

Challenges to Human Rights and Local Democracy in Yogyakarta-Indonesia¹

Suyatno²

Abstract

During the authoritarian Soeharto era in Indonesia, there were many human rights abuses of many types perpetrated by the state with little attention from a weak civil society. However, since Reformasi, not only were there many laws that had been changed to prevent such abuses, the roles of civil society in protecting the rights of the people have also increased dramatically. These changes can be seen as direct consequences of decentralization and the autonomous region policies. Yogyakarta, a special autonomous region in central Java, has seen and benefitted from the changes that happened during decentralization in Reformasi era. This paper will look at how these national policy changes have come about and their implications for human rights, selecting the Province of Yogyakarta as a case study. It will look at the decentralization process and the development of local democracy and its impact on the lives of the people of Yogyakarta. This paper hopes to show that the preservation and protection of human rights for the community have gained a more significant attention and prominence in Yogyakarta under the new policies of decentralization and autonomous region. The paper also hopes to look at the major challenges in formulating and implementing these policies and what lessons can be learnt from this experience.

Key words: human rights, local democracy, Yogyakarta city, decentralization, civil society.

Abstraksi

Selama era otoriter Soeharto di Indonesia, ada banyak pelanggaran hak asasi manusia dari berbagai jenis yang dilakukan oleh negara dengan sedikit perhatian dari masyarakat sipil yang lemah. Namun, sejak Reformasi, bukan saja banyak hukum yang diubah untuk mencegah pelanggaran seperti itu, peran masyarakat sipil dalam melindungi hak-hak rakyat juga telah meningkat secara dramatis. Perubahan ini dapat dilihat sebagai konsekuensi langsung dari desentralisasi dan kebijakan daerah otonom. Yogyakarta, sebagai daerah istimewa dan otonom di Jawa Tengah, terlihat diuntungkan dari perubahan-perubahan yang terjadi selama desentralisasi di era Reformasi. Makalah ini akan melihat bagaimana perubahan-perubahan kebijakan nasional terjadi dan implikasinya terhadap hak asasi manusia, dengan memilih Provinsi Yogyakarta sebagai studi kasus. Ini juga melihat proses desentralisasi dan pengembangan demokrasi lokal dan dampaknya terhadap kehidupan masyarakat Yogyakarta. Harapannya, paper ini dapat menunjukkan bahwa pelestarian dan perlindungan hak asasi manusia bagi masyarakat telah mendapatkan perhatian yang lebih signifikan dan menonjol di Yogyakarta di bawah kebijakan baru desentralisasi dan otonomi daerah. Makalah ini juga berharap untuk melihat tantangan utama dalam merumuskan dan melaksanakan kebijakan dan pelajaran apa yang dapat dipelajari dari pengalaman ini.

Kata Kunci: Hak Asasi Manusia, demokrasi lokal, kota Yogyakarta, desentralisasi, masyarakat sipil.

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² Suyatno is a PhD in Political Science from the School of Social Sciences, Universiti Sains Malaysia (USM). He is a recipient of the USM Fellowship Program and also a researcher at Research and Education for Peace of USM (REPUSM). As a Visiting Lecturer, now he is teaching some subjects, such as *Democracy & Civil Society* and *Globalization & Nationalism* at International Relations Department, Faculty of Social and Political Sciences, University of Muhammadiyah Malang, Indonesia. Email: yatno.ladiqi@gmail.com.

Introduction

For more than 30 years the late President Soeharto ruled Indonesia under authoritarian rule supported by the military and the technocrats. After the Soeharto period, Indonesia is viewed by observers as having entered a transitional phase from authoritarian rule towards a new democratic type of government in which civil society plays a more prominent role. This '*reformasi*' followed the Asian monetary and political crisis of 1997 and 1998. This transition was accompanied by a process of decentralization that emphasized regional autonomy and was expected to bring democracy to the people while making government more transparent. One result was to make it easier for ordinary citizens to participate and exert influence. When power is brought closer to the citizens, the political process becomes more tangible and transparent and more people can become involved. Decentralization may also create a more open political system in that it implies a division of powers in society; many channels of representation and power sharing become available.³

At the implementation level a new Law called *Kebijakan Desentralisasi dan Otonomi Daerah (Decentralization and Region Autonomous policy)*, in Undang-Undang (Law) No. 22/1999, was introduced. This is important because it encourages opportunity to institutionalize decentralization and local democracy. The main argument of this policy are: (1) institutionalizing sharing of economic and political resources to the region; (2) making local parliament powerful; (3) recognizing local diversity; (4) building local accountability and responsiveness; and (5) opening the participation of civil society in local government. This policy also act as a trigger to start transferring power from bureaucratic government, as a standard political government policy in New Order era, to party government, as a new political government in post-New Order era (*Reformasi era*), and has a pivotal role in opening political opportunity for actors in political parties and civil society to fight for political power through democratic election.

