

The Legal Liability of The Government And Employers In The Exclusive Breastfeeding Program

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ABSTRACT

Breastfeeding is a staple food and the main nutrition source for newborn of 0-6 month old who still can not digest solid food. Exclusive breastfeeding is a process of giving only breastfeeding for the first 6 month old without giving any additional food for baby. The method that was used for this research was normative jurisprudence research, which came from reviewing written law from several aspect and law norms then continued to do research to get a conclusion. From research's result, it can be concluded that Government Responsibility and Employer in Exclusive Breastfeeding program are the rules that every mother who is working and do the exclusive breastfeeding program should get place for breastfeeding and milk squeezing room (Lactation's Room). The sanctions that will be given if this thing is being ignored are the employer will get criminal sanction for 1 year and fine for one hundred million rupiahs (Rp. 100.000.000). Therefore in the needs for health improvement, it should be done the Counseling program for whole community about the important of breastfeeding wherever and whenever without exception in office especially for working mothers. In this point the government should confirm that the rule is well done even from monitoring until the sanction is given.

Keywords : Government Responsibility, Work Giver Responsibility, Exclusive Breastfeeding Program

PRELIMINARY

Indonesia has ideals and also the goals which are applied in the opening national constitution 1945 namely educate all the people as promised and the next generation both in physical and spiritual, the public welfare, protect the people the final communique of the Indonesia covering those social justice for all people of Indonesia. Especially in building health of people in Indonesia and public health is a human right hereinafter referred to as human rights. Health development as part of national development directed at improving the quality of human resources and implemented in order to the achievement of the awareness and a will, and the ability to live healthy to every citizen in order to improve public health. express our deepest (Rudianto & Roesli, 2019). The decrease in the death of an infant indicators and the increase in nutritional status of the community.Indonesia would continue to face a problem nutrition double namely condition in which on the one hand the number of people living there are still many malnutrition while on the other side the number of people more had old tended to increase. Nutrition problem it is closely related to peoples lifestyle and behavior nutrition(Ali & Wulan, 2018). The nutritional status of the society will better to minimize good nutrition behavior should be conducted in every stage of life referred to on the baby.

One of the ideals of the nation to prosper the sons and daughters of Indonesia is by holding an exclusive breastfeeding program. ASI has an important component for the baby that has been studied, are protein, fat, colostrum, vitamin A, lactose, iron, lactobacillus, lysozyme, taurine, lactoferrin which has various benefits namely increasing immunity for children and babies avoiding obesity.¹

Hence the role of the midwife and clinicians others is very important to always advocated mother who have just given birth to put in place early breast feeding initiation then continued until the son was 2 years old and also the role of the government must be very important that the program this exclusive breastfeeding will continue to run the government should fully supports by providing lactation in space of public utilities and private sector workers and workers office space. asi is nutrition that is very important to a child. The main cause of the life of the program not exclusive breastfeeding is the lack of information the importance of breastfeeding, career mothers who do not have much time to give the mother milk to his son as they prefer to give him his daughter formula milk while the womb nutrition that owned breastfeeding far better than formula milk.

RESEARCH METHODS

Was used in the study type the kind of research juridical normative, namely research law that looked at a legal writ of some aspect of which is the aspect of the theory, history, philosophy, comparison, structure, and the composition of, scope and matter, consistency, a general explanation and article by article, formality and enact a law, binding power as well as legal language used, looking at the aspects but not applied or it is implemented.²

Normative juridical research is that research looking for the breaking up of legal issues arising to give prescription about what should be on an issue for in their bids..³

In the research approaches law is the approach in line with the statute approach), historical approach (historical approach), comparative approach (, mainly approach and conceptual approach (conceptual approach. During the research, writer will use proven methods of approach in line with the statute and conceptual approach (conceptual approach)

STUDY AND DISCUSSION

Recently, most women in Indonesia, especially the young mother, intensively promote breastfeeding exclusive. Of course, this is a really positive, is the tendency because the needs of baby

¹Diana Damayanti, *Asyiknya Minum Asi*, Gramedia, Jakarta, 2010, h. 29.

²Peter Mahmud Marzuki, *Penelitian Hukum*, Kencana Prenada Media Group, Jakarta, 2011, h. 87.

