Protection of Human Rights Defenders of Health Rights in Central Jawa

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Abstract
Human Rights Defenders (HRD), is actually a term that is not too foreign in Indonesia. Working to uphold women's rights creates vulnerability for human rights defenders. Chronic accumulation of physical, psychological, and psychological stress, economic, and social problems caused by high risk, threats, violence, and vulnerability cause WHRD to experience various health problems including breast cancer, ovarian cancer, brain cancer, stroke, miscarriage, stillbirth and death during childbirth. Most WHRD do not have health insurance, so that they or their families have to pay for their own medical expenses. The special conditions and vulnerabilities of WHRD as mentioned above have not been accommodated. Therefore, when the health risks mentioned above occur, WHRD find it difficult to report their situation and get access to support and protection. The purpose of this research is to find out, find, and analyzes human rights defenders on the right to health in Central Java and their protection mechanisms. This research will be conducted in Central Java using a qualitative research method with an empirical juridical approach. The data used are primary data and secondary data obtained through field research and library research. All data obtained will be analyzed and compiled regularly and systematically in the form of research reports to draw conclusions inductively. The outputs targeted in this study are accepted in accredited journals.

Keywords: protection, human rights defenders, health rights.

INTRODUCTION

Human Rights Defenders, which we later call PHAM, are often known in general as Human Rights Defenders or HRD, actually a term that is not too foreign and familiar in Indonesia. Working to uphold women's rights creates vulnerability for women's human rights defenders. Women Defenders of Human Rights (PPHAM) have always put themselves at the forefront of development and the framework for protecting the most basic human rights, especially women's rights. This makes PPHAM face various types of vulnerabilities and risks, not only as human rights defenders. In addition, PPHAM face vulnerabilities and risks mainly because of their gender, sexuality and gender identity. Various efforts, roles and works to protect human rights that have been carried out by PPHAM have not been able to show significant results with the guarantee of protection rights and guarantees of legal certainty rights for PPHAM. Most PPHAMs face criminal risks such as being victims of murder, enforced disappearances, unlawful arrests and various other forms of human rights violations.

The continuous human rights violations experienced by Women Human Rights Defenders, coupled with the lack of support and protection of comprehensive rights (civil, political, economic, and social rights) from the WHRD will certainly have a severe impact on their lives and welfare. -creatures, and their families. Moreover, WHRD has a heavy workload in its organization, even having to do double work. WHRD often have more than one job responsibilities in human rights defense, such as assisting victims, empowering victim communities, investigating, documenting, and conducting policy advocacy. In addition, they often still have to do administrative work within the organization, such as financial administration, and housework in their homes. Often, they experience burnout and frustration, which causes them to resign from their organization. This situation is often experienced by WHRD who work in service provider organizations for women victims of violence with a high number of complaints and cases (Service Provider Forum, 2018).
Chronic accumulation of physical, psychological, economic, and social stress caused by high risk, threat, violence, and vulnerability causes WHRD to experience various health problems including breast cancer, ovarian cancer, brain cancer, stroke, miscarriage, stillbirth and stillbirth. Most WHRD do not have health insurance, so they or their families have to pay for their own treatment. The government only pays health insurance (BPJS) for the poor who have been registered with the Poverty Data Center (Pusdatin) and the WHRD is not registered as poor. The special conditions and vulnerabilities of WHRD as mentioned above have not been accommodated. Therefore, when the above health risks occur, WHRDs find it difficult to report their situation and gain access to support and protection.

Based on information from what has been described in the introduction described above, it can be obtained to identify several problems which will later be used as the basis for legal studies on the Protection of Human Rights for Health Rights Defenders in Central Java. Based on the problems described above, the objective of this research is to identify and find and analyze the problems experienced by human rights defenders regarding the right to health in Central Java and the mechanisms for its protection.

The results of this study are expected to be a reference and contribute to the government in formulating, seeking, or reconstructing a policy to implement the protection of human rights for health rights defenders in Central Java.

METHOD

As stated by Mulyadi (2011) in this study using qualitative research methods where the data used is in the form of exposure submitted by respondents which is then analyzed. The use of qualitative research methods as an effort to explore and then understand a phenomenon that can be focused on the preparation of a regulation or policy in the implementation of the protection of the human rights of health rights defenders in Central Java.

Based on the purpose of this study, according to the author, the most appropriate research approach that can be used is the empirical juridical approach. The empirical juridical approach method is an approach taken to provide an understanding of law in a legal context that can interact in society. According to Salam (2015) the existence of different legal mechanisms in a society will have an influence on the type and content of the law which then adapts to its conditions, such as in human rights groups, the law must be able to represent different needs from another group.

