

DECENT HOUSING RIGHTS HANDLING RELATED TO BACKLOG DURING COVID-19 PANDEMIC: SAMARINDA CITY CASE STUDY

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PAPER INFO	ABSTRACT
Received: March 2023	Background: Backlog issues were the main problems during the pandemic. Samarinda City Government is trying to overcome this by presenting affordable housing with the concept of the welfare state (wohlfahrtsstaat). However, this has not been realized, especially for the homeless and People with Social Welfare Problems (PMKS). Aim: This study aims to analyze the Samarinda City Government's effort to overcome the backlog issue to fulfill the right to decent housing for PMKS. Method: This research used a juridical normative method by statute and a case study approach with legal sociological. Findings: The results show the housing rights fulfillment in Samarinda City has not been fulfilled as a crucial issue to mitigate the spread of Covid-19. The policy implications are still in conflict with constraints such as land availability and are not yet equity-oriented. It is necessary to synchronize policy arrangements with the fulfillment of rights through human rights conventions which are ratified by the Samarinda City Government on availability, affordability, and sustainability aspects.
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INTRODUCTION

Indonesia is struggling with various ways and strategies to prevent and overcome the spread of Covid-19. Various legal policies have been implemented from the Central Government to Regional Governments to overcome the spread of Covid-19. One of the countermeasures to the spread of Covid-19 is to carry out social distancing. However, this is still difficult for homeless people and people with social welfare problems (PMKS) in Indonesia (Firdaus, 2016). This FMD can be categorized as a minority group in the sense of a vulnerable group (Putro & Kosasih, 2021). This is a result of the imbalance of availability with the need for decent housing. In addition, economic problems also contributed to the creation of PMKS which caused them to live in public areas (unable to pay rent). This incident is an inevitable domino effect or chain reaction due to the economic crisis in the midst of a pandemic. In fact, a decent house is one of the most basic needs for humans and is part of Human Rights (Isnaini & Adnan, 2018). Therefore, settlements and housing become one of the main elements in the formation of livable cities.

The U.N. Center for Human Settlements says more than a billion people worldwide live in inadequate homes. This includes one hundred million people living in the category of homeless conditions (Astrid et al., 2021). Regulations governing adequate housing are contained in Article 25 paragraph (1) of the Universal Declaration on Human Rights (UDHR). In addition, Article 28H paragraph (1) of the 1945 Constitution states that the state has the obligation to meet the needs of adequate housing. This arrangement was then affirmed through

Article 40 of Law Number 39 of 1999 concerning Human Rights (Human Rights Law) which stipulates that everyone has the right to live and live a decent life. This shows the commitment of the Indonesian government to always prioritize the welfare of its people. Every human right is recognized without distinction based on gender, skin color, religion, age, political views, nationality and age, as well as regional languages (Safrin, 2021).

As a result of the existence of these arrangements, meeting the need for adequate housing is included as a form of respect for Human Rights (HAM). This fulfillment becomes the obligation and responsibility of the state as a form of expansion of the concept of human rights. This is marked by the birth of Economic, Social and Cultural Rights (ekosob). Economic rights are a form of respect for human existence as dignified beings as natural rights enshrined in the International Covenant on Economic, Social and Cultural Rights. The Covenant was adopted through UN General Assembly Resolution 2200 A (XXI) on December 16, 1966 which was followed up through a ratification process into Law Number 11 of 2005 concerning the Ratification of the International Covenant on Economic, Social and Cultural Rights (State Gazette of the Republic of Indonesia of 2005 Number 118, Supplement to the State Gazette of the Republic of Indonesia Number 4557).

Backlog is the gap or difference between the number of habitable houses built and the number of habitable houses needed by the community (Bimantoro & Widayanti, 2020). The term backlog is one of the indicators used by the Government of Indonesia as stated in the Strategic Plan (*Rencana Strategis, Renstra*) and Medium-Term Development Plan (RPJMN) for 2020-2024 regarding the measurement of the number of housing sectors in Indonesia. Although international and national legal instruments classify the fulfillment of the need for adequate housing as a form of respect for human rights, the fulfillment process is hampered by complex problems. These problems include the gap between high population growth rates and low housing and settlement development programs as a result of lack of land availability. In addition, the increase in poverty rate from 9.22% to 10.19% in 2020 as a result of the impact of the Covid-19 pandemic also contributed to the occurrence of this problem. Data obtained from BPS as of September 2020 shows an increase in poor people in Indonesia by 2.76 million. This increase is higher in urban areas than in rural areas. This increase in poverty is certainly a result of large-scale restriction policies (PSBB) taken by the Government, one of which is movement restrictions (Dinata & Akbar, 2021). These things certainly have an impact on increasing the settlement backlog significantly (Bimantoro & Widayanti, 2020).

