FULFILLMENT OF WOMEN’S AND CHILDREN’S RIGHTS IN THE IMPLEMENTATION OF HUMAN RIGHTS CARE CITIES IN THE CITY OF TERNATE

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Abstract

Efforts to develop cities that care about human rights are a growing response from the movement to restore city sovereignty to its citizens. The state, including the government, supported by the National Human Rights Commission, is trying to apply this idea in Indonesia. The role of local government is very important in supporting efforts to develop cities that care about human rights. Of these problems, the focus of the research is whether the fulfillment of the rights of women and children in Ternate City meets the criteria of a city that cares about human rights and what is the role of the Government of Ternate City in fulfilling the rights of women and children in Ternate City. The human rights movement in Indonesia has begun to launch a new discourse, cities concerned with human rights (human rights cities). One of the interests in studying this issue is to widen the scope of state obligations that are not solely borne by the central government, but also local or regional governments. It is in this context that the role and position of regional leaders is very important. They have the discretion to organize and manage the city government as well as mobilize and invite city residents to be involved in human resource development programs through cities that care about human rights.

Keywords: Women’s and Children’s Rights, Cities Concerned about Human Rights, Government.
PRELIMINARY

Cities concerned with human rights (human rights cities) Vienna declaration 1993 became the initial milestone in the inclusion of human rights issues into city policy. This declaration emphasizes the combination of promoting and upholding human rights in the framework of social change. The leading NGO movement, The People’s Movement for Human Rights Learning (PDHRE) is an organization that seriously elaborates on the Vienna Declaration in the framework of strengthening human rights education in an effort to implement the dissemination of the resulting knowledge to change society. Therefore, citizens of the city, people in governance circles, organizations and institutions in society who are well-intentioned are encouraged to develop a human rights framework guide for community development.

Efforts to develop cities that care about human rights are a growing response from the movement to restore city sovereignty to its citizens. The state, including the government, supported by the National Human Rights Commission, is trying to apply this idea in Indonesia. The role of local government is very important in supporting efforts to develop cities that care about human rights. The challenge is how far the regional heads such as district heads or mayors can make breakthroughs in the promotion and enforcement of human rights. of participatory community-based research and critical pedagogy). In 1997, Rosario Argentina held a meeting of dozens of human rights organizations and movements, from indigenous peoples’ movements, LGBT, advocacy for the urban poor, and others. They built a joint agreement to encourage human rights-friendly cities based on community development as developed by PDHRE. This methodology then spread to various countries to be developed as an organizing movement for urban poor groups. At the global level, the discourse on the roles and responsibilities of local governments in protecting and fulfilling human rights has also received serious attention so that the UN Human Rights Council assigned the Advisory Committee to the UN Human Rights Council to conduct a study on Regional Governance and Human Rights through resolution 24/2 months September 2013.

Increasing concern for human rights is articulated in the city of caring for human rights which is re-emerging in Indonesia. In the Decree of the Minister of Law and Human Rights Number M.HH-04.HA.04.03 of 2020, there are 514 (five hundred and fourteen) districts/cities in Indonesia, 439 (four hundred thirty nine) districts/cities or around 85.5 (eighty five point five percent), who have participated in submitting achievement data for the assessment of districts/cities concerned with human rights by a team formed by the Minister of Law and Human Rights (Menkumham). Of the number of participants, only 259 (two hundred and fifty nine) districts/cities or around 59 (fifty nine) percent won the award for the category of districts/cities concerned with human rights, including the City of Ternate. The problem is whether the City of Ternate as a city that cares about human rights has actually reached a city that cares about human rights or not, especially with regard to fulfilling the rights of women and children which must meet parameters including: the legal products of the district/city government regarding women’s empowerment and child protection, regional government legal products regarding child marriage, integrated empowerment programs for the protection of children, and other related issues.

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3 Kementrian Hukum dan HAM RI, Kabupaten/Kota Penerima Kota Peduli HAM (6 April 2021).
of women and children, counseling or rehabilitation programs for child victims of violence or crime, programs for monitoring or withdrawing child labour, availability of social rehabilitation institutions for women and children, and ratio of occurrence of domestic violence. It is this parameter that is to be examined as part of the fulfillment of cities that care about human rights in the city of Ternate.

