

Conference Paper

Kota Tua Jakarta Revitalization: An Effort to Embody Human Rights City in Railways Track's Vicinity During the Covid-19 Pandemic

Aji Wibowo*, Andrey Sujatmoko, ArlinaPermanasari, Amalia Zuhra, Jun Justinar, Maya I. Notoprayitno

Faculty of Law, University of Trisakti, Jakarta, Indonesia

ORCID

Aji Wibowo: <https://orcid.org/0000-0001-7849-0765>

Andrey Sujatmoko: <https://orcid.org/0000-0001-9444-2069>

ArlinaPermanasari: <https://orcid.org/0000-0002-6564-3870>

Amalia Zuhra: <https://orcid.org/0000-0001-7481-9244>

Jun Justinar: <https://orcid.org/0000-0002-6334-6143>

Maya I. Notoprayitno: <https://orcid.org/0000-0001-7257-0799>

Abstract.

Kota Tua area in West Jakarta, especially around the railroad tracks, is still inhabited by the poor of Jakarta. The cultural heritage-based revitalization of the Kota Tua Jakarta Area essentially requires the residents who live in the vicinity of the railway line area to be relocated to a safer place which will certainly have an impact on the surrounding residents. This study discusses whether Governor's Regulation No. 36/2014 is in line with the Gwangju Declaration in realizing the revitalization of the Kota Tua Jakarta area. Also, how is the fulfillment of the right to housing around the railroad tracks related to prevent the spread of COVID-19 in the Kota Tua Jakarta area? Hence, this can be answered through the urgency and priority scale of human rights implementation in the Kota Tua Jakarta Area, specifically in the vicinity of the railroads track, including during the outbreak of Covid-19. This research is a normative juridical with qualitative analysis of the legal norms of national legislation related to the implementation of human rights. The analysis is qualitative, and based on a systematic literature review over scientific journal database. The results of this research show that the protection of human rights for the residents living in the vicinity of the railway line is still not fully implemented. For this reason, it is necessary to implement regulations to ensure respect and guaranteed human rights to the residents, especially the right to health, the right to education, the right to food, including the right to a healthy environment.

Keywords: Kota Tua Jakarta, revitalization, human rights city

1. INTRODUCTION

Housing is one of eternal problem for every citizen, both in large and capital cities. It is absolutely an important issue among social matters due to the fact that the global urban population is calculated to double by 2050. This increased population will end in a result of the problem of housing in both developing and developed countries[1]. According to

Corresponding Author: Aji

Wibowo; email:

ajiw08611@gmail.com

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the the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Economic, Social, and Cultural Rights, the issue of housing rights will occupy the attention of citizen who still don't have their own house. To enjoy their social rights, especially the rights of housing, then an adequate housing is one requirement that must be fulfilled as standard of living right[2]. The right to housing is a struggle, both the struggle to get decent housing, the struggle against evictions, and also the struggle to fulfil other rights. The right to housing has become an important discussion during Covid-19, where people live in remoteness, overcrowding, while on the other hand housing itself is part of social protection which is specifically mentioned in the Sustainable Development Goals (SDGs) program[3], [4].

A review on housing rights will determine another factor of the people who live in it, such as the aspect of health based on housing situation. Housing situation then can be regarded as a critical determinant for health [5]. For example, housing situation that reflects unhealthy, poor condition or situation of housing will finally affect the health of the occupant.[1]. In the current situation of the Covid-19 pandemic, community in slum area may be very vulnerable to viral contamination[6], [7]. The linkage of housing rights with other rights makes housing the basis for human development.

Housing can be seen as a right of freedom that is based on the basic nature of basic human functions. To fulfil the right to housing as well as the right to health is the relocation of the socio-spatial marginalization of poor households. On the other hand, the state has a role in reshaping the relationship between the physical and socio-economic mobility of the relocated community. It will be challenges, the direct ability of individual communities to move and the long-term social mobility of their households[8].

Just like any other capital cities in the world, Jakarta as the capital city of Indonesia has been unresolved problems on adequate housing for its residents. There have been big gaps between the population growth rate and housing availability rate. So, it is not easy having a house in Jakarta, particularly to those who have lower income or categorized as poor people. In the context of human rights, the fulfillment of the right to adequate housing has close relation to the right to health, especially during the Covid-19 pandemic. It is the duty of state to fulfill that right through programmatic plans and policies.