Backlog is a major issue on a national scale faced by various provinces in Indonesia, including East Kalimantan Province related to the problem of livable housing amid the Covid-19 pandemic. Based on data from the Ministry of Public Works and Spatial Planning (PUPR), the number of backlogs in Indonesia as of March 8, 2019 is 7.6 million units. In 2019, the backlog cases in East Kalimantan Province were ranked 21st out of 33 Provinces. In 2022, East Kalimantan Province has 30,945 units of Uninhabitable Houses (RTLH) with the highest number being in West Kutai Regency, which is 9,224 units and the lowest number in Berau Regency, which is 131 units. Meanwhile, Samarinda City has 394 units (E-RTLH, 2022).

The high backlog in East Kalimantan Province is the result of the low income level of the community to be able to have a livable house. In the end, this condition triggers illegal actions such as living in hinterland or border areas which cause the emergence of slum areas that are not in accordance with spatial planning in various regencies and cities in East Kalimantan

Province, especially Samarinda City. The dataset released by the Directorate General of Karya Cipta states that there were at least a total of 86,548 hectares of slum areas in Indonesia in 2020 (Ministry of PUPR, 2020).¹⁰ In the same year, the Mayor of Samarinda issued Samarinda Mayor Decree Number 663/404/HK-KS/XI/2020 concerning the Determination of the Location of Slum Housing and New Slum Settlements in Samarinda City which stated that the total area of the New Slum Area of Samarinda City in 2020 was as large as 70.51 hectares (Walikota Samarinda, 2020).

Previous research related to the topic of fulfilling the right to adequate housing includes: 1) Purba and Himawan (2021) with the title Fulfillment of Livable Houses in Riau Province. This research focuses on the strategy of fulfilling the right to a livable house in Riau Province. 2) Firdaus (2016) with a research entitled Fulfillment of the Right to Adequate Housing for the Urban Poor in a Human Rights Perspective. 3) Waha and Sondakh (2017) with a research entitled Fulfillment of the Right to Adequate Housing for the Urban Poor (A Study in Human Rights Perspective).

Based on previous studies presented, it seems that there has not been a single research topic that discusses the fulfillment of the right to adequate housing as a form of human rights protection during the Covid-19 pandemic and its correlation with state responsibility, especially local governments. Moreover, the author in this study provides sub-topic specifications related to backlog handling, especially in Samarinda City, so this study is a new research result. The novelty of this research can add to the breadth of the essence of legal science, especially in the fields of law and human rights.

Based on the description above, this study examined several problems, namely how the policy implications of the Samarinda City Government related to the right to a decent house are viewed from a human rights perspective and what has been handled by the Samarinda City government on the backlog issue. The researcher analyzed the efforts of the Samarinda City Government in overcoming the backlog issue of habitable settlements as an effort to fulfill the right to adequate housing for the PMKS group by referring to policies, regulations, and legal instruments, as well as aligning these legal products with real conditions on the ground during the Covid-19 pandemic. Hopefully, the research can contribute to the country's better management in backlog so that everyone can enjoy living in proper areas.

METHOD

The research is a normative juridical research or Doctrinal Legal Research in terms of the nature and scope of legal disciplines as a teaching system about reality including analytical disciplines and prescriptive disciplines, and other legal disciplines (Soekanto & Mamudji, 2006). Based on this, the research was typologically supported by a socio-legal research approach as a complement and a case study approach (Hartono, 2006). In addition, this study also used a statute approach which aims to inventory, review, and analyze the reciprocity of the substance of legal arrangements in the housing sector against the principle of state responsibility in human rights law.

The socio legal research as a support in this study aims to reveal the reality of legal fulfillment and protection related to the rights of PMKS groups to adequate housing. Field research (empirical), especially regarding the real conditions of housing, is also carried out to clarify the state's responsibility in fulfilling human rights. This study uses research sources

which include primary data and secondary data. The primary data used is to make observations about the physical condition of the Samarinda community in the slum area. Meanwhile, secondary data in the study include concepts, regulations, and implementation consisting of the Universal Declaration of Human Rights (UDHR), the Constitution of the Republic of Indonesia Year 1945, Law Number 39 Year 1999 concerning Human Rights, the International Covenant on Economic, Social and Cultural Rights which has been ratified by Law Number 11 Year 2005 concerning the Ratification of the International Covenant on Economic, Social and Cultural Rights, Law Number 1 of 2011 concerning Housing and Residential Areas, and Decree of the Mayor of Samarinda Number 663/404/HK-KS/XI/2020 concerning the Determination of the Location of Slum Housing and New Slums in Samarinda City which were traced by literature studies.

