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Fulfilling the Rights to Accessibility of Persons with Disabilities in Pemalang State Court Legal Services

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ABSTRACT

Human rights are rights that exist in every human being. These rights are obtained by every human being or can be called equal to one another. Persons with Disabilities have the same Human Rights as society in general. One of them is the Rights of Persons with Disabilities in the Pemalang District Court because the Pemalang District Court is a community service which is certainly the center of attention for every community. So the purpose of this study is to find out the implementation of the fulfillment of Accessibility Rights for Persons with Disabilities in the District Court based on existing regulations and Constitutional Rights. So that this research is expected to make public awareness more open to persons with disabilities and for the government to pay more attention. This study uses empirical juridical research methods with a qualitative approach that uses interactive analysis techniques to analyze the problems that exist in this study. The data used are primary data obtained from interviews and direct observation at the research location, as well as secondary data obtained from written reports and documents obtained from the literature. The results of this study indicate that the implementation of the fulfillment of Accessibility Rights for Persons with Disabilities at the Pemalang District Court is not in accordance with Constitutional Rights and regulations that have been made by the government. At the Pemalang District Court there are still some that have not been fulfilled in terms of physical and non-physical accessibility. And in reality, there are still many in our own society who view people with one-sided disabilities who cannot work and cannot do other positive things like society in general. So that many of their lives are deprived because they are hampered in terms of mobility. In the Regional Government itself, there are also those who have not made specific regulations regarding the rights of Persons with Disabilities. Which regulations must be made in each region to support the survival of Persons with Disabilities..

Keywords: Human Rights, Accessibility Rights, Persons with Disabilities

ABSTRAK

Hak Asasi Manusia adalah hak yang ada dalam diri setiap manusia. Hak tersebut didapatkan oleh setiap manusia atau bisa disebut setara antara satu sama lain. Penyandang Disabilitas mempunyai Hak Asasi Manusia yang sama seperti masyarakat pada umumnya. Salah satunya yaitu Hak Penyandang Disabilitas yang ada di

Pengadilan Negeri Pematang Jaya karena Pengadilan Negeri Pematang Jaya merupakan pelayanan masyarakat yang tentunya menjadi pusat perhatian bagi setiap masyarakat. Maka tujuan dari penelitian ini yaitu mengetahui penerapan pemenuhan Hak Aksesibilitas bagi Penyandang Disabilitas di Pengadilan Negeri berdasarkan peraturan serta Hak Konstitusional yang ada. Sehingga penelitian ini diharapkan dapat membuat kesadaran masyarakat lebih terbuka terhadap penyandang gangguan serta diharapkan pemerintah untuk lebih memperhatikan. Penelitian ini menggunakan metode penelitian yuridis empiris dengan pendekatan kualitatif yang menggunakan Teknik analisis interaktif untuk permasalahan analisis yang ada pada penelitian ini. Data yang digunakan yaitu data primer yang didapatkan dari hasil wawancara serta observasi langsung di lokasi penelitian, serta data sekunder yang datanya didapat dari laporan secara tertulis dan dokumen yang didapat melalui kepustakaan. Hasil dari penelitian ini menunjukkan bahwa penerapan pemenuhan Hak Aksesibilitas terhadap Penyandang Disabilitas pada Pengadilan Negeri Pematang Jaya tidak sesuai dengan Hak Konstitusional serta peraturan yang sudah dibuat oleh pemerintah. Di Pengadilan Negeri Pematang Jaya masih ada yang belum terpenuhi dari segi aksesibilitas fisik maupun non fisik. Dan pada kenyataannya masih masyarakat kita sendiri juga masih banyak yang memendam penyandang disabilitas sebelah mata yang tidak bisa bekerja tidak bisa melakukan hal-hal positif yang lain seperti pada masyarakat umumnya. Sehingga hidup mereka banyak kekurangan karena keterbatasan dalam hal mobilitas. Pada Pemerintah Daerah sendiri juga masih ada yang belum membuat peraturan khusus terkait hak-hak Penyandang Disabilitas. Yang mana peraturan tersebut harus dibuat di setiap Daerah untuk menunjang keberlangsungan hidup Penyandang Disabilitas.

