



Analysis of the Application of the Principle of Equality Before the Law in Law Enforcement in Indonesia

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Abstract. *The principle of equality before the law and government is constitutionally stated in the Indonesian constitution. This principle applies to all domains of life, especially the realm of law enforcement. Law enforcement practices based on the principle of equality before the law place a balanced position for law enforcement officers and the public in the judicial process. This article was written using normative legal research methods with a conceptual approach. The results of this research show that the principle of equality before the law is not fully achieved in law enforcement practice because there are still mafias in law enforcement, and laws that are sharp downwards but blunt upwards.*

Keywords: *equality; law enforcement; balance.*

Abstrak. Asas persamaan di depan hukum dan pemerintahan telah secara konstitusional tercantum di dalam konstitusi Indonesia. Asas ini berlaku untuk segala ranah kehidupan, terutama ranah penegakan hukum. Praktik penegakan hukum yang berdasarkan asas equality before the law menempatkan kedudukan yang seimbang bagi aparat penegak hukum dan masyarakat dalam proses peradilan. Penulisan artikel ini menggunakan metode penelitian hukum normatif dengan pendekatan konseptual. Hasil dari penelitian ini menunjukkan bahwa asas equality before the law tidak sepenuhnya tercapai dalam praktik penegakan hukum dikarenakan masih adanya mafia-mafia dalam penegakan hukum, dan hukum yang tajam ke bawah namun tumpul ke atas.

Kata kunci: equality; penegakan hukum; keseimbangan.

BACKGROUND

To study law in society, the law does not you can just look at it as a series of rules or norms, but more than that, namely view law as a system. The legal system as proposed by L.M. Friedman consists of three components. Third The components in question are: legal structure, legal substance, and culture or legal culture (Sulaiman & Rahayu, 2018).

One each other of the three components these influence each other. Contents the law cannot possibly work good if it is not supported by the authorities who has integrity. So are law enforcement officers with integrity impossible to obtain if the legal culture of the people does not support for that. With so, if there is a bottleneck one of the three components of the system the law, then it will impact on others.

First, the legal system has a structure, namely a framework permanent form of the system laws that keep the process constant is within its limits. The structure consists of law enforcement officers, including within This structure is also about arrangement legislature.

“Article 27 paragraph (1) of the 1945 Constitution affirms all citizens same position inside law. The meaning of equality before the law found in almost all constitutions country. This is a protective norm citizen's human rights. Similarities in before the law means every citizen the state must be treated fairly by law enforcement officials and government (Andayani, 2000).

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So every officer law enforcers are bound constitutional with the value of justice which must be realized in practice, but upholding equality before the law is not without obstacles. It could be in the form of legal and legal obstacles political, or sociological obstacles and psychological. then it was held This public lecture activity is in to provide enlightenment related to solutions that problem."

RESEARCH METHOD

This research uses normative legal research methods with a statutory approach. The collection of legal materials used in this research used literature study techniques. The legal materials used in this legal research are primary legal materials and secondary legal materials. The analytical technique used in this legal research is deductive analysis technique.

RESULT AND DISCUSSION

Equality Before the Law is a very universal concept (applicable anywhere) and textual for law. Universally Equality Before the Law has become a principle law and state which require the existence of law and applies to everyone (Moho, 2019). Meanwhile, textually, Equality Before the Law is written in the document law which is the parent of legal rules which confirms that rule the law applies to everyone where the law applies. On the other hand, from a legal perspective, it can seen that the law does not allowing himself just to benefit a number of parties without a valid reason in advance law. If there are exceptions then it betrays the concept law (Maruapey, 2017).

Furthermore, one of the elements important in law is its substance is worthy of glory human beings, in the language of the Declaration General Human Rights (UDHR) referred to as Human Honor (Human Dignity). On the legal regime Human Rights, Equality Before the Law is Historical themes have history the long one. Various events disrupt human values resulting from bad practices and use of law only for serve the will of the ruler. This matter then became the basis of resistance various victims, affected communities who voice their rights their human rights. Consolidation of recognition Human rights, for example, can be seen from emergence of the UDHR in 1948 (Basuki, 2020).

In the UDHR there is a strong rejection against discriminatory practices (art 2). more broadly, in the UDHR it is used "everyone..." means not allowed there are exceptions to rights especially above rights necessary for existence human beings to live with more dignity, including rejecting discrimination law.

Equality Before the Law is one of the concepts for against discrimination, as depicted above. Fighting efforts this practice is also part of State responsibility (Busthami, 2018). The explanation is, first, every the state or authority must base power and the settings are based on law. For Indonesia, this is possible seen from article 1 paragraph 3 of the 19945 Constitution, which states that 'State Indonesia is a Country of Law'. Second, the law must apply for everyone, not just citizen. Article 28D states that 'Everyone has the right to recognition, security, protection and fair legal certainty as well the same treatment in front of you law'. Meanwhile article 27 (1) affirms all citizens same position inside law. From the two articles above, yes It is described that there is treatment, which should be, equally good for everyone and for everyone citizen. The difference, on article 27 (1) is in the Citizens chapter Country and Population. Temporary Article 28D is in the Human Rights chapter. This means equality before the law is something fundamentally good for state responsibility towards everyone who is in Indonesia, or even in

context global (for example, mentioned in opening of the 1945 Constitution, '..participate maintain world peace..") and for its citizens.

Derivation of the constitution in law on the certainty of Equality Before the Law can be seen in Law Number 48 of 2009 concerning Power Justice article 4 (1) which says 'The court adjudicated according to law or not differentiate people (Sugiono Margi & Maulida Khazanah, 2022).

This law confirms that Judicial power is exercised by Supreme Court with bodies The judiciary is subordinate to it such as general justice, judiciary military, religious justice and judiciary state Administration. Including existing special courts under general justice, such as human rights court, juvenile court, industrial relations court, fisheries court, court corruption crimes and trials commerce (article 18, article 25 and article 27). Apart from the Supreme Court, too parallel to the Judicial Power applies to the Constitutional Court. Thus it is clear that Judiciary in Indonesia in this case through the Supreme Court and lower judicial bodies as well The Constitutional Court carries out the task of guaranteeing the equality of each people before the law (Equality Before the Law).

CONCLUSION AND RECOMMENDATION

From the explanation above illustrates that a number of persistent findings (already It's been going on for a long time and is still happening until today); First, the problem justice is not equal rights perceived, accessible or informed for everyone in Indonesia. In other words Equality Before the Law is not express it well and automatically only with normal capital laws, institutions and provisions Human Resources; second, there are a number of factors influence the judiciary hinder fulfillment and implementation of Equality Before the Law such as economic problems and education of citizens as connoisseurs justice, even problems education is also a problem in among law enforcers.

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