The researcher used qualitative descriptive method which supported the analysis. All data obtained from primary legal materials and observations in the field are described and described in the form of regular, coherent, logical, and effective sentences. This aims to get accurate and correct images and conclusions so that they can answer the problems that have been formulated.

RESULTS AND DISCUSSION

Juridical Review of the Right to Adequate Housing for Indonesian Citizens

Development becomes an effort by a country to change certain conditions towards better conditions for community welfare (Banjarani & Andreas, 2019). This relates to the right to a decent home. The right to an adequate home needs to be understood through several important aspects, namely a) the aspect of freedom, which includes: freedom from the threat of forced eviction, demolition, and arbitrary destruction of the house; freedom from interference or threats to privacy and family; freedom to choose a place of residence; and freedom of movement; b) aspects of guarantees on the legality of property rights; c) aspects of equal and non-discriminatory access to enjoy the right to housing and participate in housing-related decision-making at the national and local levels. To realize these aspects, legal instruments are needed to ensure that the protection and fulfillment of the right to an adequate house can be fulfilled. The law in this case has an essential role. People's compliance with laws that are no longer reliable in the current era leads to a loss of assurance that these aspects will be met by interested parties. Therefore, rulers inevitably have to build and make people's fear a factor that makes them obey the law, both laws that apply in the international and national scope (Hendarso, 2019).

The first international legal instrument was the UDHR. In 1948, the UDHR was established so that the right to adequate housing became part of international human rights law written in Article 25 paragraph (1) and then universally accepted and applied. Then 1987 was the International Year for Resettlement for Unhoused Persons which increased public awareness of housing problems around the world. After that, the Global Strategy on Settlements until 2000 continued to put forward the issue of housing. This has succeeded in raising the position of the right to housing on the agenda of the UN attention on human rights compared to the previous period. The implementation of housing and settlement development for the people is a state obligation in the context of fulfilling civil and political rights, as well as the economic, social, and cultural rights of citizens. Economic rights are a form of respect for human existence as dignified beings as natural rights as stated in Article 11 paragraph (1)

of the International Covenant on Economic, Social and Cultural Rights which states the recognition of the right of everyone to an adequate standard of living for and self Family. The Covenant was adopted by United Nations General Assembly resolution 2200 A (XXI) of 16 December 1966. This Covenant has been ratified by Law Number 11 of 2005 concerning the Ratification of the International Covenant on Economic, Social and Cultural Rights contained in the State Gazette of the Republic of Indonesia of 2005 Number 118, Supplement to the State Gazette of the Republic of Indonesia Number 4557. In addition to these two, the United Nations Declaration on Social Progress and Development of 1969 and the United Nations Vancouver Declaration on Human Settlements (1976) recognize everyone's right to adequate housing. Other international instruments are Article 5 letter (e) of the Convention on the Elimination of All Forms of Racial Discrimination on guaranteeing the exercise of economic, social and cultural rights, including the right to housing, Article 27 paragraph (3) of the Convention on the Rights of the Child on assistance for parents and others responsible for children, Article 14 paragraph (2) of the Convention on the Elimination of All Forms of Discrimination Against Women on the elimination of discrimination against women in rural areas including guarantees to rural women the right to enjoy adequate living conditions. Not only that, the right to adequate housing is also contained in General Comment No. 4 of the Economic, Social and Cultural Committee emphasizing the need for security of residence to ensure protection against forced evictions and General Comment No. 7 of the Economic, Social and Cultural Committee on elaboration on forced evictions.

The right to adequate housing in the UDHR and the International Covenant on Economic, Social and Cultural Rights Law should be understood in relation to the right to a standard of living adequate for health and well being. In fact, it is said that the right to an adequate standard of living is at the core of social rights. Therefore, the Government has tried to fulfill the right to adequate housing for the Indonesian people through the establishment of several national legal instruments related to the right to an adequate house referring to laws and regulations on human rights (Firdaus, 2016). The legal basis related to human rights protection is contained in the fourth paragraph of the Preamble to the 1945 NRI Constitution; Chapter XA, namely Articles 28A to Article 28J of the 1945 Constitution; Law Number 39 of 1999 concerning Human Rights; and Law Number 26 of 2000 concerning Human Rights Courts.

