

Implementation of Justice Related to Discrimination against Women in the Form of Sexual Harassment According to Law No. 39 of 1999

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Abstract

Issues of gender are common, since injustice against women has often been normalized. Often women become objects of violence, both physically and psychologically. Women become objects of exploitation and sexual violence. Therefore, Indonesia as a legal state based on Pancasila, has an obligation to provide gender justice and protection for women. As a form of this protection, Indonesia has promulgated laws related to efforts to provide justice and protection for women, namely the Law on Human Rights. With the promulgation of this regulation in Indonesia, it is hoped that it can provide gender justice and protection for women.

Keywords: Discrimination, Sexual Violence, Law no. 39 of 1999, 5th Precept



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INTRODUCTION

Indonesia is a country that upholds justice for every society. Everyone gets equal rights and opportunities in life regardless of background, especially for women and protects women from acts of discrimination and harassment. These things are also stated in the laws and regulations. Discrimination against women often occurs from year to year in Indonesia, therefore to prevent discrimination against women and in the protection of human rights is also one of the characteristics of Indonesia as a rule of law, "every human being is born free and equal in dignity and rights" That is, human rights (HAM) are rights that are inherent in humans, which are very basic and absolutely necessary so that humans can develop according to their talents, aspirations and dignity, then Law 39 of 1999 was formed concerning Human Rights. (Human Rights Act).

Background The formation of the Human Rights Law was based on the consideration that human rights are rights that every human being has which is a basic obligation to be respected and respected between one human being and another which is a basic right that is universal and permanent, and therefore must be protected, respected, supported, and no one can ignore, slander, or usurp it. with the aim of developing moral responsibility, for example towards women.

The purpose of establishing this Human Rights Law is to establish the rights of humans as God's creations who have reason and conscience in order to be able to distinguish between what is good and bad and to guide and direct behavior in living their lives. From his mind and conscience, humans can have the freedom to determine their behavior and actions because denying this right is tantamount to denying human dignity. So the state, government or all organizations have an obligation to recognize and protect human rights for everyone, for example, as for women. This means that the human rights of that person must always be the starting point and goal of realizing life in society, nation and state.

However, in reality the implementation of the law has not been optimal. One example of the case is the “Unri Lecturer Free Verdict, Betrayal of All Victims of Sexual Harassment” which was published by the Kompas TV news portal on April 5 2022. It was reported that a lecturer at a university in Indonesia had abused his students, but the instructions given to him the lecturer was revoked because according to the Panel of Judges it was considered that the elements of the Public Prosecutor's indictment were not fulfilled primary and subsidiary. This study was studied by Marchelya Sumera with the title “Acts of Violence/Sexual Harassment Against Women” but the difference is that our study focuses more on discrimination against women who have become victims, but are still blamed (victim blaming). Problem Formulation: How is the 5th precept related to discrimination against women in the form of sexual harassment according to Law No. 39 of 1999? What are the obstacles in the implementation of the 5th precept related to discrimination against women in the form of sexual harassment according to Law No. 39 of 1999? The purpose of this article is to examine the fair treatment of harassment and discrimination against women and to protect women from acts of sexual harassment that have often occurred. This is because this is an obstacle to the progress of the nation in the field of gender equality as well as a form of practicing the 5th precepts of Pancasila. To find out the implementation of the 5th precept related to discrimination against women in the form of sexual harassment according to Law No. 39 of 1999 and the obstacles in its implementation.

RESEARCH METHODS

The author chooses to use the Normative research method, the procedure for carrying out this method is to conduct a literature study in the form of secondary material as the basic material for research and by exploring regulations and other literature relating to the problem under study or what is known as library law research . This research is descriptive in nature because there is exposure to get an overview in the form of a complete description of the circumstances and objectives of the applicable laws and regulations associated with the practice of implementing positive law and concerning the implementation of Pancasila values by young people. then, the type of secondary data sought and used is primary legal material in the form of the Human Rights Law and secondary legal material in the form of legal journals.

RESEARCH RESULTS AND DISCUSSION

Implementation of the 5th Precept Regarding Discrimination against Women in the Form of Sexual Harassment According to Law No. 39 of 1999

In its development regarding the protection of women as victims of sexual violence, it is implicitly regulated in the Fifth Precept of Pancasila. Then, this is described in various laws related to the protection of women and human rights in Indonesia. Law Number 39 of 1999 concerning Human Rights was born on September 23, 1999. This law is an alternative for protecting women's rights from victims of sexual violence. Gender equality and justice are very much in accordance with the implementation of human rights (HAM). The implementation of human rights provides aspirations for women to overcome unfair treatment as a social construction, which always places women in a status below men. The concept of gender equality is very important, where women and men have an equal position and get the same opportunity to develop, and have a balanced contribution to development in various fields. The realization of gender equality and justice can be seen in the absence of discrimination between women and men. Thus, both women and men have the opportunity to participate, and obtain equal and fair benefits, as well as having basic freedoms in various fields.

Obstacles in the Implementation of the 5th Precept Regarding Discrimination against Women in the Form of Sexual Harassment According to Law No. 39 of 1999

The implementation of Law No. 39 of 1999 is not optimal because it does not clearly regulate the implementation of restitution, compensation and rehabilitation for women victims of sexual violence. This law was created a long time ago so it is not in line with the rapidly developing times. In the development of human life, the role of women does not always go according to will, there are many obstacles due to the influence of cultural, political, economic and social aspects. Current trends are also very different from the traditions and culture of people in other countries where there has been discrimination or domination by one group of people over another, initially related to gender, then causing oppression and abuse of human rights, and then women who are victims.

Theoretical Framework

The definition of justice according to Frans Magnis Suseno, "justice is a situation where everyone gets what is only their right, and everyone gets an equal share of our common wealth." From this quote, it can be concluded that justice is a situation where the parties concerned are treated equally well in accordance with their respective rights and obligations. This is consistent with the view that women do not get their rights because it turns out that restitution, compensation and rehabilitation are still available for women victims of sexual violence. According to C. de Rover "human rights are equal legal rights for every human being whether poor or rich, male or female.

Even though these rights are violated, human rights cannot be eliminated. Human rights are laws that should be protected by national rules so that everything is fulfilled so that human rights can be upheld, upheld and protected." It can be concluded that human rights are rights that belong to everyone, every human being gets the same rights regardless of differences, which must be protected by existing rules so that human rights can be upheld and protected. This proves that women's rights and position are equal to men's, so that discrimination against women who have been victims of harassment should not be normalized.

CONCLUSION

The implementation of the Human Rights Law provides aspirations for women to overcome unfair treatment as a social construction, which always places women in a status below men. The concept of gender equality is very important, where women and men have an equal position and get the same opportunity to develop, and have a balanced contribution to development in various fields. The realization of gender equality and justice can be seen in the absence of discrimination between women and men in accordance with the 5th Pancasila precept. Thus, both women and men have the opportunity to participate, and obtain equal and fair benefits, also have freedoms principal in various fields. The formation of statutory law as an instrument to protect people's rights is very relevant, related to the program to protect women from sexual harassment. The implementation of Law No. 39 of 1999 is not optimal because there is no clear regulation and this law has been created for a long time so that it has been left behind by the current developments. As well as the influence of modern trends which have led to increasing inequality between women and men. It is advisable to enact an increase in rights and obligations in law through counseling so as to create awareness in the community about the importance of practicing the 5th Pancasila precept, enactment of the renewal of Law no. 39 of 1999 to become more modern and optimal because the law is already left behind.

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