

Annex 4

Local Regulation on Public Order Revision of Local Regulation No. 11/1988¹: *Systematical Exertion of Throwing Away the Poor by Excuse of Public Order*

I. Foreword

"As a Governor I feel ashamed when foreigners visit Jakarta. Out from the airport, they are directly presented with dirty slums view at the flood canal area".
(Statement of Governor Sutiyoso on Commission II of DPR RI [Indonesia Parliament] on 7 February 2002)

"Clearly, we passed the Draft of Local Regulation so Jakarta can be more organized at the same level with other capital cities of the world. If Jakarta has beggars, what would be the image of Jakarta as capital city"?
(Ahmad Suaedi, Chairman of Commission A of DPRD of DKI Jakarta [Jakarta Parliament])

On 10 September 2007, Jakarta Parliament passes the Draft of Local Regulation on Public Order in Jakarta into Local Regulation of Public Order (District Rule on Public Order). It means District Rule No. 11/1988 on Public Order is no longer applied. District Rule No. 11/1988 that regulates Public Order in Jakarta has reach 19 years of age and for all these times that District Rule was never become an appealing regulation of public order, because its existence did not respond the need of modern society and therefore it was ignored by the people. The indication is, almost every citizen of Jakarta violate District Rule 11/1988.

Public order is absolutely needed. But the public order that has been formulated, regulated and stressed in District Rule No. 11/1988 is not the kind of public order as people have in minds. For a long time people reluctant with the existence of District Rule No. 11/1988 and ask for the revision, in view of the fact that District Rule No. 11/1988 only contains prohibitions particularly aiming to control poor people. Now at the end of his duty, Governor Sutiyoso proposes to DPRD proposition to pass the Draft of District Rule on Managing Public Order by means of letter No 735/-1.75 on 18 April 2007. With the letter, is attached the Draft of District Rule on Managing Public Order. It is necessary to be noticed that Draft of District Rule proposed by Governor Sutiyoso to DPRD DKI was not accompanied by academic transcript that stand as formal requirement of constructing a law regulation. With District Rule on Public Order approved by DPRD, Local Government of DKI wants to instigate the public order in DKI as envisaged by *Pemprov* DKI (Local Government of Special Province of Jakarta). The problem is will this vision of public order that shall be applied by *Pemprov* DKI through that District Rule compliant with the vision of public order dreamed by all the societies? Next is the study and deliberation on District Rule on Public Order as a revision of District Rule No. 11/1988. The deliberation based on framework of a good law regulation, which should meet 3 aspects, i.e.: (1) jurisdiction aspect, (2) philosophical aspect, and (3) sociological aspect.

¹ Formulated by teamwork of Institute for Ecosoc Rights based on discussion and inputs from various elements of societies associated with the problem of city and poverty

II. The Drafting of District Rule on Public Order Violates the Procedure of Law Making

As stated in the foreword, District Rule on Public Order that has just been established by DPRD DKI was not drafted in line with norms of law making as regulated in Law No. 10 of 2004. Draft of District Rule on Public Order was proposed by Governor Sutiyoso to DPRD without accompanied by academic transcript. This means the drafting of the District Rule was not involving jurisprudence expert that has proficiency in studying and formulating law norms applied in District Rule.

Beside that, it was not attached with academic transcript. The drafting of District Rule on Public Order also did not come across public consultation process as required in Law No. 10 of 2004 that regulates the rules of law making. In the process of drafting and deliberation of the Draft of District Rule by DPRD DKI, people cannot access information about the discussion of Draft of District Rule on Public Order proposed by Governor Sutiyoso to DPRD. Even journalists find it difficult to get access on this about to be discussed Draft of District Rule by DPRD then. People can only know about the revision of District Rule No. 11/1988 after the revised District Rule is approved by DPRD and informed in media.

The absence of academic transcripts and procedure of public consultation in the drafting of District Rule on Public Order, shows that newly approved District Rule on Public Order does not meet the requirement of jurisdiction aspect of adequate law criteria. If the drafting already violates the procedure of law making, it can be convinced that the substantial of that District Rule does not meet people's expectation. Because when people were not involved in the drafting of law, it indicates the existence of corruption, at least procedural corruption.

Reviewed from its consideration it seems that District Rule on Public Order also overlook the Constitution of 1945 and several Laws on human rights, such as Law No. 11/2005 on the Ratification of Economy, Social and Culture Rights Covenant, Law No. 12/2005 on the Ratification of Civil and Political Rights Covenant, Law No. 7/1984 on Convention on the Elimination of All Forms of Discrimination on Women (Ratification on CEDAW Convention), Law No. 39/1999 on Human Rights, etc.

By not including Constitution of 1945 and Laws related with fulfillment, honoring and promoting of human rights in Indonesia, it can be sure that District Rule on Public Order also disregards basic needs and human rights of Indonesia citizens and as human being. These neglecting are reflected in its Articles that tend to contain prohibitions, which mostly pointed toward poor people, and those prohibitions carry consequences of violating human rights and basic rights of poor people as human being and citizen of Indonesia that guaranteed by Constitution. A regulation on the level of District Rule, as District Rule on Public Order of DKI Jakarta that contradicted with Laws moreover with Constitution of 1945 is clearly must be canceled.

III. The Formula of District Rule on Public Order not Guarantee Reliability of Law

An acceptable law must be reliable. The reliability is expressed in the formulas that don't have multi meaning. When we examine each Article from the newly revised District Rule of District Rule 11/1988, it contains double meaning principles. In Chapter 1 Article 1 line 20 is drafted that the definition of emergency state is a situation that allow whether people or

institute to conduct prevention, handling and rescuing on danger that threat human safety. The principle of this emergency state is awfully not clear. Everybody, government officials, and even a criminal can use this Article to commit ill-treatment to somebody and/or to people with excuse of emergency situation. This Article gives authorization to everybody to commit prevention, handling and protection from danger that threat human safety. Police, for example, can easily shot dead somebody whom suspected as terrorist with excuse of emergency situation. Same thing applied to citizen, with excuse of emergency situation can easily capture and perpetrate violence to other citizen whom was assumed as threaten human safety. With the excuse, officer or hoodlums can easily shot masses of citizens committing demonstration, just because they were considered as threatening human safety. Shortly, in the name of emergency situation, every body is potential to be endangered and treated inadequately by anybody or any institution. In the end, this District Rule shall not create Public Order, but on the contrary, shall open the chance of chaos.