Article 71 of Law Number 39 of 1999 concerning Human Rights expressly stipulates that the government is obliged and responsible to respect, protect, enforce, and promote human rights as stipulated in existing laws and regulations in Indonesia as well as those regulated in international law on human rights. However, compliance with international law on human rights must be international law accepted by the Republic of Indonesia. The existence of this provision is in line with the fourth paragraph of the Preamble to the 1945 NRI Constitution and Article 28I paragraph (4) of the 1945 Constitution which essentially states that the protection, promotion, enforcement, and fulfillment of human rights are the responsibility of the state, especially the government. Regulations on the government's obligation to strive for the fulfillment of the right to adequate housing are also regulated in Law Number 1 of 2011 concerning Housing and Settlement Areas. This is supported by the Regulation of the Minister of Public Works and Public Housing No. 2/PRT/M/2016 concerning Quality Improvement of Slums and Slum Housing. The Samarinda City Government also actively participated by issuing Samarinda City Regional Regulation Number 7 of 2010 concerning Provisions for Flats

in Samarinda City and Samarinda City Regional Regulation Number 4 of 2015 concerning the Long-Term Development Plan of Samarinda City 2005-2025.

Human rights regulation through national law shows that the Government of Indonesia contributes to providing legal umbrellas related to human rights, especially the human right to adequate housing. This is solely done as an effort to realize legal guarantees and certainty related to settlements. The Samarinda City Government as an integral part of the Government of Indonesia has also participated in this problem, namely by creating subsidized housing and livable areas for all people of Samarinda City without exception. Some concrete evidence of these efforts is the existence of 78 units of subsidized houses in Grha Mandiri 3, 226 units in Griya Cipta Persada, 44 units in New Mahakam Grande, 172 units in Makroman Indah Lestari, 19 units in Tanah Merah Residence, 113 units in Permata Loa Buah (Pusat Pengelolaan Dana Pembiayaan Perumahan Kementerian PUPR, 2022).

The existence of legal instruments on human rights directly also raises responsibilities to the state. This obligation is known as a generic obligation that arises due to the ratification process of a human rights treaty. Generic obligations consist of: 1) obligation to respect, namely the obligation of the state not to interfere with the fulfillment of human rights; 2) obligation to protect, namely the obligation of the state to protect guarantees for the fulfillment of a human right, including the obligation to prevent parties who have the potential to interfere with the fulfillment of human rights; and 3) obligation to fulfill, namely the obligation of the state to fulfill human rights through strategic steps, whether in the form of legislation, administration, budget, promotion, or other actions.

In this case, the state is responsible for respecting, protecting, and fulfilling the right to an adequate house through the implementation of housing and settlement areas so that people are able to live and inhabit decent and affordable homes in a healthy, safe, harmonious, and sustainable environment throughout Indonesia (Mikhael, 2020). One concrete example of the implementation and accountability of the Indonesian government in fulfilling the right to an adequate house is the Self-Help Housing Stimulant Assistance (BSPS) program.

The responsibility to respect has the meaning of not carrying out forced evictions and demolishing houses. In addition, this responsibility also means that the government is prohibited from denying the legality of ownership by certain groups; coercion of discriminatory practices that restrict women's access to and control over housing, land, and property; violation of the right to privacy and home protection; refusal of indemnity of housing, land and property for certain groups; and pollution of water resources.

The second responsibility is to prevent third-party interference with the right to adequate housing. This can be done by ensuring that private actors such as landlords, property developers, landowners, and companies comply with human rights standards related to adequate housing. Therefore, it is necessary to regulate the housing and rental market in a way that promotes and protects the right to adequate housing. This is intended to prevent third parties from acting arbitrarily or acting illegally withdrawing such services, not discriminating against certain groups, or not carrying out forced evictions.

Furthermore, the state is responsible for fulfilling legislative, administrative, budgetary, judicial, promotional and other measures to realize the right to adequate housing. It aims to develop the housing sector with the object of focus being disadvantaged and marginalized groups. In addition, the government is also responsible for identifying available resources in

order to meet these objectives in the most effective way, so as to monitor the results of implementation and determine the optimal remedy for any violations that occur.