Kata Kunci: *Hak Asasi Manusia, Hak Aksesibilitas, Penyandang Disabilitas*

Introduction

Human rights are rights that exist within every human being (Gunakaya, 2017). And these rights have existed since humans were born. These rights are obtained by every human being or can be called equal to one another. Persons with disabilities also have the same rights as other humans. Persons with Disabilities have the same Human Rights as society in general because Human Rights are universal, which means that rights exist for all human beings as long as human beings live.

Persons with Disabilities itself means a condition in which a person is mentally or physically impaired (Consideration of Law No. 8 of 2016). Based on the results of data collection obtained from the Social Service, Population Control for Family Planning, Women's Empowerment and Child Protection (DINSOSKBPP) in Pematang City, the number of disabled people in Pematang City in 2022 was 8,809 people, this number was obtained based on a survey of residents. One of the obstacles to data collection is that there are families who are ashamed to recognize their family members as disabled (DINSOSKBPP, 2022).

As reflected in Law no. 39 of 1999 concerning Human Rights which states that: "Human rights are a set of rights that are inherent in the nature and existence of humans as creatures of God Almighty and are His gifts that must be respected, upheld and protected by the state, law, government , and everyone for the honor and protection of human dignity" (UU No. 39, 1999).

In Law no. 8 of 2016 concerning Persons with Disabilities also explains in Article 5 paragraph (1) regarding what are the Rights of Persons with Disabilities that the Government needs to pay more attention to. And this is the full responsibility of the Government to protect and fulfill the rights of every citizen.

In addition, Persons with Disabilities also have the right to obtain an appropriate vehicle in dealing with the law which is stated in Government Regulation (PP) No. 39 of 2020 concerning Appropriate vehicles for Persons with Disabilities in the Judicial Process, that Persons with Disabilities are entitled to non-discriminatory treatment, by providing friendly facilities for Persons with Disabilities as in the need for

communication in order to be able to communicate well, so as to provide a sense of security and comfort for Persons with Disabilities .

However, based on the fact that even though in the Pematang District Court there are not many for Persons with Disabilities related to relatively few problems, in one year it can only be said that there are only a few, what happens in the field is that services that should be able to serve the community well and properly have not been achieved and not in accordance with existing regulations. Not only in terms of the lack of access to justice, but also in terms of facilities and infrastructure as well as public services, this is included in the discriminatory category because it considers this matter not to need special attention.

In this study, the researchers focused on examining how the fulfillment of rights in terms of services for persons with disabilities at the Pematang District Court. The Pematang District Court has an obligation to provide optimal services for accessible persons with disabilities. And must provide services in accordance with predetermined operational standards.

Research Method

The type of research used for this research is using empirical juridical research. To analyze the problems in this study using legal materials related to the problems that occur. The approach used to examine this research is using a qualitative approach. Qualitative Research which means the data obtained is from collecting data or information from various sources for further study or analysis of the cases that occurred. This research using data analysis techniques where the data analysis technique used is by using Interactive Analysis. This interactive analysis in its research process goes through 4 stages, namely data collection, data reduction, data presentation, and drawing conclusions. Research using this interactive analysis of data obtained from the field.

Result and Discussion

Legal Services for Persons with Disabilities at the Pematang District Court

Providing accessibility for Persons with Disabilities in terms of public services is a matter of fulfilling and respecting the rights of Persons with Disabilities, which can be said to be a form of community participation in realizing the independence of Persons with Disabilities and a form of realizing the government in building good governance.

Based on the results of the study, it was found that in general the fulfillment of accessibility rights for persons with disabilities at the Pemalang District Court was not fulfilled for persons with disabilities at the Pemalang District Court. As is well known, the guidelines held by the Pemalang District Court are Government Regulation or PP No. 39 of 2020 concerning Adequate Accommodations for Persons with Disabilities in the Judicial Process. And the fulfillment of the rights of Persons with Disabilities at the Pemalang District Court did not fulfill these rights according to those in the Government Regulation. Although it is true that persons with disabilities who have direct problems with the law are very rare. As said by Ms. Mei who is in the Services section that handles Persons with Disabilities at the Pemalang District Court said that "basically here (the Pemalang District Court) very rarely receives reports that cases directly related to Persons with Disabilities are very rare, even in a year it is not certain that there are cases related to Persons with Disabilities that go to court. But in the past year there have only been persons with disabilities who have only become witnesses in civil cases and even then only 2 people in the past year." Said Mrs. Mei (Meilina, 2022). Even though cases directly related to Persons with Disabilities are very rare in a year, this should still be a special concern for Class I B Pemalang District Court employees.