However, there are many problems that impede the implementation of Law No 22, 1999 and No. 25, 1999. For example 1) authority conflict between centre, province and district/municipalities about management of natural resources, 2) local recruitment and money politics in local election, 3) corruption in local parliament, and 4) local budget that was increased by local gratuitous tax to some (autonomy means auto-money).

Based on these conditions, in 2004, the central government made some new regulations, such as Law No. 32, and No. 33, 2004 which changed Law No. 22 and No. 25, 1999. One important point from these regulations is the opportunity for locals to have direct election. The new regulation is essentially the same as the previous regulation, but gives bigger authority for the central and provincial governments to ensure that national policies are carried out consistently. It hoped to solve and avoid these problems in the future, especially in regards to conflict among the local and central government.

This new framework has also seen the development of partnerships between the state, civil society, and the people in many areas including human rights. Yogyakarta, a special autonomous region in central Java, has seen and benefitted from the changes that happened during this time. During the previous more authoritarian Soeharto era, there were many human rights abuses of many types perpetrated by the state with little intervention from a weak civil society. However, since *Reformasi*, not only were there many laws that had been changed to prevent such abuses, the roles of civil society in protecting the rights of the people have also increased dramatically. These changes can be seen as direct consequences of decentralization and the autonomous region policies.

³ World Bank (1997), *World Development Report 1997: The State in a Changing World*, Oxford University Press and Hadenius, A., (2001), *Institutions and Democratic Citizenship*, Oxford University Press.

This paper will look at how these national policy changes have come about and their implications for human rights, selecting the Province of Yogyakarta as a case study. It will look at the decentralization process and the development of local democracy and its impact on the lives of the people of Yogyakarta.

Local Democracy and Human Rights

The development of local democracy can eliminate old political structures that might have hierarchical, centralistic, feudalistic and authoritarian tendencies. However the development of local democracy also raises two contrary sides. On one side local democracy can raise new potential such as autonomy to manage the region and latitude to run a number of democratic policies. On the other side, there is a worry that local democracy can raise a number of problems, especially if the regions do not receive power and support from the central government. This is the reason why watching local democracy can become an interesting activity.

The growing support for the spirit of local democracy show how important it is to see local context as an effort to create a healthy democracy through the re-development of local democracy. Direct citizen involvement is the basis of community spirit and health. It is the right of all citizens to voice opinions and grievances, and it is the duty of political leaders to be accountable in regular elections and to respond to public deliberation and dialogue. In local civic arenas, the meaning of democracy – rule by the people – is given life and form.

Around the world, there is a new appreciation that local governance is much more than city administration that collects taxes and delivers essential services such as basic education, clean water, sewers, transportation, or housing. Instead, local democracy is rightly seen as the very foundation of a higher quality and more enduring democracy. Local governance is the level of democracy in which the citizen has the most effective opportunity to participate actively and directly in decisions made for all of society. A vigorous and effective local democracy is the underlying basis for a healthy and strong national-level democracy.⁴

The idea of local democracy is determined by the development of the idea of democracy at the national level. It is evident that local democracy cannot easily be divorced from national democracy and, in this regard, the tensions inherent in the relationship between local democracy and local autonomy are particularly significant.⁵ Local democracy and local autonomy are often taken as virtually synonymous concepts when, in reality, the relationship between them is much more complex. Local autonomy is generally seen as a pre-requisite for local democracy and local democracy, which in turn, is widely held to be a pre-requisite for democracy within the nation state. At the same time, however, high levels of local autonomy are likely to result in significant variations in democratic practice, and in the standards and comprehensiveness of public services, resulting in potentially enormous inequalities of citizenship. It is therefore evident that 'democracies need to find an effective balance between equal citizenship throughout their territory and the demands of distinctive regional and local autonomy'.⁶ In Indonesia local autonomy can be seen at the policy of Decentralization and Autonomy Region, UU No, 22 & 25/1999 and UU. 32 & 33/2004.

