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Legal Protection of People with Mental Disorders in Pekanbaru City Based on Laws Number 18 of 2014 Concerning Mental Health

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Abstract

Human rights are rights that belong to humans by nature, which cannot be separated from their nature and are therefore sacred. One form of human rights is the right to health in the protection of people with mental disorders. Based on Law Number 18 of 2014 concerning Mental Health, the Government and Regional Governments are required to carry out rehabilitation efforts for abandoned, homeless ODGJ, threatening the safety of themselves and/or others, and or disturbing public order and/or provisions and neglected ODGJ, vagrant, threatens the safety of himself and others, and/or disturbs public order and/or security. The theory used in this study is the theory of state responsibility with a sociological research approach. The results of this study indicate that the institutions that coordinate handling of people with neglected mental disorders are the Social Service, Health Service, Mental Hospitals, Civil Service Police Unit and the Police. In handling people with mental disorders there are still obstacles because Pekanbaru City itself does not have an institution or rehabilitation center to accommodate people with neglected mental disorders. In handling ODGJ itself, actually it cannot only be handled by one agency, there must be coordination between institutions so that the handling runs optimally.

Keywords: State, Health, Legal Protection and ODGJ

1. Introduction

In formal law human rights are contained in Article 1 paragraph (1) of Law no. 39 of 1999 concerning Human Rights 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 sake of honor and protection of human dignity. The legal basis for human rights has been regulated in Article 28I paragraph (4) of the 1945 Constitution: "Protection, promotion, enforcement and fulfillment of human rights is the responsibility of the state, especially the government". With this legal basis, the

government has the authority to punish and prosecute every citizen who violates the human rights of other citizens. The government is also obliged to fulfill the rights of every citizen without discrimination in all aspects of life. One of the basic human rights is the right to health. In Law Number 36 of 2009 concerning Health states that: "Health is a healthy state, both physically, mentally, spiritually, as well as socially and economically". While mental disorders are a collection of abnormal conditions, both related to mental or in other words, mental disorders are abbreviated as ODGJ (People With Mental Disorders). Thus, people with mental disorders are in an unhealthy state, because they cannot live their lives, both socially and economically. As a derivative regulation that regulates human rights, the government also issued Law no. 39 of 1999 concerning Human Rights Article 42 confirms that: "Every citizen who is elderly, physically disabled or mentally disabled has the right to receive special care, education, training and assistance at the expense of the State, to guarantee a decent life in accordance with his human dignity, improve self-confidence and the ability to participate in the life of society, nation and state.

Regarding the protection of the right to health for people with mental disorders, the government has also passed a special regulation, namely Law Number 18 of 2014 concerning Mental Health. To reinforce the government's role in fulfilling the human rights of people with mental disorders as contained in Article 81 of Law Number 18 of 2014 concerning Mental Health, it reads that the Government and Regional Governments are required to make efforts to rehabilitate ODGJ neglected, homeless, threatening the safety of themselves and/or other people, others, and or disturbing public order and/or provisions. ODGJ are neglected, homeless, threatening the safety of themselves and others, and/or disturbing public order and/or security. In addition, the government is also responsible for the availability of infrastructure in fulfilling the right to a decent life for people with mental disorders. This is contained in article 77 of Law Number 18 of 2014 concerning Mental Health, which reads: "The Government and Regional Governments are in charge and responsible for providing facilities and infrastructure in the implementation of Mental Health Efforts".

According to the World Health Organization (WHO), the number of clients with mental disorders in the world has reached 450 million, of which 150 million have depression, 90 million have substance and alcohol disorders, 38 million have epilepsy, 25 million have schizophrenia and 1 million have committed suicide. Furthermore, based on data from 33 mental hospitals (RSJ) throughout Indonesia, there are around 2.5 million people with severe mental disorders. In Indonesia, the number of clients with mental disorders reaches 1.7 million, which means that 1 to 2 people out of 1,000 people in Indonesia experience mental disorders. Furthermore, the results of the 2007 Basic Health Research Survey in Hartanto (2014: 3) also stated that people with severe mental disorders aged over 15 years in Indonesia reached 0.46%. This means that there are more than 1 million people in Indonesia experiencing severe mental disorders. Based on these data it is known that 11.6% of Indonesia's population experience mental emotional disorders.