From the results of research that has been carried out by researchers at the Pemalang District Court Class I B, namely:

First, The physical accessibility referred to includes court buildings, courtrooms, examination program files, and indictments that are accessible for persons with disabilities. The accessibility available at the Pemalang District Court is in the form of:

- Availability of an entrance accompanied by a sloping field for the passage of wheelchairs
- Wheel chairs are available

- There are signs in the form of instructions in the form of an image (accessibility symbol) with a fairly large size
- Availability of an easily accessible information desk for Persons with Disabilities
- Each courtroom can be easily accessed or accessed by suspects, victims and witnesses with disabilities
- The availability of seats that are easy to use for Persons with Disabilities
- There are toilets that are easy to use for persons with disabilities
- Availability of special lactation rooms for breastfeeding mothers, in this case as described in terms of disabilities (different abilities)
- The size of the aisles and doors are quite wide, both at the door of the service section and with the door of the courtroom so that wheelchair users can walk freely.
- Availability of priority cards for people with disabilities, pregnant women and the elderly that function so they don't have to wait too long.

Mrs. Mei also explained that the toilets provided did not have their own special toilets for Persons with Disabilities, but here we (the Pematang District Court) are trying to provide toilets that can also be used easily for Persons with Disabilities. The room provided has also been made as comfortable as possible for breastfeeding mothers and for toddlers (Meilina, 2022).

Second, Non-physical accessibility means the facilities available to Persons with Disabilities as an effort to realize the meaning of equality and opportunity. In this case, non-physical accessibility in the form of employee services, such as not being allowed to give discriminatory behavior, fulfilling information related to the rights of persons with disabilities in the judicial process.

There are ways that should be done by the Court to be able to provide a sense of security and comfort for Persons with Disabilities who are dealing with the law to be accessible and to be able to obtain court services that are in accordance with the needs and standards of the legislation as explained above in the Government

Regulation (PP)) No. 39 of 2020 concerning Adequate Accommodations for Persons with Disabilities in the Judicial Process.

Based on research conducted with Ms. Siti Dwi Puspitasari who is in the Planning, Information Technology and Reporting Sub-Division, she said that officers who are in the one-stop integrated service section specifically for Persons with Disabilities carry out special training for these officers so they can communicate with Persons with Disabilities. In the case of special assistance, it can be in the form of the closest person to the defendant/suspect, victim or witness so that during the examination they (Persons with Disabilities) can feel safe and comfortable (Puspitasari, 2022).

However, from the results of the research that the researchers did, there were problems that were not in accordance with existing legislation, such as:

Unavailability of canes for walking aids (crutches). As stated in PP No. 39 of 2020 that mobility aids are other than wheelchairs because people with disabilities themselves have various kinds such as the physically disabled who need walking aids or commonly called crutches for those who have broken legs or disabled legs so they need these tools. And the Pemalang District Court should be equipped with this tool to support mobility for Persons with Disabilities.

Unavailability of blind sticks. Judging from Law no. 8 of 2016 there are various kinds of disabilities, one of which is the blind. The mobility tools needed for the blind themselves are sticks to help read the way or guiding blocks. This tool should be available at the Pemalang District Court to meet the needs of Persons with Disabilities in order to create a sense of security and comfort.

There is no translator. As explained above in PP No. 39 of 2020 that the Court must provide translators who understand or can communicate with Persons with Disabilities. However, at the Pemalang District Court in the service section or PTSP, special training in sign language has not been carried out for services for Persons with Disabilities.

This was also said by Mrs. Puspita, she said that until now the Pemalang District Court had not conducted special training regarding services for Persons with Disabilities. But we have a routine, namely routine coaching by Mr. Bili Abi Putra as a judge at the Pemalang District Court which includes a report on the obstacles of each PTSP Officer, this must be stated at the time of the briefing so that later a solution will be obtained from the obstacles experienced by each officer (Puspitasari, 2022)

Fulfillment of Accessibility Rights for Persons with Disabilities in Legal Services at the Pemalang District Court Based on Human Rights Theory

Human rights are absolutely owned by everyone and all have the same opportunity. However, the lack of attention to fulfilling the rights of persons with disabilities is a big question for the Indonesian government as described above, it should be the government's duty to carry out regulations in accordance with the law in a fair manner, as well as in fulfilling human rights law which should guarantee and recognition of the rights of persons with disabilities is given as regulated in every Indonesian state regulation.

