Meeting the Right to Adequate Housing in Indonesia: National Legal Synchronization Perspective

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The research is financed by the Indonesian Ministry of Education and Culture

Abstract
The right to adequate housing as one of the most important of all basic human rights. It is recognized in a number of international human rights instruments, especially guaranteed by the International Covenant on Economic, Social and Cultural Rights (ICESCR). Indonesia has ratified ICESCR by Law No. 11 of 2005 on Ratification of the International Covenant on Economic, Social and Cultural Rights. Likewise, The Constitution of the Republic of Indonesia 1945 article 28H protects everyone to settle and have a good and healthy environment. This article focused on the synchronization of government policies related to the right to adequate housing.

Keywords: human rights, adequate housing, policy.

1. Introduction
The issue of the fulfillment of the people's right to adequate housing is one of the strategic issues facing the whole world. The right to housing is also a list of issues the Human Rights formulated by the United Nations Human Rights (http://www.ohchr.org/EN/Issues/Pages/ListOfIssues.aspx). Housing rights is an important construct in affirming the fulfillment of economic, social and cultural. Housing rights signify a real effort for ensuring the fulfillment of rights and a adequate life. Housing rights is an essential element that strengthen the fulfillment of the fundamental rights of others, such as the right to food, health, etc (Majda El Muhtaj, 2009: 142). Indonesia constitution Article 28H guarantees everyone to settle and have a good and healthy environment. Indonesia also has established Law No. 11 Year 2005 on the Ratification of the International Covenant on Economic, Social, and Cultural Rights.

According to Raquel Rolnik (2013: 4), as a party to the International Covenant on Economic, Social and Cultural Rights, Indonesia has an obligation to ensure fulfillment of the right to adequate housing, while ensuring non-discrimination on any grounds. The right to adequate housing should not be interpreted in the strictest sense as merely having a roof over one's head; it includes guarantees (a) legal guarantees of ownership; (b) the availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) the location; and (g) the adequacy of the culture.

2. Legal Synchronization Theory
The term between synchronization and harmonization are often used interchangeably, although in fact different. The term harmonization of the law is more widely used in the study of comparative law that explains the context of the encounter between two or more systems or traditions of law (legal tradition) are different, such as the civil law system and common law legal system or Islamic tradition. However, in this case can also be matched with the synchronization between the elements in the legal system, especially between legislations one another.

With the condition of harmony, does not appear a mismatch, paradox or contradiction between the norms of law or the rule of law component. Harmonization of the law have the function of prevention and mitigation functions of the legal disharmony. Thus the harmonization of law is legal discovery activities will, the will of the people and the moral will through legal interpretation and legal reasoning, as well as providing a rational argument against the results of interpretation and legal reasoning. In towards good governance, harmonization of laws must reflect coherence in the application of the legislation, which consists of regulatory mechanisms, administrative arrangements, the anticipation of change and the rule of law, and otherwise in alignment is also reflected in the harmonization of laws (Kusnu Goesniadhie, 2010: 11-12). Formulation ideal step in the harmonization of the national legal system is an attempt to align, synchronize, adjust, balance and consistency elements of the legal system in order to integrate the various legal systems, so arranged in the order harmony with one another within the framework of national legal systems. Thus, efforts to harmonize national legal systems is a "sine qua non" for ensuring the rule of law, rule of law, law enforcement, and legal protection that core justice and truth (Teguh Prasetyo, Abdul Halim Barkatullah, 2012: 332-333).
3. Synchronization of The National Legal Policy on The Fulfillment of The Right to Adequate Housing in Indonesia

Housing is a basic right for every citizen of Indonesia, as mandated in the Constitution of the Republic of Indonesia 1945 (Indonesia Constitution) Article 28 H paragraph (1) provides “every person has the right to live physical and spiritual prosperity, live, and get a good and healthy environment and receive medical care”. As a fundamental right, as well as a prerequisite for everyone to survive and enjoy a dignified life, peaceful, safe and comfortable, the provision of housing that meets the principles of adequate and affordable for everyone has become a global commitments as outlined in the Habitat Agenda (Istanbul Declaration on Human Settlements) and the Millennium Development Goals (MDGs). Therefore, the Government is responsible to help the community to live, protect, and improve the quality of housing and the environment.

