

Legal Protection for Malnourished Children for Fulfillment of Health Services

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ABSTRACT

A child whose health is disturbed, both physically and psychologically is a reflection of not achieving the child's welfare. To get the welfare of the child, every child has the right to get services from the government and the community. The government stipulates laws and regulations in order to enforce the right of children to obtain health services. However, the reality that occurs in the community is that children do not get maximum nutritional health services both at the puskesmas and hospital levels so that there is no decrease in the number of children suffering from malnutrition. There is a need for legal protection for malnourished children so that children's welfare can maximize the growth and development process properly. In this case, the law is tasked with ensuring the welfare of children and guarding the interests of children in providing child protection. This study uses a qualitative approach with empirical legal research techniques in data collection and uses content analysis in describing the data obtained. The results of the study found that the legal protection for malnourished children for the fulfillment of health services in the prevention of malnutrition in children who were not carried out optimally. Various cross-sectoral roles are needed in the effort to fulfill the rights of malnourished children. The implementation of legal health services based on Health Law no. 36 of 2009 must be implemented, especially in overcoming the problem of malnutrition so that all health problems can be overcome in an effort to overcome malnutrition.

Keywords: Legal Protection, Malnourished Children, Health Services

ABSTRAK

Seorang anak yang terganggu kesehatannya, baik secara fisik maupun psikis merupakan cerminan tidak tercapainya kesejahteraan anak. Untuk mendapatkan kesejahteraan anak tersebut, maka setiap anak memiliki hak mendapatkan pelayanan dari pemerintah maupun masyarakat. Pemerintah menetapkan peraturan perundang-undangan dalam rangka menegakkan hak anak untuk mendapatkan pelayanan kesehatan. Namun, kenyataan yang terjadi di masyarakat adalah anak-anak kurang mendapatkan pelayanan kesehatan gizi yang maksimal baik dalam tingkat puskesmas maupun rumah sakit sehingga tidak ada penurunan jumlah anak-anak yang menderita gizi buruk. Perlu adanya perlindungan hukum bagi anak gizi buruk sehingga kesejahteraan anak dapat memaksimalkan proses tumbuh kembang dengan baik. Dalam hal ini, hukum bertugas untuk menjamin kesejahteraan anak dan mengawal kepentingan anak dalam memberikan perlindungan anak. Penelitian ini menggunakan pendekatan kualitatif dengan teknik penelitian hukum empiris dalam pengumpulan data serta menggunakan analisis isi dalam mendeskripsikan data yang didapatkan. Hasil penelitian ditemukan bahwa perlindungan hukum bagi anak gizi buruk atas pemenuhan pelayanan kesehatan dalam penanggulangan gizi buruk pada anak yang dikukan belum berjalan dengan optimal. Diperlukan peranan berbagai lintas sektor dalam upaya pemenuhan hak anak gizi buruk. Penyelenggaraan pelayanan hukum kesehatan berdasarkan Undang-Undang Kesehatan No. 36 tahun 2009 harus dilaksanakan, terutama dalam mengatasi masalah gizi buruk sehingga semua masalah kesehatan yang dapat teratasi dalam upaya menanggulangi gizi buruk.

Kata Kunci: Perlindungan Hukum, Anak Gizi Buruk, Pelayanan Kesehatan

INTRODUCTION

Children are a gift from God who are given dignity as a whole human being. Therefore, a child has the right to protection, including legal protection (Sari, 2020). The Law of the Republic of Indonesia Number 23 of 2002 concerning child protection explains "children are a mandate and gift from God Almighty, who have inherent dignity as a whole human being". The state is responsible for providing facilities and accessibility for children, especially in ensuring the maximum growth and development of children. The law is tasked with ensuring the peace of the child and supervising the needs of the child in providing protection against various things that damage the child's physical and psychological state. Achmad Ali stated that if you want to identify the extent of the effectiveness of the law, you must first measure "how effectively the law is obeyed or not obeyed" (Ali, 2010). The legal duty is to ensure the welfare of children in accordance with the objectives of child protection.