⁴ Sisk, Timothy D., et al, (2001), *Democracy At The Local Level: The International IDEA Handbook on Participation, Representation, Conflict Management, and Governance*, International Institute for Democracy and Electoral Assistance (International IDEA), p.1.

⁵ See Pratchett, Lawrence "Local Autonomy, Local Democracy and the New Localism," in *Political Studies*, 52(2) and Beetham, D., Byrne, I, Ngan, P and Weir, S. (2002) *Democracy Under Blair: A Democratic Audit of the United Kingdom*, London: Politics.

⁶ *ibid*, p. 247

At the implementation level, democracy at the national level will encourage democracy at the local level. Strong local democracy contributes toward a healthy democracy at the national level. There are many reasons for this. The first is that the “local” is a location where there is the capacity for great numbers of people to be actively involved in politics. Second, local politics and the need for local democracy can be justified on the grounds that it is only local institutions that have the capacity, interest, and detailed knowledge to oversee services and make decisions in tune with local conditions. In short, local democracy helps deliver effective accountability. Finally, the case for local democracy can be made by recognizing the sheer diversity of situations and needs between different localities. Local democracy enables us to cope with difference.⁷

International IDEA gives a definition of local democracy that includes the following key concepts: (1) *Citizenship and community*. Local community participation is the cornerstone of modern notions of citizenship because its institutions and decision-making procedures may allow for a more *direct* form of democracy in which the voices of ordinary individuals can be heard most easily; (2) *Deliberation*. Democracy is more than elections. It involves meaningful dialogue, debate, and discussion in an effort to solve problems that arise in the community. Deliberation is more than listening to citizen complaints. A truly deliberative democracy is a give-and-take dialogue among all interest groups in a community about the key decisions and actions they face together; (3) *Political education*. Local democracy facilitates “political education”. That is, citizen participation allows individuals to gain knowledge about community affairs that otherwise resides with elected public officials and professional city administrators. More informed and educated citizens make democracy – decision-making by the people – possible and more effective. Participation is about closing the gap between the political “elite” and members of the community; (4) *Good government and social welfare*. John Stuart Mill and other advocates of participatory democracy at the local level argued that unlocking the virtue and intelligence of the populace would foster good government and promote social welfare. That is, democracy tends to enhance good relations among the citizens, building a community that is self-reliant and public-spirited.⁸

Human rights are the basic standards human beings need to live life with freedom and dignity. Human rights include fundamental civil and political rights, such as the right to free speech, to freedom of religion, and the right to participate in government. Human rights also include essential economic, social and cultural rights, such as the right to education, to work, and to healthcare.⁹

Human rights can be defined as the rights of all individuals regardless of sex, race, colour, language, national origin, age, class or religious or political beliefs to certain fundamental freedoms.¹⁰ Human rights are universal, inalienable, indivisible and interrelated.¹¹ Every state has the obligation to promote universal respect for all human rights without discrimination, regardless of cultural or other differences. Every person not only has rights, but also has the responsibility of respecting the rights of others. Although

⁷ Stoker, Gerry, Local Governance and Democracy in the Twenty-first Century, in Sisk, Timothy D., et al, (2001), *Democracy At The Local Level: The International IDEA Handbook on Participation, Representation, Conflict Management, and Governance*, International Institute for Democracy and Electoral Assistance (International IDEA), p. 29.

⁸ Sisk, Timothy D., et al, *op cit*, p. 13.

⁹ Kristin Belisle & Elizabeth Sullivan, (2007), *Human Rights and Service-Learning*, Amnesty International USA, New York, p. 13

¹⁰ *Women’s Human Rights Step by Step*. Washington, DC: Women, Law and Development International, 1997.

¹¹ Vienna Declaration and Programme of Action,” UN General Assembly, A/Conf. 157/23, 12 July 1993, para. 5.

modern human rights laws were formulated in the wake of World War II, they have ancient and global origins. The great religious traditions—Buddhism, Christianity, Confucianism, Hinduism, Judaism and Islam—include such universal human rights tenets as the responsibility of human beings towards others and respect for human dignity. Philosophies around the world have long explored the nature of relations between individuals and the moral responsibilities of individuals within society.¹² This prevalence of human rights principles in moral and religious traditions across the world makes a strong case against those who claim that human rights are a “western concept.”

