

# Answering The Challenge of Dki Jakarta's Eviction Through Urban Governance Policy and Human Rights Standards

**Jumroh**

STIA Bala Putra Dewa  
Palembang, Indonesia  
[ahmadjumroh@yahoo.co.id](mailto:ahmadjumroh@yahoo.co.id)

**Hermansyah**

Faculty of Administration  
Science, Sjakhyakirti  
University, Palembang,  
Indonesia

**Yusa Djuyandi**

Department of Political Science,  
Universitas Padjadjaran, Bandung,  
Indonesia  
[yusa.djuyandi@unpad.ac.id](mailto:yusa.djuyandi@unpad.ac.id)

## Abstract

Eviction is legal under the Spatial Planning Act in the name of development. On the other hand, affected residents have limited access to their movement towards the use of land and natural resources along with the absence of minimum human rights standards in the policies that govern them. By highlighting the eviction cases in the DKI Jakarta area, the purpose of this article is to analyze the politics of urban governance management and reveal alternative government public policies in addressing the challenges of dilemma eviction between infrastructure development and the problem of scarce urban land. From the results of the literature study, it can be said that the government needs to establish regulations at the national level, in line with the fact that Indonesia does not yet have special legislation that protects its citizens in cases of forced evictions including the principles of urban governance in accordance with existing rules.

**Keywords:** Eviction, government policy, human rights, urban planning

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## INTRODUCTION

Starting from the concept that the capital city is only filled with good buildings, illegal building reshuffle has been carried out since Jakarta still uses the name Batavia by the United East Indies Company or VOC (Vereenigde Oostindische Compagnie) Governors-General. For example, Herman Willem Daendels who evict and moved the occupants of illegal buildings in the city of Batavia to the south such as Weltevreden, Rijswijk, and Noorwijk or Raffles who evict indigenous residents and Chinese citizens from Rijswijk to be occupied by respectable people from Europe (Damardono, 2016).

Now the eviction in Jakarta is full in the name of public interest and development. There is an element of political spatial planning by creating legal boundaries for the allocation of use and utilization of existing land and resources with the aim of reproducing urban space. It can be seen that the process of exclusion can be legal under the Spatial Planning Law because of the existence of state power support, but on the other hand the affected residents are limited by their access to land and natural resources. In 2015 there were at least 3.433 householders, and 433 business units were forcibly evicted victims with 83.33% of whom did not receive proper compensation and did not receive relocation (Linggasari & Chariri, 2015) Previously, the government in 2007-2012 carried out the eviction of approximately 3.200 residents each month and was recorded as the period with the highest eviction rate in the history of the DKI Jakarta administration. Eviction has become a trend that has been passed on to the next government.

Urban governance management and balanced and fair policies are needed for the evicted people by answering the challenges of the dilemma of eviction, between infrastructure development or provision of adequate land in scarce urban land problems. Besides, there are problems in the eviction process in the DKI Jakarta area along with the absence of special legislation that helped regulate the minimum human rights standard in the eviction event even though there was a law regulating Spatial Planning. From the statement about the situation of evictions that deviated from these human rights standards, the article aims to provide an alternative to the government's public policies and so as soon as possible apply human rights standards in legislation. The article will be covered by the exposure of the case conditions and the analysis of the results of field research conducted by LBH Jakarta as a companion of evictees during the first half of 2015 to policy recommendations for the government in order to realize the welfare of evictions in the DKI Jakarta area with reference to international human rights standards and principles of urban governance.

## THE ORIGIN OF EVICTION AND LACK OF LAND IN URBAN AREAS

Of the thousands of eviction cases that occurred in the DKI Jakarta area in 2015, the purpose of the eviction of these lands has been investigated. The points where forced evictions were given reasons for normalizing the territorial waters, the construction of city parks, widening roads or green lanes, constructing toll roads, constructing reservoirs, developing the PT. KAI / POLRI / TNI, MRT development, as well as controlling, land acquisition, and beautify the city (Damardono, 2016). It can be seen that the purpose of forced evictions is on average for the construction of public facilities.

