

# The Human Rights City Award: *Sociolegal Study*

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Abstract: To motivate the cities in implementing the fulfillment of human rights for the community, the Directorate General of Human Right , the Ministry of Justice and Human Rights Republic of Indonesia has launched the Program Kabupaten / Kota Peduli HAM (Human Right Cities Award). The criteria for assessment of cities for human rights have been established in the Minister of Law and Human Rights Regulation covering 7 (seven) basic rights groups with 83 (eighty three) indicators . With the sociolegal method, this study analyzes the indicators in the criteria of Human Right Cities . From extracting data shows that each indicators is not in accordance with the principles of international human rights law. The indicators of human rights cities also do not contain the principle of interdependence and indivisibility where there is only the fulfillment of socio-economic rights without being offset by the fulfillment of civil rights politics . As a result, the factual awards for Human Rights Cities do not guarantee an increase in the fulfillment of human rights for the community, as proven by the abundance of human rights violations in some areas with the title of Human Rights Cities which has not been resolved yet.

## 1 INTRODUCTION

The global regency government campaign program to participate in leading fundamental human right as one of the most important duty of a country called *Human Rights City* which is established to achieve the idea of ideal life. The idea of human rights city is an initiation of world campaign to localize the human right itself.

At present, the program is trying to be implemented by ministry of Law and Human Rights of Indonesia. They appreciate the local government who achieve the criteria of cities/regencies that prioritize human right. Within ministry of Human Rights and Law, the central government creates a measurement tool and criteria to indicate the level of human rights fulfillment in a certain area.

The appreciation program by central government to the local one must be evaluated through times by ministry of Law and Human Rights of Indonesia. In Indonesia, the appreciation given to a city or regency is merely a ceremonial without any hesitation of the exact criteria of the appreciation itself. That is why, the ministry are always trying to re-evaluate the criteria they have made for fair and real appreciation

of human right city award as the impact is expected to be carried out directly by the local people.

From the background above, the study would try to reveal the indicators of human right city awards lead by ministry of Law and Human Rights of Indonesia as well as the law development and the implementation towards society as support for development of Human Rights cities criteria.

## 2 LITERATURE REVIEW

Human rights city is: 1. Community who dedicates their work on the honor of human rights, equity, and non-discrimination. 2. A city that propose human rights as its fundamental principal and the administration city regulation. 3. An inclusive and fair city. 4. A non-discriminative city. 5. A city that uses human rights as its habit and culture to associate among citizens and foreigners.

The Indonesian government, through ministry of Law and Human Rights, consolidate the human rights campaign for local government to support and take a significant focus within the principals of human rights. Since 2013, the government has been

giving awards towards several cities and regencies every year on December 10<sup>th</sup>. The awards to honor the regency who prioritize human rights already stated in ministry of law and human rights regulation number 11 of 2013 about the criteria of human rights city and ministry of law and human rights regulation number 25 of 2013 about the amendment of ministry of law and human rights regulation number 11 of 2013 about the criteria of human right city. On that statement, the criteria of human right cities are as follow: 1) Right to life; 2) right of development; 3) right of prosperous life; 4) right of feeling safe; 5) right of spouse. On 2017, the mechanism of human right city assessment is changing, as stated on ministry of law and human rights regulation number 34 of 2016 about criteria of human right city. The criteria will be reevaluated to gain better assessment and outcome of human rights city. From 5 criteria within 17 Result indicators, it turns into 7 criteria within indicators of structures, Result, and Process. Moreover, the verification will be evaluated from local to central government.

### 3 RESEARCH METHODS

This research uses the sociolegal method, because it uses all approaches to the law. The socio-legal approach is a combination of approaches within the clusters of social sciences, including political science, economics, culture, history, anthropology, communication and a number of other sciences, combined with approaches known in law, such as learning about principles, doctrine and hierarchy of legislation. The object in this study is the Human Rights City Award criteria indicators relating to human rights that are associated with international human rights law principles for later implementation in the community.