The Universal Declaration of Human Rights (UDHR) recognizes the universality of human rights; the preamble states that the UDHR is a “common standard of achievement for all peoples and all nations. The UDHR has gained widespread acceptance among states and is considered to be an authoritative interpretation of human rights in the UN Charter. The UDHR articulates political and civil rights as well as economic and social rights and has served as a basis for more than 20 international human rights treaties.¹³ The human rights and fundamental freedoms in the UDHR include:

right to non-discrimination; right to life, liberty and security; prohibition of slavery; prohibition of torture and cruel, inhuman or degrading treatment or punishment; right to equality before the law; prohibition of arbitrary arrest, detention or exile; right to a fair and public hearing; right to privacy; freedom of movement and residence; right to nationality and citizenship; right to marriage and family; right to own property; freedom of thought, conscience and religion; freedom of opinion and expression; freedom to peaceful assembly and association; right to representative government; right to social security; right to work; right to adequate standard of living; right to education; and right to participate in cultural life.

According to these explanations about Human Rights definition, the challenge of implementing human rights in Indonesia is very different if compared between the New Order period and the Reformasi period. The development of democracy in the Reformasi era has really influenced the climate of social political life. In particular, decentralization has become a key policy along with the creation and empowerment of autonomous regions as a framework for managing and resolving political and economic problems of the country. To understand the relations between democracy and human rights, this paper will explain how human right is implemented through the democratic climate in Yogyakarta.

The Link Between Democracy and Human Rights

It is important to understand how democracy and human rights support each other for the people. Both can work together hand in hand because democracy has values to support the implementation of human rights, and human rights itself encourage the development of democracy. It is one thing to claim that democracy facilitates the protection of human rights, and quite another to claim that the absence of democratic government constitutes a violation of those rights. In particular the democratic climate can enhance the quality of human rights compared to an authoritarian climate where human rights abuses of many types are perpetrated by the state.

The values of freedom, respect for human rights and the principle of holding periodic and genuine elections by universal suffrage are essential elements of democracy. In turn, democracy provides the natural environment for the protection and effective

¹² Paul Gordon Lauren, (1998), *The Evolution of International Human Rights*. Philadelphia, PA: University of Pennsylvania Press.

¹³ University of Minnesota, Human Rights Education Series, “From Concept to Convention: How Human Rights Law Evolves,” available at www1.umn.edu/humants/edumat/hreduseries/hereandnow/Part-1/from-concept.htm. (downloaded 12 August 2010)

realization of human rights. These values are embodied in the Universal Declaration of Human Rights and further developed in the International Covenant on Civil and Political Rights which enshrines a host of political rights and civil liberties underpinning meaningful democracies.

The link between democracy and human rights is captured in article 21(3) of the Universal Declaration of Human Rights, which states: “[t]he will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.” The rights enshrined in the International Covenant on Economic, Social and Cultural Rights and subsequent human rights instruments covering group rights (e.g. indigenous peoples, minorities, people with disabilities) are equally essential for democracy as they ensure an equitable distribution of wealth, and equality and equity in respect of access to civil and political rights.¹⁴

It is clear that the link between democracy and human rights is very close. In Indonesia, after the fall of the authoritarian regime, democracy was realized through the decentralization policy. Decentralization has many opportunities to develop democracy at the local level and also to protect and enhance human rights for the people. It can also solve many problems through democratic schemes or avoid the abuse of human rights.

Partnership Between Local Government, Civil Society and People in Yogyakarta

Yogyakarta is known not only as a cultural city, but also as a student city or educational city, with a big member of universities and schools.¹⁵ As a cultural city Yogyakarta is able to attract many tourists. According to the vision of the city, Yogyakarta wants to be known as an educational city of high quality, with the best services, and friendly environment.

In the context of decentralization, it is important to note that Yogyakarta has a unique character as a city that has succeeded in implementing the decentralization policy. One pivotal reason has been the dynamics of the political climate supported by the enhancement of civil society role. The dynamics of local democracy with the pivotal role of civil society in Yogyakarta is caused by a highly educated population as consequence of it being an education and cultural city.

The NGO involvement in political process is shown in the way they criticize or support local government programs. Furthermore the NGOs also provide opportunities activities to encourage local communities to be involved in many programs that empower them. Interestingly the response of society in support of these activities has been very high. The important role of NGO shows that the function of civil society in Yogyakarta is working well.