The protection and fulfillment of the right to an adequate house for migrant workers and "temporary" homeless people during the pandemic is very important to note. The condition of fulfilling the right to housing for residents in the midst of the Covid-19 pandemic is measured using several indicators. These indicators include prohibitions on eviction practices, protection of homelessness, protection of home tenants, and protection of dense residential areas. All of these aspects are important in relation to the right to adequate housing in the midst of a pandemic.

One indicator is that the ban on this eviction practice is still happening, for example, forced evictions that occurred in residents in RT 001, RW 001, Menteng Dalam Village, Tebet District, South Jakarta, under the pretext of the DKI Provincial Government's flood prevention program in October 2021. This actually increases the number of backlog cases in Indonesia so that the fulfillment of decent homes is hampered. Forced evictions are gross violations of human rights. This is in accordance with the General Comment on Economic, Social and Cultural Rights No. 7 of 1997 on Forced Expulsion. The Office of the United Nations High Commissioner for Human Rights (OHCHR) has also issued guidelines regarding the prohibition of forced eviction practices amid the pandemic. That is because evictions are considered an unacceptable "*prima facie*" by the International Covenant on Economic, Social and Cultural Rights (Primawardani, 2018), and (plus) create great opportunities for Covid-19 transmission, thus weakening pandemic mitigation and control efforts. (add) In fact, protection and health services are very important for everyone. The government has a constitutional responsibility to provide adequate health services, while the people are entitled to such services as an inherent right of each of them. The Government's obligation to fulfill the constitutional rights of the community is stated in Article 28 paragraph (4) of the Constitution of the Republic of Indonesia Year 1945, that the protection, promotion, enforcement, and fulfillment of human rights are the responsibility of the state, especially the Government (Al-Fatih & Aulia, 2021).

Evictions are closely related to the increase in slums and homeless persons. These factors increase the intensity of interaction between individuals, making it difficult to realize Covid-19 handling measures. Thus, evictions have long-term consequences for the health and economy of affected communities which lead to a decrease in the welfare level of the community itself, and hinder pandemic containment and recovery (Benfer et al., 2021).

The potential for massive transmission of Covid-19, limited access to health, and the physical condition of the living environment affect residents who occupy slums. It is stated in the UN-Habitat Policy and Programme Framework, that slums are among the most vulnerable groups in health and economy due to high levels of overcrowding, poor access to drinking water and sanitation, the majority of citizens work as informal workers.

However, this certainly does not need to happen if the PMKS group who live at home can be guaranteed their living needs. This situation opens up opportunities for the implementation of social assistance which has an important role. However, in reality, the social assistance provided is often not on target due to inaccurate data collection and reporting of PMKS groups. Therefore, referring to the obstacles found in the field, it is expected to further revive the role of social pillars so that data collection and reporting of the PMKS group are more accurate and effective.

Analysis of Backlog Problems in Samarinda City

The existence of Samarinda as the capital of East Kalimantan makes Samarinda the center of various life activities dominated by economic purposes. Samarinda City has a land area of 718.23 km² which is divided into 10 districts, namely Palaran, Samarinda Ilir, Samarinda Seberang, Kunjang River, Samarinda Ulu, North Samarinda, Samarinda City, Sambutan, Pinang River, and Loa Janan Ilir; and has a total of 53 villages/villages. Samarinda as the center of growth becomes a buffer for the surrounding areas, especially rural areas. However, Samarinda City is not free from the problem of slums. The term slum represents the condition of an area that is dense, unmaintained, dirty, disorderly, and deprived (Zulkarnaini et al., 2019). Houses and existing facilities and infrastructure are not in accordance with applicable standards, both standards of needs, building density, requirements for healthy homes, the need for clean water facilities, sanitation, requirements for completeness of road infrastructure, open space, and completeness of other social facilities. Therefore, the Regional Government of Samarinda City has determined the slum area in Samarinda City at 133.33 Ha located in 7 districts through the Decree of the Mayor of Samarinda Number 413.2/222/HK.KS/VI/2018 concerning Location Determination of Slum Housing and Slum Settlements in Samarinda City.



Source: Slum Planning Plan (2019): 169–188.

Figure 1. Overview of Slums before the Covid-19 Pandemic in Samarinda



Source: Personal Documentation June 2022

Figure 2. Overview of Slums during the Covid-19 Pandemic in Samarinda

The picture presented shows the outline of the condition of most slums in Samarinda City which are in illegal areas, namely riverbanks. In addition, there are still many residential buildings that are not permanent, and do not have ownership rights over the inhabited land

(temporary housing). This is part of the discussion because it relates to the calculation of home ownership.