Indonesia has established some regulations to meet the right to adequate housing as a derivation of Indonesia Constitution, as follows:

1) Article 40 of Law No. 39 of 1999 on Human Rights provides: “Everyone has the right to settle and live adequately”.

2) Article 11 paragraph (1) of Law No. 11 of 2005 on Economic Social and Cultural (Ratification of the International Covenant on Economic, Social and Cultural): “The State recognizes the right of everyone to an adequate standard of living for his family, including adequate food, clothing and housing, and to the continuous improvement”.

3) Law No. 1 of 2011 on Housing and Settlement Area. It regulates the duties and authority of the Government, Provincial Government, and district/ city. In the operation of housing and residential areas, everyone is entitled:
   a. occupy, enjoy, and / or have / acquire a adequate house in a healthy environment, safe, harmonious, and orderly;
   b. undertake the construction of housing and residential areas;
   c. obtain information relating to the implementation of housing and residential areas;
   d. benefit from the implementation of housing and residential areas;
   e. obtain adequate reimbursement for losses suffered directly as a result of the implementation of housing and residential areas; and
   f. filed a class action suit to the court against the implementation of housing and residential areas are detrimental to society.

4) Law No. 20 of 2011 on the Flats. This law aims to ensure the realization of flats livable and affordable, improve the efficiency and effectiveness of space utilization, reduce the extent and prevent the housing and slums, directing the development of urban areas, meet social and economic needs, empower stakeholders, and provide legal certainty in the provision, tenancy, management, and ownership of flats. The settings in this legislation also shows alignments countries in meeting affordable housing needs of low-income and public participation in the implementation of flats. This Act gives broad powers to the Government in the field of operation of flats and giving authority to local governments to carry out the implementation of flats in the area in accordance with their authority. The authority granted is supported by funding from the state budget revenues and expenditures and budget revenue and expenditure.

5) Law No. 23 of 2014 on Regional Government. Housing problems associated with central and local government affairs within the framework of regional autonomy, including in the government affairs mandatory. Article 12 paragraph (1) provides Government Affairs Mandatory related to Basic Service includes:
   a. education;
   b. health;
   c. public works and spatial planning;
   d. housing and residential areas;
   e. peace, public order, and the protection of society; and
   f. social.

6) Government Regulation No. 88 of 2014 on the implementation of the Housing and Area Development Settlement. This government regulation set up to implement the provisions of Article 11 of Law No. 1 of 2011 on Housing and Settlement Region and Article 12 of Law No. 20 of 2011 on the Flats. It is necessary to stipulate Government Regulation on the Implementation of the Housing and Area Development Settlement.

7) Regulation of the Minister of Public Works and Housing No. 22/ PRT/ M/ 2015 on Support Facility for Civil Servants Housing Savings. This regulation is a refinement of previous policy that is not optimal. It can be seen in considerans that the product services Advisory Board for Civil Servants Housing Savings can support civil servants to own homes through the provision of an advance, not optimal utilization, so it should be given assistance facility.
(8) Regulation of the Minister of Public Works and Housing No. 38/ PRT/ M/ 2015 on Infrastructure, Facilities, and Public Utilities For Public Housing. The aim of this regulation to improve low-income people's access to adequate housing. Government gives infrastructure support, facilities, housing and public utilities.

9) Regulation of the Minister of Public Works and Housing No. 39/ PRT/ M/ 2015 on the Amendment of the Regulation of the Minister of Housing Number 06 of 2013 on Guidelines for the Implementation of Stimulants Help Housing Organization. This regulation aims to increase community self-reliance in building adequate housing in a healthy environment, safe, harmonious, and sustainable community development needs to be done and the increased role of local government.

