



Protection of the Right to Adequate Residence for Residents Affected by Eviction Based on Human Rights Perspective

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Abstract. Evictions are still one of the methods used by the local government in the context of land acquisition for development. In particular, the eviction of the residences of residents who do not have land ownership rights documents. The right to residence is one of the human rights that must be protected by the state. This right is also related to ensuring the sustainability of human life, so it's fundamentally needed. This study focuses on the issue of the impact of evictions on the protection of the right to housing and guarantees the sustainability of the lives of people affected by eviction based on a human rights perspective. The research method used is juridical-empirical. The results showed that the government had provided Rusunawa as compensation to residents affected by eviction but the Rusunawa as provided were not given free of charge because several months later, residents would have to pay rent. The provision of Rusunawa was carried out unilaterally by the government, so the government still did not pay attention to some standards for providing adequate housing according to human rights standards consisting of aspects of availability, aspects of cost affordability, and location aspects. Therefore, it is hoped that the local government, before carrying out an eviction, needs to involve the participation of the affected community to identify the needs of the residents related to the fulfillment of the right to adequate housing as compensation for the loss of their homes due to forced evictions, and consider some aspects, especially for human rights protection of adequate residence.

Keywords: Land Acquisition · Development · Eviction · housing · human rights

1 Introduction

1.1 Background

The national development mission emphasizes the importance of strengthening economic resilience to achieve prosperity and social justice for all Indonesians. This objective is one of the constitutional mandates regulated in Article 33 paragraph (4) of the 1945 Indonesia Constitution. To carry out this mandate, the government is obliged to make various efforts to achieve the prosperity and welfare of every citizen through sustainable

development. However, in practice, various forms of massive development carried out by the current government often cause human rights violations, especially when dealing with the implementation of land acquisition policies for development through the mechanism of eviction of residents' settlements, especially those who occupy densely populated areas in urban areas.

Development in urban areas is generally concentrated on physical development and normalization of land functions. Based on this need, the local government took over the lands through state land claims, especially for people who did not have ownership documents for their land. Meanwhile, on the other hand, the lands to be used have long been controlled by a group of people, and generally they are immigrants or urban communities who seek their fortunes living in big cities. They build their residences on abandoned (empty) lands and live for a long time on the land.

In fact, residents have actively controlled these lands for a long time, even for generations. Although they cannot prove legal ownership of the land where they have lived for a long time, This is due to the difficulty of obtaining land rights in urban areas. This condition certainly creates vulnerability to guarantees for the protection of residential space for urban residents because at any time it can be evicted by the local government in the context of land acquisition for development in the public interest. Such as the case of several groups of residents who have been affected by eviction due to development policies or normalization of urban areas. For example, cases of eviction against residents of people who live in RW 09 to RW 12 Keluran Bukit Duri, Tebet, South Jakarta. Residents were evicted but they did not receive compensation for the loss of their residential buildings. This is also due to the fact that residents claim to have no documents on ownership of land rights. And for relocation, the government of DKI Jakarta only provides Rusunawa for residents who have been evicted. Rusunawa are provided as replacement housing for the loss of residents' homes, but since the provision of these flats is provided in the form of a lease, this policy certainly cannot ensure protection for their lives. They can be evicted if they are unable to pay the rent, so they will have to leave the flat.

To implement the program, the government of DKI Jakarta asked residents whose houses were located along the banks of the Ciliwung river to demolish their own houses, but residents refused that request because the government had not provided clarity on the replacement housing that would be prepared for residents. This is considering that residents will only be provided with flats with temporary rental rights in the area. According to the previous agreement between the residents and the provincial government, the residents would build a bunk village or series of villages. Therefore, the residents refused to demolish their homes; the government responded with repressive measures for residents; and finally, the government carried out forced evictions of the buildings where residents lived.

The same case also happened to 10 (ten) heads of families in RT 03/RW03 Batujaya Utara, Batu Ceper, Tangerang City. The eviction of residents in Batu Ceper Tangerang occurred as a result of the local government's policy to expand the educational facilities of elementary school No. 01 Batujaya. Most of the residents do not have documents of ownership of land rights, so when residents are faced with the Tangerang City government's claim to land ownership as a regional asset and the need for land for development,

residents cannot defend and protect their land and their residence from the land acquisition policy through eviction. Although the residents have controlled the land for almost four decades and are hereditary, this fact does not reduce the government's intention to forcibly take the land from the people's control.