RESEARCH METHODS

This research is located in Ternate City, North Maluku Province, with the research title Fulfillment of Women’s and Children’s Rights in the Implementation of Cities Care for Human Rights in Ternate City. This research is an empirical research using statutory approach (statute approach) and conceptual approach (conceptual approach). The source of data in this research is the subject from which this data was obtained, namely by examining field data with the support of library materials. In this study, the data collection method used was interviews (questionnaires) with primary, secondary and tertiary legal materials obtained by collecting and studying laws and regulations, literature books, journals, and empirical evidence as well as materials related to this research. The results of the field study inventory were analyzed to obtain conclusions and then analyzed using integrative and conceptual analysis methods which tend to be directed at finding, identifying, processing and analyzing legal materials to understand their meaning, significance and relevance.

DISCUSSION

FULFILLMENT OF THE RIGHTS OF WOMEN AND CHILDREN IN THE CITY OF TERNATE IN THE CRITERIA OF A CITY CONCERNED ABOUT HUMAN RIGHTS

MoU stands for Memorandum of Understanding. This term comes from two words Human rights emphasize the state as the Obligation Holder to respect, protect and fulfill human rights. Article 28 I of the Constitution of the Republic of Indonesia states that the protection, promotion, enforcement and fulfillment of human rights is the responsibility of the state, especially the government. The government’s human rights obligations are also emphasized in Law Number 39 of 199 concerning Human Rights Article 71 which reads “The government is obligated and responsible to respect, protect, uphold, and promote human rights regulated in this law, statutory regulations and international law on human rights accepted by the Republic of Indonesia”. This was also stated in the Report of the UN Human Rights Council Advisory Committee on Human Rights and Local Government Resolution No A/HRC/27/59 which was then finalized with Resolution No A/HRC/30/49 concerning the Role of Local Government in the Promotion and Protection of Human Rights.

Meanwhile in Indonesia Local Government has become a central issue post-reform. Reforms have ushered in distributed authority and power to the regions. The decentralization system has made it possible for the distribution of some of the authorities and responsibilities of the central government to provincial and district/city governments. This also concerns the responsibility of the State regarding the protection, promotion, enforcement and fulfillment of human rights. District and city administrations, therefore, are transformed into representatives of the State at the local level which are in direct contact with citizens, including in terms of protecting, promoting, upholding and fulfilling human rights. Since then, human rights issues have always been related to local government.
Komnas HAM complaint data is clear evidence of the close relationship between these two elements. Over the past few years local governments have become the top three parties that have received the most complaints from Komnas HAM. The magnitude of the regional government's contribution to cases of human rights violations in the regions has become a concern for many parties, especially because of the large access of local governments to the livelihoods of the people in the regions. Komnas HAM complaint data is clear evidence of the close relationship between these two elements. Over the past few years local governments have become the top three parties that have received the most complaints from Komnas HAM. The magnitude of the regional government’s contribution to cases of human rights violations in the regions has become a concern for many parties, especially because of the large access of local governments to the livelihoods of the people in the regions.

Efforts to realize Human Rights Districts and/or Municipalities can be carried out in several ways, including through; planning and assessment, capacity building for apparatus and civil society, one of which is through human rights education and training, as well as building local human rights mechanisms and building national networks. In relation to this, the National Human Rights Institution (Komnas HAM) is an important actor in efforts to build a Human Rights City.

The status of a city that cares about human rights is carried out according to the standards set out in the Regulation of the Minister of Law and Human Rights Number 22 of 2021 concerning Criteria for Regions/Cities Caring for Human Rights attached to the questionnaire form for assessing districts/cities concerned with human rights including the following indicators:

1. District/municipality regional law products regarding women’s empowerment and child protection;
2. Regency/city regional law products regarding the prevention of child marriage;
3. Integrated empowerment program for the protection of women and children;
4. Counseling/rehabilitation programs for child victims of violence/crimes;
5. Work program for supervising or withdrawing child labor;
6. Availability of social rehabilitation beaches for children and women;
7. The ratio of occurrence of domestic violence;
8. Cases of underage workers.

The standardization of Cities Concerned with Human Rights for the City of Ternate is as follows:

1. District/city regional law products regarding women’s empowerment and child protection. Women’s Empowerment and Child Protection carry out one of the functions, namely the formulation and determination of policies in the field of gender equality, fulfillment of children's rights, community participation, protection of women’s rights, and special protection of children, so that every year planning, monitoring and evaluation of laws and regulations is carried out and legal products produced and included in the Legislation Program of the Ministry of Women’s Empowerment and Child Protection. In the framework of monitoring the 2020 legislation program and planning for the formulation of