³*Ibid.*, h. 59.

food on the sixth of the first month after birth is obtained from breastfeeding. Unfortunately that the exclusive breastfeeding is still not maximum. In fact, some did not know understanding father exclusive of, breastfeeding yet he is main figure that provides support to the mother of in providing for the baby. exclusive breastfeeding

Breastfeeding is a an emulsion of fat in solution protein, lactose, and the salts of organic secreted by both the glands of the mother breasts, that is useful as the chief food for a baby. Exclusive are separate from each other, or called particulars. According to other sense breastfeeding is the gift of breastfeeding just without the addition of other liquid as milk formulas, the orange, honey, white water and that without more solid food. The provision of breastfeeding is advocated in period of 6 months.⁴ Components breastfeeding contains more than 100,000 biology unique components who plays a principal role in resistance to disease, and components breastfeeding, very complicated. Of 100.00 components breastfeeding has not yet been fully check, and has not been found, but breastfeeding still is baby nutrients to the most important and most everything for a baby. The mother milk components that have been known of them are colostrum, protein, fat, lactose, vitamin a, iron; ta-urine, lactobacillus, laktoferin, lisozim.⁵ Hence it is very so that children become attention should be given to young generation can get the right is one who is get. It is stipulated in a government regulation of the republic of Indonesia hereinafter referred to regulation no 33 of 2012 article 6 in which every one who brings forth should give exclusive breastfeeding on the baby this requirement provides protection for the women in the exclusive of, run program breastfeeding so that everywhere, all the time he or she drives the mother still has to the right.

In the act of number 36 2009 over health care, said that health workers were the main health factor. For by health workers this is all health resources of the other like, health service facilities technology and supplies health and technology products can be managed in a synergistic in order to achieve health development goals. The health ministry's regulation of the republic of Indonesia number 10 in 2013 of health workers is every single person who devotes himself in the health sector as well as having knowledge and / or skill training through education in an area where none is for certain types of health effort need the authority to conduct. The midwife is one of a trained health professional who has the obligation of in elevate in degree a health in the manner of maintenance, health, the prevention of disease, healing disease, the recovery of heath one of them is in the program which means that breastfeeding exclusive of the mother given to a baby from a baby under the age of 6-0 months without give food nor anything and continued until additional

⁴Rudi Haryono, *Manfaat ASI Eksklusif untuk Buah Hati Anda*, Gosyen Publishing, Yogyakarta, 2014, h. 4.

⁵Hesti Widuri, *Cara mengelola ASI Eksklusif Bagi Ibu Bekerja*, Gosyen Publishing, Yogyakarta, 2013. h. 23

child up to the age 2 years by providing for a companion breastfeeding mp-asi based upon government regulation no 33 of 2012 regarding the provision of exclusive breastfeeding.

To promote health; the balanced receive enough nutrients to breastfeeding having 100,000 a unique components has many benefits against various kinds of one of them is the cause of a disease. Breastfeeding is staple food for babies. A component that is added to its breastfeeding are colostrum, fat, protein, lactose, vitamin a, taurine, lactobacillus, laktoferin, lisozim. In law has exclusive breastfeeding is based on government regulation no 33 of 2012 regarding the provision of exclusive breastfeeding and the provisions of provision of space lactation of which were regulated by the health ministry's regulation of the republic of Indonesia number 15 2013 of a trained health professional. The some of the articles are:

Article 3:

- (1) the work and organizers of the place of public utilities will need to support breastfeeding exclusive program.
- (2) support as referred to in paragraph 1 shall be conducted through:
 - a. Provision of special facilities for a nursing mother and / or blushing breastfeeding;
 - b. The opportunity this letter to the work to give breastfeeding exclusively to a baby or flushed the mother milk during the time to labor in a workplace; The provision of legislation;
 - c. Internal that supports the success of the program the provision of breastfeeding exclusive; and
 - d. He provision of trained the provision of breastfeeding.

Article 4 :

Other than support as referred to in article 3 paragraph (2), the organizers of the place of public utilities in the form of, health service facilities have to make policies that rely on maximum 10 years and a step towards the success of land mammals.

