

PROTECTING CITIZENS IN BORDER TERRITORY BASED ON HUMAN RIGHTS

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Abstract

Recognition and protection of human rights is one of the characteristics of a rule of law. The State of Indonesia is a state based on law in accordance with the provisions of Article 1 paragraph 3 of the 1945 Constitution "The State of Indonesia is a constitutional state". Human rights are basic rights or citizenship that are inherent in an individual since he was born by nature which is given directly by God Almighty which cannot be deprived and deprived of its existence and must be respected, upheld, and protected by the state, law, government and everyone. for the honor and protection of human dignity. Apart from that, Indonesia is obliged to carry out protection and enforcement of human rights for its citizens because Indonesia has implemented international agreements in matters of human rights enforcement.

Keywords: human rights, citizens, border areas.

Introduction

Indonesia is the largest archipelagic country in the world with 18,110 islands, of which the territorial area is 3.1 million km² and the territorial waters of 5.8 million km². This wide geography makes Indonesia have areas that intersect with many countries. Indonesia has land borders with Malaysia, East Leste, and Papua New Guinea along 3092.8 km. Meanwhile, the sea is bordered by 10 countries, namely India, Malaysia, Singapore, Thailand, Vietnam, the Philippines, Australia, East Leste, Palau and Papua New Guinea. This Sea Border includes 92 small islands in the forefront, from Miangas Island in the north to Dana Island in the south (Pansus Perbatasan Negara dan Tim Kerja Perbatasan Negara Komite I).

With a large number of border areas, Indonesia has an interest in safeguarding its sovereignty from threats from other countries and improving the lives of its people at the border (Mangku, 2020). As the front porch, the face of Indonesia's borders should reflect safe and prosperous conditions. However, the paradigm of the past that views the border area as a backyard and the outermost area has made its development less noticed by the government and society. At that time, a centralistic Indonesia was more concerned with the development of the central region. As a result, the development of border areas has generally lagged behind other parts of Indonesia (Itasari, 2020).

The worrying condition of the border area in Indonesia will be more obvious when compared to the border areas of other more developed countries. Of the three countries that have land borders with Indonesia, Malaysia is considered to be more advanced in managing their border areas. The land border between Indonesia and Malaysia stretches 2,004 km in 16 sub-districts in West Kalimantan and 14 sub-districts in East Kalimantan. There are at least three common problems that arise in this land border area. First, there

are still 9 demarcation points that have not been agreed upon between Indonesia and Malaysia on the land border, namely Tanjung Datu, D.400, Gunung Raya, Buan River, Batu Aum, C500-C600, B2700-B3100, Semantipal River, and Sinapad River. . Second, some parts of the RI-Malaysia border area have become the scene of transnational crimes, especially people and natural resource smuggling. Areas known to be prone to crime include Entikong-Tebedu, Badau-Lubok Antu, and Sebatik-Tawau. Third, the economic level of the Indonesian people at the border is relatively low. These three general problems are a real threat in the border area (Mulyana, Agung. 2012).

Recognition and protection of human rights is one of the characteristics of a rule of law. The State of Indonesia is a state based on law in accordance with the provisions of Article 1 paragraph 3 of the 1945 Constitution "The State of Indonesia is a constitutional state" (Eiden, et. al, 1995). Human rights are basic rights or citizenship that are inherent in an individual since he was born by nature which is given directly by God Almighty which cannot be deprived and deprived of its existence and must be respected, upheld, and protected by the state, law, government and everyone. for the honor and protection of human dignity. Apart from that, Indonesia is obliged to carry out protection and enforcement of human rights for its citizens because Indonesia has implemented international agreements in matters of human rights enforcement (Taihitu, Bonanza Perwira,2003).

Because before Indonesia entered into the agreement, Indonesia had received embargoes in all fields from other countries (UNICEF, 1998). Because they considered that the Indonesian government often committed human rights violations against its people. The problem that arises in the constitutional state of Indonesia is that it has not been implemented thoroughly and comprehensively in protecting human rights for the Indonesian people. It is proven that there are still many serious and minor human rights violations that have occurred in Indonesia. But we also cannot close our eyes, if in this reform era, human rights enforcement in Indonesia has shown improvement.

Discussion

The concept of Human Rights (HAM) includes three main elements for human existence as both an individual and a social being, namely human integrity, freedom and equality. The three elements are conceptualized into definitions and understandings of what human rights are (Theo Huijbers, 1990).

The understanding of this definition becomes clear when recognition of these rights is given and is seen as a humanization process by other parties in a vertical (individual to state) and horizontal (between individuals) context, both de facto and de jure. Thus, human rights values are fundamental and universal with the recognition, protection and promotion of human integrity, freedom and equality in the main international human rights instruments, at the international, regional and national levels. Although the values are universal, human rights can be divided into several normative academic groupings, namely, first, personal rights or "personal rights". Second, economic rights or the right to own something ("property rights") (Nickel, James W., 1987).

Third, the right to get equal and equal treatment in law and government or the "right of legal equality". Fourth, political rights or "political rights". Fifth, social and cultural rights

or "social and cultural rights", such as obtaining and choosing education, develop a preferred culture. Sixth, the right to litigate and protect it or "procedural rights". The understanding and understanding of human rights in terms of substance becomes complex and complex based on developments, existing realities and the complexity of other determinants (United Nations, 1998).