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4 Menteri Hukum dan Hak Asasi Manusia, Peraturan Menteri Hukum Dan Hak Asasi Manusia Nomor 22 Tahun 2021 Tentang Kriteria Daerah Kabupaten/Kota Peduli Hak Asasi Manusia (Indonesia: Lembaran Negara Republik Indonesia, 2021).
the 2021 legislation program within the Ministry of Women's Empowerment and Child Protection, the Legal and Public Relations Bureau c.q the Legal and Legislation Division carries out Legislative Program Evaluation activities. The Legislative Program of the Ministry of Women's Empowerment and Child Protection is an instrument for controlling the formation of laws and regulations and legal products in the field of women's empowerment and child protection that are prepared in a planned, integrated and systematic manner which contains a list of laws and regulations and legal products input from all work units within the Ministry of Women's Empowerment and Child Protection, as stipulated in the Minister of Women's Empowerment and Child Protection Regulation Number 7 of 2017 concerning Procedures for Compiling Legal Products within the Ministry of Women's Empowerment and Child Protection. The Legislative Program of the Ministry of Women's Empowerment and Child Protection is usually stipulated by a Decree of the Minister of Women's Empowerment and Child Protection which is valid for a period of 1 (one) year.

2. Regency/city regional legal products regarding child marriage, the City of Ternate has a Regional Legal Product in the form of Ternate Mayor Regulation Number 2 of 2021 concerning Prevention of Early Child Marriage. It is hoped that this Perwali will be able to synergize with relevant agencies in carrying out activities to prevent early marriages that often occur while at the same time providing an understanding to the younger generation about early marriages. The marriage age limit policy is also based on the fact that the increasing number of child marriages will cause difficulties for the country in realizing the universal development agenda agreement contained in the document Transforming Our World: the 2030 Agenda for Sustainable Development Goals (SDGs), which contains 17 (seventeen) goals with 169 (one hundred and sixty nine) targets that are aspirational and global in nature. Each country decides how these targets can be incorporated into national planning processes, policies and strategies. The aim of agreeing on this SDGs document is that by 2030 no country will be left behind in the context of poverty alleviation, one of which is by reducing the number of child marriages as stated in the Fifth Goal of the SDGs. That the existence of a constitutional guarantee for the rights of the child creates an obligation for all parties, including parents, families, local government, government and the state to protect, respect and fulfill children's rights, especially the obligation and responsibility to prevent marriage at the age of Child.

3. The integrated empowerment program for the protection of women and children, the implementation of the empowerment program for the protection of women and children in the City of Ternate as long as it is carried out by the Integrated Service Center for the Empowerment of Women and Children (P2TP2A) together with the North Maluku Women's Daulat (Daur Mala) and Wahana Visi with programs including: First, Establishment of Aska (Savings and Loans Association for Child Welfare) which spread to the sub-districts of Bula, Dorpedu, Loto, Faudu, Dorariisa Hiri Island, Tafraka Hiri Island, Togafo, Mado Sub-District Hiri Island, Togolobe Sub-District Hiri Island. Second, PERT (Household Economic Management) which was carried out in the Mado Togolobe sub-district, Hiri Island, Loto, Tafraka Dorariisa. Third, Development of Home Industry Collaboration between DP3A and KPPA RI until 2021 the total revenue for developing cottage industries is 88 (eighty eight) cottage industries with various business fields.

4. Counseling or rehabilitation programs for child victims of violence/crimes. Children need special protection and care including legal protection that is different from adults. This is based on the physical and mental reasons of immature and mature children. Children need to get a protection that has been contained in a statutory regulation. Every child will be
able to assume this responsibility later, so he needs to get the widest possible opportunity to grow and develop optimally both physically, mentally, socially, with good morals. Having a noble character, it is necessary to carry out efforts to protect and realize the welfare of children by providing guarantees for the fulfillment of their rights and for non-discriminatory treatments. Violence against children in Indonesia is still very high. One of the causes is the wrong paradigm or perspective on children. This illustrates as if violence against children is legitimate because children are considered the property of parents who are educated as well as possible, even in the wrong way. The existence of children who have not been able to live independently of course really need other people as a place of refuge. The issue of legal protection and children's rights is one side of the approach to protecting Indonesian children. In order for the protection of children's rights to be carried out in an orderly, orderly and responsible manner, legal regulations are needed that are in harmony with the development of Indonesian society. The reality is that the government, law enforcement officials, the community and other parties who have the right to help have not been able to provide maximum protection. Justice provided by the application of law through the imposition of legal sanctions imposed on perpetrators is unfair or not in accordance with the consequences it causes, it is not comparable to the psychological burden experienced by victims of crime. This legal injustice is said to be able to keep children who have been hit by a disaster (become a victim of a crime) from being willing to deal with the world of justice.