The ambiguous of draft that potential to create violence and violation of human rights also reflected in Article 60 line 2. It says that in performing its investigation duty, officer of PPNS (Investigator of Government Civil Employee) is authorized to commit other deeds that accountable according to Law. This principle of “committing other deed” gives opportunity for officials of Government of DKI to act inappropriately. In the case of expulsion and thrusting aside the poor all these times, the officials of Government of DKI have commit countless ill-treatments and burn-down structures without getting any sanctions. With this District Rule the government of DKI can interpret any ill treatment and burn-down they commit are legal “other deeds” and therefore not supposed to get sanctions. Listen to what has been stated by official of *Pemprov* DKI to justify the burn-down on excuse of keeping order.

“Burning down or burning off is one of tactics in the operation of restraining the illegal structures like riverbank slums. If forced to, the burning down of structures is executed to simplify demolition operation.”

(Head of Division of Peacefulness and Orderliness of North Jakarta Toni Budiono in Kompas, 2 November 2001)

Of course, not only the poor citizen that will be affected by this Article, but all citizens confronting the ill treatment of *Pemprov* DKI are potential to suffer ill treatment, because this new District Rule on Public Order indeed gives chance for officers from *Pemprov* DKI take advantage of it.

In Article 31 says that every body or every institute in business of meat must put sign of *halal* (allowed for Muslims). Same with every person or institute that run business of restaurant/cafeteria must also put *halal* sign. Violation on this Article is inflicted with imprisonment. This rule is ambiguous. At one side, the rule can be understood as “only applied to people who sell *halal* meat or food”. If the meat or food is not considered as *halal*, then the vendor does not obliged to put *halal* sign. On the other side, the principle can also be comprehended as every meat vendor or restaurant/caf e business owner is not allowed to sell food or meat that’s not *halal*, because if they don’t put *halal* sign, they will be inflicted with imprisonment. But if the product is truly not a *halal* categorized food or meat, they should not be obliged to put the *halal* sign. Strangely this District Rule does not explain furthermore about people who sell food or meat that’s not categorized as *halal*. If the principle of Article 31 is meant as prohibition, then that Article becomes discriminative to non-Muslim citizens,

because eventually the non-Muslims are prohibited to buy and consume food that categorized as not *halal* according to Muslims. While in fact a law regulation should not be discriminative, it shows that law norms in this District Rule is not clear and have multi meaning.

The confusion of this rule can also be seen in Article 56, which says that every body intended to stay and remain staying in Province of DKI Jakarta have got to fulfill the requirement of civic administration as required by law and regulation. In the explanation of that Article stated that the required provision, among others, possess skill and expertise. The specification of “possess skill expertise” as administration requirement to stay and remain staying in Jakarta is not clear and prospecting of creating misinterpretation. Through experience, fishermen that have been stay for some decades in Jakarta and cannot have DKI ID-Card are not because they don’t have skills but because they are poor. Nobody would deny that to become a fisherman someone must have skill. Similar thing happened to street vendors, construction labors and other workers of informal sector, they find it difficult to get DKI ID-Card. It is not because they don’t have skills but because they are not included in the criteria of decent to become citizens of Jakarta. So what is exactly intended with skill and expertise in this District Rule? It is not comprehensible.

The same ambiguity happens in Article 42 particularly line 2 that prohibits everybody to be prostitute. It is not clear who is ascribed as prostitute according to this Article. Explanation on this Article only says that prostitutes are immoral men, women, and transsexual that commit sexual activity outside marriage by getting payment. This kind of explanation shall create interpretation problem at the implementation, which is in identifying prostitute. Is it when they are committing sexual intercourse and receive payment or based on certain criteria? How would the officer identify somebody of being prostitute? On what basis *Pemprov* DKI will arrest people on charge of prostitution? These uncertainties will create issue of wrong arrest and violence to citizen as happened in so many times on the field? If prostitution is committed on the street or in other public places, *Pemprov* DKI will easy to controls, because committing sexual activity on public places certainly must be forbid. But when the prostitution is committed in personal area, then the implementation of this Article shall be vulnerable of violating human rights. Sexual relationship in personal area is a matter of basic rights.

There are many more uncertain articles and potential of creating problems in the implementation. The ambiguous formulation causes District Rule on Public Order as revision result of District Rule 11/1988 faces uncertainty problem. The ambiguity of formulation creates ambiguity in implementation. When it is forced, this kind of District Rule will only create ill-treatment, not only *Pemprov* DKI ill treatment to citizens, but also from people or institutions to other people or other institutions. Because this District Rule opens the chance for every body, institution and *Pemprov* DKI to interpret the formula of law norm as they like it. The consequence is people that supposed to have attention and law protection and intended to be protected by this District Rule on Public Order is the ones that become the victims.

IV. Substance of District Rule on Public Order doe not Guarantee People’s Sense of Justice

It is correct that law must be reliable, but when a law or regulation does not accommodate the interest of the subject, law will only be a device for authority to rule and control the people.

Thus, beside its reliability, law and regulation must be fair. It means, law or regulation must be a norm whose existence is acknowledged, the implementation has an urging character and the violations get sanctions. Therefore, law can be effective as a media (not purpose) to create a more proper society. If a law is not recognized anymore – because it does not guarantee the people’s sense of justice – that law is not appealing anymore. That kind of law needs replacement immediately in order to keep the purpose of creating that law still accurate (not converted).

District Rule on Public Order as revision result of District Rule 11/1988 says that in order to create the well-order, peaceful, clean and beautiful Jakarta, we need management on Public Order that capable of protecting the citizens and city assets with its supplement. In Chapter I Article 1 lines (4) and (5) are stressed that Public Order intended in the revised District Rule 11/1988 is a situation, where Government and People can perform routine activities in order and in harmony. People’s harmony is a situation where Government and People can perform routine activities in harmony and comfortably. Based on formation of Article 1 can be understood that:

1. District Rule on Public Order is intended to achieve a situation that allow the proceed of activities in order, organized, peaceful and comfortable in a way that citizens and city assets and its supplement protected
2. The evaluation on that situation is not only by Government but also by the people. It means the government and the people have the same right and responsibility of the materialization of Public Order. The people mentioned here certainly are the entire persons from various groups and classes.

Is it the meaning of rule in Public Order contained in District Rule on Public Order revision result of District Rule 11/1988? Apparently it is not.