In practice, the Pemalang District Court itself has not fulfilled human rights in principle:

Non-discrimination, the Pemalang District Court has not been able to fulfill non-discriminatory treatment because there are still rights that have not been fulfilled, that is, with the unavailability of translators, the communication that occurs is ineffective, there are no crutches, and blind stick. With this lack of rights, the Pemalang District Court has not been maximal in terms of service and this includes discriminatory treatment.

Undivided, the Pemalang District Court has not fulfilled this principle. Because the principle of indivisibility means that all have the same rights in the sense that they are not different and separate. Because in practice the Pemalang District Court has not fulfilled several rights for Persons with Disabilities, namely walking aids or crutches, and canes for the Blind.

Responsibilities, the Pemalang District Court as a law enforcement agency in serving the community has not fulfilled this responsibility. Because the Pemalang District Court has not yet budgeted for walking aids (crutches, blind canes, even special training for sign language translators. With this in mind, it can be said that the Pemalang District Court was negligent in its responsibility because it did not even attempt to budget for unfulfilled rights.

Meanwhile, absolute welfare is a basic right for every citizen. And the state must take full responsibility for providing welfare for every citizen so that they can live properly. The welfare state is a state concept that can guarantee a decent life for every citizen in the form of health services, pensions, sickness benefits, unemployment, and so on. With the concept of a welfare state, the state has full responsibility to protect its people from ignorance, backwardness, poverty and live a healthy life. In other words, the welfare state includes economics and politics.

However, the Pemalang District Court itself has not fulfilled the concept of a welfare state which in terms of being responsible for its people, namely by making its people prosperous through service. Because in terms of service at the Pemalang District Court, everything has not been fulfilled. Such as services in providing translators, providing crutches and canes for the blind, because only wheelchairs are available. Meanwhile, in existing regulations, this tool must be provided. Moreover, they are guided by the regulation, namely Government Regulation No. 39 of 2020 regarding Adequate Accommodations for Persons with Disabilities in the judicial process, they should fulfill all service matters in accordance with these regulations.

So, with the existing facts it can be said that the Pemalang District Court is not in accordance with the concept of a welfare state. Even though it is guided by existing regulations, in practice it is not as appropriate as what is contained in these regulations.

Fulfillment of Accessibility Rights for Persons with Disabilities Based on Constitutional Rights in Legal Services at the Pemalang District Court

Persons with Disabilities have rights called fundamental rights like other humans and Persons with Disabilities get special treatment or can be interpreted as in terms of getting the same service as getting the same facilities as other humans, in other words that are easily accessible for Persons with Disabilities.

Regarding the rights of persons with disabilities listed in Law no. 8 of 2016 which is regulated in Article 5 paragraph (1) which has 22 rights for persons with disabilities, these rights are: Right to life, Free from stigma, Get some privacy, Get justice and legal protection, Getting an education, Get a job, entrepreneurship, and cooperatives, In terms of health, In politics, Acquiring religion, In sports, In culture and tourism, Get social welfare, Get accessibility, Get public services, Get protection from disaster, In habilitation and rehabilitation, In terms of concessions, In terms of data collection, To live independently and be involved in society, To express, communicate, and obtain information, Can move places and get citizenship, To be free from acts of discrimination, neglect, torture and exploitation.

Based on the description of the regulations above, it explains that one of the rights of Persons with Disabilities is the right to gain accessibility, which means a facility provided for Persons with Disabilities in order to realize equal opportunities. So it should be the Pemalang District Court as a law enforcement agency in serving the community to fulfill accessibility rights and facilities that are easy to access for Persons with Disabilities in order to achieve proper accommodation, including: getting accessibility to use public facilities and getting proper accommodation as a form of accessibility for individual. For example, in terms of facilities that are already available at the Pemalang District Court, namely the availability of a wide waiting room so that it is easy to access for persons with disabilities, special toilets for disabilities, rooms accessible court, has a guiding block that is outside the room or part of the entrance and waiting room.