The lack of land in urban areas has prompted the government to carry out forced evictions. Cities that continued to grow were initially believed by the migration of people from villages to cities or commonly referred to as migration. There are two types of migration that can describe the identity of migrants in DKI Jakarta, namely permanent migration and circular migration. When someone decides to move, there are several influencing factors which are referred to as push and pull factors or factors that drive and factors that are appealing. Push factors are factors that emerge from the village area where they originally lived, such as small income and a political economy system that makes the pattern of development in the village unbalanced with the city. While the so-called pull factors are factors that attract or invite someone to come to the city, for example, the opportunity to work in a wider variety of work because the comparison with the village is not as broad as the employment opportunities offered by the city. This is referred to as a place utility, which makes cities always more attractive than villages. Then circular migration (talk migration) talks about strategies for maintaining household continuity by placing family members in different labour markets at the same time or at different times. For

example, in families that have several children, the first child works as a farmer in the village while the second child is a laborer in the city so that the household in the village continues to run and at the same time there are family members working in the city. Children who work in the city act as agents for the family to get survival from jobs in urban areas.

Furthermore, the bright lights theory tells of the reasons people come to the city is not because of place utility but what is called the fascination of people from the villages to come to the city. They see the city as a symbol of modernity and things beyond imagination such as imagining sparkling city lights, streets that are always bustling, and luxurious facilities.

Finally, the theory of political economy, namely the tendency of developing countries to carry out development in urban areas. Complementary to the urban bias theory by Michael Lipton, which states that cities are considered a more promising place to provide certain infrastructure, services, and services needed by investors compared to rural areas. Therefore, the accumulation of economic activities and production are all carried out in the city. The best city public services are what cause investors to be more interested in building in cities than in rural areas so that it indirectly makes urban centres of growth. For affected people, the issue of eviction is not only about the loss of housing as deemed by the government, but also the loss of access to livelihood fields, seeing that most of them work in the informal sector which is usually done in the house itself. The gap in developing countries today is not about labour and investors or foreign capital and domestic capital but development in the city and development in the village (Lipton, 1977). Residents who were evicted is being thrown off, they came to the capital because the facilities in the village were inadequate and never built, but when they arrived in the capital city with limited economy condition made them lived in slum areas. The development itself has become the reason why they were evicted from their homes in the capital city. Expensive housing and settlements followed by the need for accessibility to workplaces or businesses have driven many densely populated and slum dwellings. Land use like this is very weak in terms of law and administration because it is contrary to the interests of urban development, so it is prone to eviction. This is also a conflict of violations of basic rights to housing and settlements (Setiawan, 2010).

In the process, 86.67% of the eviction cases did not involve the residents by forming deliberations as they should according to UN General Comment Number 7 of 1997 which regulated the necessity for deliberations between the evictors and affected victims by accompanying the provision of sufficient information. In fact, in the field, residents were not given information about the transfer of the land they inhabited and were only given a limited time limit and the compensation and rehabilitation process which was also carried out unilaterally by the DKI Jakarta government (Januardy & Rahmadhiansyah, 2015). In addition, the eviction of "Perkampungan Betawi" region can be used as evidence that the other minimum standards that refer to the UN General Comment Number 4 of 1991 on the ECOSOC Covenant regarding minimum standards of decent housing refer to the government ignoring cultural feasibility criteria and not accommodating cultural specificities by transferring them to flats or apartment.

From here, the problem is no longer the growth of the city itself, but the growth of the city that is not balanced by the political and administrative capabilities of the city manager to anticipate growth and minimize the impacts that may arise. If the city continues to grow by following the market mechanism, the risks referred to as market failure can occur when they are dealing with public goods or services whose supply cannot be fully managed by the market (Devas & Rakodi, 1993) (Devas & Rakodi, 1993). The state must be present to protect people who are not touched by the market like the most marginalized people and ensure their existence is seen and felt by various economic, social, and certain political preferences. Therefore, government intervention is needed. Government intervention in question is ensuring that the growth is controlled growth, can be managed positively, and pay attention to the principles of good city governance such as humanity, livability (life quality of residents of a city), and sustainability.

## URBAN GOVERNANCE

(Devas & Rakodi, 1993) mention that in urban governance, there are several approaches that can be used, namely urban planning (city planning), regional planning (regional development), and municipal management (city management) approaches. The urban planning approach refers to how infrastructure is prepared and presented, and the availability of land and building use, and much more. The assumption, this approach is to engineer the city's physical environment accompanied by social and behavioural engineering. Then the regional planning

approach that sees the city as an organic area that can provide benefits to the surrounding environment so that this approach feels that urban development needs to be in harmony with the development of surrounding areas or that city development cannot be separated from the development of its buffer zone. The last is the municipal management or city management approach. This approach relates to the application of the principles of public administration such as a more bureaucratic approach and is related to how to provide public services efficiently to make innovation a tap in the management of the city.