The regulation in the District Rule on Public Order of revised version is more accentuate the ambition of *Pemprov* DKI who wants to clear Jakarta from the poor. With this District Rule *Pemprov* DKI is going to say that the situation allowing activities in order, organized, peaceful and comfortable can only be achieved if DKI free from poor people. With this District Rule on Public Order *Pemprov* DKI more emphasizes position of the poor and workers of informal sector as the main source of disorder problems. Therefore in the view of *Pemprov* DKI there is no other way to create Public Order unless throwing out the poor from Jakarta.

The new District Rule on Public Order does not guarantee people’s sense of justice, not only for the poor but for the entire communities, because citizen that does not support the policy of *Pemprov* DKI to expel poor people will be imposed with imprisonment. The significance of law is to protect the weak, while this District Rule on Public Order only destroys the weak. This kind of law is not deserved to be applied, moreover to be obeyed. Look of how with this District Rule *Pemprov* DKI is going to expel the poor systematically and force people to support the expulsion.

3.1. Systematically Expel the Poor

“I assume people shall agree if in Jakarta there would not be any beggar and everything in order. If you want to give charity, there’s a lot of social organizations that we can give. This

District Rule is not aiming to trouble the poor citizens. If they are victimized by this regulation, that is what we have to figure out the resolution. As long as it does not disturb public interest all effort for life is allowed.”

(Statement of Governor Sutiyoso in front of press after final assembly of DKI Jakarta
On 10 September 2007)

That statement of Governor Sutiyoso precisely shows that Jakarta is not area for poor people. Public Order proposed by Governor Sutiyoso as an excuse to expel poor people is no other than *Pemprov* DKI’s interest that has ambition to sterile Jakarta off the poor. The efforts to clean Jakarta from poor people are in systematical way by limiting the space of life of the poor and criminalized every activities or jobs potential to be done by the poor. Next are some examples of prohibited and controlled jobs by that District Rule on Public Order:

Activity/Job	Form of Prohibition and Limitation	Penalty
<i>Bajay</i> (small olden vehicle) driver	Prohibited	20-90 days of imprisonment or Rp 500.000 – Rp 30 millions of fines
‘Three in One’ jockey	Prohibited	10-60 days of imprisonment or Rp 100.000 – Rp 20 millions of fines
Take advantage of open space under the bridge or fly over	Prohibited	30-180 days of imprisonment or Rp 5 millions – Rp 50 millions of fines
Informal ‘police’ / Pak Ogah (informal traffic regulator especially in traffic jam)	Prohibited	10-60 days of imprisonment or Rp 100.000 – Rp 20 millions of fines
Inhabit and have business on locations of river bank, river, pond, lake	Prohibited without Governor’s approval	20-90 days of imprisonment or Rp 500.000 – Rp 30 millions of fines
Inhabit next to and under rail road fly over, under the bridge, green belt, park, public place	Prohibited	30-180 days of imprisonment or Rp 5 millions – Rp 50 millions of fines
Vending on street/pedestrian, bus stop, crossing bridge and public place, next to railroad, green belt, park, public place	Only on certain location settled by Governor	10-60 days of imprisonment or Rp 100.000 – Rp 20 millions of fines
<i>Becak</i> (paddy-cab) driver	Prohibited	10-60 days of imprisonment or Rp 100.000 – Rp 20 millions of fines
Ojek (motorcycle/bicycle rent) driver	Allowed after having approval from Governor	20-90 days of imprisonment or Rp 500.000 – Rp 30 millions of fines
Scavenger and scavenged trash buyer	Prohibited	20-90 days of imprisonment or Rp 500.000 – Rp 30

		millions of fines
Beggar, singing beggar, street vendor, street wiper boy	Prohibited	10-60 days of imprisonment or Rp 100.000 – Rp 20 millions of fines
Prostitute	Prohibited	20-90 days of imprisonment or Rp 500.000 – Rp 30 millions of fines

Reading all these prohibitions and limitations space to live and to set up business for the poor, we can judge that there aren't many space left in this city that can be occupied by the poor safely. The only places that can be occupied are river banks on Governor's approval. Even when they can inhabit river banks with governor's approval, they still may not live moderately like citizen in an independent country, because they were still faced with criminalizing issue of almost every jobs on informal sector that usually achieved by the poor in Jakarta. With the revised District Rule on Public Order, there won't be any job on informal sector that can be done by poor people at public places securely. On limited basis, at public spaces the poor groups can still work as street vendors, but there's not enough spaces. The poor can become an Ojek driver, but only if getting approval by Governor.

On the role of street vendors in the city expansion and on handling unemployment, the *Pemprov* DKI really shut their eyes. In fact revenues of street vendor are not underperformance compared to the amount of DKI's financial budget. Check on these data:

Governor's Decision No. 1533/2006
Of Temporary Locations of Street Vendors:
266 locations of 9, 7 hectares of properties and with capacity of 13.358 vendors

No	Activities	2002	2003	2004	2005	2006	Number of restraining orderliness
1	Number of Street Vendors	141.073	128.993	116.913	104.833	92.751 or 141.071 (BPSJ,2006)	
2	Restraining	8.760	7.860	9.875	10.600	11.227	48.322
3	Relocation (temporary location, supervised, restrained location)	2.722	2.900	3.100	3.655	1.200	13.577
4	Revenue of Street Vendor/day (Rupiah)	28,214 billion	29,625 billion	31,699 billion	33,601 billion	35,617 billion	
5	Revenue of Street Vendor/year (Rupiah)	10,298 trillion	10,813 trillion	11,566 trillion	12,264 trillion	13,000 trillion	
6	Budgeting of DKI Jakarta (Rupiah)	10,9 trillion	11,5 trillion	12,4 trillion	13,9 trillion	17,97 trillion	

Source: Economy department of Bappeda (Local Development Body) DKI Jakarta, 2007

Estimation of costs compensated by street vendor per year²

Official retribution	2000/day	67,7 m
Rent of kiosk	500.000/year	43,4 m
Illegal Tax	5000/day	169,2
Total amount (billion of rupiah)		279,8 m

Source: Institute for Ecosoc Rights, 2006

In relation with illicit fees compensated by street vendor, an activity that does not get much mentioned in District Rule is hoodlums. In reality it is the poor that face to face with hoodlum, both ordinary hoodlum and uniformed hoodlums. Being beggar, street vendor, ojek and *Bajay* driver are forbidden, but peculiarly there isn't any prohibition of being hoodlums, which their activity is to seize illegal tax from street vendors, ojek and *Bajay* drivers, peddler and others. Hoodlum activities that prohibited in this District Rule are only act of seizing illicit tax in public transportation and freight. Other activities potential committed by hoodlum are not prohibited by the rules in this District Rule.