### 4 DISCUSSION

#### 4.1 The International Human Rights Law Principals within Human Rights City Award Indicators

There are several indicators which do not meet the ideal principals of international human rights law, they are as follow:

- Right to Health

The amount of bed mattress must be equal with the amount of citizens of the current area. It does not

contain the principal of *interdependence and interrelation* which is in accordance with agreement of Ekosob right article 12. Moreover, it does not concern with objectivity of 3 SDGs which stated that the guarantee of best service within excellent quality for society

- Right to Education

The principal of non-discrimination is not found on this criteria which does not mention the indicator of school for children with disability or it does not provide the number of inclusion school. This does not in line with Children Right Convention article 23 number 3, Children with Disability Right Convention article 24 objective 4 SDGs about equity service of education quality for all children.

- Right of Children and Women

Women Right

The equity of this aspect must be revised as it does not mention the availability of women to participate in political aspects. It against the visions of SGDs in gender equity aspects.

Children Right

It does not mention the fundamental law aspect which states the protection nor responsibility of state as there is no indicator of a program to empower and protect homeless children. It against article 20 and 39 about children right convention.

- Right to Demography

The Child Identity card program does not possesses indicator of availability. It against the child right convention article 6, 7 and 8 about the one of indicators within SDGs about equity of law identity for every citizens. The fact shows that there are so many children could not easily possess the identity card especially for homeless children.

- Right to Occupation

There is no significant indicator that states the chance for people with disability to earn equal chance of occupation for living in state sector. The option is limited to government sector. Thus, it against article 27 of people with disability convention rights.

- Right to Residence

There is no principle of availability stated on the criteria. In process indicator, there is a program of residence provision. Unfortunately, there is no significant movement on result indicator about this problem, the idea can not applied without any further fortification. It does not in line with article 11 of Ekosob Right.

- Right to Sustainable Environment

In 5<sup>th</sup> indicator, about the development of accessibility for people with disability is not clearly

mentioned on result indicator. There is no exact amounts of facilities which is already implemented and used by people, this is very important to measure the sustainability of government to provide its people. Thus, it against article 9 of people with disability convention right. The principle of state responsibility is not well reflected on those criteria as the facility to accuse the violation toward human right and the number of unfinished cases of it.

## 4.2 The Implementation of Human Right City Award

The instruments of human right cities awards are already provided by the government. But, does the award really affect on its people and change the life quality of them? There are many sources stated that the human right violation is still high after the corresponding city won the award. Then, is the city really worthy of such human right award? This become major controversy of the study.

One of city who possessed the award is Bandung. The fact remains that Bandung still has a lot of human right violation to be settled by the government. Media states that the number of birth rate and death rate of mother is the highest number among regencies of western java. One of the factors is caused by insufficient facilities for pregnant mothers to access hospital or maternity clinic. Thus, how could Bandung is nominated to be a Human Right City as they could not fulfil the Right to Health criteria. The Alliance of Bandung Society stated that, at least, the violations of few human rights still exist. One of the case is about the eviction of Kolase Village without fair compensation, there are still several prohibitions to go to seven churches in Bandung, the promise of 20% city forest which has not been fulfilled by the government yet and, as a result, it causes unhealthy water and air provisions. Thus, some people murmured "Human Right City is a Newspeak".

Protests were also raised by the National Women's Commission, they stated that the award was not feasible. They objected if the award given to the Governor of Central Java because there were still many issues of natural exploitation that were not resolved in a constitutional and sustainable manner. This award is different and looks more special because it is given directly by the President of Indonesia, Joko Widodo to the Governor of Central Java, Ganjar Pranowo (Radar Solo, 10/12/2017). The award was given to the province to obscure the human rights violations that occurred there. There are certain problems where the governor himself

violates human rights. The Indonesian Association of Human Rights Teachers considers that awards are nothing more than political movements rather than substantive values. This is related to the election of the new governor to be held this year, 2018. This opportunity becomes a serious problem because the government's commitment is doubted by the people if the issue of human rights city awards is used as a true political movement.