The rapid development of the city of Pekanbaru, on the one hand, has a positive impact on improving the community's economy, but on the other hand, it also has a negative side, one of which is the emergence of problems with social welfare. Various social welfare problems that have arisen in Pekanbaru in today's society include: declining economic levels, deviations from norms and behavior, increasing social problems, declining quality of health and increasing crime. Furthermore, for handling social welfare problems, the Social Service Office of Pekanbaru City of Riau Province will provide services to a person, family or community group who, due to an obstacle, difficulty or disturbance, cannot carry out their social functions, so that their life needs (physical, spiritual and social) cannot be met.) adequately and reasonably, with the hope that a person, family or community group is able to carry out social functions independently for their welfare.

Based on the results of the initial observations that the researchers made, the researchers found the phenomenon of the problem that efforts to handle people with neglected mental disorders in the form of policing have actually been frequently carried out by the Social Service and Satpol PP. However, the implementation has not been optimal because there is no coordination between the Satpol PP and the Social Service. So that there is no clarity on who should be responsible for dealing with people with neglected mental disorders in Pekanbaru City. As a result, there is a shifting of responsibility when the community reports the existence of people with neglected mental disorders to the Social Services and Satpol PP.

Satpol PP considers this to be the responsibility of the Social Service and vice versa. According to the Social Service, there is no balance of duties and responsibilities assigned to the Pekanbaru City Social Service and Health Office. Where the Health Service is only tasked with dealing with people with mental disorders, Pekanbaru City residents, while the Social Service has to handle displaced people with mental disorders, not only Pekanbaru City residents, but also from outside Pekanbaru City who are sent by other regions to Pekanbaru City. In addition, the absence of supporting facilities and infrastructure in the form of shelters or homes for people with neglected mental disorders is also an obstacle for the Pekanbaru City Social Service in efforts to treat people with abandoned mental disorders in Pekanbaru City. This is what the author will raise as the subject of discussion and writing of the thesis entitled "Legal Protection of Abandoned ODGJ in Pekanbaru City Based on Law Number 18 of 2014 concerning Mental Health."

2. Research Method

This study used a sociological research approach or observational research which was carried out by means of observation and interviews with research informants starting from the Tampan Mental Hospital of Riau Province, the Pekanbaru City Social Service, the Panti Laras Foundation and other parties. This research is descriptive analytical with research locations in the city of Pekanbaru. The reason for choosing the title is because the writer saw and observed while the writer was living and working in the Pekanbaru City area, there were many ODGJ patients who had not been treated.

3. Result Discussion

According to Law no. 18 of 2014 concerning Mental Health (UUKJ) in Article 1 point 3 states that "People with mental disorders, hereinafter abbreviated as ODGJ, are people who experience disturbances in thoughts, behaviors, and feelings which are manifested in the form of a set of symptoms and/or significant changes in behavior. , and can cause suffering and obstacles in carrying out the functions of people as human beings. By taking into account these provisions, that ODGJ requires special and structured healing efforts so that they can return to normal as they should in carrying out life. This effort is something that must be done by the family, government and local government.

Mental Health Efforts are any activities to realize optimal mental health status for each individual, family and community with promotive, preventive, curative and rehabilitative approaches that are carried out in a comprehensive, integrated and sustainable manner by the Government, Regional Government and/or the community. One of the objectives of the Mental Health Efforts regulated in the Mental Health Law is to provide protection and guarantee Mental Health services for ODMK and ODGJ based on human rights, including in the provision of health facilities that specifically provide mental health services to guarantee the rights of ODGs to obtain health services on an ongoing basis. plenary.