However they can escape from the trap of occupation prohibition, to do activities and inhabiting in marginal spaces, the poor will not necessarily pass the control of *Pemprov* DKI. They are still be expelled by the mechanism of civic administration (ID Card), which is hard to fulfilled by the poor, because to stay and remain staying in DKI Jakarta the poor and workers of informal sectors must comply with administration requirements, among others are having skill and expertise and have residence guarantee and occupational guarantee, as written in Article 56 as follows:

“Every body who wants to stay and remain staying in province of DKI Jakarta must fulfill the requirements of civic administration as determined in the regulation and law. (Requirements that must be filled among others are: a) have a clear identity document, b) take reposition letter from previous place of origin, c) have clarification letter from police of place of origin, d) have skill and expertise, e) have residence and occupational guarantee, f) apply civic administration requirements to Division of Citizens and Civil Documentation through District Authority at least within 14 days after arrival.)”

When the entire space left is no longer can be inhabited by the poor, all occupations that obtainable for the poor are criminalized and administration requirements to stay and remain staying in DKI are unaccomplished, there is nothing that can be done by the poor except to leave Jakarta and seek a living somewhere else. That is the purpose of *Pemprov* DKI in creating District Rule on Public Order. The entire prohibitions and restrictions and control through civic administrations are systematical methods to expel poor people from Jakarta. By criminalizing all activities in the left spaces where the poor lives and criminalizing the type of occupations that enable the poor to survive in Jakarta, *Pemprov* DKI wish that the poor will eventually expelled from Jakarta by themselves.

² After presented in a discussion forum with Association of Street Vendors (Asosiasi Pedagang Kaki Lima/APKLI), the data of illegal tax compensated by street vendors are less than the actual amount paid by street vendors. Most of the illegal taxes are seized by hoodlums, ordinary and uniformed hoodlums.

3.2. Force the Citizen to Penalize the Poor Together

On subject of committing violence and expulsion of poor people, *Pemprov DKI* is the expert. But it is unimaginable by all citizens of Jakarta is that *Pemprov DKI* forces (with imprisonment threat) all citizens of Jakarta to penalize poor people together. It seems that *Pemprov DKI* realizes that the violent acts they commit to the poor people all these times have not been supported by the people. The study of Institute Ecosoc on 2006-2007 stresses, 97, 6% citizens of Jakarta state that the poor have the rights of housing in Jakarta; 97, 2% emphasize on street vendor's rights on city space; 79, 6% agree on a regulation that guarantees poor people's rights on the city. Only 2, 2% of citizen that agree on the expulsion of poor people committed by *Pemprov DKI*.

Since they don't get the support from the citizens in expelling the poor from Jakarta, now *Pemprov DKI* changes its strategy. Besides criminalizing all kind of occupations and all activities at remain spaces lived by the poor, *Pemprov DKI* also criminalized all citizens that buy something and use the service of the poor, including charity to beggar. Everything is perfect now for the nasty plan of *Pemprov DKI* to expel poor people from Jakarta. Like it isn't enough with of the cruelty they commit, *Pemprov DKI* forces the citizens to commit the same unkindness. Next are the illustrations of penalties shall be faced by citizens if they refuse to punish the poor.

Activity	Penalty
Buy something from street vendor that does not have Governor's approval.	10-60 days of imprisonment or Rp 100.000 – Rp 20 millions of fines
Buy something from seller on the street, green belt, park and other public places, which are not determined by Governor as a place to trade	10-60 days of imprisonment or Rp 100.000 – Rp 20 millions of fines
Using the service of motorcycle ojek, bicycle ojek, or public transport with 'black license plate' (license plate not for public transportation)	10-60 days of imprisonment or Rp 100.000 – Rp 20 millions of fines
Buy something from peddler	10-60 days of imprisonment or Rp 100.000 – Rp 20 millions of fines
Give money or things to beggar, singing beggar and wiper-men	10-60 days of imprisonment or Rp 100.000 – Rp 20 millions of fines

3.3. Give Bigger Space for Big Investor

Constantly the poor in Jakarta only get leftover spaces that vulnerable to the expulsion. Now with District Rule on Public Order they made, *Pemprov DKI* wants to expel the poor from those spare spaces. It can be sure, by expelling those poor people from the spare spaces, *Pemprov DKI* wants to erase their track of failure in building the city.

All these times *Pemprov DKI*, particularly in the era of Sutiyoso's leadership, gives more spaces for big investor, particularly in the development of properties (shopping centers, middle to upper class apartments, and office buildings). Even in the case of shopping malls,

Sutiyoso issues authorization of more than 3 million square meters of total space in period of 2000-2005. The amount of spaces is twice as large as the entire shopping centers built in Jakarta between 1962 and 1997. These spaces are also in marginal places that can be emitted at anytime. In properties development Sutiyoso also ignores environmental aspect and city-plans. It proved by the transformation of green open space, protecting forest and public spaces into spaces for business activities and luxury residences. No wonder that flood in Jakarta extends.

The opposites happened to small-medium business owner like traditional market. In the era of Governor Sutiyoso's leadership, the growth of traditional markets is negative (-8, 4%) and the expansion of hypermarket is 31, 4%. (AC Nielsen, 2005). From 151 traditional markets in Jakarta, only 20% that prospected to continue, and from 120.000 vendors 70% are just doing business to make ends meet. (Hasan Basri, Chairman of DPW APPSI DKI Jakarta, 2007). While the spaces for street vendor in 2006 are only 90.700 square meters. This amount of area is used by 13.358 street vendors. It means that each street vendor use 12 square meters. This amount of space does not protect from the possibility of expulsion. In fact to accommodate entire street vendors in Jakarta (i.e. 141.071 vendors, as recorded by BPS) only need 1.692.852 square meters or 1, 7 hectares. While spaces for malls and shopping centers reach 4.500.000 square meters are only owned by 84 businessmen. From the gap we can assess that the high level of poverty and unemployment in Jakarta are conditioned by the inaccuracy of land allocation. The lands are more for developing consumerism industries that are not productively absorb workforce. Now with the new District Rule on Public Order *Pemprov* DKI want to restrict and expel street vendors of Jakarta. Clearly that District Rule on orderliness wrongly identifies the source of disorder in DKI Jakarta.