Article 44 Paragraph 1 of Law Number 23 of 2002 concerning Child Protection, "The government is obliged to provide facilities and carry out comprehensive health efforts for children, so that every child obtains optimal health degrees from the time he is in the womb". Article 4 of Law Number 36 Years 2009 states that, "Everyone has the right to health". Then Article 5 (1), states, "Everyone has the same right in obtaining access to resources in the health sector". Paragraph (2), "Everyone has the right to obtain safe, quality, and affordable health services". Healthy, intelligent and well-balanced children are the hopes of all parents. Malnutrition in children under 5 years of age can lead to impaired growth and development (Widjayatri et al., 2020). According to basic health research (*Riskesdas*) in 2018, the ratio of data on malnutrition in infants in South Sulawesi was 22.9%. This figure is based on the national average value of 17.7%. The cases of malnutrition, especially in Makassar City, have experienced unstable numbers for the last 3 years.

Children and toddlers who suffer from malnutrition will have a bad impact on the development of a nation, especially the Indonesian people (Rahayuwati et al., 2019). This is because the success of a country's development depends on the success of the country itself in providing healthy, quality, smart and productive human resources. Health and well-being have a very close relationship. A child whose health is disturbed, both physically and psychologically is a reflection of not achieving the child's welfare (Geiger & Schelbe, 2021). To get the welfare of the child, every child has the right to obtain services from the state and society. Handling the problem of malnutrition in reality does not go well. The right to health, especially the need for health services for children with malnutrition is not fully obtained. The government stipulates laws and regulations in order to enforce the right of children to obtain health services. However, the reality that occurs in the community is that children do not get maximum nutritional health services both at the Community Health centers (*puskesmas*) and hospital levels so that there is no decrease in the number of children suffering from malnutrition.

Therefore, malnourished children need to be legally protected so that children's welfare can maximize the growth and development process properly. In this way, the hope of the nation's future in children can be realized. In this case, the law is tasked with ensuring the welfare of children and guarding the interests of children as a reflection of the future of the nation in providing protection for children from various things that damage the child's physical and psychological condition.

RESEARCH METHODS

The type of research used by the author is a type of empirical legal research. The legal materials used include the main legal materials, namely empirical data in the form of interviews. Secondary legal

materials, namely legal literature, include laws and regulations, legal books and journals. As well as tertiary legal materials, namely articles and literature on the Internet. Then analyzed qualitatively and presented descriptively (Sugiyono, 2013).

RESULTS AND DISCUSSION

Implementation of Health Rights Services for Malnourished Children Based on Law Number 36 Year 2009 concerning Health

Health is a human right, as stated in Article 28(h) of the 1945 Constitution which also affirms that "everyone has the right to live in physical and spiritual prosperity, to live and to have a good and healthy environment, and to have the right to health services". The right of everyone must of course follow the administration of government so that everyone can obtain these rights, while remaining the responsibility of the state, as stated in Article 34 (3) of the 1945 Constitution of the Republic of Indonesia which states that "the state is responsible for providing facilities for proper health care and public service facilities".

All Indonesian citizens must be given equal rights. This is an important development element to achieve social welfare. To achieve the goals of existing health services, health services are used in Law Number 36 of 2009 concerning health, namely promotive health services, preventive health services and curative health services. Integrity of law and public health must embody the three principles of duty, power and self-control. Legal provisions governing health issues should give the government an obligation to promote the health and social welfare of the community (Indar, 2021).

Health services are the most important factor in achieving children's rights in the process of optimal growth and development. Lack of access to child health services is one of the causes of malnutrition in children. Based on Health Law no. 36 of 2009 to provide good medical services. These laws and regulations clearly, carefully and completely regulate all aspects of health.