10) Regulation of the Minister of Public Works and Housing No. 42/ Ptt/ M/ 2015 on Advances For Low-Income Communities To Improve Accessibility Credit/ Financing Subsidized Housing. Government provides and facilitates the acquisition of a home for the community through the organization of housing and residential areas and community self-reliance. Besides, this regulation also established in order to increase the accessibility of low-income people in the acquisition of the house, should be given aid credit advances / financing of housing.

Based on the National Long-Term Plan for 2005-2025, the construction of housing and infrastructure and supporting facilities will be improved, so the need for shelter is equipped with the infrastructure and support facilities are met for the whole community that is supported by long-term housing finance system that is market friendly, efficient, and accountable as well as the cities without slums materialized (Cities without slum) in accordance with the Millennium Development Goals (MDGs). In line with the fulfillment of adequate housing, infrastructure development aimed at improving piped drinking water coverage nationwide up to 100 percent; an increase in the proportion of households with access to basic sanitation worth up to 100 percent; and the development of a centralized sanitation systems. The fulfillment of housing and infrastructure and supporting facilities directed to:

1) the implementation of sustainable residential development, adequate, decent and affordable by the community and supported by the infrastructure and facilities are adequate settlement and qualified professionally managed, credible, independent and efficient.

2) the construction of housing and infrastructure and means of supporting independent, able to raise the potential of funding from the public and the capital markets, create jobs, and improve the distribution and dissemination of development.

3) the construction of housing and infrastructure development and support facilities are concerned about the function and environmental balance.

According to Housing and Settlement Policy in the Medium Term Development Plan 2014-2019, development of housing and residential areas include the provision of housing, as well as drinking water and proper sanitation and affordable and prioritized in order to improve the living standard of the bottom 40 percent.

1) The facilitation of the provision of adequate and affordable shelter for 2.2 million households from the government budget in reducing the accumulated shortage of places to stay, especially low-income communities to five million households in 2019 through: (i) the provision of public houses for 900,000 households supported with the distribution of aid housing finance in the form of mortgage (KPR) prosperous footprint, mortgage apartment units, and mortgage hire purchase for flats, (ii) the supply of rental flats for 550,000 households, (iii) the provision of mortgages self to 450,000 household, (iv) the construction of new houses stimulant aid self-help to 250,000 households, and (v) the development of special homes in the border areas, post-disaster and post-conflict to 50,000 households.

2) Encourage community self-reliance and the business world in the provision of adequate housing for 2.2 million households to support the drop in housing shortages.

3) Improving the quality of the house is not habitable for 1.5 million households, including in the framework of the handling of the slum areas.

4) The achievement of alleviating the urban slums to 0 percent over the handling of a slum area covering 38,431 hectares and increase community self-reliance in 7683 villages.

5) The achievement of 100 per cent of drinking water for the entire population of Indonesia, which is performed through three approaches, namely the optimization and development of new (supply side), increased efficiency of water services (demand side), and the creation of an enabling environment (enabling environment).

6) Optimization of water service delivery is done through (i) the facilitation of SPAM taps namely aid program taps towards 100% taps Healthy and network development SPAM MBR in 5700 the region and (ii) the facilitation of SPAM non-taps, namely aid program non-PDAM towards 100% healthy non-PDAM managers and network development SPAM MBR in the region of 1,400. While new development is done through (i) development of special zones namely SPAM SPAM urban slums to 661 600 household connections (SR), SPAM fishing area for SR 66,200, and SPAM water prone to 1.70592
2015-2019, housing and settlement development zone, for the 2010-2014 housing development achievements in
Based on Housing and Settlement Policy in the Strategic Plan of the Ministry of Public Works and Housing for
supporting the provision and financing of housing has made efforts, among others:

Indonesia government laws to meet the right to adequate housing are synchronized. The implementing

5. Conclusion
Indonesia government laws to meet the right to adequate housing are synchronized. The implementing
regulations created some indicators and targets to measure the achievement of the fulfillment of adequate housing. The central government policies on the right to adequate housing also has actually stimulated the local governments to take policy as a response, both on the particulars availability of housing, financial and technical support.

References