The policy of *Pemprov* DKI that prioritizes big investor has enlarged the number of poverty and unemployment in DKI Jakarta. The data below indicates that the raise on DKI budget is more intended for serving big investors. Proved by the spaces for shopping centers and trades are increasingly high in line with the increasing budget for DKI, while the number of poverty level and unemployment and victims died of Hemorrhage Fever are still high.

***Brief Profile of Jakarta in 2 periods of Sutiyoso Leadership
(1997-2002, 2002-2007)***

Year	Budget	Poor Families	Unemployment Rate	Hemorrhage Fever	Shopping Centers & Trade Centers
	<i>Trillion rupiah</i>	<i>Head of Families</i>	<i>%</i>	<i>Victims (died)</i>	<i>Total space (m2)</i>
1997	-	-	-	-	1.400.000
1998	1,8	-	12,32	-	1.400.000
1999	3,43	-	15,01	-	1.400.000
2000	3,16	-	12,08	8.729 (31)	1.400.000
2001	7,4	101.674	11,32	7.437 (26)	1.800.000

2002	10,9	101.076	14,80	5750 (49)	2.800.000
2003	11,5	98.890	14,86	14.073 (53)	3.300.000
2004	12,4	91.463	14,70	20.640 (90)	3.800.000
2005	13,9	101.539	14,73	-	4.200.000
2006	17,97	-	14,31	11.094 (44)	4.500.000
2007	21,5	-	-	-	-

Source: Center for Metropolitan Studies (Centropolis), University of Tarumanagara, 2007

Unfairness in the allocation of city spaces also can be seen from the next data. Poor citizens crowded in marginal spaces, while big investors occupy that amount of city spaces. Ironically, those spaces are neglected. While lands belong to government that supposed to be allocated for broadening the living space of the poor are used to enlarge the business of big investors instead.

Imbalance of Access on Lands in Cities³

Lands Possession of		Authority Treatment for	
The Poor	Investors/ Conglomerates	The Poor	Investors/ Conglomerates
<p>The area of slums in Jakarta reaches 1.663,71 hectares and inhabited by 555.540 people.</p> <p>From all housing in Jakarta, 40% is housing of poor people on governments lands</p> <p>The amount of spaces used by street vendor only 90.700 square meters</p>	<p>BPN has issued certificates of locations for housing as big as 121.629 hectares, but only 13.275 hectares are used and other 108.354 hectares (89%) are not used.</p> <p>In Jabotabek (Jakarta, Bogor, Tangerang and Bekasi), the amount of space possessed by private developer since 1998 has reached 100.000 hectares and 75% of them are neglected</p> <p>Until 2006 the amount of space for malls and vast shopping centers and in Jakarta reaches 4.500.000 square meters</p>	<p>The poor that can only afford to have slums on neglected government's lands or on other neglected lands are continually removed with violence through expulsion and burning</p> <p>Government builds low cost apartments, which cannot be accessed by the poor. Until 2000, from 2.490 unit of low-cost apartment built by <i>Pemprov</i> DKI, 66, 7% are possessed by the have.</p> <p>There is no spare land for public housing (low cost houses) and there is no space allocation in drafting city-plan of</p>	<p>Hundreds of hectare lands of <i>Pemprov</i> DKI assets that worth trillions of rupiah are not documented well. Those lands are now transferred private businessperson, who conspires with officer of <i>Pemprov</i>.</p> <p>Government issues policies to enable private businessperson to over-acquire lands</p>

³ Source: Processed from news in *Kompas – Warta Kota* 2001 – 2003 and study result of Institute Ecosoc on 2006-2007

District Rule on Public Order that systematically throwing away poor people, if applied it will provide bigger rooms for big investors, because this District Rule on Public Order exclusively does not regulate concern of orderliness for big scale businesses. Just look at how hypermarket, mall and shopping center grow out of control and cast out traditional markets. Those supermarkets and hypermarkets also expand to the neighborhoods or communities and destroy small scale businesses belong to people. *Pemprov* DKI does not apprehend the rule that settle location of hypermarket and supermarket to be far from traditional market.

All these times the majority of poor people is blamed for living and makes a living in the city's marginal spaces that categorized as green open spaces. For all these times District Rule 11/1988 on Orderliness, which become basis of *Pemprov* in instigating expulsion, *de facto* are only applied for the poor. The rights of the poor are never been accommodated in regulation of city plan. The imbalance happen when *Pemprov* apply different treatment to the poor and to big investors who committing activities using open green spaces. Look at how racist the treatment of *Pemprov* DKI to the poor.

The Illustration of Imbalance of Treatment on Violation Of Utilizing Open Green Spaces⁴

Violation Committed by		Authority Treatment to	
The Poor	Big Investors	The Poor	Big Investors
<u>On 2001:</u> - 6.774 Head of Families consist of 34.514 people occupy 6.588 unit of houses on river banks, open green spaces an neglected lands - 2.700 street vendors use green belt, pedestrian and park	Transforming 2/3 of protection forest in Kapuk, North Jakarta into luxurious real estate of Pantai Indah Kapuk Transforming the open green spaces in Tomang into Mall Taman Anggrek	Their houses were destroyed and burned down with reason of occupying green belts and accused as the reason of flood Their business places were destroyed with reason of using greenbelt and public facility	Government gives IMB (Building Constructing Permit) although the construction of mall, residence, hotel, etc violate the regulation of city-plan Government covers and legalizes the purpose of those lands by constituting new RT/RW (Head of Neighborhood Community) on 2000 – 2010 Luxurious Apartment (such as apartment Riverside) that also in the riverbanks are not touched by expulsion
<u>On 2002:</u> - 18.732 people occupy 4.908 slums on river banks, open green space and neglected lands - 7.770 street vendors use green belt, pedestrian and park	Transforming the open green spaces in Senayan into Hotel Mulia and Taman Ria Transforming 49.135 m2 of green belt into 32 areas of Gas Stations Proposal of North Beach reclamation for		

⁴ Source: Reprocessed from investigation result of ISJ and FAKTA

<p><u>On 2003:</u> At least 6.960 Head of Families occupy houses on river banks and neglected lands</p>	<p>almost 2 km for all the beach line</p> <p>Expulsion of green belt for the construction of mall Ambassador and ITC Kuningan</p>		
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The imbalances are also observed from discriminative deeds committed by government on the violation of laws, which perpetrated by the poor and the conglomerates. The poor that are stated as violators of laws shall not release from the web of laws, while the conglomerate violators of laws are tend to be untouchable by the laws. Even the punishments for the poor are often very mean, not equal with the violation committed. The occupation of government lands by the poor in Teluk Gong, canal Flood – North Jakarta that was only 3 X 4 m² per house, punished with destruction and burning down their houses until 9 times consecutively. While the big investor and conglomerate who in doing their business did not obey regulation in District Rule No/2000 on Private Market would not receive punishment. Even *Pemprov* DKI gives flexibility to violate that regulation with compensation of money submitted to *Pemprov*.