Based on the several cases above, it appears that the vulnerability of people affected by eviction cannot be separated from the condition of those who do not have ownership documents for their land, so residents who have worked and cultivated the land cannot get proper compensation, especially for the loss of their homes. Even though they have lived on the land for a long time, this fact does not become the basis for consideration by the local government to provide adequate compensation so that the people can get a replacement place to live to ensure their sustainability.

In addition to the loss of their homes, the evictions have also eliminated the source of livelihood (jobs) or economic resources for the affected residents. Because previously, residents mostly relied on the trade and trade sector around their land and worked not far from where they lived before their residence was evicted by the local government. This certainly has an impact on human rights issues because residents have the potential to lose the enjoyment of a decent place to live as well as a source of livelihood for their sustainability.

The right to a decent place to live is part of the basic human right to have a decent life and guarantee the continuity of life towards continuous improvement (progressive realization). This principle does not require a decline in the enjoyment and fulfillment of human rights. One of the most important elements in ensuring the protection and fulfillment of all economic, social, and cultural rights (ekosob) is progressive realization. The protection of this type of right is governed by Article 25 paragraph (1) of the Universal Declaration of Human Rights, Article 40 of Law No. 39 Regarding Human Rights, and Article 11 paragraph (1) of Law No. 11 of 2005 Concerning Ratification of the International Covenant on Economic, Social, and Cultural Rights (Ekosob).

Indonesia, as a country that has ratified the Covenant on the Protection of Economic, Social and Cultural Rights, has an obligation to fulfill the rights of all its citizens without exception (non-discriminatory), including the right to adequate housing as a fulfillment of basic human rights. For Indonesia, the ratification and ratification of international human rights legal instruments has consequences for the obligations and responsibilities of the state. In this case, the government wants to be able to implement the protection, respect, and fulfillment of human rights for every citizen without exception, including when the government wants to carry out development through land acquisition for development and for the public interest.

In practice, the policy of land acquisition for development through eviction has the potential to Human rights violations, especially the loss of enjoyment of the right to housing and the continuation of life for the affected people, cause human rights violations. The implementation of land clearing without the involvement of community participation will also cause problems when the government relocates residents of communities that will be affected. Participation and deliberation are key ways in which the relocation process.

Before the relocation takes place, the government and the parties who will be affected should have carried out communication and dialogue (deliberations) to explore all possibilities and other alternatives that can be taken until a fair agreement is reached. Through balanced deliberation, it can also become a forum for the government to identify the needs of the affected people as a result of the land acquisition policy for development. However, this approach is rarely used by the government in the implementation of land clearing, especially on land on which there are residential settlements, especially residents who do not have land rights but have long controlled the land. Although the dialogue process has been carried out, the positions of the parties tend to be unequal. So that the communication carried out does not target the achievement of a common consensus. On the other hand, the government will continue to maintain that its policies must be implemented but the remedy efforts prepared are not optimal enough. Meanwhile, residents still want to defend their residences because the alternative Rusunawa housing provided by the government is feared to not be able to guarantee the survival of the affected residents. In addition, there is no compensation that will be received by residents to recover their economic resources from trading.

1.2 Problem Formulation

Based on the various impacts of residence evictions described above, this study focuses more on the issue of protecting the right to adequate housing for the survival of the victims of evictions, especially for marginalized urban community groups, especially those who live in urban areas, with the formulation of the problem “How to protect the right to adequate housing for residents affected by evictions in order to ensure the sustainability of their lives based on the perspective of human rights”.

1.3 Research Method

This study is using a qualitative approach that analyzes the data in a descriptive analytical manner. Do not analyze data in the form of numbers. While the type of research is Juridical Empirical, which is conducting empirical studies to find relevant theories regarding the occurrence and process of working law in society. Based on the sources of data used, although this research is Juridical Empirical, the data are have been collected and used by other researchers, and will be used as a database to be analyzed in this study. This research also using some interview with relevant sides and using several literatures, journals and some related laws and regulations.