The implementation of support as referred to in article 3 paragraph (2) letter a and letter d is conducted in accordance with the condition of the company capacity, and carried out by way of the company between the business community and workers union, or through a work joint between labor union and the company. It is also a through government programs and also given to the best of the work done on employer is obliged to provide the space lactation on a means of work. Based upon government regulation no 33 of 2012 regarding the provision of exclusive breastfeeding has been regulated that both government offices and the private sectors must support the program of exclusive breastfeeding and facilitate space lactation so that breastfeeding mothers can be flushed breastfeeding. Other than the minimal space lactation he was at work another constraint are actually the result of health facilities the place of a mother gave birth to.

Currently there is the fact that various concerns that criminal sanctions in this health law able to embrace a mother who is not breast feeding the baby exclusively. Seen from the article, elements will be given the threat of criminal sanctions in article 200 are a family, the government, local governments, of health workers and the community that blocks the mother is exclusive to breastfeed her baby. Counteraction can be in the form of not given period of time feeding and could not be provided special facilities to perform the activities of land mammals. So that in this case, in fact this article protect mom to implement the program breastfeeding exclusive of, is not in fact remember with criminal if not implement the program exclusive breastfeeding.

Health act comes into effect shall number 36 2009 regarding the provision of water milk mother (breastfeeding) exclusive often gave rise to misinterpretation about criminal sanctions for the mothers who do not want to nursed her son. Out in article 200 health law no. 36 next year he emphasized the Threat of a penalty prison was not for the mother, but the ones who withhold that breastfeeding exclusive the mother to him. In a more clear, quote article 200 written that everyone who so much with deliberately blocking of the mother program exclusive performed referred to in article 128 clause 2 shall be criminally punished of not more than 1 years and a fine of rp100.000.000,00 (one hundred million rupiah).

In the theory of identification, criminal accountability that are imposed on corporate should pay attention to the carefully who is really be the brain or holder corporation, operational control authorities issued a policy and made a choice in the name of corporate. A deed may be regarded as a crime carried out by corporation, only when these crimes carried out by senior officials of a corporation that is has the authority to can act as the directing mind of the corporation.

One of a policy that was intensified by the government at this time is the implementation of the program early initiation sucking child (hereinafter called imd) and exclusive breastfeeding for a son because basically to the son to have a very important role that is as generation the people so it is the state and / or government make things ready generation so that the nation can grow and well-developed.

Responsibilities which owned the government, the regional government provincial and the local governments district were similar, all three contact one another and are inseparable. Responsibilities which shown above becomes for the government how the government should act in the implementation of this exclusive breastfeeding program. Government of being obligated supporting the program implementation the provision of breastfeeding exclusive of, because when associated with the status of a mother who works there is the obligation as a place of work and the organizers of the management of public utilities to support the program of exclusive of, breastfeeding in this case a workplace that referred to is a company and office by central

government private and local government as to that which is in the provisions of article 31, and the organizers of the public facilities to that which is in article 32.

If the government is more toward the organ, government show at the field of and functions. Are the government or receptacle he who has the power and institutions where they run their activities. The crown in a wider sense is all activity, the functions, duties and obligations that is run by the institution to accomplish a purpose countries. The government in a wider sense is all activities organised, based on sovereignty and independence; on the basis of the, the people, or inhabitant of and the area of the states that was for the achievement of the aims of the country. Government can also be defined in terms of structural functional as a system the structure and organization of of any of various kinds of function that have been carried out for the achievement of the grounds for certain countries.

A government regulation no 33 of 2012 regarding the provision of those to whom we have exclusive of the mother has objective to which was set out in the provisions:

Article 2

- a. Ensure fulfillment of the rights of a baby to be breastfed since was born up to the age of 6 months of growth and how he goes. by taking into account.
- b. Providing protection to mother in giving breastfeeding exclusively to the baby.
- c. Enhancing the role of and family encouragement is, the community, local governments, and the government back up on the provision of breastfeeding exclusive..

With the existence of a purpose which we had in article 2 above can become a reference for the government in implementing the program the provision of exclusive breastfeeding in accordance with what is expected of the people. The government had a very important role in the implementation of this program, so that a government regulation no 33 of 2012 the government regulate how responsibility in the implementation of the breastfeeding exclusive program. The government responsibility was put down in the following provisions:

Article 3

1. To formulate a national policy in relation to the program the provision of breastfeeding exclusive.
2. Carry out advocacy and the socialization of the program the provision of breastfeeding exclusive.
3. Give training on breastfeeding program exclusive and the provision of care facilities lactation counselor health and place of public utilities.