Table 8. The Imbalance of Law Enforcement to the Poor and Conglomerate

Regulation Intended to		Authority Treatment on Violations of Law to	
The Poor	Investor/ Conglomerate	The Poor	Investor/ Conglomerate
<p>Some rules intended for the poor, such as:</p> <ul style="list-style-type: none"> - District Rule 11/1998 on Public Order - District Rule 18/2002 on Cleanliness, Orderliness and Attractiveness (K3) - District Rule 1/1996 on Citizens 	<p>Several rules intended for investor:</p> <ul style="list-style-type: none"> - Law No. 4 of 1992 on Housing and Residence that intended to prevent lands using as an object of speculation of private sectors and guarantee people's rights to have low cost housing - District Rule 2/2000 on Private Market that regulate 20% of amount of space for shopping center is intended for informal sector 	<p>Law/regulation intended for the poor is really reinforced with millions of budget.</p> <p>Lower class society that confront the restraining will be arrested and charged as a criminal</p> <p>The poor that occupying government lands are find it difficult to get DKI ID Card and if you don't have DKI ID Card, you will be criminalized, arrested and expelled</p>	<p>Law No. 4/1992 is never been applied because until now the Government Regulation on that Law has not established yet. Therefore a number of private businessmen free to acquire lands and the realization of low cost housing is not guaranteed</p> <p>The regulation that settles 20% amount of lands intended for informal sector has never been realized. The regulation then substituted with compensation money to <i>Pemprov</i> DKI, which until now the</p>

			<p>expenditure is never really transparent</p> <p>Government intends to review that District Rule No. 2/2000 because the private sector hesitant with the regulation.</p>
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We need to review the highlighted discrimination committed by government in law enforcement between the poor and the conglomerate in the case of dispensing ‘release and discharge’ for those sickening conglomerate country destructor and robber of people’s assets that worth trillion of rupiah. Lower class society who inhabit government lands were pursued like a spiteful criminal, while the corrupt conglomerates that rob people’s asset for trillions of rupiah are forgiven and even subsidized by government. That policy is unquestionably not ethical.

Amount of Debt and Subsidy from Government for the Conglomerates⁵

Conglomerate and the Companies	Amount of Debt	Compensated Debt	Potential Debt bear by Government (Amount of subsidies)⁶	Status
Sudono Salim (Ex BCA)	Rp 52,627 trillion	Rp 17 trillion ⁷ (from the selling of Holdiko Perkasa)	Rp 35 trillion	Signing the MSAA ⁸ , will receive his debt release paper (<i>release and discharge</i>)
Syamsul Nursalim (Ex BDNI)	Rp 27,4 trillion	Asset in selling process	Rp 27,4 trillion	Signing the MSAA, will receive his debt release paper (<i>release and discharge</i>)
Bob Hasan (Ex BUN)	Rp 5,341 trillion	Asset in selling process	Rp 5,341 trillion	Already signed the MSAA, will receive his debt release paper (<i>release and discharge</i>)
Sudwikatmono	Rp 1,88	Gives 6	Rp 1,88 trillion	Signed the MSAA, debt

⁵ Document of BPPN until October 2003

⁶ Total deficit of government’s money from MSAA and MRNIA, and cannot be returned by BPPN maximally reach Rp 75 trillion

⁷ From 108 assets conceded by Salim to pay his debt, most of them have been sold for Rp 17 trillion. The rest of 32 assets at the moment are in the process of selling through the selling process of investment assets 3. The result is not known yet.

⁸ MSAA: *Master Settlement of Asset Agreement*, can be understood as letter of asset granting with the same value of the debt that must be compensated. Total amount of conglomerate’s debt who sign MSAA reach 87, 8 trillion. Salim has paid Rp 17 trillion, Ibrahim Risyad Rp 637 million. The rest of the unpaid amount is Rp 70 trillion. With the assumption that asset in selling process will return for 20% or Rp 14 trillion, then the potential of losses or government’s subsidy to the conglomerate in MSAA reach Rp 56 trillion. The amount can be higher if the assumption of recovery level is under 20%.

(Ex Bank Surya)	trillion	companies, 1 of them is in selling process		is assumed paid off, will receive his debt release paper (<i>release and discharge</i>)
Usman Admadjaja (Ex Bank Danamon)	Rp 12,5 trillion	The value of assets conceded to BPPN after calculated were only worth 2 trillion	Rp 10,5 trillion	Signing <i>MRNIA</i> ⁹ , will receive debt release paper ¹⁰ (<i>release and discharge</i>)
Kaharudin Ongko (Ex BUN)	Rp 8,348 trillion	Asset in selling process	Not known yet	Idem
Samadikun Hartono (Ex Bank Modern)	Rp 2,664 trillion	Asset in selling process	Idem	Idem
Hokiarto (Ex Bank Hokindo)	Rp 298 million	Asset in selling process	Idem	Idem
Ibrahim Risyad (Ex Bank RSI)	Rp 637 million	Rp 637 million	0	receive debt release paper (<i>release and discharge</i>)

With this kind of unfairness, is it appropriate that the *Pemprov* DKI feel ashamed on the amount of poor people and beggar survive in Jakarta? The poor and beggar is the product of government policy, including *Pemprov* DKI, which all the time is ascertained as expert of serving the investor, but bare minimum in capacity in empowering the poor. *Pemprov* DKI should be ashamed of their cruel conduct to the poor. The drafting of District Rule on Public Order that has character of expelling poor people is ought to stated as cruel conduct, because the poor in a corrupt country is like victims of robbery. Similar with a cop who responsible of handling robbery, with District Rule on Public Order *Pemprov* DKI instead of arrests and punishes the robber, on the contrary they arrest and torture the victims of the robbery. In point of fact *Pemprov* DKI knows who the robber is. If a police officer tortures victim when he/she knows who the robber is, then it can be convinced that the police is part of the perpetrators of

