

The Urgency of Public Participation and Cooperation between Institutions in Maximizing the Promotion of Human Rights

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In its 2021 report, Freedom House showed there were only 25 countries which improved their democracy over the past year, while 60 countries suffered a decline.¹ In response to this global trend, people all over the world have endeavoured to dismantle their authoritarian regimes and replace them with inclusive and open government systems. This is done by providing greater space for public participation in various state policies. This public participation model is intended to create governments that are no longer exclusive but are instead representative of the community. Community involvement in government, both as observers and as actors, is intended to legitimise state policies and fulfil basic rights.

Various countries have applied synergy between inclusive and open government and the community, especially when state policy contains legislation which affects the community's basic rights. In Chile, for example, since 2001 the local government has joined with the community to realise the Molinos River Water Utilization Program. By involving the Aymara Tribe, they ensured that the local people were able to access and control the utilisation of the program.² The local government of Nejapa El Salvador, in collaboration with Non-Governmental Organizations, has succeeded in increasing the participation of local communities to control and access water distribution. This synergy model between the state and society also exists in India, where Mazdoor Kisan Shakti Sangathan (MKSS),³ who is involved in various campaigns regarding the right to information, has succeeded in increasing the transparency of information for the poor.

In many developed countries, the system of public involvement in state policies, especially those that are fundamental and important to society, is generally very significant. Apart from the well-developed level of public awareness of policies, the

1 *Freedom in the World 2022: The Global Expansion of Authoritarian Rule*, by Sarah Repucci & Amy Slipowitz (Washington: Freedom House, 2022).

2 Tarisai Garande & Suzan Dagg, "Public Participation and Effective Water Governance at the Local Level: A Case Study from a Small Under-Developed Area in Chile" (2005) 7:4 *Environ Dev Sustain* 417-431 at 422.

3 MKKS is a social organization in India which was founded by several social activists in the country in 1987 to help workers get access to information especially related to basic labor rights in India. View the full MKKS profile at "Mazdoor Kisan Shakti Sangathan - MKSS", online: <<http://mkssindia.org/>>.

democratic system and citizenship traditions also make public participation one of the most important elements of the democratic process in a country. In the UK, for example, changes in state policy towards the right to health as a fundamental right of citizens will not be carried out by the government without the involvement of citizens. Since 2006, the British government has officially implemented a community engagement program to participate in improving the National Health System (NHS).⁴ In some countries with advanced levels of political education, eliminating or reducing public participation in the process of determining state policy has often had a significant impact on the sustainability of the government.

In developing countries, public participation in the field of fulfilling the basic rights of people is generally more complex. Apart from the lack of strong state infrastructure to support rights programs, the public's knowledge of the workings of government is generally very limited. This means that governments struggle to realise programs that target the basic rights of the community due to limited information about problems that exist within the community from local participants. The involvement of citizens, both as representatives of local and central government as well as volunteers and social/humanitarian activists, is very decisive in determining the effectiveness of a government. Involving multiple elements of society increases the accountability of government, making it more trusted by the people.

The cooperation between these institutions can be categorised into types of public participation in the fulfilment of the basic rights of citizens and individuals. Oakley and Marsden, for example, categorise participation into two broad groups; community empowerment and community mobilisation.⁵ Community empowerment is a strategy to increase the capacity of individuals and community groups, meaning that they have collective awareness of their rights and responsibilities. Meanwhile, mobilisation is a mechanism to unite and voice collective consciousness. In addition to making the government listen to the collective consciousness of the community, mobilisation is also important in maintaining community members who are committed to the success of a program.⁶

As well as having to face discriminatory regulations, some people still do not get the right to security and protection from the government. They live in fear and uncertainty because the state refuses to uphold human rights obligations, obligations

4 Rob Baggott, "Healthy democracy: the future of involvement in health and social care" (2008) 11:2 *Health Expect Int J Public Particip Health Care Health Policy* 202-203 at 45-46.

5 Garande & Dagg, *supra* note 2 at 420.

6 *Ibid.*

that have the potential to be used as an excuse by certain groups or the government to discriminate or refuse their group's basic rights.⁷

This standard of human rights implementation is very necessary because human rights issues in society can be very diverse. The presence of the state/government is needed to maintain the fulfilment of these rights. Often these social problems involve violations of basic community rights, such as the right to education, health, work, a decent life and other civil entitlements. Some indications of the "absence of the state" in fulfilling human rights include limited regional regulations that have a human rights dimension, as well as state regulations that are contrary to human rights values. As well as matters of morality, religion, culture, national identity, and ideology, some state policies still have an impact on vulnerable groups who generally do not have legal and political capital.⁸

Various human rights instruments, both national and international, emphasise that if there is a social conflict or human rights issue, the presence of the state is required as a party that is responsible for fulfilling the basic rights of citizens.⁹ In the context of human rights, this means that the state is an object that has the responsibility to fulfil the rights of the subject/actors - in this case the individuals who live in its territory.¹⁰ This argument is strengthened by the general comments of the UN Human Rights Committee on Civil and Political Rights, which stated that the state's obligation is not only limited to respecting human rights but also ensuring that all individuals living in the territory of the state can enjoy their rights.¹¹

This argument is based on the general comments of the UN Human Rights Committee on Civil and Political Rights, which said that the state is also responsible for "facilitating the fulfilment of basic rights" of the people, especially economic, social and cultural rights.¹² In the national context, the state is obliged to actively seek information on human rights issues in order to further provide facilities for the fulfilment and improvement of these rights. The international standard for the

7 see for example the incident that occurred in Singkil Aceh in Al Khanif, "The paradox of religious (in)tolerance in Indonesia", *Jkt Post* (Oktober 2015), online: <<http://www.thejakartapost.com/news/2015/10/16/the-paradox-religious-intolerance-indonesia.html>>.

8 "The Human Rights Protection of Vulnerable Groups", online: *Icel Hum Rights Cent* <<http://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/the-human-rights-protection-of-vulnerable-groups/>>.

9 *Ibid.*

10 Article 2 (1) of the International Covenant on Civil and Political Rights states that countries that ratify this Covenant are obliged to respect and guarantee the human rights of every individual who is in their territory fairly.

11 Komnas HAM (Indonesia), ed, *Komentar umum kovenan internasional hak sipil dan politik, kovenan internasional hak ekonomi, sosial, dan politik*, First edition (Menteng, Jakarta: Komisi Nasional Hak Asasi Manusia, 2009) at 14.

12 *Ibid* at 85.

fulfilment of human rights has several important aspects. One of the most important things is that member states of the Convention must have good faith, especially in carrying out three main obligations; obligations of results, obligations to carry out the will of the Convention (obligations of conduct) and obligations to carry out responsibility.

According to this argument, the Journal of Southeast Asian Human Rights has selected five articles that represent the current situation of human rights in Southeast Asia. It has, as always, been very hard to select the best articles. That is why the editorial office is proud to have Maya Jasmine White, Alexandria Kohls, and Alex Cameron who have always been very helpful for language clarity. The editor is also thankful to have a very thorough copy editor, Cindy Claudia Putri, who has always worked hard to ensure that the articles are of the highest quality by ensuring the accuracy of reference citations.