According to the data which is obtained from Badan Pusat Statistik (Central Bureau of Statistics), the percentage of household in DKI Jakarta mostly live in their own residence (47,12%). But, there are so many household live in residence by rent/contract (36,36%). Meanwhile, according to the floor area of the widest house, average household in DKI Jakarta has a floor area of 20-49 m² (35,55%)[8].

The data shows that there are still many residents in Jakarta who do not have their own houses and for that they live by renting/contract houses. Therefore, the need for a house to live in is still a thorny issue in Jakarta. The high price of land and houses is one of the factors that make it difficult for residents to own their own house, so it is not surprising that there is a lot of land occupation which is then used as a place to live. This is, among other things, done by utilizing land which legally belongs to another party. That because the poor usually live in the worst conditions, without adequate clean water and electricity, with uninhabitable house, and even located in danger zone (close to railway track or under bridge), it is very important to study about the fulfilment of the right to adequate housing. Also, in today's Covid-19 pandemic situation, these people may be very vulnerable to contamination by the virus, and they can.

The phenomenon of illegal residential near to the railway track which is located in Kotatua Jakarta area must be resolved pursuant to the program of revitalization of that area. So that, It is very important to take necessary steps for relocating of the residents who are live in illegal residential area. The steps concerned must be based on human rights and then will be implemented through the policy from the local government of Jakarta. Then, it is also necessary creating policy based on human rights. Hopefully, in relocating process of the illegal residents in the Old City of Jakarta area the local government can protect, respect, and fulfill the human rights of the resident concerned. This article use the concept of Human Rights City base on the Gwangju Declaration on Human Rights City 2011.

The objective of this paper is to analyze if the Governor's Regulation No. 36/2014 on Kotatua Area Master Plan in line with the Gwangju Declaration in realizing the revitalization of the Kotatua Jakarta area? How is the fulfilment of the right to housing around the railroad tracks related to the prevention of the spread of COVID-19 in the Kotatua Jakarta area? Consider the data explained above on housing matters, the Authors definitely formulated the identification problem of the main research as follows: firstly, does the Governor's Regulation No. 36/2014 is in line with the Gwangju Declaration in realizing the revitalization of the Kotatua Jakarta area? And secondly, how does the fulfillment of the right to housing around the railroad tracks relate to the prevention of the spread of COVID-19 in the Kotatua Jakarta area?

The parameter in the study is as follow:

The location. Adequate housing must be in a location which allows access to employment options, health-care services, schools, childcare centers and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the

budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants [9].

The Human Rights City is conducted by three main programs, which are: a) the fulfilment of human rights to the vulnerable community; b) the fulfilment of human rights; and c) community development to the awareness of the law and human right [10].

2. METHODOLOGY/ MATERIALS

This paper uses qualitative research emphasizes the benefits and gathering information by exploring the phenomenon under study. In addition, this research uses the opinions of experts who can support in answering research questions. The explanation will be more narrative in nature so that the reader can understand the depth, meaning and interpretation of the whole phenomenon. This research is a normative juridical research [11] with comparative descriptive type [12]. Comparative descriptive is a method of comparisons of the fulfilment of the right to adequate housing, and healthy environment from existing national regulations with the factual conditions of housing in the West Jakarta Administrative City area, especially around the railroad tracks. This paper use secondary data consisting of national regulations related to the research topic. In addition, systematic literature review [13] was conducted to journal database and relevant websites, furthermore field observations are used to match internet-based data findings with realities on the ground. The analysis was carried out qualitatively [14] with a content analysis based on right-based approach [15].

3. RESULTS AND DISCUSSIONS

3.1. National Regulations and Gwangju Declaration.

The provisions in paragraph 4 of the Gwangju Declaration are in line with Articles 29 and 38 of the Governor's Regulation No. 36 of 2014 Master Plan for Regional Arrangement of Kotatua because Article 29 paragraph 1 emphasizes that the management of the Kotatua area is carried out in an integrated, cross-sectoral manner and involves the business world and community groups. This is reinforced by Article 38 of the Governor's Regulation which emphasizes that in realizing the vision and mission of structuring the Kotatua area, every individual in the community has the right to actively participate and provide their aspirations for the progress and development of Kotatua.