Right is something that is inherent, absolutely belongs to us and its use depends on ourselves. Basically, every human being has the right to live free from torture. As regulated in a number of laws and regulations such as in article 28G paragraph (2) of the 1945 Constitution that "Every person has the right to be free from torture or treatment that degrades human dignity and has the right to obtain political asylum from other countries." As well as Article 28I paragraph (1) of the 1945 Constitution that "The right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as an individual before the law, and the right not to be prosecuted for the legal basis that applies retroactively is a human right that cannot be reduced under any circumstances."

From the rules of the articles above, it is clear that the right to live freely is a human right. In addition, for people with mental disabilities, their rights are regulated in Article 42 of the Human Rights Law that: "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 guarantee a decent life in accordance with human dignity, increasing self-confidence, and the ability to participate in the life of society, nation and state." Article 4 of the Health Law stipulates that "everyone has the right to health". The right to health referred to in the Health Law is the right to

obtain health services and health service facilities in order to realize the highest degree of health. This means that, anyone (to be able to live healthy) has the right to get access to proper health services in the form of safe, quality and affordable health services in the sense that they do not leave the quality of service. Obtaining health services is a human right that is guaranteed by various legal instruments, therefore the government is obliged to take full responsibility for health.

Regarding the rights of people with mental disorders, it is also formulated in Article 148 paragraph (1) and Article 149 which stipulates that: Article 148 paragraph (1) of the Health Law: "Patients with mental disorders have the same rights as citizens." As well as Article 149 of the Health Law: "Patients with mental disorders who are neglected, homeless, threaten the safety of themselves and/or others, and/or disturb public order and/or security are required to receive treatment and care at health service facilities." Referring to the article above, what the family can do to achieve a decent life for these insane people is to make mental health efforts, namely seeking treatment and care in health care facilities.

In Law Number 29 of 2004 concerning Medical Practice (Medical Practice Law) in accordance with the provisions in Article 1 point 10: "A patient is a patient is any person who consults about his health problems to obtain the necessary health services, either directly or indirectly to doctor or dentist". Therefore, the rights of patients in health services also apply to ODGJ who are undergoing treatment or treatment at the hospital. In consideration of the Health Law that health as a human right must be realized in the form of providing various health services to the entire community.

The rights and obligations of patients are regulated in the Medical Practice Act in article 52: Patients, in receiving services in medical practice, have the right:

- a. obtain a complete explanation of the medical action as referred to in Article 45 paragraph (3);
- b. ask for the opinion of another doctor or dentist;
- c. get services according to medical needs;
- d. refuse medical action; and
- e. Obtain medical record contents.

It is hoped that the enactment of the Mental Health Law will become a reference as an effort to fulfill the rights of ODMK and ODGJ. In particular, the rights of ODGJ are regulated in Article 70 of the Rights of People with Mental Disorders:

- a. get Mental Health services in easily accessible health care facilities;
- b. receive mental health services in accordance with mental health service standards;
- c. obtain guarantees for the availability of psycho-pharmaceutical drugs according to their needs;
- d. give approval for the medical action performed on him;
- e. obtain honest and complete information about their mental health data including actions and treatment they have received or will receive from health workers with competence in the field of Mental Health;
- f. get protection from every form of neglect, violence, exploitation and discrimination;
- g. get social needs according to the level of mental disorders; and
- h. managing his own assets and/or those handed over to him.

Mental disorders are one of the biggest health problems, mental disorders are also a serious health problem because the number continues to increase, even though the Pekanbaru government has made policies regarding social control, especially for citizens with mental disorders, it is still very far from the desired expectations. This is due to the fact that the Pekanbaru city government has not fully implemented local regulations regarding social order due to the weak implementation by the government in the city of Pekanbaru. There are still many citizens with mental disorders who roam in public places (on the streets). This is because citizens with mental disorders are considered a disgrace to the family.