In the human rights context, there are many policies that describe how the partnership between the local government and civil society has helped to solve problems among the people. An example is how the local government builds cooperation with the civil society to move traders or street vendors from Mangkubumi Street to a new place to avoid abuses of human rights. As street-based traders, they use space in the streets that are originally not intended for trading activities and it is also considered illegal This illegality status makes the street vendors face harassment and threat from policy and other government authorities.¹⁶ During the time of Suharto the municipality of Bandung often

¹⁴ Democracy and the United Nations, in www.unis.unvienna.org/pdf/Democracy_Human_Rights_2008.pdf, (Downloaded 12 August 2010).

¹⁵ According to Badan Pusat Statistik/Centre Statistic Body 2007, there are 8 universities, 10 institutes/colleges, 50 academy schools in Yogyakarta.

¹⁶ Suharto, Edi, 2003, Accommodating the Urban Informal Sector in the Public Policy Process: A Case Study of Street Enterprises in Bandung Metropolitan Region (BMR), Indonesia. Research paper

used 'clearance' operations to remove the traders from the busiest areas of the city. Local government in Yogyakarta and Sleman (both in the Yogyakarta Special Region) also tended to adopt this relocation policy rather than rearrange the use of public space as expected by the street vendors.¹⁷ It indicates that street vendors face vulnerability in their daily activities. However, it should be mentioned that their vulnerability does not only relate to local government policies but also to other aspects.

Doing trading activities in the street is also a right to work when the state is incapable of providing work for the people. These activities give many opportunities for traders to get an income, but their existence often disturb other activities such as transportation or pedestrian. Local government also tends to see street vendors as not economical but as a disturbance.

Interestingly the local government in Yogyakarta has been able to solve the problem of street vendors using a democratic approach rather than a 'clearance operations' or authoritarian approach like other local governments in Bandung, Jakarta or Surabaya. The dynamics of conflict showed that partnerships between the local government and civil society more effectively solved the problem of these street vendors. For example street vendors in Mangkubumi Street were moved to a new place, Pasar Kuncen, under a policy of local government to clear the street and empower them.

There are two opposite sides to the problem. One side is a group that refused this relocation policy that move street vendors to Pasar Kuncen. This group is called the *Paguyuban Pedagang Klithikan Mangkubumi/Pethikbumi (Mangkubumi Street Vendors Association)*. Pethikbumi refused this relocation policy through demonstration activities and by collecting 10.000 signatures to protest alleged repression by the local government. They wanted rearrangement of street vendors in Mangkubumi Street rather than a relocation policy. They also want to discuss their proposal with the local government.¹⁸

The other side is a group that supports this relocation policy and called the *Komunitas Pedagang Klithikan Mangkubumi Pendukung Relokasi/KPKMPR (Community of Mangkubumi Street Vendors for Relocation)*. They insist that the Mayor of Yogyakarta, Herry Zudianto, run an empowerment and development program for street vendors in the new place, Pasar Kuncen. They also hope that the local government continues to promote and socialize the program and mission of the relocation policy. They conclude that most street vendors have agreed to be relocated to Pasar Kuncen because is a good place to develop economic capacities. According to the Mayor's promises, the local government will give soft loan for street vendors and they are asking the government to fulfill this program continuously.¹⁹

The reaction of the local government is really interesting. The government facilitated a meeting between the two groups in a democratic way and also encourages them to get a win-win solution. It is realized that doing trading activities in the street is part of human rights for the people, but on the other side their existence must be arranged. Giving solution by providing a new place under the relocation policy is different from other local government in Indonesia that uses the 'clearance program' as a solution. This case described that partnership between local government and civil society in

International Policy Fellow. (Accessed on 12 August, 2010 from <http://www.policy.hu/suharto/finalresearchpaper.html>).

¹⁷ Brata, Aloysius Gunadi and A. Danardono, 2006, "Nilai Ekonomis Modal Sosial Pada Sektor Informal Perkotaan", in *Jurnal Studi Ekonomi* 1(1): 91-103.

¹⁸ Pemkot Sebar Surat Pemberitahuan Relokasi: Pethikbumi Lakukan Aksi 10 ribu Tanda Tangan, in http://www.ombudsman-asahan.org/index.php?option=com_content&task=view&id=192&Itemid=34 (downloaded 27 March 2007)

¹⁹ *ibid*

Yogyakarta can be built when faced with problems related to public interest and protecting human rights. The relocation policy finally was successfully implemented and violence was avoided after most vendors agreed to move to Pasar Kuncen.