Furthermore, Paragraph 7 of the GD has been implemented through Article 38 of the Governor's Regulation which essentially contains a 'bottom-up' rather than 'top-down' approach, in opening the widest possible opportunity for the community to participate in building a human rights city.

Article 1 Number 49 of the Governor Regulation Number 36/2014 confirms that the role of the community in the revitalization of the Kotatua Area is still widely open for residents participation. The role of active participation of the residents can be varied from spatial planning, spatial utilization and controlling spatial utilization of the area. This provision give rights to all residents and citizens of Jakarta regardless of economic, social and cultural background. This provisions are definitely in line with the concept of a human right city which reflects the participation or role of all city residents in a development of a city, as explicitly stated in the Gwangju Declaration that 'Human rights city' also means, in practical terms, that "all inhabitants, regardless of race, sex, color, nationality, ethnic background and social status, and in particular minorities and any other vulnerable groups who are socially vulnerable and marginalized, can participate fully in decision-making and policy- implementation".

3.2. The aspect of human rights for certain residents in the vicinity of Railway Track's in Kotatua Area

The right to adequate housing requires governments to put in place laws, policies and administrative procedures that respect, protect and fulfil the right to adequate housing. This includes protection from forced evictions, preventing homelessness, and ensuring that the most disadvantaged are provided the necessary assistance to access their right to adequate housing.

Freedom from severe poverty is among the most important human interests. The Committee on Economic, Social and Cultural Rights, defined poverty as "a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living" [16]. Human are physical beings who need access to safe food and water, clothing, shelter, and basic medical care in order to live well. Very poor people lack secure access to sufficient quantities of those needs. It seems that people especially those who are living in a capital or big cities, are inequitably must face the fact on the availability of adequate housing [17]. As mentioned in earlier paragraphs, the right to housing is the right of every individual. This right, at the first place, includes security of tenure. In addition, the restitution of housing, land and property should be put in the

second element, followed by the guarantee to equal and non-discriminatory access to adequate housing that should be given to people. Last but not the least, there should be a participation for the people to be joined society decision making according to housing, whether in the level of national community levels.[18] The fulfilment of adequate housing is one of international issues. Large sections of the urban population cannot afford to buy formal private-sector housing and real estate companies cannot supply housing that is affordable to low-income households.[19] More generally, high housing costs worsen the adversity that low-income families experience, forcing them to face a persistent threat of eviction and make difficult choices between paying the rent and paying for medicine, food, heating, transportation, and other essentials. Housing costs may also compel families to live in housing or neighborhoods that are rife with health and safety risks [20]

United Nations Human Rights Office of the High Commissioner take adequate house issue as strategic issue that has to be realized in all over the world [21]. In Indonesia, the right to housing is spread across several legal instruments, including Law Number 11 of 2005 concerning the ratification of the ICESCR. Article 11 of ICESCR stipulates that “The States Parties to this convention recognize the right of everyone to an adequate standard of living including adequate housing, and to the continuous improvement of living conditions” [22]. There are several utmost obligation imposed on States based on Article 2 (1) of the ICESCR. The most important step for the State is to conduct measures concerning the progressive implementation of the rights as mentioned in the Covenant [17]. Unfortunately, measures in relating to housing rights for the State can’t be implemented as once and immediate. This reflects that the implementation should be on the right scheduled or agenda. However, the State have a fundamental obligation to respect the rights of housing. Besides, the State have an obligation as well to protect and to fulfil this rights by conducting any measures legally. A failure to do this important steps can constitute a violation of these rights [23]. Due to the fact that the development of economic and legal issue among States might be different, then the measures that can be implemented by the States might be varied. The measures taken generally depends on the best suited things for the State concerned concerning the availability of housing related matters for everyone.[18] Based on this perception, States have some limitation of appreciation. Meanwhile, the CESCR has stated out that “it will almost always require the adoption of a national housing strategy that allocates responsibility and sets a budget and a timetable”[24]

One of the basic elements of respect for human rights is the right to a good and healthy environment. The right to housing enshrined by the UN is not just a right to

a basic shelter, but to adequate housing, which includes a set of interlinked factors in terms of the physical structure of the housing, affordability, legal security of tenure, the immediate housing environment. The right to housing is closely related to the right to health and the right to the environment. All individuals have the right to be healthy, happy, and have an available safe and healthy environment. The environment and nature are bound in a social entity which unable to be separated from humans. The imbalance and destruction of ecosystems means that there are human rights being taken away by force. In other words, the right to the environment is closely related to the order of justice [25].