The results of *Riskesdas* show that 30.8% of infants in Indonesia are stunted and approximately 10.2% of infants are undernourished (wasting). Children with nutritional problems are 11.6 times more likely to die than children with good nutrition. While the results of observations show that in the working area of the Makassar City Health Center in 2019-2021 represented by *Puskesmas x* and *Puskesmas y* in the Makassar area with cases of malnutrition in 2019 (5.3%) and (9.0%) and in 2020 (6.0%) and (5.3%), and in 2021 there will be an increase of as much as (7.1%) and (6.3%). The results of the measurement of the prevalence of malnutrition are of more concern for the Makassar City Health Office to further improve performance and efforts to improve the nutritional status of the community. While the observation results show that in the Makassar area, which is represented by *Puskesmas x* and *Puskesmas y*, there are cases of malnutrition (5.3%) and (9.0%) in 2019 (5.3%) and (9.0%) and 2020 (6.0%) and (5.3%) and increase in 2021 (7.1%) and (6.3%). The results of the measurement of the prevalence of malnutrition are even more promising for further improvements in the performance and efforts of the Makassar City Health Office to improve the nutritional status of the community.

The government has established laws and regulations in order to enforce the right of children to obtain health services (Organization, 2019). However, the reality that occurs in the community is that the *puskesmas* itself faces obstacles in providing health services for malnourished children, for example, the lack of care from the mother, lack of understanding and economic status in the work area of the *puskesmas* greatly affects the growth of children, especially in providing nutrition.

The implementation of legal protection to provide health services for malnourished children in accordance with the principle of legal certainty is very important. According to Law No. 36 of 2009

concerning health, it must be implemented in the implementation of our right to health. A method that can solve all legal problems, or at least alleviate the problems that arise, especially in the effort to overcome malnutrition. Aristotle in his description shows that the philosophy of law exists as a form of resistance to the inability of legal science to form and enforce legal rules and decisions as a logical and conceptual system. Thus, legal philosophy is an alternative that is considered suitable for obtaining the right solution to legal problems (Aburaera & Muhadar, 2013). To achieve optimal health, it is necessary to develop an essential health service system that meets the needs of the community as consumers of these essential health services.

Efforts to Fulfill the Right of Malnourished Children to Health

Health services are activities carried out by an organization in the context of maintaining and improving health, preventing and curing disease. Health services are one form of service offered to the community. The Ministry of Health of the Republic of Indonesia defines health services as all efforts made by an organization to improve health, prevent disease, and heal individuals (Indar, 2017).

Nutritional status is one of the basic causes of infant and child mortality. Malnourished children are 17 times more likely to die than normal children (Shrestha et al., 2020). Therefore, every child who is malnourished must be treated according to standards. Protecting children's rights and meeting children's needs in all aspects will certainly be the inspiration and direction of any social intervention activities for children's problems. The welfare of children in Indonesia is guaranteed by one law, namely Law no. 20. Number 4 of 1979 concerning Child Welfare. Child protection is basically an aspect of social welfare which includes not only the protection of the child's soul, but also the protection of the rights and interests of the child, whose main right is the legal aspect as the basis for the claim. The legal protection of children's rights and interests reflects the government's concern for children's problems.

The government's efforts to improve nutrition are indicated by the existence of guidelines for the prevention and management of malnutrition in children under five. Based on Health Law no. 36 of 2009, efforts to fulfill the rights of malnourished children are carried out in the following ways: (a) actively fostering families and communities by learning about appropriate parenting styles for children, (b) using health services, (c) screening for malnutrition in children. by cadres or the community through measurement, (d) strengthening of cross-sectoral roles. One of the efforts of the *Puskesmas* in dealing with malnutrition in the city of Makassar is to promote programs that are related or have a positive impact on the prevention of malnutrition.