Human rights concepts and values change over time through both evolutionary and revolutionary processes from normative forces into processes of social and political change in the entire order of human life. Thus, understanding and understanding of the meaning of human rights in terms of substance must be returned to the basic concept of why human rights exist. Human rights exist and arise because these human rights are very basic in nature in the sense that their implementation is absolutely necessary so that humans can develop according to their talents, aspirations, and dignity as human beings regardless of differences that cause discrimination based on nation, race, religion and gender. The principles of understanding human rights must be used as the main basis so that the understanding and understanding of human rights from a substantive perspective can be applied. These principles are the application of the concept of indivisibility and the interdependence of human rights values themselves (Suastika, et.al, 2020).

According to his ontology, human rights are rights possessed by humans which are obtained and carried along with their birth or presence in society because they have a privilege that opens the possibility for them to be treated according to these privileges. In a simpler sense, human rights are the rights of a person, if that right is taken away from him, it will result in that person becoming no longer human (Awaliyah et.al, 2020).

Human rights, as understood in human rights documents that emerged in the twentieth century such as the Universal Declaration of Human Rights (DUHAM), have a number of prominent characteristics, namely: First, so that we do not lose a clear idea, the right human rights are rights. The meaning of this term is not clear, but at least it shows that it is a definite and high priority norm for which enforcement is mandatory. Second, these rights are considered to be universal, possessed by humans solely because they are human.

This view implies that characteristics such as race, gender, religion, social position, and nationality are irrelevant to question whether a person has or does not have human rights. It also implies that these rights can be applied worldwide. One of the special characteristics of human rights currently in effect is that they are international rights. Adherence to such rights has been viewed as an object of legitimate international concern and action.

Third, human rights are considered to exist by themselves, and do not depend on their recognition and application in customary systems or legal systems in certain countries. This right may not be an effective right until it is exercised according to law, but it does exist as a standard of argument and criticism independent of the application of the law. Fourth, human rights are seen as important norms. Although not entirely absolute and without exception, human rights have a strong enough position as a normative consideration to be enforced in conflict with conflicting national norms, and to justify international action taken for the sake of human rights. The rights set out in the

Declaration are not arranged according to priority; their relative weights are not specified. It is not stated that some of them are absolute.

Therefore, the human rights described in the Declaration are what philosophers call *prima facie* rights. Fifth, these rights imply obligations for both individuals and governments. The existence of this obligation, as well as the rights related to it, is deemed independent of its acceptance, recognition or application. Governments and persons everywhere are obliged not to violate a person's rights, although that person's government may at the same time have the primary responsibility to take positive steps to protect and enforce that person's rights. Sixth, these rights set minimum standards for proper societal and state practice. Not all problems born of cruelty or selfishness and ignorance are human rights problems. For example, a government that fails to provide national parks for its people can be denounced as incompetent or not paying enough attention to opportunities for recreation, but that will never become a human rights issue.

The state and each individual have their own role in the implementation of human rights. The role of individuals is related to the principle of balance as stated above, namely that human rights do not only contain authority or freedom but also individual responsibilities or obligations, and every individual as a human rights subject has an obligation or responsibility to respect the human rights of others, as well as other people being demanded. to respect his human rights. Violation of one's human rights by another individual is an act that can be held accountable legally.

In the context of human rights, the state is the main legal subject, because the state is the main entity responsible for protecting, upholding and advancing human rights, at least for its respective citizens. Based on international human rights instruments, it has been accepted that the party that is legally bound to implement human rights is the state. In this context, the state promises to recognize, respect, protect, fulfill and uphold human rights. The provisions of human rights law emphasize the following:

1. The state as the duty holder, which must fulfill its obligations in the implementation of human rights both nationally and internationally, while individuals and community groups are the right holders.
2. The state has no rights, the state only has the obligation and responsibility to fulfill the rights of its citizens (both individuals and groups) guaranteed in international human rights instruments.
3. If a state does not want to or does not have the desire to fulfill its obligations and responsibilities, that is when the state is said to have violated human rights or international law. If these violations do not want to be held accountable by the state, then the responsibility will be taken over by the international community.

The obligations and responsibilities of the state within the framework of a human rights-based approach can be seen in three forms:

1. Respect: it is the responsibility of the state not to interfere with regulating its citizens when exercising their rights. The state is obliged not to take any actions that will hinder the fulfillment of all human rights.
2. Protect: the obligation of the state to act actively to guarantee the protection of the human rights of its citizens. The State is obliged to take measures to prevent violations of all human rights by third parties

3. Fulfill: The State has the obligation to take legislative, administrative, legal and other measures to fully realize human rights

The obligation to respect, protect and fulfill each contains an element of obligation to act, namely the state is required to take certain steps to carry out the fulfillment of a right, and an obligation to have an impact (obligation to result), namely requiring the state to achieve specific objectives meet measurable substantive standards.

As the party holding the responsibility, the state is required to carry out and fulfill all obligations imposed upon it simultaneously and immediately. If these obligations fail to be fulfilled, the state will be said to have committed a violation.

Conclusion

The concept of Human Rights (HAM) includes three main elements for human existence as both an individual and a social being, namely human integrity, freedom and equality. The three elements are conceptualized into definitions and understandings of what human rights are. Recognition and protection of human rights is one of the characteristics of a rule of law. The State of Indonesia is a state based on law in accordance with the provisions of Article 1 paragraph 3 of the 1945 Constitution "The State of Indonesia is a constitutional state". Human rights are basic rights or citizenship that are inherent in an individual since he was born by nature which is given directly by God Almighty which cannot be deprived and deprived of its existence and must be respected, upheld, and protected by the state, law, government and everyone. for the honor and protection of human dignity. Apart from that, Indonesia is obliged to protect and enforce human rights for its citizens because Indonesia has implemented international agreements in matters of human rights enforcement.

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