The increase in the number of people with social welfare problems in Pekanbaru City has experienced significant developments every year. The following is the number of people with social welfare problems including people with mental disorders in Pekanbaru City, namely as follows:

Table I.1: Persons with Social Welfare Problems
(People with Neglected Mental Disorders) in Pekanbaru City

NO	Kinds	Unit	2019	2020
1	Abandoned Toddlers	Jiwa	6	9
2	Homeless child	Jiwa	221	289
3	Neglected Elderly	Jiwa	975	975
4	Prosperous Tuna	Jiwa	268	301
5	Homeless	Jiwa	96	102
6	Beggar	Jiwa	86	94
7	Scavenger	Jiwa	339	339

Source: Pekanbaru City Social Service. 2022

The government's role is more as a public servant (customer driven government) which does not aim to gain profit or profit, so it must meet the needs of the customer, not the bureaucracy (Gaebler in Labolo, 2017:40), which is more concerned with fulfilling customer satisfaction and rather than fulfilling what the bureaucracy itself wants. Compared to Rasyid in Labolo (2017: 37) that in general the role or function of the government is related to regulation, public service, empowering and development functions.

The implementation of the government's role as a regulation which is commonly known as a regulatory function in all its forms is intended as an effort to create the right conditions so that it becomes conducive for various activities to take place, including the creation of a good social order in various people's lives. As a regulator, the government provides a basic reference which is then translated by the community as an instrument to regulate every empowerment implementation activity in the community. Based on the above, the increase in the number of people with neglected mental disorders in Pekanbaru City has increased every year according to data from people with social welfare problems in Pekanbaru City. Furthermore, the large number of people with neglected mental disorders is because they are not handled quickly because the institutions involved treat them on the basis of reports, meanwhile, when there are people with neglected mental disorders on the streets, not all people report them. People with mental disorders who are homeless are not all natives of Pekanbaru City, but some come from other areas.

By regulation, it is stated that the institutions that coordinate the handling of people with neglected mental disorders are the Social Service, the Health Service, the Mental Hospital, the Civil Service Police Unit and the Police. In handling people with mental disorders there are still obstacles because Pekanbaru City itself does not have an institution or rehabilitation center to accommodate people with neglected mental disorders. In handling ODGJ itself, actually it cannot only be handled by one agency, there must be coordination between institutions so that the handling runs optimally.

Based on the results of the researcher's interview with the management of the Tampan Mental Hospital in Riau Province, there are several paths in the handling of neglected PLWHA patients, namely:

- a. ODGJ who are homeless, disturbing residents such as destroying public facilities or disturbing the peace of residents, are reported by local residents to social services, or residents can report to the local police or babinkamtibas located around the place where the ODGJ was found
- b. Then the Social Services conducted a screening/arrest of the ODGJ. While being observed by the social service officer who arrested.
- c. Next, the ODGJ was taken to the Tampan Mental Hospital for an examination and the ODGJ was treated at the Mental Hospital until the ODGJ was calm and cooperative
- d. After the ODGJ is calm and can be treated as an outpatient, the Psychiatric Hospital coordinates with the social service that takes the ODGJ (in this case the Pekanbaru city social service) to return the ODGJ to his address.
- e. If the ODGJ address is in Pekanbaru, then the ODGJ will be delivered by the Pekanbaru City Social Service to the address. However, if the address is outside the city of Pekanbaru, the Pekanbaru City Social Service will coordinate with the Riau Province Social Service to repatriate the patient to his address.

f. However, if the ODGJ's address is difficult to reach, or there really is no family, then the ODGJ will be delivered to the orphanage. According to the Permensos, orphanages/halfway houses are under the auspices of the Governor. So that orphanages/halfway houses are not in districts or cities.

The Law on Mental Health is intended to guarantee that everyone can achieve a good quality of life, enjoy a healthy mental life, free from fear, pressure and other disturbances that can interfere with Mental Health; ensure that everyone can develop their intelligence potential; provide protection and ensure mental health services for PLWH and ODGJ based on human rights; provide health services in an integrated, comprehensive and sustainable manner through promotive, preventive, curative and rehabilitative efforts; ensure the availability and affordability of resources in Mental Health Efforts; improve the quality of Mental Health Efforts in accordance with developments in science and technology; and provide opportunities for ODMK and ODGJ to be able to exercise their rights and obligations as Indonesian citizens.