Then, the basic constitutional rights regarding special protection for Persons with Disabilities are listed in Article 28H paragraph (2) in the interpretation of Article 28H paragraph (2) of the 1945 Constitution of the Republic of Indonesia, it is stated that the meaning of the word convenience and special treatment does not mean

discriminatory treatment, but special treatment that is on the scope of fulfillment of constitutional rights. And in practice the Pematang District Court does not provide translators, crutches, and blind canes, and does not even try to budget for these deficiencies, so this is a form of discrimination against Persons with Disabilities. Therefore, Persons with Disabilities get the same position, obligations and rights as other people without discrimination.

So based on the author's analysis, the existing constitutional rights are not in accordance with reality. Basically the constitutional rights of Indonesian citizens are rights that include socio-cultural rights, economic rights, political rights, and civil rights as stated in the 1945 Constitution. The rights that have not been fulfilled are civil rights which mean individual rights to be protected from unfair treatment based on certain personal characteristics, one of which is disability. And the Pematang District Court has not fully complied with it, such as the absence of sign language interpreters, so that persons with disabilities cannot communicate effectively, and there are no walking aids or crutches, and canes for the blind. there are no walking aids or crutches, and canes for the blind. This is tantamount to discriminatory treatment and neglect because only providing what is needed is not pure because it is guided by existing regulations. This right should not be violated by the Government in carrying it out. However, this right has not been fully pursued by the Government because there are still many Indonesian citizens, especially persons with disabilities whose rights, as civil rights, are not fulfilled, to live side by side with other communities, to be free from discrimination and neglect. So that it can be said that the existing constitutional rights are not in accordance with the reality that occurs in the community.

Conclusion

Based on the analysis and discussion of the research results that have been put forward by the author, the conclusions that can be drawn are as follows:

Fulfillment of Accessibility Rights for Persons with Disabilities in Legal Services at the Pematang District Court, in fact in providing services to persons with disabilities

the Pematang District Court is guided by Government Regulation No. 39 of 2020 to be used as a standard in providing services. However, even though these regulations serve as guidelines for the Pematang District Court, in practice the Pematang District Court has not complied with and made efforts what are the rights of Persons with Disabilities. Because there are not yet available tools as a whole in accordance with the level of disability such as walking aids/crutches, canes for the blind and the unavailability of translators.

The Pematang District Court should fulfill the right to accessibility for persons with disabilities based on constitutional rights, in terms of civil rights. In the research that has been conducted, the Pematang District Court has not fulfilled this right because there are still rights that are fulfilled such as officers who are good at sign language or commonly called translators, as well as assistive devices that are appropriate to the level of disability, namely walking aids/crutches, and canes for blind. To meet accessible service standards in accordance with constitutional rights, the Pematang District Court has an obligation to provide accessibility to utilize public facilities and obtain proper accommodation as a form of accessibility for individuals. However, with the lack of the rights that have been mentioned, it means that the Pematang District Court is in accordance with existing Constitutional Rights because the Pematang District Court has not made efforts to fulfill all the rights of Persons with Disabilities.

References

- Arie. 2017. "Konsep Perlindungan Hak Konstitusional Penyandang Disabilitas Di Indonesia". *Jurnal Refleksi Hukum* Vol. 1 No. 2
- Batu, Mathin Meilina Lumban Diwawancarai oleh Enggal Aflah Syafiqoti, Kantor Pengadilan Negeri Pematang Pada Tanggal 10 Oktober 2022
- Batu, Mathin Meilina Lumban Diwawancarai oleh Enggal Aflah Syafiqoti, Kantor Pengadilan Negeri Pematang Pada Tanggal 17 Oktober 2022
- Dinas Sosial, Pengeradalan Penduduk Keluarga Berencana, Pemberdayaan Perempuan dan Perlindungan Anak (DINSOSKBPP) Pematang
- Gunakaya, Widiada. 2017. "Hukum Hak Asasi Manusia". Yogyakarta. Penerbit Andi Indonesia, "Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia, (LNRI Nomor 165 Tahun 1999" TLNRI No. 3911)

Manan, Bagir dkk. 2006. *Perkembangan Pemikiran dan Pengaturan Hak Asasi Manusia di Indonesia*. PT. Alumni
Preamble considering Law no. 8 of 2016 concerning Persons with Disabilities

