

Fulfillment of Human Rights to a Good and Healthy Environment in the Perspective of Spatial Planning in Pematangsiantar

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Abstrak

Indonesia sebagai negara hukum sekaligus negara modern mempunyai ciri yang jelas, yaitu dengan jelas menyatakan pengaturan hak asasi manusia dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. Konstitusi. Pasal 28H ayat (1) UUD 1945 menyatakan bahwa “setiap orang berhak atas lingkungan hidup yang baik dan sehat”. Sebagai jawaban atas kebutuhan dan hak asasi manusia atas lingkungan hidup yang baik dan sehat dalam konstitusi, pemerintah Indonesia menetapkan Undang-Undang Nomor 26 Tahun 2007 tentang Penataan Ruang sebagai instrumen hukum penataan ruang di seluruh wilayah Negara Kesatuan Republik Indonesia. Salah satu hal penting yang diatur dalam Undang-Undang ini dapat dilihat pada pasal 29 ayat (3), yaitu proporsi ruang terbuka hijau publik dalam suatu wilayah kota paling sedikit 20 persen dari luas kota. Permasalahan dalam tulisan ini: pertama, Bagaimana Efektivitas Pemenuhan Hak Asasi Manusia Terhadap Lingkungan Yang Baik dan Sehat Dalam Perspektif Penataan Ruang Di Kota Pematangsiantar, dan Kedua: Faktor-Faktor Yang Mempengaruhi Efektivitas Pemenuhan Hak Asasi Manusia Pada Lingkungan Kota Pematangsiantar. Lingkungan Hidup yang Baik dan Sehat Dalam Perspektif Penataan Ruang di Kota Pematangsiantar. Metode Penelitian yang digunakan untuk menjawab permasalahan dalam tulisan ini adalah Metode Penelitian Hukum Normatif dengan Pendekatan Konseptual Berbasis Studi Literatur. Jawaban dari permasalahan makalah adalah pemenuhan hak asasi manusia atas lingkungan hidup yang baik dan sehat dalam perspektif penataan ruang di Kota Pematangsiantar belum efektif dengan faktor yang mempengaruhinya adalah supremasi hukum, aparatur, fasilitas, masyarakat, dan budaya. Kesimpulan yang diambil dari jawaban tulisan ini adalah Pemenuhan hak asasi manusia atas lingkungan hidup yang baik dan sehat dalam perspektif penataan ruang di Kota Pematangsiantar belum efektif dengan beberapa argumentasi yang logis. Faktor-Faktor yang Mempengaruhi Efektivitas Pemenuhan Hak Asasi Manusia untuk Lingkungan Hidup yang Baik dan Sehat dalam Perspektif Penataan Ruang di Kota Pematangsiantar dapat dilihat dari aspek supremasi hukum atau substansi hukum, aparatur hukum atau struktur hukum, fasilitas, dan budaya hukum atau masyarakat.

Kata Kunci: *Pemenuhan, Hak Asasi Manusia, Lingkungan Hidup, Penataan Ruang*

Abstract

Indonesia as a constitutional state, as well as a modern state, has a clear characteristic, namely that it clearly states the regulation of human rights in its constitution, the 1945 Constitution. Article 28H paragraph (1) of the 1945 Constitution states that "everyone has the right to a good and healthy environment". As a response to the needs and human rights for a good and

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healthy environment in the constitution, the Indonesian government established Law Number 26 of 2007 concerning Spatial Planning as a legal instrument for spatial planning throughout the territory of the Republic of Indonesia. One of the essential things regulated in this law can be seen in article 29 paragraph (3), namely the proportion of public green open spaces in a city area of at least 20 percent of the city area. The problems in this paper: first, how is the Effectiveness of the Fulfillment of Human Rights on a Good and Healthy Environment in the Spatial Planning Perspective in Pematangsiantar, and Second: the Factors Affecting the Effectiveness of the Fulfillment of Human Rights on a Good and Healthy Environment in the Perspective of Spatial Planning in Pematangsiantar. The research method used to answer the problems in this paper is the Normative Legal Research Method with a Literature Study-Based Conceptual Approach. The answer of paper problems is that the fulfillment of human rights for a good and healthy environment in the perspective of spatial planning in Pematangsiantar has not been effective with the influencing factors being the rule of law, apparatus, facilities, society, and culture. The conclusion drawn from the answers to this paper is that Fulfillment of human rights for a good and healthy environment in the perspective of spatial planning in Pematangsiantar has not been effective with several logical arguments. Factors Influencing the Effectiveness of the Fulfillment of Human Rights for a Good and Healthy Environment in the Perspective of Spatial Planning in Pematangsiantar can be seen from the aspects of the rule of law or legal substance, legal apparatus or legal structure, facilities, and legal culture or society.