⁹ *MRNIA: Master Refinancing Notes Issuance and Agreement*, asset conceding with less value of the debt that must be compensated added with personal collateral. The total values of *MRNIA* obligations to be sold are Rp 23,841 trillion. Some of the results are not known. If we use the assumption of recovery rate of 20% maximum, then the amount that may return to government is Rp 4, 5 trillion. It means the government has the potential of loss of or subsidizing the conglomerate for Rp 19 trillion

¹⁰ With the decision of *KKSK* who allow to sell promissory notes, which inside is included the personal collateral, automatically Usman debt to the government will be paid off. The debt will be compensated fully if the promissory note is sold, because the government can no longer pursue his personal collateral.

that robbery. The torture on the victim could be the only effective way to silent or even to eliminate the eye witness. Isn't this exploit cruel and extremely shameful?

3.4. Emphasizing the Fascist Character of City Government

Being realized or not, in the era of economy liberalization where the development of Jakarta assigned according to the discipline of capital market of economy, the ambition of *Pemprov* DKI to attain Jakarta as a metropolitan city has given character to the city government that tend to be fascist or totalitarian. This fascist character can be identified from, among others, the utilizing certain ideology (in the regime of city government), the existence of enemy to be battled, the using of propaganda and terror.¹¹

For all this time *Pemprov* DKI proclaims Jakarta as a metropolitan city that on the same level with capital cities of the world. This orientation as a metropolitan that indicate the ideology of modernism as the foundation of city development. Modernism characterizes metropolitan and international. Modernism is an ideology that supports modernism and the progress of this rejuvenating process in art, humanity, art, religion, policy, politic and economy since the end of XV century. Modernism presents dreams to the West to free time and space from obsolesce, tradition, inertia the creation of a new world that will always new.¹²

City modernism dreamed by *Pemprov* DKI is represented by the existence of modern shopping center/mall as a symbol of economy activity and modern public area, toll and mode of transportation of personal car as a representation of modern public transportation, sky-high building and apartment or real estate as symbols of office buildings and modern housing, etc. That modernism itself is connected with beauty, cleanliness/purity, and order.¹³

To support the acceptance of modernism as a collective value that makes *Pemprov* DKI drafting District Rule on Public Order. That District Rule is authorized to establish Jakarta as a modern metropolitan city based more exactly on formality (symbol of modernism) instead of village city marked by informality. Actually there is nothing wrong with the city modernism that wished to achieve by *Pemprov* DKI. The problem is, the exertions of Jakarta modernization committed by *Pemprov* DKI become too ideal, until everything that are not in line with the vision of *Pemprov* DKI on modern city must be emitted. There is no dialog between the city government and the people on the definition of modern city. The concept of modern city only defined by the city government one-sidedly and the people is forced to accept it.

With modernism as an ideology, city and its entire physical area must become the tool of economy growth necessarily. Facilities and amenities are noticed as technical tools, and not as the expression of people culture as the owner of the city. What happen is, a city should correlate the balance of functions: private area (home), economy area, public area (park, field,

¹¹ Read the definition of "Totalitarianism" in <http://etext.lib.virginia.edu/cgi-local/DHI/dhi.cgi?id=dv4-54> and Hannah Arendt, 1960, *The Origin of Totalitarianism*, Meridian Books, New York-USA, page 305 – 317 and 470-471

¹² See Jerome Monnet, 2000, *Modernism, Cosmopolitanism and Cathastrophism in Los Angeles and Mexico City* in <http://www.cybergeopresse.fr/geocult/texte/monnet2.htm>

¹³ Zygmunt Bauman, 1997, *Postmodernism and Its Discontent*, Polity Press, Cambridge-UK,

etc), sacred (religious site, pilgrimage, etc), but now are dominated by commercial areas¹⁴. The city lost its plurality and the contour of city become more homogeneous. This kind of city dominated with commercial area is believed by *Pemprov* DKI as a modern city. With that kind of view, city eventually will only be object of totalitarianism power, which looks at the city necessarily as a commercial area. City government has become a regime that rules in a way to show that city of Jakarta has fulfill the discipline of capital market system and fulfill the taste of investor supporter of the system.

Modernism orientation in the city development that rely upon beauty, cleanliness and order/neatness, bring consequences of the need to force individuals to accept beauty, cleanliness and order as a priority as well as positive law that must be respect. While the definition of accept beauty, cleanliness and order is fully defined by *Pemprov* DKI. Everything outside the criteria of “beauty – cleanliness – order”, are valued and treated as city’s enemy that must be battled. In association of “city enemy”, all along *Pemprov* DKI has defined whoever outside the criteria of “beauty – cleanliness – order” is called Subject of Social Welfare Problem (Penyandang Masalah Kesejahteraan Sosial/PMKS). Included in this PMKS are street vendor, slums inhabitant, hoodlum, homeless, beggar, prostitute, singing beggar, drug addict, and “illegal migrant” outside Jakarta. They who stigmatized with PMKS can be ill treated by *Pemprov* DKI because the stigma is identical with city enemy.

"Local Government of DKI has a mandate to create capital city that is in order, secure, comfortable and beautiful, so Jakarta can represent as capital city. However Local Government DKI faces problems of un-restrain urbanism and the amount of PMKS that violates District Rule 11/1988. Therefore, Local Government chooses the exertion of law enforcement."

(Governor Sutiyoso statement in front of Commission II DPR RI, 7 November 2002)

With only District Rule 11/1988, *Pemprov* DKI has ill treat to groups of people called PMKS. Now, by making new District Rule on Public Order *Pemprov* DKI more emphasizes its fascist character in handling the poor. We can observe how an orientation of developing Jakarta into a modern city can be extremely idealistic until removing everything with traditional sense, such as traditional market, street vendor, old building, and other. The poor and worker of informal sector more and more treated as city enemy that threatening “purity” of chosen citizen, which is citizen with big investment and high buying power.