Policies from the state through authorized bodies to establish the desired regulations which are expected to be used to express what is contained in society and to achieve what is aspired to. It is realized that actually the law is a product of policy but on the contrary after the law is formed the resulting policy must be in accordance with applicable laws or regulations. At best, the legal products that are made will be ineffective if they are not carried out by bureaucrats in a good bureaucratic order and vice versa, bureaucrats will become bad if there is no good rule of law.

In carrying out the handling of abandoned ODGJ in Pekanbaru City, the problem that is often faced by social service officers is that when arresting / screening ODGJ social service officers there may be medical risks when capturing ODGJ, Social Service officers hope that there should be cooperation / coordination between social service officers and the health office, in this case the work area health center along with related medical personnel. However, what is currently happening in the field is that only Social Service officers are netting/arresting the abandoned ODGJ.

Furthermore, the problem faced by the Riau Provincial Health Office, namely related to the financing guarantee for neglected ODGJ, is that currently the financing for neglected ODGJ can only be paid once with jamkesda financing (Regional Health Insurance), namely from APBD funds. So that in the future, the neglected people will be diverted to JKN PBI (National Health Insurance Recipients of Contribution Assistance) with the condition that a NIK be made by the relevant social services. However, currently what is happening in the field is that many abandoned people who have been treated at RSJ have been paid once with Jamkesda financing, so it will be difficult to finance those people to seek treatment again because of course this will add to the burden on the local government if it is not transferred to JKN PBI. So it is necessary to register for JKN PBI by the Social Service, the Health Service will also help to register it, but the ODGJ NIK must first be issued by the social service.

In connection with the role of government as a public service, that government is not held to serve itself, but to serve the community, creating conditions that allow every member of society to develop their abilities and creativity in order to achieve common progress. One form of service provided by the Government is in the form of medical rehabilitation. Rehabilitation is aimed at preventing the recurrence of the practice of Shackling in ODGJ and empowering ODGJ in the process of reintegrating into society and improving quality of life.

The unit that carries out medical rehabilitation and community empowerment is the Riau Province Laras Pantî located in Pekanbaru City. However, until now the capacity of the Laras Orphanage has exceeded capacity, but there is already a new building at the Laras Pantî. Based on the results of the observations made, the Laras Pantî cannot be used yet because the facilities and infrastructure available in the new building do not yet exist. In addition, there is a lot of damage to the old buildings, lots of fences and walls are still damaged. The government's role in fulfilling the rights of people with mental disorders in terms of service indicators in terms of rehabilitation can be said to be quite good. This can be seen because the efforts made by the Regional Government have maximized including visits, socialization and counseling which are always given to the families of ODGJ patients even though they are still limited in terms of facilities and human resources due to the lack of allocation of special funds from the APBD in handling neglected ODGJ in Pekanbaru City.

4. Conclusion

The conclusions of this study indicate that legal protection for abandoned PLWHA in Pekanbaru City has been carried out by the government through the coordination of various related parties starting from the local government, namely the Pekanbaru City Social Service, the Tampan Mental Hospital in Riau Province and Panti Laras in Riau Province. Legal protection for ODGJ is a set of rules that regulate efforts to realize the rights of ODGJ as part of Indonesian citizens whose rights must be protected by the state and are regulated in Law no. 18 of 2014 concerning Mental Health which is an important instrument in mental health efforts so that ODGJ can fulfill their rights as citizens, including in obtaining their rights in health services. Obstacles that occur in the legal protection of abandoned ODGJ in Pekanbaru City are related to coordination problems between related parties and the lack of budget support and infrastructure in legal protection of neglected ODGJ in Pekanbaru City.

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