However, from the results of the study it was found that in addition to carrying out program socialization efforts on malnutrition by tracking cases of malnutrition mapping, the role of cross-sectors in providing support to prevent malnutrition was not yet optimal in its implementation. , the health sector is only able to serve 65%, while 35% is required for a cross-sectoral role. If all efforts are made if they are not supported by other cross-sectors, then cases of malnutrition will continue to recur, so there needs to be cooperation from various cross-sectors to help overcome malnutrition. So far, as we know, the lack of communication between sectors has caused the prevention of malnutrition in health centers to not be optimal. Several parties who have an important role, local governments, related sectors, the private sector and the media function in mobilizing cross-sectoral cooperation, issuing regulations and activities that support the resolution of malnutrition and address the sources of malnutrition problems, including poverty, food availability and security and increasing public understanding of nutritional needs. However, the *puskesmas* hopes that there are other sectors that can help together to solve the problem of dealing with malnutrition for children.

This is related to the definition of legal protection for malnourished children for the fulfillment of health services can provide legal certainty for everyone, especially for children indicated by malnutrition in terms of efforts to fulfill health services which can occur if taking certain legal actions in order to realize the value of justice (Hartotok et al., 2021).

Health Insurance for Recovery for Malnourished Children

Health is a basic right of every person, and all citizens, including the poor, are entitled to health services that are implemented in stages in accordance with the financial resources of the government and local governments (Salim & Drenth, 2020). The government has a responsibility to provide life to vulnerable groups, especially in the health sector. Poverty is one of the biggest obstacles faced by developing countries, especially in improving the welfare and quality of life of its people. The level of poverty is also the cause of the community's inability to meet the need for expensive health services. However, high medical costs do not guarantee good health quality, because the quality of public health is relatively low. The poor health of this vulnerable group is caused by limited access to health services due to cost constraints.

Health services are a basic right of the Indonesian people, as stated in Article 28 H (1) of the 1945 Constitution of the Republic of Indonesia, the Government of Indonesia is obliged to provide and guarantee the services needed, which reads:

“Everyone has the right to live in physical and spiritual prosperity, to live and to have a good and healthy living environment, and to have the right to health services”.

The government has created a health insurance system called Jamkesmas for the poor. Jamkesmas is a social assistance program for health services for the poor and vulnerable, organized through internal assistance at the national level to provide comprehensive health services to help the poor stay healthy when sick (Sambodo, 2018). The objective of Jamkesmas is to improve the accessibility and quality of health services so that all poor and incapable communities can effectively and efficiently obtain the highest degree of public health (Ardi et al., 2019). During the health insurance program, children who are identified as malnourished are entitled to health services.

The birth of this public health insurance is not only a form of government accountability for the health of the poor, but also as an effort to implement Law Number 40 of 2004 concerning the National Social Security System (SJSN). Community Health Insurance is a social assistance program that was established in 2008 to provide health services to underprivileged communities.

However, the results of observations show that this program is still considered not optimal, due to low information, the public does not know and is still confused about this program. The results of the interview show that most of the malnourished children do not take advantage of the existing health insurance, this is due to the low knowledge of parents. If it is associated with the theory of legal certainty, public health is really protected by the government by paying health costs with budget money from the government which is given to every hospital and health center appointed as health insurance by the government in each region for recovery for malnourished children. . This is in line with Article 19 (2) of Law Number 40 of 2004 concerning the Implementation of National Social Security.

CONCLUSION

Legal protection for malnourished children for the fulfillment of health services in overcoming the problem of malnutrition is in fact not running optimally. The right to health, especially to fulfill the need

for health services for malnourished children, has not been running optimally. The implementation of legal protection in overcoming malnutrition in children has not been carried out optimally because efforts to fulfill the rights of malnourished children to health across sectors have not been implemented. All forms of efforts are made if there is no support from other cross-sectors, then cases of malnutrition continue to recur, so it is necessary to have cooperation from various cross-sectors to help overcome malnutrition. In addition, it is necessary to socialize health insurance for the recovery of malnourished children, some parents still feel lack of information so that most people do not know and are still confused about this program. In addition, the implementation of legal protection for the provision of health services for malnourished children based on the principle of legal certainty is very important, and the implementation of health legal services for malnourished children based on Health Law no. 36 of 2009 must be implemented, especially in overcoming the problem of malnutrition so that all health problems that arise can be resolved or at least reduced in an effort to overcome malnutrition.

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