Another complaint was raised by MWC, Malang Watch Corruption. They stated that the award was a big question toward society, especially for citizens of Malang City. The award won praise amid several serious human rights violations among the people of Malang City. Some cases were left unresolved and blurred by the local government.

Another award was given to the province of East Java for its success in leading and educating districts and cities to respect and respect human rights. In fact, there are still many violations of human rights in this province. As stated by media, Eastern Java, Northern Sumatra, Western Java, Riau, and Lampung, they are on top five provinces of Indonesia that possesses agrarian conflicts along 2017, it is 38,5% from 659 cases of human right violations. Within five years, these provinces have higher amount of violations than other provinces.

Another source stated that the government must be ashamed to give away the awards to more than 200 cities/regencies and 21 provinces on Celebration of Human Right Day, December 10<sup>th</sup>. The awards were merely newspeak as the facts show different results that would tainted the awards.

From the critiques above, it concludes that the awards do not guarantee the satisfaction or fulfilment of human rights for society. There are many unfinished cases of human right violations. The blurred criteria of the nominations and the method of verification value which is not transparent make the awards of Human Right City become less applicable. The National Commission also asked Ministry of Human Rights and Law to provide better criteria verification within more strategic way.

The indicators of Human right city is still not in depth analysis from the dimension of human right itself such as civil, politic, economy, social, culture and the attempt to protect minorities or special community. The award given to the chosen city is just merely ceremonial formality without any concrete action that is beneficial to the people. This is because there are no clear criteria and no assistance and explanation of the details. From the measurement indicator, there is no civil politic right, that is why, the demand among people become

mixed without any proper sequence. The government must realize that all rights stated above are the chain of human right which bound each other, all must present to make the gear of human rights working. In international scale of human right, there is an addition of the development by approving that there is dependency among all rights. Thus, we can conclude that there is no single right which is interdependency and indivisibility, which could end in the fulfilment of social economy without civic politic right. It will create serious clash among rights if such criteria exist in the award of human right city especially in city with high rate of human right violations.

As the award is a mere recent event, it is not a surprise to find many errors on its implementations. According to mugiyanto, one of senior Internasional NGO Forum on Indonesia Development (INFID) researcher, he states that such unhealthy criteria will lead to unhealthy nomination compete in the awards. Alghifari Aqsa, director of Law Aid Association, states that the cities won the awards are measured with spatial criteria "In some cities we see, the label of the city of HAM has been given with measures such as friendly disability or elderly, whereas on the other hand there are still cases of eviction and protection of violations of the Rights to the environment that has not been met". Therefore, according to him, there is a need for good parameters to assess the extent to which local governments have met human rights standards. Such parameters must be in accordance with basic human rights instruments such as civil rights politics, socio-cultural economic rights to the right to the environment. "we, as the civil, need to support the high standardisation of it". Thus, in order to earn high standard criteria, all must follow the law principle and international human right, it must be reevaluated every time, the assessment must be transparent within tight verification process from many sectors to earn excellent indicators and ideal human right city as the outcome.

## 5 CONCLUSIONS

The human right city award program proposed by ministry of law and human right has developed into significant level by the publication of new regulation from the ministry in accordance with the assessment criteria for the nominators of human right city. Unfortunately, some indicators are not in line with international human right principality.

The program is still far from ideal as it is not able to fulfill the rights among society. Moreover, some awards have an issue of political movement instead of the award itself, because, the fact states that the award does not guarantee satisfaction and fulfilment of the human rights value. It is proven by the huge numbers of human right violation in the awarded city. But this program is a good starting point for the government to motivate and trigger the local to fulfill the demand for protection, development, honour, and consolidation of human rights among society.

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