2 Legal Materials and Methods

2.1 Right to Adequate Housing is Part of Human Rights

Availability of housing, access to economic resources and affordability of public services are important elements to ensure the sustainability of human life. The concept of protection of this type of right has been regulated in the national legal instrument, namely Article 28 H paragraph 1 of the Second Amendment of the 1945 Constitution

which states that “everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy environment. healthy” then in Article 40 of Law no. 39 of 1999 concerning Human Rights, states that “everyone has the right to live and have a decent life”. However, this article does not provide further explanation of the limitations of what is an “adequate” standard of living.

The definition of what is “worthy” was only found based on the results of an interview with Mukmin Zakie. The interview was conducted by Komnas HAM RI when compiling research on “Assessment of Compensation in Land Procurement for Public Interest” on July 24, 2018 He explained that “a proper and fair assessment of the size as far as possible is carefully calculated so that losses can be recovered, while the actual losses suffered are more defined in terms of lost profits, the value of business losses and building land including loss of income/jobs” So that the affected communities can continue life well. Then, the meaning of a decent life is also indirectly regulated in Article 9 (1) of Law no. 39/1999, states “Everyone has the right to live, maintain life and improve their standard of living.” The provisions of this article relate to guarantees for the protection of the right to life for each individual. In the constitution, the right to life is recognized as a right that cannot be reduced under any circumstances as regulated in Article 28 I paragraph (1) of the second amendment to the 1945 Constitution, which states “The right to life, the right not to be tortured, the right to freedom of thought and conscience. Religious rights, the right not to be enslaved, the right to be recognized before the law, and the right not to be prosecuted on a retroactive basis are human rights that cannot be reduced under any circumstances”.

The United Nations Human Rights Committee emphasized that the right to life is a supreme right so that the state cannot derogate this right under any circumstances. In the Human Rights Discourse that the right to life is also related to the right to sustainability as part of an indicator of the protection of human rights and this right is interrelated/interdependent with the fulfillment of economic, social and cultural rights (ecosob) including the right to housing (board needs). Based on the explanation above, the right to life is part of the type of right that cannot be reduced by the state under any circumstances because it will have an impact on guaranteeing the sustainability of human life and this right is also related to the protection of the right to a place to live.

The protection of the right to a proper place to live and live is regulated in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ECOSOB) which was then ratified by the Indonesian government through Law no. 11 of 2005 concerning Ratification of the Convention on Ecosob Rights. Article 11 paragraph (1) of Law No. 11 of 2005 states that “States parties to this covenant recognize the right of everyone to an adequate standard of living for him and his family, including food, clothing and shelter, and to continuously improving living conditions”. States parties commit themselves to take appropriate steps to ensure the realization of this right, recognizing the importance of international cooperation.

Based on the provisions in the Convention, it is emphasized that the right to a decent life is part of human rights whose protection and fulfillment must be carried out by the State. A decent standard of living is guaranteed for every individual without discrimination (non-discrimination) and his family as well as an improvement in living conditions that continues to increase. To achieve this goal, the state is required to take

positive actions gradually towards progressive realization in order to protect and fulfill basic human rights. To achieve a decent standard of living for humans, it emphasizes for countries the importance of establishing international cooperation to support the smooth fulfillment of these rights. Cooperation is carried out to ensure that all obstacles can be minimized.

Furthermore, regarding the scope, “the right to a decent place to live and live”, is interpreted based on several approaches as follows:

- a) The right to resettlement is integrally linked to other human rights embodied in economic and cultural rights. The term “settlement” is interpreted by taking into account various other considerations, among which the most important is that the value of a place to live must guarantee all people regardless of income and take into account their access to economic resources;
- b) Referring to Article 11 paragraph 1 of the Ecosob Convention, the meaning of adequate housing is related to aspects of legal protection over tenure, availability of various services (public facilities and infrastructure), affordability, accessibility, housing feasibility, location, cultural feasibility and considering other factors. Social, economic and cultural, ecological and other factors that determine so that people’s lives can be better and more comfortable.