The backlog of homeownership is calculated based on the difference between the total number of households and the number of existing homes from all walks of life. Data from the 2020 National Socioeconomic Survey (Susenas) conducted by the Central Statistics Agency (BPS) shows that the housing backlog is still very high. This is shown by the number of housing ownership backlogs reaching 12.75 million units (BPS Provinsi Kalimantan Timur, 2022). This data is evidence of a crucial issue in the midst of the Covid-19 pandemic related to the gap between the need and availability of housing units that need to be responded to immediately with the right solution.

Backlog is one of the indicators used by the Government of Indonesia in accordance with the provisions contained in the Strategic Plan (*Rencana strategis, enstra*) and the Medium Development Plan (RPJMN) regarding the measurement of the number of housing sectors in Indonesia. In the 2020-2024 RPJMN, the government plans to increase livable houses from 56.75 percent in 2019 to 70 percent in 2024 by developing livable, quality, and affordable housing. However, this development effort certainly requires land availability. Through Article 29 paragraph (1) letter f chapter IV of the Regional Regulation of East Kalimantan Province Number 1 of 2016, the government has regulated the issue by establishing the East Kalimantan Provincial Cultivation Area Plan which is divided into eight regional function designations, one of which is a residential area with an area of 396,266 Ha. Based on the article, potential areas will be developed into residential areas that include urban settlements and rural settlements.

Analysis of Population Density Distribution of East Kalimantan Province and Samarinda City

Table 1. Population Projections

Region Name	Population in 2021 (%)		Total (%)	Population Growth (Person)		
	Man	Woman		2019	2028	2038
East Kalimantan Province	51,72	48,28	100	3,703,893	4,350,545	5,224,108
Samarinda City	50,77	49,23	100	869,794	998,925	1,165,007

Source: Analysis Results based on the 2021 Kor National Socio Economic Survey

Based on the table above, it can be seen that population growth in East Kalimantan Province, especially in Samarinda City, continues to increase and will implication with the increasing number of housing needs. The ownership backlog is calculated based on the homeownership rate or the percentage of households occupying their own homes sourced from BPS data (see Table 2).

Table 2. Data on the Percentage of Home Ownership Status Before and After the Covid-19 Pandemic in Samarinda City

Year	Private House	Contract	Rent	Rent Free	Official House	Parents' Home
2019	58,24	25,3	15,41		1,05	
2021	56,92	27,81	13,84		1,42	

Based on the table above, it shows that the number of people in Samarinda City who occupy their own houses has decreased after the Covid-19 pandemic. This shows that there is a decrease in the level of welfare and standard of living of the people of Samarinda City in terms of home ownership status. In fact, households that occupy their own homes can be used as an indicator of the community's ability to live safely, securely, and permanently in a long span of time. In addition, percentage data shows an increase in housing contracts after the pandemic. This situation has the potential to cause a scarcity of houses in Samarinda City over time. This will have implications for an increase in the number of settlement backlogs in Samarinda City. This backlog will continue to increase every year as new families do not yet own homes, which is around 800,000 to 100,000 units. These data show that all East Kalimantan Provinces, especially Samarinda City, have a high risk of experiencing a housing shortage crisis. Therefore, referring to the Stufenbau Theory initiated by Hans Kelsen, where the fulfillment of a decent house is a crucial need and this fulfillment must be based on Pancasila, especially the 5th precept namely "Social Justice for All Indonesian People" and the 2nd precept "Just and Civilized Humanity." In addition, the fulfillment of the right to a decent house in accordance with eligibility and health standards must accommodate the rights and interests of all people, especially the people of Samarinda City.

Efforts to overcome the crisis have actually been sought by the government, both the Central Government and the Regional Government of Samarinda City. The Central Government through President Joko Widodo has implemented the One Million House Program to overcome the backlog issue since 2015 using an estimated annual housing need of around 800,000-1,000,000 units. Meanwhile, the Samarinda City Government through the 2020 Work Plan of the Samarinda City Housing and Settlement Office has designed the terms of reference for regional development priority programs through several programs.²⁸ One of these programs is the City Without Slum Program (KOTAKU) which was ratified through the Samarinda Mayor Decree Number 663.2/404/HK-KS/ XI/2020. All of these programs, when related to international human rights law, are actually in accordance with the provisions in Article 11 of the International Covenant on Economic, Social, and Cultural Rights) which has been ratified through Law Number 11 of 2005, that the fulfillment of the right to adequate housing (*in casu* through the One Million House Program) is the responsibility and obligation of the government.