The other case that showed how human rights problem in Yogyakarta can be solved with democratic way is clean water for the people. Access to the water is a Human Right, as indicated by the United Nation Covenant on the Rights of the economic, social and cultural which has been ratified by the Indonesian government through Law No. 11 in Year 2005. Meanwhile, Law No. 7 Year 2004, article 5, states that countries guarantee the right of everyone to get water for a minimum basic needs of daily life in order to meet a healthy, clean and productively. Moreover, clean water is also a basic service which plays a role in the achievement of one Millennium Development Goal targets (MDGs) by 2015.²⁰ Through MDGs placing clean water access is a part of poverty reduction indicator and also protecting human rights.

But in reality, the state ignores these rights, ranging from privatization to fast commercialization of water. Conflict management of water resources is also a problem. A startling fact was revealed when the local government presented the results of bacteriological and chemical tests on samples of clean water at some point in Yogyakarta that groundwater contaminated with E-coli bacteria and Califom has reached 70%. Beside this, 59 of 263 samples of drinking water refill depots studied were not spared from bacterial contamination, even exceeding the threshold.²¹ The aftermath of the poor availability of water resources is then economically burdensome to the community. Only 45 % of the people in Yogyakarta can get clean water. It means that about 55 % of the population has to find solution themselves in getting clean water.²²

This phenomenon indicates the failure of the government to fulfill its responsibility to provide basic needs of its citizens. The PDAM (*Perusahaan Daerah Air Minum/State Company for Water*) can not fulfill the needs of clean water for the people. Most consumers complained that the water from PDAM is not suitable for consumption as drinking water and too smelly but the bill must still be paid.

Many civil society groups criticized this phenomenon, such as *Wahana Lingkungan Hidup (Walhi)* and the campus community. Walhi is one of the groups who strongly criticized about the need of clean water in Yogyakarta. Walhi blame the weakness of local government policy in protecting water resources for farmers. Investment is used as the main reason even though it ignores the basic rights of citizens to access water resources. This is the grim face of water resource management in Indonesia as a result of foreign intervention through an investment scheme.

The widespread privatization of water is also a signal for the government to immediately take the management of the water for the people. Based on this phenomenon, Walhi demanded the government do the following: (1) Justice in the management of water resources, (2) Review the licensing and supervision of water filling at the refill depot, (3) Rejection of foreign intervention which has resulted in water resource management conflicts, (4) Rejecting privatization of water which has resulted in neglect of the basic rights of citizens over access to water resources, (5) Rejecting the

²⁰ Air adalah Hak Asasi: Lindungi dan Pertahankan Sumberdaya Air, Wahana Lingkungan Hidup (Walhi) in http://walhi-jogja.or.id/index.php?option=com_content&task=view&id=93&Itemid=1, (Downloaded 14 August 2010).

²¹ Kompas, 17 March 2010.

²² Budi Kamulyan, Kondisi Eksisting dan Permasalahan Air Bersih di Yogyakarta, in *Prosiding, Dialog Kebijakan Perencanaan dan Pengelolaan Penyediaan Air Bersih untuk Masyarakat Kecil di Yogyakarta*, Asian Institute of Technology, Thailand, and Yogyakarta, Indonesia, 20 Mei 2006.

commercialization of water, because water is a basic right of citizens to be met by the state.²³

The response of the local government is using cooperation among the government, NGO and campus community in finding the best solution through doing research together, workshop and seminar. In 2006, there was cooperation between the Graduate School in Urban and Regional Planning (MPKD) Gadjah Mada University, AIT-CIDA and the local government of Yogyakarta. They held a workshop that dialogue about the policy of planning and managing water supply for the people in Yogyakarta. Even though the workshop did not have the capacity to formulate the solution and strategy for solving the problem of water supply, especially the needs of low resources it can be hoped that the workshop can raise attention all stakeholders so that they can be concerned with this problem.

The local government realizes that cooperation with the civil society is really important to find solution to water supply problem. It can be said that there is dynamic of local democracy in Yogyakarta since there is partnership between state, civil society and the people to find best solution to the problem taking in account that the need of clean water is also a human right. One important recommendation given by civil society is the rejection of UU No. 7 Year 2004 about water privatization. This regulation made access of the people to water limited by capitalism. Unfortunately the local government has no authority to revise this law, but at the implementation level they have many spaces to translate this policy through local democratic scheme in cooperation with the civil society.