The data sources used as primary data are data related to the construction of policies on the implementation of the protection of human rights defenders for the right to health in Central Java, which were obtained from human rights defenders. The secondary data studied consisted of primary legal materials and secondary legal materials. Primary legal materials are binding legal materials, including: the 1945 Constitution of the Republic of Indonesia; Law Number 39 of 1999 concerning Human Rights; and Law Number 36 Year 2009 concerning Health. While the secondary legal materials used are the results of research, papers, magazines, materials used in lectures, journals, and materials related to subject matter that can support primary legal materials, as well as news and articles in the mass media, both printed and printed, as well as electronic media.

The guidelines used by the author to analyze the data are the type and purpose of the writing to be carried out. Data analysis will be described by the author regularly and systematically in the form of a research report which is then drawn inductively. Drawing conclusions inductively is drawing conclusions from things that are specific to things that are general.

RESULTS AND DISCUSSION

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a. Problems experienced by human rights defenders over the right to health in Central Java

In the human rights reference referenced by Elsam (2015) the most important basis that the protection of human rights is an obligation of the government which is the principle of democracy that in fact the government has been given the mandate of power is to protect all the rights of its citizens. Moreover, with the existence of a concept of a welfare state as a modern state concept which has given greater power to the government to act. This power is solely intended to promote and achieve the fulfillment of human rights. The government is no longer just keeping people from violating or violating their rights, but must seek how to fulfill these rights.

Likewise, the right to health is an obligation for the government to fulfill it. The Government's obligation to fulfill the right to health as a human right has an international juridical basis as stated in Article 2 Paragraph (1) of the Convention on Economic, Social and Cultural Rights. According to Article 28 I paragraph (4) of the 1945 Constitution, it is stated that the protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state, especially the government. This government obligation is also confirmed in Article 8 of Law Number 39 of 1999 concerning Human Rights. In the health sector, Article 7 of Law Number 36 of 2009 concerning Health states that the government is tasked with implementing health efforts that are equitable and affordable by the community. The government has the responsibility to improve public health status as stated in Article 9 of Law Number 36 Year 2009 concerning Health.

According to Majda El Muhtaj (2009) states that the fulfillment of the right to a healthy life is a basic right that must be guaranteed by the government because health is the main need of every human being. Where the condition of a healthy body and soul will allow every human being to carry out various activities and works. Health is part of the need for a prosperous life. This kind of right is one of the basic rights in health care which has become a consensus in the Indonesian constitution that the right to health is the most basic right for humans. The basic philosophy of guaranteeing the right to health as a human right is the raison d'etre of human dignity. Health is a fundamental right of every human being.

Another major instrument that can be used to define and protect the right to health, apart from the ICESCR, is the World Health Organization's Constitution which defines health as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. The right to health is also specifically enshrined in other international human rights instruments.

According to Hardiyanto (2017), based on international law, states are subjects or parties who are legally bound in the implementation of human rights. In this context, the role and responsibility of the state as a bound party is the most important thing in carrying out its constitutional obligations, namely pledging to recognize, respect, protect, fulfill, and uphold human rights. As stated by Hardiyanto (2017) that the state as the owner of human rights obligations must realize the fulfillment of human rights for all its citizens without exception. The realization of the fulfillment of human rights will be able to create a just and prosperous society so that it can reduce all forms of human rights discrimination problems that still often occur in Indonesia.

Human rights defenders as part of citizens need guarantees for the right to health. Of the 5 respondents, all of them have health insurance. Access to health insurance is obtained in different ways. 40% of respondents (2 out of 5 respondents) get social security for health rights from the government in the form of BPJS with independent costs. 20% of respondents (1 out of 5 respondents) get social security for health rights from the government in the form of BPJS with subsidized costs from the workplace. 20% of respondents (1 out of 5 respondents) get social security for health rights at independent cost to guarantee health rights from the private sector and 20% of respondents (1 out of 5 respondents) get social security for health rights from the government in the form of BPJS with independent costs.

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The following is a list of tables based on access to the right to health insurance

### Table 1. Access to health insurance

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From the table above, it can be seen that human rights defenders do not fully receive health insurance support from the organization or the place where the institution works. Human rights defenders recognize that health is a basic right that is highly prioritized over other social security such as old age insurance, education and housing.

Dewi Nuri Cahyanı (2007) stated that the main challenge when PPHAM puts forward the issue of women's rights is that they will face various conflicts with the values that exist in society such as social values, religious values, and local cultural values. PPHAM will be accused of disrupting all existing structures in society that have existed so far. This usually causes resistance from the family and community of women's rights defenders. On the other hand, fellow human rights activists often fail to see this women's rights defense activity as an activity to defend human rights which is a top priority scale. Thus, women's rights defenders and women who work for the enforcement of human rights are generally not only required to fight for their community but also to continue to fight personally to fight for the beliefs and activities they choose.