However, some of these programs are still not enough to meet the need for decent housing. Examination of data patterns, analysis, and the ability of the government and people of Samarinda City to provide decent housing, seems to be far from expectations, so the issue of this backlog is still rolling. Therefore, government programs, both central and regional, must be continuously implemented, especially related to the PMKS group.

Handling Backlog Issues and Analysis of Policy Implications of Samarinda City Government related to the Right to House Deserves to be Reviewed from a Human Rights Perspective

The backlog problem in Samarinda City is one of the main concerns of the Samarinda City Regional Government. One of the underlying reasons is the relationship between the issue and human rights issues. The issue of human rights is a sensitive issue because it is related to the nature of human existence itself, or attached to human beings since the womb as a gift of God Almighty. (add) In the context of human rights, the state is a primary legal subject because the state is considered the main entity responsible for protecting, enforcing, and advancing human rights (Pemerintah Kota Samarinda, 2020).

Furthermore, human rights issues in the post-modern era are included as an international "weapon" to assess whether or not a country is said to be civilized. Current human rights issues even have a direct relationship with the smooth cooperative relations between countries. This refers to one of the motivations for cooperation between countries, namely to promote and encourage respect for human rights and fundamental freedoms for mankind without being discriminatory (Putra, 2022; Wahyuningsih, 2022).

However, solving the backlog of habitable settlements in the region is not an easy problem to overcome because it is also related to the problem of limited budget allocation and limited available land. On the basis of these considerations, the existence of housing areas and slums in Samarinda City requires its own handling. It is hoped that with this special handling, the Regional Government of Samarinda City will be able to resolve human rights issues related to the fulfillment of the right to decent housing that has occurred so far by utilizing available regional resources effectively and efficiently. Therefore, it is hoped that the process of resolving human rights violations will not cause new human rights violation issues.

There are three types of handling that can be done by the Regional Government of Samarinda City based on Law Number 1 of 2011 concerning Housing and Settlement Areas, namely: restoration, rejuvenation, or resettlement. Restoration is an effort to repair or rebuild a house into a house that meets the criteria for habitability. Rejuvenation is carried out by thoroughly rearranging the house concerned, facilities, infrastructure, and utilities located around the housing. Meanwhile, resettlement is carried out by moving affected communities to locations that have been determined by the local government because the old residential location conflicts with the spatial plan, making it impossible for redevelopment to be carried out.

Each of these three things can be applied according to the needs and capabilities of the Regional Government of Samarinda City. However, regulations related to this need to be stipulated in advance in a regional regulation so that the regulation can be adjusted to certain conditions owned by the region concerned, so that it can be empowered and effective. This is in line with the realization of the action plan for handling slums in Samarinda city which was first poured into the memorandum of the Urban Slum Plan (RKPKP) program and then followed up by making a Report on the Preparation of a Memorandum on the Urban Slum Area Prevention and Improvement Plan Program (RP2KP-KP). The plan in the RKPKP categorizes the locations of slums in Samarinda City according to their respective priority levels. One of these categories is the arrangement of priority areas which include slums. The slums in

Samarinda City are around the banks of the Karang Asam river, Karang Mumus 1, Karang Mumus 2, Muara, Keledang, Sungai Kapih, and Mesjid.

Based on this, the Regional Government of Samarinda City issued Samarinda City Regional Regulation Number 9 of 2016 concerning Prevention and Quality Improvement of Slum Housing and Slum Settlements on December 30, 2016. Therefore, there are three considerations that are at least the basis for the formation of perwal a quo:

- 1) Juridical considerations based on Article 28H paragraph (1) of the 1945 NRI Constitution which stipulates that everyone has the right to live a prosperous life outwardly and inwardly, and has the right to get a good and healthy living environment. This means that everyone has the right to live or live in habitable housing and settlement areas because it is a basic human need that has a strategic role in shaping the character and personality of the nation as an effort to build a whole person, identity, independence, and productivity;
- 2) Juridical considerations based on Article 94 paragraph (3) and Article 98 paragraph (3) of Law Number 1 of 2011 concerning Housing and Settlement Areas which regulate the obligation of local governments to further regulate the issue of prevention and quality improvement of slum housing and slum settlements, as well as the determination of the location of slum housing and slum settlements;
- 3) Sociological considerations that the people of Samarinda City which are composed of individual units should need and have the right to good and healthy housing and settlement areas in accordance with the constitution and Law Number 1 of 2011, so that the Regional Government of Samarinda City needs a legal basis that further regulates the issue of prevention and improvement of the quality of housing and slums in a planned manner, Integrated, professional, responsible, aligned, harmonious, and balanced with the use and utilization of space.