Through an integrative perspective, we see cities as complex entities, not only seeing them as physical entities but also entities that are filled with aspects of humanity. Therefore we cannot just prioritize one approach but use everything together. All three must be integrated. For example, from the urban planning approach, we plan how the city should ideally be built and structured in the future, then together with the municipal management approach we are faced with current challenges that must be solved through policy innovations.

When talking about these three approaches, there is a 'choice dilemma' that is not only related to aspects of what theoretical approach to use but also related to other broader choices. The city is placed as an entity in which there is plurality, heterogeneity, and differences in various interests, whether in political preferences or constituents with different backgrounds. Everything requires accommodation and service regardless of all the attributes and identities that exist. In terms of eviction, the government must deal with how they serve the public in general along with how to regulate evicted citizens who are also part of the Jakarta city entity themselves by answering the question of who should take precedence, what should be done, and whether the policies taken can reach all layers of urban society, not only in favour of one particular group.

The dilemma of choice in this eviction case is the choice to provide infrastructure for residential land that can be used to accommodate the interests of the private sphere of evicted area residents or provide the infrastructure that can fulfil the facilitation for people on a wider scale such as developments which carried out by the DKI Jakarta government. These choices make policy in a dilemmatic position, especially for policy makers themselves. Then these dilemmas can also arise when there is a dispute or conflict of interest between the city government and the regional government.

## METHOD

This research used qualitative research method, because this method can help to answer the purpose of this research which want to analyze and answering the challenge of DKI Jakarta's eviction through urban governance policy and human rights standards. Data research consist of primary data which is gained through observation for about 1 year from November 2016 until October 2017, secondary data are gained from media, DKI Jakarta government report, and also Non-Government Organization Report.

Data analyze and validation is done through data triangulation technique by comparing many data we have gained, the appropriate data then we use to analyze the phenomena. Phenomena analyses also based on the appropriate theory and concept.

## DISCUSSION

### THE ABSENCE OF EFFECTIVE POLICIES FROM THE GOVERNMENT

Jakarta Legal Aid Institute (LBH) Public Lawyers assess DKI Jakarta Governor Basuki Tjahaja Purnama (Ahok) as the governor who has carried out the most eviction policies. Evictions occur most frequently in East Jakarta. These evictions are often marked by human rights violations, thereby causing the loss of culture and livelihoods for residents (Linggasari & Chariri, 2015). The evictions from the side of the previous Governor of DKI Jakarta, Ahok, were considered to be done so that the community would no longer have to suffer from floods, however this statement itself was considered by the Jakarta legal aid agency (LBH Jakarta) as just a justification.

The eviction cases that occurred in 2015 were considered contrary to the attitude of the Indonesian government, which had ratified the International Covenant on Economic, Social, and Cultural Rights (ICESCR). The covenant states in article 11 that every person from a country who is a party to the covenant has the right to an adequate life for himself / herself and his / her

family, including in terms of housing and living conditions. The contents of the ECOSOC Covenant have encouraged the emphasis in UN General Comment Number 7 of 1997 concerning forced evictions and the United Nations Basic Principles and Guidelines on Development-Based Protection and Displacement to regulate human rights standards for the process of eviction and affected victims. Furthermore, Indonesia does not have specific rules in its legislative instruments, which include International Human Rights standards from the UN General Comment to protect its citizens in the event of forced evictions. In contrast to the two countries, the DKI Jakarta Government can be said to have ignored the fact that Indonesia has participated in ratifying The ECOSOC Covenant with did not adopt human rights standards in the eviction procedure and other rules in the UN General Comment. ECOSOC itself who stands for Economic, Social, and Cultural is concerning the execution of human rights in the three area above as a form of proof that human rights not only covering civil and politics rights. Besides, there is the potential for layered human rights violations by considering the conditions of residents who do not have proper housing after being evicted, children who are forced to move to locations far from their schools, or new conditions that do not guarantee their quality of life. For the people who affected, the issue of eviction is not only about the loss of housing as deemed by the government, but also the loss of access to livelihood fields, seeing that most of them work in the informal sector which is usually done in the house itself. The solution of the DKI Jakarta Government itself is simply by providing meatball carts in flat apartments as a form of compensation for evictions, while there are more than thirty kinds of businesses run in evicted areas. Article 28G of the Republic of Indonesia Constitution and Law Number 39 of 1999 concerning Human Rights states that every person has the right to a sense of security and protection from the threat of fear of doing or not doing something. Everyone is guaranteed the existence and dignity of his / her glory and the harmony of his / her environment; human rights in each person must be protected, respected, maintained, and must not be ignored, reduced, or seized by anyone. This regulation can be a weapon of an accusation of human rights violations layered by the DKI Jakarta government. But this is also a result of the lack of enforcement of legislative instruments at the national level.