Public participation is inevitably become an important step in the building of human rights cities, [26],[27] . Public participation may open an opportunity to express public views on the problems that need to be addressed. It also reflects the process of identifying human rights issues. The forum of public participation may make the people to engage collaboration effectively with other stakeholders whatever the level is, such as the governments, businesses, and NGOs. This step ensures shared responsibility for the implementation of human rights norms. It means, not only the State have to comply with its obligation to conduct in line with human rights norms, but the citizen, the society or the public also have the similar obligation.

Having access to a good and healthy environment is a fundamental human right [28]. According to the history and development of human rights, the right to environment belongs to the third [26]generation category called “Solidarity Rights”. [29] There are three kinds of rights in this category, namely right to development; the right to peace; right to a clean environment. At the international and national levels, there are legal rules created to guarantee the fulfilment of the right to the environment which is part of human rights [30], where the right to a good and healthy environment is a fundamental right in every human being that strengthens the construction of human life. At the national level, it is the state’s obligation to guarantee environmental protection as a form of human rights protection which it recognizes in the form of legal policies or legislation. [31]

In Grootboom case [32], the Constitutional Court stated that “reasonableness can be evaluated at the level of legislative programming and its implementation. The Court also explained the meaning of reasonableness by linking it to the three democratic values of human dignity, equality and freedom the South African constitution” [33] In line with it, State obligations must consider the three key elements regarding to fulfil the right to housing instead: 1. The obligation to take legislative and other reasonable steps; 2. The obligation to progressively achieve the realization of rights; 3. The obligation to provide and use available resources.

In case of Grootboom, the Court held further that the state had the obligation to conduct a meaningful or positive measures to fulfill the demand of those living in extreme conditions of poverty. This can be extended to those who are homelessness, including those who have intolerable housing. The nexus of such rights and the Constitution as a whole had to be taken into account in doing some interpretation. This interpretation can include the interpreting the socio-economic rights. In other words, the State should relate its legal obligation in the framework of housing [10].

The principle of human rights is indivisibility, all rights are inseparable. Civil, political, economic and social, cultural rights are inherent and there is no hierarchy. This principle of indivisible is being interdependent and interrelated [34]. The right to housing is closely related to the right to health and the right to the environment. The right to housing is the right of every individual. This important right that should be owned by the people may consists of the security of housing restitution including the non-discriminatory access of land and property to adequate housing. One of the important factors that should be count as well is the public participation regarding to decision making concerning housing related issue both national and community levels.

Right of housing is “the right for individual that contains freedom that include: protection against forced evictions and the arbitrary destruction and demolition of one’s home; free from arbitrary interference with one’s home, privacy and family; and the right to choose one’s residence, to determine where to live and to freedom of movement”. [10]

Adequate housing must meet criteria [9] amongst other is security of tenure which protect inhabitants against forced evictions. If the right to adequate housing has been fulfilled but the community experience forced evictions, then the General Comment regulates the protection against forced evictions.[35]

In line with Article 12 ICESCR, Indonesia protects his citizens in the matter of adequate house and also protect its citizen in finding a healthy neighbourhood [36]. Indonesia responsible to protect all citizens in increasing public wealthy through house building in order to get and live in affordable adequate house in healthy, safe, harmony, and sustainable in all over Indonesia[37] and the fulfilment of the right to housing is a very crucial issue for poor people living in urban Indonesia.[38]

3.3. Effect on the Fulfilment of the Right to Health for the Poor in Pandemic Covid-19 Situation

The World Health Organization underlined that the conditions of housing absolutely takes priority in the frame implications that cause the level of healthiness for the people. It can also reduce disease because the people can live safely in a safe and warm housing, and at the end the quality of life can be achieved [1]. Housing with substandard spacing is linked with mental and infectious diseases[39] The infectious disease transmission concepts of airborne, droplet, fomite, and contact routes have remained nearly unchanged since the sixteenth century [40]. The strong correlation between the built environment, overcrowding, and the spread of infectious diseases is well documented in particular for some pathologies and is now coming back as a fundamental threat due to the COVID-19 pandemic.