Based on the considerations described above, the Regional Regulation of Samarinda City Number 9 of 2016 concerning the Prevention and Quality Improvement of Slum Housing and Slums needs to be determined. The regional regulation is an implementing regulation of Law Number 1 of 2011 concerning Housing and Settlement Areas which regulates one important aspect, namely related to the prevention and improvement of the quality of housing and slums. With the existence of a quo law, the Regional Government of Samarinda City has a legal basis to carry out 3 (three) kinds of special handling of settlements and slum housing as stipulated in Law Number 1 of 2011.

This action is a form of the Samarinda City Government's effort in implementing Law Number 1 of 2011 concerning Housing and Settlement Areas (UU-PKP) in which it states that the state is responsible for protecting the entire Indonesian nation through the implementation of housing and settlement areas so that people are able to live and inhabit decent and affordable houses in healthy housing, safe, harmonious, and sustainable throughout Indonesia; and Law Number 39 of 1999 concerning Human Rights which in Article 40 of the law states that everyone has the right to live and live a decent life.

Prevention and quality improvement of slum housing and slums must be carried out by local governments while maintaining coordination with the Central Government and the East Kalimantan Provincial Government bridged by the Housing Implementation Acceleration Agency (BP3). This is very supportive for handling the backlog in Samarinda City. Efforts to

realize settlement security are strategies in an effort to realize pro-poor principles in an effort to overcome poverty, especially in urban areas. Technically urban settlement management, settlement security is a strategy to inhibit the rate of formation and reduction of squatters and informal settlements (squatters) in a meaningful, effective and humane manner. The law tasks the state (in this case the government) to conduct guidance on all activities related to the implementation of efforts to protect and fulfill the right to adequate housing, especially for poor groups and mobilize the participation of all communities for the implementation of housing development.

CONCLUSION

One of the basic human needs that has been guaranteed by the Law is the right to a decent home, especially in the Covid-19 pandemic situation. The fulfillment of this right is crucial in efforts to mitigate the spread of the Covid-19 virus. The Samarinda City Government has participated in fulfilling this right through related regulations that have been issued. However, these regulations have not been implemented optimally, especially this research shows an increase in backlog issues as shown by a decrease in the number of people in Samarinda City who occupy their own homes after the Covid-19 pandemic compared to before the pandemic. This decreasing number shows that there is a decrease in the level of welfare and standard of living of the people of Samarinda City in terms of home ownership status. This ultimately affects the resolution of backlog issues related to decent housing in the midst of a pandemic. The policy implication of the Samarinda City Government regarding handling the backlog issue is to implement Law Number 1 of 2011 concerning Housing and Settlement Areas through Samarinda City Regional Regulation Number 9 of 2016 concerning Prevention and Quality Improvement of Slum Housing and Slum Settlements.

In addition, the Samarinda City Government as an integral part of the Government of Indonesia has participated in the issue of handling the backlog by creating subsidized housing and livable areas for all people of Samarinda City without exception to fulfill the right to adequate housing. Some concrete evidence of these efforts is the existence of subsidized houses at several points in Samarinda City.

The government, especially local governments, must really focus and synergize in implementing Law Number 1 of 2011 concerning Housing and Residential Areas so that the guarantee of protection and fulfillment of the right to housing can be immediately felt by the community, especially the rights for the PMKS group in order to achieve welfare and justice so as to further reduce the high backlog what happened in Samarinda City. Samarinda City needs a land area plan of 39,156 ha to meet 1000 habitable housing units gradually over 11 years so that as many as 100% of habitable houses are available to overcome the backlog issue. The habitable house construction program can also synergize with support from the private sector or companies operating in Samarinda City through CSR or Corporate Social Responsibility funds to improve the welfare of the surrounding community.

In addition, efforts that can be made by the Samarinda City Government in dealing with slum problems can be done through increasing access to basic community services and residential infrastructure. This effort is expected to be carried out, especially in areas in Samarinda City that are vulnerable to floods and fires caused by high settlement density, inadequate settlement road access and those that do not meet technical requirements, and

drainage networks that have not been well connected. Therefore, the issue of backlog and fulfillment of the right to adequate housing in Samarinda City can be resolved immediately. The issues are also worth a deeper study to help readers gain more insight regarding the proper and better choices in settlement decision.

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