Article 11 paragraph (1) of the Convention on the Rights of Ecosob stipulates that “the right to adequate housing is a protected right because this right is related to improving the quality of life for everyone without exception”. The condition of residence/settlement must be able to access all the availability of basic human needs to support the sustainability of a quality life. The meaning for the purpose of quality sustainability is, of course, it related to the availability of decent and humane housing that meets good health and environmental standards. In line with this, the Rio De Janeiro Declaration initiated by the United Nations Center for Human Rights Settlements, Agenda 21 and the Habitat Declaration states that “home is a basic human need and is the right of all people to occupy adequate and affordable housing” (adequate and affordable housing). shelter for all).

Based on some of the provisions above, it is emphasized that the provision of adequate housing and a sense of security in living is part of human rights. Therefore, it is the obligation of the state in this case the government to ensure that these rights will continue to be protected from all forms of practices that cause human rights violations, one of which is when carrying out land acquisition for development, the implementation of land clearing carried out by the government must also be carried out by the government provide human rights protection for affected people.

Before relocation is carried out on residents, the government needs to consider the feasibility of the location and the feasibility of replacement housing to ensure the sustainability of the lives of residents who will be relocated due to the land clearing policy. This is important to be considered by Government in order to ensure the sustainability of the lives of the evicted residents. The same treatment must also be given to every citizen without exception whether those who have land documents or do not have land rights ownership documents. Because the protection of human rights is a principle that is universal and non-discrimination. With the application of this principle, it provides

equality for humans to get the same treatment for the fulfillment and protection of human rights by the State.

2.2 Protection of the Right to Adequate Housing for Victims of Eviction Based on the Perspective of Human Rights

Shelter is a basic human need in addition to food, water, and clothing. Therefore, this type of right is part of human rights whose fulfillment must be provided by the state as an indicator to achieve community welfare. The government, both central and regional, is the embodiment of the state in the sense that, moving through its apparatus, it is obliged to carry out the people's mandate to protect and to ensure the realization of the welfare of the whole community, including protecting human rights for every citizen. The protection of human rights is the responsibility of the state. This obligation is in accordance with the provisions of Article 28 I, paragraph 4 of the Second Amendment of the 1945 Constitution and Article 71 of the Law No. 39/1999 on Human Rights, which explains that "The government (both central and regional) is obliged and responsible for respecting, protecting, upholding and promoting human rights as regulated in this law, other laws and regulations, and international law concerning human rights. The Republic of Indonesia has accepted the principles of human rights."

A democratic country must have a state obligation, especially to protect and to respect human rights. State Obligation emphasizes 3 (three) principles that must be implemented, namely: First, the state as a protector of human rights (how to protect); Second, the state is tasked with ensuring respect for human rights (how to respect); Third, the state must ensure the fulfillment of human rights (how to fulfill), including fulfillment of economic, social, and cultural rights. Based on these several concepts of obligations and responsibilities, the position of the government, both central and regional, is part of the state, which by law has the responsibility to protect, respect, and fulfill human rights, including the protection of the right to adequate housing for all citizens without exception (non-discrimination).

The development that is currently being promoted by the government should still respect the principles of the sustainability of human life as a form of respect for human rights. This is important to implement because the purpose of development itself is to increase the welfare and happiness of the community, not to create new poverty for a particular group of people. This is in line with what UNDP has outlined about the concept of sustainable development. UNDP requires every country, especially developing countries, to pay attention to the relationship between the concept of sustainable development and human life, including the protection and respect for human rights.

In the context of development and people, UNDP emphasizes the importance of a sustainable development approach (sustainable development), especially for achieving the general welfare of society. Therefore, the development planned by the government should ideally pay attention to the sustainability of human life, including the protection of a decent place to live for the welfare of the community.

This opinion is motivated because, in general, development in developing countries is more likely to carry out physical development so that it has an impact on the need for large lands. This, of course, has the potential for the emergence of state policy to carry out evictions, especially on land based on state ownership claims. Meanwhile, on these

lands, there are already residential settlements on the land. In general, the people who control these lands do not have legal ownership documents, but on the land they have been living permanently and continuously working on the land, even hereditarily. So, this condition can certainly cause problems when the land they have occupied is used by the government for reasons of development. Even though the residents have lived on the land for quite a long time, this fact does not become a consideration for the government. The government still continues to carry out evictions while the compensation mechanism cannot be applied to residents because they do not have land rights ownership documents.