5. Work program for supervising or withdrawing child labor. Children as creatures of God Almighty and as the next generation of the nation have human rights or basic rights from birth. One form of children's basic rights is a guarantee for optimal growth and development both physically, mentally, socially and intellectually. In reality, not all children have the opportunity to obtain these basic rights optimally, especially for children whose parents are economically disadvantaged so they have to work to help their parents earn a living. Child Labor has been around for decades, they are scattered in various countries in the world, especially in developing countries including Indonesia. Actually, working for children can have positive and negative impacts, positive impacts if it is carried out in the context of introduction and learning to prepare for the world of adults and negative impacts if children work in places that have a negative influence on children's physical, mental, social and intellectual development. Low educational background and powerlessness of child workers are often the cause of child labor falling into the worst types of child labour.

6. Availability of social rehabilitation beaches for children and women. Pancasila and the 1945 Constitution of the Republic of Indonesia mandate that the state has the responsibility to protect the entire Indonesian nation and promote public welfare in the framework of realizing social justice for all Indonesian people. In Law Number 11 of 2009 Concerning Social Welfare it is stated that in order to create a decent and dignified life, and to fulfill the rights of citizens' basic needs in order to achieve social welfare, the state organizes social welfare services and development in a planned, directed and sustainable manner. Implementation of Social Welfare is a directed, integrated and sustainable effort by the Government, local government and the community in the form of social services to meet the basic needs of every citizen, which includes social rehabilitation, social security, social empowerment and social protection. Furthermore, in Article 5 paragraph 2, the

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6 M.Dikdik and Elisastris Gultom, Urgensi Perlindungan Korban Kejahatan (Jakarta: Raja Grafindo Persada, 2006).
7 Bagong Suyanto, Masalah Sosial Anak (Jakarta: Kencana, 2010).
implementation of social welfare is prioritized for those who have a life that is not worthy of humanity and has criteria of social problems: (1) poverty; (2) neglect; (3) disability; (4) remoteness; (5) social heredity and behavioral deviations; (6) disaster victims; (7) victims of violence, exploitation and discrimination. From the description above, in general it can be summarized that the social problems that exist in Indonesia are more or less divided into the 7 (seven) major sections above. People with Social Welfare Problems (PMKS). In this regulation it is stated that Persons with Social Welfare Problems (PMKS) are individuals, families, groups, and/or communities who, due to an obstacle, difficulty, or disturbance, are unable to carry out their social functions, so that their life needs cannot be fulfilled both physically, spiritually, and socially adequately and fairly.

7. The ratio of occurrence of domestic violence. The Ternate City Women and Children Empowerment Integrated Service Center in the recapitulation of data on domestic violence for the period January to November 2021 totaled 7 (seven) cases.

THE ROLE OF TERNATE CITY GOVERNMENT IN FULFILLING THE RIGHTS OF WOMEN AND CHILDREN IN TERNATE CITY

The Progress Report of the Advisory Committee on the Role of Local Government from the United Nations assesses the main reasons urging the emergence of a Human Rights City, are:

1. The shift from standard setting to implementation, especially at the level of government, namely local government, is in the best position to realize human rights, especially economic, social and cultural rights.

2. The global trend since the 1980s has been the decentralization of governmental power – in which most countries in the world have transferred power to local governments in the last few decades.

3. Global demographic changes, in 2008, for the first time in history, more than half of the world’s population lives in urban areas, and this number is expected to increase, to nearly five billion in 2030 to come.

The definition of a Human Rights City according to the Gwangju Declaration is a local community process and a socio-political process in a local context where human rights play a major role as underlying values and principles. Human rights cities are also understood as human rights governance in the local context where local government, DPRD, civil society, private sector organizations and other stakeholders work together to improve the quality of life for all citizens in a spirit of partnership based on human rights standards and norms. At a practical level, human rights districts/cities mean that all residents, regardless of race, gender, skin color, nationality, ethnic background and social status, especially minority groups and other vulnerable groups who are socially vulnerable and marginalized, can participate fully in decision making. Besides that, in a Human Rights Regency/City the process of implementing policies that affect the lives of the population must comply with human rights principles such as non-discrimination, rule of law, participation, empowerment, transparency and accountability.

