been communicated.
3) The results of handling allegations of human rights violations that are communicated or not / not communicated that occurred during the period of the previous period.

References

[1] Bambang Sunggono, 2003, Legal Research Methodology, PT Raja Grafindo Persada, Jakarta.
[2] Husni Thamrin, 2013, Public Service Law in Indonesia, Aswaja Pressindo, Yogyakarta.
[3] Jan Michiel Otto, 2010, Reele Rechtszekerheid In Ontwikkelingslanden, (Legal Certainty in Developing

[18]Husni Thamrin, 2013, Public Service Law in Indonesia, Aswaja Pressindo, Yogyakarta, p.3.
[19]. 1945 Constitution, Amendment Results, Sinar Grafika, Jakarta, p.11.
[20]Ibid.
[21]Robert Audi, *loc.cit*
[22]Nur Ahmad Fadhil Lubis, 1998, Human Rights According to Islamic and Western Views, paper on MUI-SU Muzakarah, Medan.

Countries, Translation. Tristam Moeliono, First Print, National Law Commission of the Republic of Indonesia KHN-RI, Jakarta).
[4] Kuntjoro Pubopranoto, 1972, several Legal Governance Notes and State Administrative Courts, Bandung Alumni.
[5] National Police Headquarters, 2006, "Handbook on Human Rights for Members of the Police", Jakarta.
[6] Maria Farida Indrati S., 2011, Law Science, Kanisius, Yogyakarta.
[7] Nur Ahmad Fadhil Lubis, 1998, Human Rights According to Islamic and Western Views, paper on MUI-SU Muzakarah, Medan.
[8] Paul Sieghart, 1986, "The Lawful Rights of Mankind An Introduction to the International Legal Code of Human Rights", Oxford University Press-New York.
[9] Peter Mahmud Marsuki, 2008, Introduction to Law, Kencana Prenada Media Group, Jakarta.
[10] Ramlan, Naning, 1983, "The image and image of human rights in Indonesia, Jakarta, LKU.
[11] Romli Atmasasmita, 2001, Reform of Human Rights Law & Law Enforcement, CV. Mandar Maju, Bandung.
[12] Van Kan, quoted by Utrecht and Moh Saleh J Jindang, 1989, Introduction to Indonesian Legal Basics, Iktiar Baru and Sinar Harapan, Jakarta
[13] Undang-UndangDasar Negara Republik Indonesia Tahun 1945
[14] Undang-UndangNomor 39 Tahun 1999 tentang Hak Asasi Manusia
[15] Undang-UndangRepublik Indonesia Nomor 26 Tahun 2000 tentang PengadilanHakAsasiManusia.
[16] Undang-UndangRepublik Indonesia Nomor 25 Tahun 2009 tentangPelayananPublik.
[17] Undang-UndangNomor 23 Tahun 2014 tentang Pemerintahan Daerah .
[18] PeraturanPemerintahNomor 38 Tahun 2007 tentangpembagian UrusanPemerintahan Antara Pemerintah, Pemerintah Daerah, Provinsidan Pemerintahan Kabupaten/Kota.
[19] PeraturanPresidenRepublik Indonesia Nomor 23 Tahun 2011 tentang RencanaAksi Nasional HakAsasiManusia Indonesia Tahun 2011-2014
[20] PeraturanBersamaMenteriHukumdanHakAsasiManusia Republik Indonesia danManteriDalamNegeriRepublik Indonesia Nomor 20 Tahun 2012 danNomor 77 Tahun 2012 tentang Parameter HakAsasi Manusia Dalam Pembentukan Produk Hukum Daerah.