Generally, land clearing policies are carried out in the name of “public interest,” which often becomes the justification for the government to evict residents, especially for residents who do not have legal documents on land ownership. The evictions often get resistance from the affected residents. The reaction from these residents is certainly not surprising because residents will struggle to be able to.

They defend their right to their homes and residences from eviction.

The description of this condition is the same as the eviction incident faced by 10 families of residents in East Batu Jaya, Batu Ceper. On October 10, 2018, several residents’ houses were evicted. When the eviction was carried out, most of the residents carried out brigades to protect their residential buildings, which were to be demolished by Satpol PP (security forces). Residents continued to persist in preventing the entry of Satpol PP into their settlements, so that pushing and shoving was inevitable between residents and Satpol PP, and physical clashes were unavoidable. The residents took this action as a reaction to the repressive approach of the authorities who were going to demolish the residents’ residential buildings. Meanwhile, on the other hand, what has happened is that there is no agreement between the affected residents and the local government regarding replacement housing for relocation. This condition is also triggered because there is no communication and dialogue space that is built in a balanced way between the government and the people who will be affected by eviction.

Based on CESR General Comment No. 7 of 1997, article 3 defines eviction as an act of temporary or permanent displacement against the wishes of a number of individuals, families, and/or communities over the lands they control, without legal provisions and access and thereby violating human rights. Furthermore, article 4 explains that evictions have the potential to cause violations of various types of basic rights of affected people, including: violations of the right to life and the right to adequate housing, because as a result of eviction, not a few people have lost their homes. If land clearing cannot be avoided, then relocation (relocation) for the affected people is the last option that can be carried out by the government. However, the government still has to pay attention to all conditions and alternative solutions for recovery from the social and economic impacts it causes. Involvement of community participation needs to be carried out by the government to the fullest because, in practice, the manner of communication and consultation are not good between the residents and the government. It may be causing potential problems when clearing land, such as not getting an agreement for the relocation of residents or the refusal of residents to be moved to a new place because of the residents’ considerations of social sustainability and citizens’ economy.

General Comment No. 7 Concerning Economic, Social, and Cultural Rights (ecosob) is determined to the states in Article 11 paragraph (1) in order for “the implementation of the transfer of persons must observe the following conditions”:

- 1) There must be clear and complete information, as well as alternate locations to stay prepared.
- 2) Displacement of people must be guaranteed by law and in accordance with agreements that all recovery resources will be made available to affected parties (including restoration of economic, social and cultural conditions);
- 3) There is room for negotiation and the use of force is discouraged. This condition is closely related to the implementation of the participatory principle.
- 4) Appropriate and reasonable compensation is provided;
- 5) The transfer of people should not result in individuals becoming homeless and has the potential to violate human rights.

Furthermore, in the Basic Principles and Guidelines on Development Based Eviction and Displacement In the second part, the general policy (General Obligation), Chapter II Prior to Evictions (Prior to Evictions) No. 37 states that “urban planning in the development process must involve all parties who may be affected.” Therefore, the government must pay attention to the following elements: (a) proper and appropriate notification to all parties who will be directly affected by evictions. (b) active and intensive dissemination of relevant information from relevant officials, including data collection on land status and proposals for comprehensive and specific resettlement plans to implement safeguards against vulnerable groups; (c) a reasonable period of time for the public to evaluate, comment on, or object to the plan; and (d) opportunities and efforts to help citizens understand the legal basis, mechanisms, and other suggestions in order to provide”.

The impact of evictions on RT 03/03 Batujaya, Batuaceper, Tangerang residents demonstrates that the impact of evictions makes residents unable to obtain proper housing. This also cannot be separated from the lack of available negotiation space between the affected people and the government prior to the eviction. Ample negotiation space is urgently needed to identify the impacts arising from evictions, some needs, relocation sites for residents, and the local government’s efforts to make remedies for losses arising from evictions.

The government in determining relocation tends to be carried out unilaterally without community involvement, even if there are only formalities, so that the results are not optimal and the handling and recovery efforts due to evictions cannot be properly communicated to the residents, the impact of which is that the community does not give a positive response when government programs related to land clearing will be implemented.