The following are the principles of a Human Rights City from the three most widely referenced international documents consisting of: UN Resolution on Human Rights and Local

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Government covering the Right to the City; Non-discrimination and affirmative action; Social inclusion and cultural diversity; Participatory democracy and accountable government; Social justice, solidarity and sustainability; Political leadership and institutionalization; Mainstreaming human rights; Effective institutions and policy coordination; human rights education and training; The right to remedy. The Gwangju Principles on Human Rights Cities include Right to the city; Non-discrimination and affirmative action; Social inclusion and cultural diversity; Participatory democracy and accountable government; Social justice, solidarity and sustainability; Leadership and political institutionalization; Human rights mainstreaming Effective coordination of institutions and policies Education and training on human rights and the right to remedy The Global Charter Agenda for Human Rights Cities includes Dignity for the human being as the highest value Freedom, equality especially between men and women, without discrimination, recognition of differences, justice and social inclusion; Democracy and citizen participation as city policies; Universality, integrity and interdependence of human rights; Social and environmental sustainability; Cooperation and solidarity among all members of each city, as well as among all cities in the whole world; Different shared responsibilities for the city and its inhabitants, according to capabilities and means.

The City of Human Rights Principles are contained in several documents of the Global Charter on Human Rights Cities and the Gwangju Principles which were later adopted by United Nations Resolution No. A/HRC/27/59 which was then finalized by Resolution No. A/HRC/30/49 on the Role of Local Government in the Promotion and Protection of Human Rights – Final Report of the Advisory Committee of the UN Human Rights Council. If explored further, the Human Rights City Principles contained in the various documents mentioned above are also in line with the concept of human rights-based development, because actually a human rights-based development approach that emphasizes the population as the subject of development also contains the principles of participation, accountability, non-discrimination, empowerment and the relationship between rights. It is hoped that the principles of a human rights city and human rights-based development can also be used as a reference for resolving issues of human rights development in the regions.

In the spirit of autonomy, the Regional Government as one of the entities in the administration of the State has a responsibility as a duty bearer in fulfilling and protecting human rights. With a number of authorities owned by regional governments, they have the opportunity to realize the fulfillment and protection of citizens' human rights. The authority granted by Law no. 23 of 2014 for Regional Government (Compulsory Government Affairs) includes: education; health; public works and spatial planning; public housing and residential areas; peace, public order, and community protection; and social; labor; women empowerment and child protection; food; land; environment; population administration and civil registration; community and village empowerment; population control and family planning; liaison; communication and informatics; cooperatives, small and medium enterprises; capital investment; youth and sports; statistics; coding; culture; library; and archives.

The role of the Ternate City government in fulfilling the rights of women and children in the realization of a city that cares about human rights includes:

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1. Harmonization of draft regional law products to encourage the fulfillment of women’s and children’s rights. One of them is Ternate Mayor Regulation Number 2 of 2021 concerning the Prohibition of Early Marriage;
2. Monitoring and settlement of cases on the implementation of regional legal products;
3. Advocacy for settlement of cases of victims of crimes against women and children;
4. Availability of a Family Learning Center which has the goal of being a one-stop integrated service unit for family and child problems;
5. Counseling or rehabilitation programs for child victims of violence/crimes.
6. The integrated program for the protection of women and children, the implementation of the empowerment program for the protection of women and children in the City of Ternate has been carried out by the Integrated Service Center for the Empowerment of Women and Children (P2TP2A) together with Daulat Perempuan North Maluku (Daur Mala) and Wahana Vision.

In fulfilling the rights of women and children in the realization of a city that cares about human rights, the City of Ternate still has several obstacles including the government continuing to look for the right format of activities that have a direct impact on society, for example campaigns against early marriage, cases of sexual crimes and synergy between related institutions in supporting cities that care human rights on the fulfillment of the rights of women and children.

CONCLUSION

The Indonesian nation has accepted the principles and norms of human rights as a constitutional mandate. Apart from being included in Article 28 of the 1945 Constitution of the Republic of Indonesia, these human rights principles and norms are also translated into several organic regulations. study and research, counseling and mediation as well as supervision. The principles of a Human Rights City that have been agreed upon in international and regional forums must be translated into more implementable principles in the development of a Human Rights City in Indonesia. Several city government initiatives in Indonesia should be appreciated as an effort to improve services to city residents. Some of them are: smart cities, child-friendly cities, inclusive cities, eco-friendly cities/green cities, women-friendly cities and others. However, this effort must be integrated as part of the development of the Human Rights City. Therefore, these character cities which are based on different innovations should be understood as a process towards fulfilling the principles of a human rights city.

Nonetheless, the effort to build a Human Rights City is a long-term process that requires consistency and continuity. Efforts towards Human Rights Districts/Cities cannot be completed within the period of one political regime. Even the authority of regional government leaders does not absolutely determine the success of this effort. The success of the Human Rights District/City also depends on the ability of regional leaders to communicate with various stakeholders, actively coordinate and share in creating a conducive situation for the implementation of the Human Rights District/City. The role of civil society is of course a very influential factor for the implementation of human rights districts/cities.

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