Similar cases can be found in the seizure of the Kumila and Buntu Le'pon communities in the 1970s. The area which includes plantations and fields managed by the community is taken unilaterally without involving the local community first. Compensation is applied only to those who have productive crops, while for their land, there is no compensation at all. As a result, the community lost the village as well as a source of income (Januarydy, 2015),

## **POLICY RECOMMENDATIONS AND ANSWERS TO GOVERNMENT CHOICE DILEMMAS**

Regulations at the national level are needed to realize the fulfilment of human rights-based safeguards such as several other countries that have adopted human rights standards in their legislative instruments. Regulations can be realized in the form of laws, presidential regulations, or regional regulations. If it depends on the law, it is necessary to depend on the political situation as well, because the House of Representatives or DPR's approval is needed to schedule the making of law on human rights standards as a priority discussion and revise existing laws relating to urban spatial planning. For the presidential regulation itself, it has been set before in Act Number 2 of 2012, but its application is considered to be less effective because it cannot be used as a strong legal standard. Another way that can be taken is to give authority to the regional government to procure land for the public interest. The lack of regional regulations has the potential to be easily violated by the head of the region itself because it is considered as making rules for oneself. The middle road that can be taken is to maximize the potential for policy making by making the President and the Ministry of Law and Human Rights as initiators of the formulation of laws that regulate human rights standards for evictees, and also to refer to UN General Comment Number 7 of 1997, United Nations Basic Principles and the Guidelines on Development-Based Protection and Displacement, and UN General Comment Number 4 of 1991, as well as maximizing the provision of political encouragement so that the formation of the Law can be immediately scheduled and calling on regional governments to pay attention to human rights standards in eviction.

In terms of urban governance, in addition to the DKI Jakarta government, the central government also has a stake in the construction of existing infrastructure so that both have their

respective roles. Interventions from the higher government are needed to force or invite the relevant regional governments to participate in overcoming the issue of eviction. The determined policy must be able to answer the real needs of the city community and ensure that all levels of society can gain equal access to obtain a better life.

The DKI Jakarta government must pay more attention to the dilemmatic matters in the eviction process, such as whether eviction meets the standards or quality of life of the people in the sense of being friendly to humanitarian aspects, whether fulfilling aspects of sustainability of nature and social, and what policies there has been answered the problem of aspects of community life (livability).

The eviction of residents' villages is a development policy that is still favored by policy makers, including in DKI Jakarta Province. Development should be intended as an effort to bring about a just and prosperous community life order, and therefore the government needs to think about how to give people a safe, comfortable and happy life. It's just that sometimes government policies in realizing development are carried out by taking shortcuts by displacing residents and without considering deeply the social, cultural and economic aspects of society. In the end, the word development seems to be a shield or justification for displacing residents.

## CONCLUSION

The DKI Jakarta government must be wiser in taking the 'development' title when carrying out evictions. Indeed, if the affected people do not get welfare, the development itself is meaningless by questioning the actual development for whom it is, because the evicted people are also part of the city being built. Politics of spatial planning must pay attention to people who are or will use it, regardless of whether there are illegal buildings, every citizen has the right to be treated properly and receive compensation that supports his / her quality of life. It takes good administrative capacity and political will to overcome it. Also, the regional government must be more consistent and in line with the attitude of the central government that supports international standards in regulating the intricacies of the city. In this context, human rights standards are used as a reference for realizing prosperity in evictions so that the government is deemed necessary to form regulations at the national level, in line with the fact that Indonesia does not yet have special legislation that protects its citizens in the event of forced evictions including the principles of urban governance and the rules that must be taken.

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