Residents admit that the housing for relocation determined by the government does not consider the recovery aspect of the economic and social impacts of the residents, so they tend not to pay attention to the sustainability of the people’s lives after they have been evicted. As happened to the evicted residents in Batuaceper, Tangerang. Most of the eviction victims in Batuaceper chose not to comply with the housing provided by the government due to several considerations, including access to location, sustainability

of people's sources of livelihood, and access to cost. This condition means the eviction victims do not have a permanent place to live after their houses are demolished due to the evictions.

Based on the interview that Komnas HAM conducted in 2018, with one of the representatives of the evicted residents in Batuaceper, Tangerang, Mr. Dadang was informed that "before the government carried out the eviction of the residents, he and several other affected residents were never invited by the local government to communicate, especially to find out about the guarantee of recovery that would be carried out by the government on the protection of the rights of the people's survival after the residents' houses were demolished. Even though in the end, the government asked residents to move to Cibodas Flats, the appointment of a replacement residence location was done unilaterally by the government, the government did not consider the economic impact, location, and access to public services, which should be considered considering what the residents need most is a suitable replacement residence. deserved after their house was evicted". This point is important to ensure the sustainability of people's lives, especially in the economic and social aspects. The same thing also happened to residents affected by the eviction that occurred in Evidence Bukti Duri, Tebet, South Jakarta. Even though residents are provided with new residential spaces in the form of Rusunawa, the provision of these Rusunawa is increasingly burdensome for the economies of the residents affected by the evictions because for the next 3 months residents will be burdened with rent.

If we refer to General Comment No. 7 (1997) regarding the Right to Adequate Housing from forced.

Evictions, precisely in Article 11 paragraph (1) of the Convention on the Rights of Ecosob, number 16 states that "evictions/evictions may not make individuals homeless or vulnerable to human rights violations". Other humans Where the affected people are unable to provide for their own needs, the state must apply all appropriate measures to maximize the available resources, especially for the provision of adequate housing and public access.

The International Convention on Economic, Social, and Cultural Rights (the Covenant on Economic, Social, and Cultural Rights) has been ratified by the Indonesian government by issuing Law No. 11/2005 on Economic, Social, and Cultural Rights. This international agreement is a part of the general standard as rule for evaluating the implementation of the fulfillment and respect of human rights protected in this convention, especially in relation to the implementation of the protection of economic and social rights by each country that has ratified it. Therefore, there is an arrangement in general comments as a reference to regulate the importance of housing protection for everyone without exception (non-discrimination). Then, in General Comment No. 7 concerning Ecosob Rights, Article 11 also regulates the guarantee of protection and respect for the right to a proper residence from various forms of forced evictions. The essence of the regulation of this article is to ensure that everyone is free from disturbance of residence and provides arrangements regarding more civilized/humane ways when faced with the condition of the state's need for land for development purposes.

Some of the provisions above emphasize the obligation of the state to protect the right to housing for every citizen, but if the land where citizens live is needed by the state for public interest or development, the state, in this case, through the government, has

the responsibility to seek ways to transfer citizens while still respecting the principles of humanity, avoiding violence, and providing guarantees for the availability of suitable replacement housing. Eligibility here is not only feasible in the physical sense but also feasible in economic, social, and cultural aspects.

According to Article 11 paragraph (1) of the Ecosob Agreement, it is the obligation of the state to pay attention to the right of everyone to obtain a decent standard of living for himself and his family including food, clothing, and shelter, as well as continuous improvement of living conditions.

Human rights to adequate housing can be drawn as one indicator of the fulfillment of the sources of economic, social and cultural rights. Thus, there are several standards that must be met so that a dwelling or residence can be said to be feasible based on human rights, namely:

- 1) Legal ownership means that everyone should have a certain amount of ownership. This is important to protect people from different kinds of harassment, like being kicked out of their home. Generally, residents affected by evictions are only provided with replacement housing in the form of rental flats. This, of course, applies to the provisions of the rental law, so that if one day residents are unable to pay the rent, they will potentially be evicted again. This can happen because of their vulnerability, considering that they are not the owner of the property;
- 2) The availability of various basic services and special facilities for affordable health, education, comfort and other basic needs;
- 3) Accessibility: All people who have the right to adequate housing, including vulnerable groups, must have access to it.
- 4) Location: Proper housing must be in a location open to access to work, services, health, school/education, and other public facilities.