Keywords: *Fulfillment, Human Rights, Environment, Spatial Planning*

Introduction

Paragraph 4 of the Preamble to the Indonesian constitution, the 1945 Constitution (1945 Constitution) has stated that the goal of the State is to protect the entire Indonesian nation and all of Indonesia's bloodshed, promote public welfare, educate the nation's life, and participate in carrying out world order based on freedom, peace, immortality, and social justice. To realize the goals of the country, Indonesia implements a rule of law which is embodied in article 1 paragraph (3) of the 1945 Constitution which stipulates that "Indonesia is a country of law". The logical and juridical consequences of the choice of a rule of law state make every state action must be based on the norms/rules of law that apply and not based on mere and absolute power.

Indonesia as a legal state as well as a modern state, Indonesia has a clear characteristic, which is to state emphatically regarding the arrangement of human rights (HAM) in the constitution (Wheare, 2018), including article 28H paragraph (1) of the 1945 Constitution which states that "everyone has the right to an environment the good and the healthy." Furthermore, Article 28I paragraph (4) stipulates that the protection, promotion, enforcement and fulfillment of human rights is the responsibility of the state, especially the government. As a form of implementing a rule of law and related to efforts to fulfill human rights, Article 28I paragraph (5) stipulates that in order to uphold and protect human rights in accordance with the principles of a democratic rule of law, the implementation of human rights is guaranteed, regulated and set forth in laws and regulations.

Responding to the needs and obligations to fulfill citizens' human rights in accordance with the constitution, the Indonesian government established Law no. 26 of 2007 concerning

spatial planning as a legal instrument for regulating spatial planning. As a response to the needs and human rights (HAM) for a good and healthy environment in the constitution, the Indonesian government established Law Number 26 of 2007 concerning Spatial Planning as a legal instrument for spatial planning throughout the territory of the Republic of Indonesia. One of the essential things regulated in this law can be seen in article 29 paragraph (3), namely the proportion of public green open spaces in a city area of at least 20 percent of the city area.

Pematangsiantar, as one of the developed cities in North Sumatra Province, currently receives unfavorable news regarding environmental quality, including the following indicators: first, based on the results of the release of IQAir Air Quality Data Contributors, Air Quality in Pematangsiantar is moderate, with the air pollution level is moderate, and the Air Quality Index is 57 on a scale of 0-50 for the Air Pollutant Standard Index (ISPU) within the standard threshold for good air quality, meaning that air quality has exceeded the threshold and can be categorized as unfavorable (+IQAir, 2022). Furthermore, Pematangsiantar Environmental Service also released findings that the Environmental Quality Index in Pematangsiantar experienced a decrease in value from 59.95 percent, decreased to 58.58 percent, and this figure was included in the unfavorable category (Mistar, 2022).

Based on the explanation above, problems can be found that can be discussed, namely: first: How is the Effectiveness of Human Rights Fulfillment of a Good and Healthy Environment in the Spatial Planning Perspective in Pematangsiantar, and Second, Factors Affecting the Effectiveness of Human Rights Fulfillment of a Good and Healthy Environment in a Good and Healthy Perspective Spatial Planning in Pematangsiantar.

Method

The research method used in answering the problem is the Normative-Empirical Legal Research Method (Applied Law Research), with the nature of prescriptive research based on a conceptual approach and literature study. This method uses normative-empirical legal case studies in the form of legal behavior products. The focus of the study of normative-empirical legal research is how the actual application of legal norms/rules to any particular legal event that occurs in social life (Suteki, 2020).

In normative-empirical legal research there are two stages of continuous study, namely first: the stage of reviewing applicable normative law, second: the stage of implementing the law in real events to achieve predetermined goals. The implementation or implementation can be stated through real deeds and legal documents. The results of the application will create an understanding of the realization of the implementation of normative legal provisions that have been studied whether they are implemented properly or not (Suteki, 2020).

Discussion

In Friedmann's legal system theory, indicators of the application of a norm/rule can be viewed from the elements of its legal structure, elements of legal substance, and elements of its legal culture. The legal structure can be interpreted as a whole thing and is related to legal apparatus in applying and enforcing the rule of law (consistent, inconsistent, appropriate, inappropriate). Legal substance is defined as a set of laws and regulations (legal content). Whereas legal culture is interpreted as a rule of law that lives in society, in the sense that is how obedient or not the community is in applying the rule of law (Yuliana, 2017).