This struggle, whether we realize it or not, has caused extraordinary fatigue and boredom for these women human rights defenders. In a state of fatigue and exhaustion and even drained of energy due to unfinished personal struggles, these PPHAM must be faced with challenges that come from outside as a result of the risk of the work they choose in advocating for their community which incidentally is a violation of the human rights defenders themselves.

The challenges faced by human rights defenders are not supported by the responsibility to ensure adequate access for every citizen to optimal health care. Human rights defenders are still working independently to gain access to health care. Organizations where human rights defenders work do not provide full health care. 1 out of 3 respondents who work in community service organizations receive subsidies in the form of health funds. The remaining 3 respondents work independently. 1 out of 2 respondents who work in government agencies get a health insurance subsidy which is a facility from the government, while the other respondents work completely independently.

b. **PPHAM Protection Mechanisms for Health Rights in the Context of Indonesian National Law in Central Java**

The right to health itself is known as the service of the four principles as stated in the United Nations General Comment No. 14 Paragraph 12. An in-depth understanding of the
four service principles is very helpful in analyzing the fulfillment of the right to health in an area. The four service principles are:

1. Availability: This principle stipulates that health services must be available both in quantity and the availability of human resources, medicines and other facilities and infrastructure.

2. Accessibility: There are four derivatives of the affordability principle, namely:
   a. Non-discrimination, this principle ensures that this health service must be accessible to everyone without exception, especially by vulnerable and marginalized groups. Ensure that each service does not discriminate on the basis of gender, race, color, language, religion, political views, health status and other social backgrounds that may limit or eliminate the enjoyment of the right to health.
   b. Physical accessibility, all health facilities and pre-facilities must be accessible and safe for all groups.
   c. Economic affordability, where health services must be economically affordable, especially for the poor.
   d. Accessibility of information, where information about health, health services, patient rights and obligations, and other matters relating to health rights must be accessible. The public has the right to seek, receive, and disclose all information related to health.

3. Acceptability: Health services provided are in accordance with medical ethics and are culturally acceptable, including respect for the confidentiality of health status and promotion of health status for those in need. The importance of this acceptance principle is also closely related to indigenous groups.

4. Quality: The community must get health services of the best quality, including medicines, health services (equipment) as well as competent health workers.

   Everyone has the right to a high standard of health, it is the duty of the government to ensure it. To apply filler n the right to health requires a legal basis to guide the government in meeting the public’s need for a high right to health. The legal basis related to the right to health that can be used in the protection mechanism for human rights defenders has been stated in the basic constitution of the Republic of Indonesia, the Constitution of the Republic of Indonesia 19, Law Number 39 of 1999 and Law Number 36 of 2009, namely:

1. The 1945 Constitution of the Republic of Indonesia, Article 28H: "Everyone has the right to live in physical and spiritual prosperity, to live and to have a good and healthy living environment and the right to health services”.
2. The 1945 Constitution of the Republic of Indonesia, Article 34 paragraph 3: "The state is responsible for the provision of proper health care facilities and public service facilities”.
3. Law Number 39 of 1999 concerning Human Rights, Article 42: "Every citizen who is elderly, physically disabled and or mentally disabled has the right to receive special care, education, training, and assistance at the expense of the state, to ensure a good life. appropriate in accordance with their human dignity, increasing self-confidence, and the ability to participate in the life of society, nation and state”.
4. Law Number 36 Year 2009 concerning Health, Article 4 & Article 5: "Everyone has the right to health" & "Everyone has the same rights in obtaining access to resources in the health sector, as well as obtaining safe health services, quality, and affordable and also every person has the right to independently and responsibly determine the health services needed for himself.

CONCLUSION
Based on the results of the research that has been described, it can be concluded that the protection of human rights defenders for the right to health in Central Java are: these rights in particular the right to health. The state's efforts to respect, protect, and fulfill its obligations by implementing human rights norms on the right to health must comply with the principles of a) Availability of health services, b) Accessibility, c) Acceptability, and d) Quality. Of the 5 respondents, all of them have health insurance from government but private programs. This ownership status is not entirely financed by the state but is subsidized or fully paid independently. The legal basis related to the right to health that can be used in the mechanism for protecting human rights defenders are as follows: the 1945 Constitution, Law Number 39 of 1999 concerning Human Rights and Law Number 36 of 2009 concerning Health.

A joint advocacy network is needed from various parties, including the community, service institutions, and the government to support the realization of the fulfillment of the right to health as one of the obligations of the state.

BIBLIOGRAPHY