Several standards for fulfilling the right to adequate housing apply to everyone, no matter how vulnerable they are. This comes from the editorial provisions of Article 11 paragraph (1) of the Covenant on the protection of economic, social, and cultural rights (ecosob), which says that “everyone has the right to obtain a decent standard of living for himself and his family, including a place to live.” Then in paragraph 32 of the Global Strategy for Housing, “sets goals for improving living conditions, identifying the resources available for these goal and the most effective methods of utilization by countries.” In this context, the committee considers that there is a need for the full realization of the right to adequate housing. Therefore, member countries must take strategic steps to achieve the goals so that the housing conditions available for the community can continue to improve in quality (progressive realization), including from the aspect of adequate facilities and infrastructure.

In its document on progressive realization, the Office of the UN High Commissioner for Human Rights (OCHR) points out that The scope of obligations for states parties to do two things: (a) take appropriate steps toward full implementation or realization of eco-social rights; and (b) maximize the utilization of all available resources. Then, Sarah Joseph, in her book research Handbook on International Human Rights Law, specifically discusses progressive realization, essentially emphasizing “the importance

of state realization to fulfill the economic rights of every citizen as soon as possible, in a continuous, increasing, developing, and gradual way.”

If we relate this concept to the impact of the evictions on 10 families of RT 03/03 Batauceper, which causes the residents to lose their homes, while the replacement housing provided is not an option for residents due to considerations of access to location, sources of livelihood, and pressure on the cost of living for residents due to the burden of money and rent if they occupy the flats provided. Because of this, the residents of the people who were kicked out of their homes didn't have a choice about the new housing the government gave them. Instead, they rented nearby homes or stayed with relatives. This condition absolutely shows a decline in the quality of life of the affected people because, at first they had a permanent place to live, but after being evicted, they have been losing their residence. They were vulnerable to experiencing human rights violations, especially the right to get access to a decent place to live for the sake of their survival.

This condition was also experienced by residents of the victims of eviction in Bukit Duri, Tebet, South Jakarta. There were 346 heads of families who had to lose their homes due to eviction. While the Rusunawa provided little attention to the protection of the sustainability of the people affected by the eviction, especially from the aspect of affordability to occupy the Rusunawa, there was no compensation for the loss of property due to the eviction. The location aspect is also a cause of people losing their sources of income; it reduces residents' income. This condition is in line with the results of the IDEAS research that was presented in the public discussion “Considering Indonesia as a Legal State in Guaranteeing the Rights of City Citizens” at the Jakarta Legal Aid Institute (LBH), showing the fact that “the increase in spending is significant even when dealing with the harsh reality of falling incomes of citizens”. in the flat. If 35% of respondents are able to earn more than Rp. 3 million/month, but after they live in flats, only 24% of respondents whose income is above 3 million per month. This finding is consistent with the change in the employment status of the respondents, who previously had an independent business, now down to 21%. At the same time, the number of respondents who became workers increased from 27% to 30%, and even unemployment increased to 8%. The loss of a practical source of livelihood makes the eviction victims lose their economic independence.

Although the local government has provided new housing to be used as relocation for residents of victims of eviction, there are several aspects that have not been considered in the appointment and provision of replacement housing as relocations, including protection of the aspect of affordability of costs because the imposition of rent is increasingly burdensome for residents of eviction victims; guarantee of legality of ownership because there is no legal guarantee on the Strata Title ownership of Flats for residents affected by eviction; access to replacement housing locations which are quite far from the locations where they lived before they were evicted; and limited public services. The government should pay attention to these aspects because protecting the residents who have been affected by eviction is closely related to ensuring the survival of the residents after the eviction victims are relocated to Rusunawa.