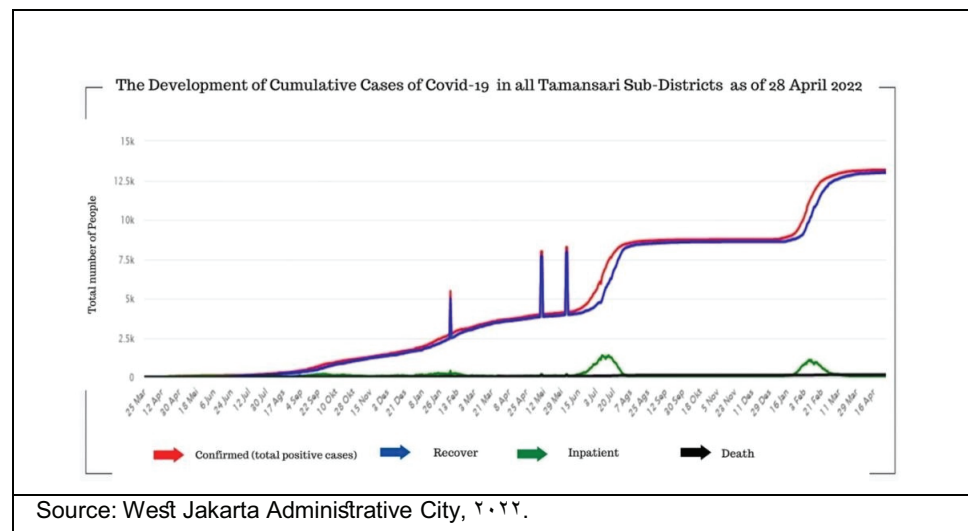


Figure 1: The Development of cumulative cases of Covid-19 in all Tamansari Sub-Districts.

As shown in Table 1, information on developments related to Covid-19 throughout Taman Sari Sub-district in West Jakarta near Kotatua Area per day until April 28, 2022 shows that the positive cases of corona virus are increasing. The total number of people who have been positively infected with the Covid-19-19 virus has reached 13,169.

Although the trend in the number of cases of people who are positively exposed or infected currently tends to decrease, in fact the Covid-19 pandemic is still not over and it cannot be predicted when the pandemic will end so that it turns into an endemic condition. Various levels of society have certainly been affected by the pandemic, including in West Jakarta Administrative Area [41]. The Covid-19 pandemic can certainly have a huge impact on the poor who are often marginalized[42], [43], they usually have various limitations. Economic limitations are the main factor that creates obstacles in

obtaining access to health. Regarding that, actually Article 25 Universal Declaration of Human Rights 1948 has obliged the state to guarantee their rights.

4. CONCLUSION

Housing is a key determinant for human health. The Covid-19 pandemic has strongly highlighted housing issues worldwide, especially for the lower-income society. “Housing and health” as a subject should be approached with a multidisciplinary and transdisciplinary strategy in both research and practice because of the complexity and wideness of its related aspects. In the last years, several studies have demonstrated the large potential for better human health through improvement of the living environment.

We believe existing regulations on human rights and that all areas are human rights friendly. The Governor of Jakarta Special Capital Region needs to issue policy on relocation of illegal housing on human rights basis. The human rights approach regulation shall then be evaluated on its enforcement and legal culture.

Kotatua revitalization must consider human rights aspects, especially the right to housing and must involve steps taken in order to overcome the Covid-19 pandemic.

The solution to the area revitalization is to make a human rights friendly city by considering the conditions due to Covid-19 pandemic, implementing human rights in relation to the right of housing and healthy environment for the people impacted by the area revitalization and providing public service to the community within the revitalization areas.

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