Conclusion

Decentralization became a key policy for local government to create and empower their capability in managing and resolving political and economic problems at the local level. There are many free choices for local leaders to successfully carry out the policies as a framework of relationship between the state, civil society and the people in many areas including human rights. The policy not only reflects the state's responsibility of serving the needs of the people, in particular protecting their human rights, but also as a media feed back that can be used to control the power toward the state by the people.

Compared to the authoritarian regime in the Soeharto era, abuses of human rights in the Reformasi era can be avoided through democratic channels, such as involvement of the civil society and an open media. The rise of the civil society is also a pivotal element that can encourage the protection of human rights. Through decentralization and autonomous region policy, the region has many opportunities to empower themselves through democratic mechanisms. Its implication is increasing the effort to protect human rights and to enhance awareness of human rights for the people at the local level.

Yogyakarta is one of the regions that has succeeded in practicing the decentralization policy using the democratic mechanism. The solution to the problem of street vendors in Mangkubumi Street is one example that using a democratic mechanism works. Although there is conflict between street vendors, civil society and local government but a democratic channel through discussion and dialogue between them can be solved in win-win solution. Another case is the awareness of the local government about the needs of clean water for the people. The transparency of local government in its effort to find the best solution is a democratic way since it involved civil society in the discussion and dialogue to search for the best formula in getting clean water in Yogyakarta.

The case street of the vendors and the needs of clean water are human rights problem. Local government of Yogyakarta used democratic way to solve these problems. These are good examples that showed how local democracy can be used to protect human rights. Different with policies from others local government that often used violence to

²³ Walhi, *op cit.*

solve the same problem, such as 'clearance' policy in Bandung, Jakarta, and Surabaya, the local government of Yogyakarta not only used democratic way but also gave alternative or substitution solutions.

However, there are still many problems of human rights that are not solved yet. According to a report of *Lembaga Bantuan Hukum/LBH (Law Advocation Body)* Yogyakarta there are 17 cases of civil rights abuse affecting more than 3000 people. These cases include abuses of freedom of speech, fair trial, rehabilitation of victim of human rights abuses in the past, and corruption and violence of state apparatus.²⁴ This is homework for the local government and civil society to finish together. There are a thousand hopes but there are also a million challenges for the Decentralization and Autonomous Region policy.

Finally, some recommendations for the local government of Yogyakarta to improve the quality of human rights protection, especially related to involvement of democracy values can be made. Firstly, strengthening local institutions. This include: strengthening manpower, giving training, producing policy, building partnership and increasing budget allocation. In order that these efforts can run well, it needs involvement of stakeholders at the local level, such as the local government, civil society, and the community to build cooperation and partnership to protect human rights.

Strengthening manpower can be done not only for the people but also for the state employees of the law department through seminars and workshops. This effort will raise the capacity of the local government to produce policies that protect human rights. Meanwhile, for the people, this effort is very important to empower them. The people must know about human rights in order that they have the capacity when faced with the state in democratic interaction and participation. Through this effort, the people have the opportunity to increase their capacity.

The local government can support the civil society to do research or create many activities that raise awareness about human rights not only for the people but also for the government employees. As a partner, the local government can get much input that can be used as material to build human rights policy. The people have also many opportunities to know and understand about the implementation of human rights. Furthermore the civil society can consistently and increasingly put pressures on the government to protect commit to human rights.

Secondly, the empowerment of law enforcement agencies is also important. This agency has a crucial role to protect human rights. Collection of evidences and witness testimonies properly related to abuses human rights are important effort. After that, proper investigation and presentation of evidences to ensure conviction at courts are continued effort to make sure that human right can be protected and implemented.

Collecting evidence can be done through analyzing data from the civil society. In Yogyakarta, the LBH gives many data as an important source. Through these data, the stakeholders can follow to get witnesses to give testimonies about human rights abuses.

Lastly, it shows that local democracy is very important to avoid and reduce abuses of human rights. Democratic political institutions, through a check and balance mechanism, can control how human rights can be implemented among the people. The state can avoid and reduce abuses of power so that violation of human right can be avoided and that the people can get protection. Involvement of the civil society not only alleviates the burden of the state but also supports the state to come out with good policies.

²⁴ Moh. Syafi'ie, Pelanggaran HAM di Yogyakarta, in <http://syafiie.blogspot.com/2010/05/pelanggaran-ham-di-yogyakarta.html> (downloaded 12 August 2010)

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