If we refer to General Comment No. 4: The Right to Adequate Housing, Article 11 paragraph 1 of the Ecosob Rights agreement in Point 8 explains that the element of feasibility related to housing is not only limited to its physical condition but also how to

fulfill several aspects in order to ensure the sustainability of human life, including: (1). aspects of service availability in the form of various public facilities such as; centers for health, education, comfort and safety services to fulfill food needs, (2). affordable costs, costs that are really adjusted to the economic income of the residents. Ideally, replacement housing does not have an impact on increasing household consumption costs, while the imposition of rent will certainly further suppress the household consumption of the evicted residents so that residents are vulnerable to being evicted again. (3). In terms of location, decent housing must be in open locations; open here in the sense that it is close to the place of work and activities of the residents' economic resources before they are evicted. Some of these aspects are important to be taken into consideration by the government in determining replacement residential spaces for the relocation of eviction victims so that the replacement housing provided can truly guarantee the sustainability of their lives. Referring to the Basic Principles and Guidelines on Development Based Evictions and Displacement in the second part, General Obligations, Chapter II Prior to Evictions, No. 61 and No. 63, stated that "all people who have been evicted, regardless of whether they have the right to land ownership or only have a residential building, have the same right to receive compensation for the actual loss caused, to save property, including the original residence, and to ensure its survival." Therefore, it is necessary for the government to conduct an assessment of economic losses, loss of livelihood/income, loss of educational opportunities, ease of access to health services, and resettlement that increases household consumption costs and transportation costs (in terms of relocation away from sources of income). search). This needs to be considered considering that previously, houses and land that residents have lived on for a long time have provided economic resources to meet the needs of their families, but after they were evicted, their economic lives began to decline and even become poorer due to the loss of sources of livelihood (jobs), in addition to the burden of money. Rents further depress the economic condition of the evicted residents. Therefore, the impact and losses due to the loss of shelter must be assessed and calculated, including business (economic) losses, inventory, livestock, and decreased income of residents whose homes are affected by the eviction policy.

3 Closing

3.1 Conclusion

From the discussion in the previous chapter, conclusion can be drawn. Even though generally, the local government when implementing the policy of clearing land through evictions has provided replacement housing in the form of Rusunawa to relocate residents affected by eviction. Nonetheless, the replacement housing for the relocation has not been in accordance with human rights standards of residence suitability as regulated in Article 11 paragraph (1) of the Ecosob Agreement of the Convention on the Protection of Economic, Social, and Cultural Rights, which has been ratified by Indonesian Law in UU No. 11/2005. Protection of the right to housing that meets the element of feasibility.

It must also be seen from the aspect of affordability. Ideally, the provision of replacement housing for residents is not rentable. The imposition of rent on flats can certainly increase the burden on residents' household consumption costs, while the guarantee of

sources of income for residents after being evicted will be increasingly uncertain due to the loss of sources of income.

Then, from the aspect of availability, the location of the flats, which are quite far from access to public facilities, will certainly make it difficult for residents to be able to meet the needs of basic services such as public health services, economic resources, access to education for their children. Furthermore, from the aspect of location, the location of the flats provided by the government is quite far from the location of the residents' sources of livelihood before they were evicted. This, of course, can threaten the sustainability of access to economic resources/work of residents affected by the evictions.

3.2 Suggestion

The suggestion in this study is:

In order to protect and ensure the sustainability of the lives of residents affected by eviction, the government must pay attention to human rights standards when relocating some people from their residence to another residence. Ideally before carrying out the eviction of residents' residences, there needs to be a dialogue facilitation with the residents who will be affected must be accommodated to various inputs to identify various aspects, including aspects of location, availability, and affordability of costs at the time of the eviction. When determining the replacement residential space to relocate residents affected by eviction. This is important so that people affected by evictions can continue their lives properly after they have been evicted and do not further reduce the quality of life of residents. Various efforts to protect adequate housing to ensure the sustainability of the lives of residents need to be the government's attention before evictions are carried out. This is a form of protection and respect for human rights principles as regulated in the General Declaration of Human Rights 1998 and the International Convention on the Protection of Economic, Social, and Cultural Rights. Economic, Social and Cultural (Ecosob) Covenant which has been ratified by Indonesia through Law No. 11 of 2005 and UU No. 39 of 1999 about Human Rights. Based on that, for the government, hopefully in order to achieve the implementation of development policy based on the protection and respect for human rights principles.

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