4. Material on integrating exclusive breastfeeding in formal and non-formal education curriculum for health workers.
5. Nurture, watch over; and to evaluate the implementation and exclusive breastfeeding of achievement of the program the provision of health care facilities a unit of education health, their place of work, a place of public utilities, and activities at the community.
6. Develop the science and technology pertaining to breastfeeding exclusive.
7. Establishing cooperation about the program breastfeeding exclusive with other parties in and / or overseas. Information and education program breastfeeding eksklusif.dan the program
8. Provide access to against a need

Government and responsible but the regional government of the province and the local governments district also has the responsibility to implement them, the two do those set out in the provisions of article 4 and article 5.

Breastfeeding is the right of every mother, including a mother working. When the mother breastfeeding mothers are the workers then who is in charge of this exclusive breastfeeding in the program is the the entrepreneurs or company owner. In employee s organization indicated that international convention on maternity leave for 14 weeks and the provision of the supporting infrastructure for breastfeeding mothers at work shall be convened. The act of labor in Indonesia no. 1 1 year 1951 grant leave of absence childbirth during which the 12 weeks and opportunities suckle 2x30 minutes in hour of work. But she work is still considered as one of the causes of the high number of failure factor for you 45 to 60 than when in industrialized nations % of its workforce are women reproductive age.

Work out of the house, or go school is reality for the majority of women with small children. Even though you do not appear to be differ between woman who plans to work in the aftermath of delivery, the duration of a nursing mother and exclusive breastfeeding likely to be affected by working and schools.

Conclusion

Based on these chapters of our analysis of the ancients the following served a conclusion that is it about problems in the in this research, are:

1. The government has made rules that can help mothers of workers who are still breastfeeding, one of which is the enactment of Government Regulation No. 33 of 2012 concerning exclusive breastfeeding, but this was not implemented properly. The success of the Exclusive ASI program must also be supported by adequate facilities and infrastructure, especially in public places for lactation rooms. Law No. 13 of 2013 concerning Labor requires all businesses to provide

lactation rooms for women who have babies and breastfeeding. In connection with the existence of the Exclusive ASI Program there are still many business actors who do not provide lactation space for breastfeeding mothers. However, the government has stated in Article 200 of the Government Regulation that Everyone who intentionally blocks the exclusive ASI Program as intended in Article 128 paragraph (2) is sentenced to 1 year in prison and a maximum fine of 100,000,000.00. In addition, Article 201 paragraph (2) of Law 36 of 2009 concerning Health states that in addition to criminal penalties as referred to in paragraph (1) the corporation may be subject to additional criminal sanctions in the form of revocation of business licenses; and / or revocation of legal status.

2. The government and employers have a responsibility to make the exclusive breastfeeding program successful. One of the policies currently being promoted by the government is the implementation of the Early Breastfeeding Initiation Program (IMD) and Exclusive Breastfeeding. Not only the government is obliged to support the implementation of the exclusive breastfeeding program, because if it is linked to the status of a working mother, there is an obligation as a workplace administrator and organizer of public facilities to support the Exclusive ASI Program, in this case the workplace in question is a company and government offices, local government and private sector offices. As explained in Based on Article 3 Government Regulation No. 33 of 2012 stipulates that employers must provide training on Exclusive Breastfeeding Programs and provision of breastfeeding counselors in health care facilities and provide lactation rooms for mothers who are breastfeeding. However, this requires cooperation by forming a Team such as Task Force (SatGas) with Sector Leading namely the Health Service and also Cross-Sector such as the Civil Service Police Unit which must supervise and sanction the Company or someone who blocks the Exclusive Breastfeeding Program.

A. Council

1. Midwives as the spearhead of the government in the success of the Exclusive ASI Program should cooperate with the government and employers in providing lactasai space and as counselors for mothers who are still breastfeeding.
2. It is better for the government and employers to improve the Management of Exclusive ASI Programs in government and private institutions. For business actors such as companies and public places, education should be provided about the Exclusive ASI Program because there are still many Private Companies and Factories where the majority of female employees do not provide lactation room. It is the duty of the Government to impose sanctions on businesses that do not carry out the Exclusive Breastfeeding Program and more often to carry out evaluations of existing programs.

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