Furthermore, in Soerjono Soekanto's theory of legal effectiveness, the effectiveness of legal products can be seen from whether or not these legal products are implemented in practice. The effectiveness of law in essence can be observed and understood from: (Soekanto, 2004)

- a. The rule of law;
- b. The legal apparatus, means namely all parties who form regulations and implement them;
- c. Facilities, means facilities that support the application of legal norms;
- d. The community, which means the social space where a norm/ rule is implemented;
- e. Culture, which is all about work, creativity, taste, and is based on the initiative that humans have as living beings.

Points from the rule of law to culture have a connection in understanding the application of legal norms, as well as being an indicator to see whether or not the application of law is effective in society (ANDRIANI, 2012).

From the results of a literature review (normative) and empirical studies it can be answered that the fulfillment of human rights for a good and healthy environment in the perspective of spatial planning in Pematangsiantar has not been effective with several logical arguments, namely based on the impact of public green open spaces which have not reached a minimum of 20 percent, where the Environmental Quality Index and the results of studies from agencies related to the environment which state that the quality of the environment in Pematangsiantar has decreased.

Furthermore, the factors influencing the Effectiveness of Human Rights Fulfillment for a Good and Healthy Environment in the Spatial Planning Perspective in Pematangsiantar can be seen from the data collected from Pematangsiantar Environment Service, namely: First: in the aspect of legal rules or legal substance, there has been the legal norms governing the Management of Special Green Open Spaces in Pematangsiantar, namely Regional Regulation Number 12 of 2012, but have become less effective because these regulations have not been implemented properly with various obstacles, namely socialization, supervision, and law enforcement that have not gone well from related parties, namely the City Government, the Environmental Service, the Spatial Planning Office, the Regional National Land Agency. Furthermore, Regional Spatial Regulations for the City of Pematangsiantar have also been formed since 2013, but there are no accurate and valid documents, data and evidence that can describe the development and enforcement of laws related to public green open spaces so that it can be said to be green open spaces. the public sector becomes a priority scale, this has an impact on spatial law regulations that also become less effective in their implementation (Siantar, 2017)

In terms of legal apparatus or legal structure, the City of Pematangsiantar Environmental Service has quite good apparatus conditions in terms of numbers, but from a quality standpoint the fact is that the number of apparatus who understand environmental issues holistically is still lacking or inadequate, in the sense that they are still educational background in forestry and agriculture which are general (pure) sciences, while human resources specifically in applied fields such as regional and urban planning, planning, and knowledge related to the development of other green areas are inadequate at Pematangsiantar Environment Service (Siantar, 2017).

Furthermore, in terms of facilities or facilities, the Environmental Service of Pematangsiantar has the condition that the facilities owned to build public green open spaces, namely land, are limited, due to the domino effect of massive physical development and infrastructure in Pematangsiantar which has been implemented for a long time thus causing increasingly limited land to build public green open spaces. In addition, the limited allocation of funding from Pematangsiantar Government for the maintenance and development of public green open spaces, and the increasing difficulty of building new public green open spaces because it requires high costs due to the status of the city of Pematangsiantar as a city that is developing towards a Metro city (Siantar, 2017).

Furthermore, in terms of legal culture or the people of Pematangsiantar, the Environmental Service of Pematangsiantar explained that in Pematangsiantar there is still a lack of public awareness of their obligation to maintain and preserve environmental functions in order to live healthy with one of the causes being inadequate socialization from Pematangsiantar Environmental Service, then the people who are directly related to the environmental management process, namely the civil servants of Pematangsiantar Environmental Service and the City Government of Pematangsiantar in general have not collaborated regularly and continuously with the community because there is still a sectoral ego culture so that obstacles arise in efforts to implement and manage the environment in general and green open spaces in particular (Siantar, 2017).

Conclusion

Fulfillment of human rights for a good and healthy environment in the perspective of spatial planning in Pematangsiantar has not been effective with several logical arguments, namely based on the impact of public green open spaces which have not reached a minimum of 20 percent and caused the environmental index of Pematangsiantar to decrease to unfavorable.

Factors Influencing the Effectiveness of the Fulfillment of Human Rights for a Good and Healthy Environment in the Perspective of Spatial Planning in Pematangsiantar can be seen from the aspects of the rule of law or legal substance, legal apparatus or legal structure, facilities, and legal culture or society.

Ineffective fulfillment of human rights for a good and healthy environment in the Spatial Planning Perspective in Pematangsiantar needs immediate and holistic attention and solutions from all relevant stakeholders in Pematangsiantar, start from the aspects of the rule of law or legal substance, legal apparatus or legal structure, facilities or facilities, and legal culture or society.

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