As enemy, the poor and people who work in informal sector are worthy to be battled, expelled and exterminated. To communicate the ideology and fight its enemy, *Pemprov* DKI instigated propaganda that the poor and informality are the source of disorder. To make the expulsion of city enemy become more effective, with newly revised District Rule on Public Order *Pemprov* DKI also intend to terror (in the form of imprisonment risk) for citizen that does not support the city ideology and is discovered of helping city enemy. With the substance of District Rule on Public Order like that, what is the different between city of Jakarta and Hitler’s totalitarian regime that battled the Jews? Hitler fought Jews, City regime fights the poor.

¹⁴ Similar thing complained by city planer in USA, who frustrated with the special role and rights of business sector of communities in USA. It stressed that the domination of economy power built the city and limit the possibility to free and impartial urbanism. (Kian Tajbakhsh, 2001, *The Promise of The City*, University of California Press, London, page 167)

3. Denying the obligation of City Government

In the revised District Rule on Public Order also can be observed *Pemprov* DKI is somehow so powerful until think of them selves of not having any obligation and therefore never wrong. It is revealed that in the newly established District Rule on Public Order does not regulate obligation of *Pemprov* DKI to fulfill citizens' rights over the city and empowering citizen in a way that all citizens, particularly the weak, have capability to obey the norm and regulation on orderliness. District Rule on Public Order only regulates 3 (three) obligations of *Pemprov* DKI:

1. **determine the location for street vendor (Article 25 line 1)**
2. **follow up and legally process reports on District Rule violations (Article 59 line 2)**
3. **conduct investigation according to regulation**

First Obligation does not bind legally, because it is not formulated as obligation and also there is no sanction or imprisonment threat if *Pemprov* DKI does not do it. Second obligation is only imposed to the municipal police (Satpol PP) and the government employee investigator (PPNS). In this matter sanctions on Satpol PP and PPNS that does not functioning its obligation is in the form of personnel discipline penalty according to the law and regulation. As well as the first obligation that does not bind legally, Third obligation to conduct investigation according to the regulation also does not impose sanction or other penalty. So if in the process of investigation the *Pemprov* DKI party committing violations, such as seizure and/or arresting (that clearly forbade according to regulation in this District Rule of orderliness), therefore the violation will not be imposed with punishment. So the only apparatus of *Pemprov* DKI that can be assigned for the obligation to create Public Order in DKI is only Satpol PP and PPNS. We can imagine, what kind of power that Satpol PP will has if this District Rule is applied. Imagine, Public Order in capital city is authorized in the hand of officer at Satpol PP levels. Then what is the duty of *Pemprov* DKI in this matter if the responsibility to create Public Order is handled on the hand of Satpol PP and PPNS.

Since it does not speak about “city government obligation”, then that District Rule also does not speak of sanction or penalty threat in correlation of city government' contempt in doing their job. If the *Pemprov* DKI themselves deny its duty – including its obligation to empower the poor and eliminate poverty, so the District Rule on Public Order that has character of expelling poor people is a form of public lie committed by *Pemprov* DKI.

V. District Rule on Public Order Open the Space for corruption, collusion and nepotism

The newly established District Rule on Public Order by DPRD contains many regulations of prohibition with exception. The existence of exception means that the prohibition established in District Rule can be violated with approval from Governor. Since Article 2 to Article 60 there are at least 26 matters that must use direct approval from Governor. From those 26 matters only 2 topics that utilizing Governor Decision, they are: (1) matters on certain location for street vendor, and (2) matters on form and requirement of entry sign for crowd activity. So at least there are 24 matters that must use direct order from the Governor without any regulation to accommodate it.

The amount of matters that require approval from Governor without accompany by any regulation to control it clearly open the practices of corruption, collusion and nepotism (KKN). In fact the practice of KKN is the real source of social disorder and the extension of poverty. How is possible a District Rule on Public Order open the chance of development of social disorder. These all indicate, behind the drafting of District Rule on Public Order there is a hidden interest of *Pemprov* DKI to get economy advantage, either for personal or for institution profit. It make sense if in this District Rule does not regulate obligation and sanction for Governor, because this District Rule on Public Order is made, among others, to protect the interest (economy) of Governor and his institution.

The quantity of substance required direct approval from Governor without any guideline to control, shows that this District Rule on Public Order gives such enormous power to Governor in interpreting the meaning of formulation, conducting and controlling the obedience for the law norms. Unfortunately, the enormous power of Governor is not accompanied by obvious and transparent parameter, so it creates chance of KKN. Moreover data show that, Governor DKI all these times tends to serve investors and the rich. Therefore it can convince that all subjects that need direct approval from the governor can only be accessed by the rich people. So how is it possible there would be any public order if the citizens are forced and threatened to obey the rule of orderliness, while the Governor and his apparatus can determined as he wished who can violates and who must be punishes. What happened eventually is not a Public Order but public disorder or chaos.

VI. The Norms of Public Order is Constructed for the Image of Authority not for the Interest of People

The existence of people can only survive if in the society is achieved a circumstances, that sociologically called as social order. Usually this social order can be produced through 2 methods, i.e.: 1) pressure/force and 2) Agreement/social communication.¹⁵ Orderliness based on pressure. Force only applied in a society ruled by an authoritative or totalitarian regime. The orderliness is achieved through ways of fear the society, as in Hitler era, in communist countries and in the New Order (Orde Baru). Although the public order based on norm or law regulation, the norm or law and regulation that must be obeyed by society is not result of agreement with society. The law is made based on the interest of authority.

The orderliness based on pressure has fake character and easily subside if the pressurizing authority falls. It revealed since Soeharto fallen, there is nobody would impose with intimidation. People tend to be their own judge because law has no more charisma and norms or regulations are not in line with the norms approved by society.

On the other hand, orderliness based on agreement of values and norms is an orderliness based on the awareness of people that they definitely need orderliness to live peacefully. Because orderliness emerges from people awareness, then the people perform social control, which is an endeavor for its citizen to obey the norm and regulation applied. Therefore, this orderliness works more persistent, not easily subside even there's a changing of authority, because those norms of orderliness itself is an aspiration of the society collectively.

¹⁵ Jatiman, Sardjono, *the Effectiveness of Law Enforcement as an Effort of Social Control*, (Seminar Paper), 23 March 2000.

The orderliness based on people awareness has characters of: 1) functional norms are norms are made based on people's agreement of justice and reliability; 2) norms applied are enforced by institution believed by society as an institution that holds principles of justice; 3) the enforcement of those norms are fairly and consistently perpetual.

Based on those criteria, we can assess about the quality of orderliness that is desired through District Rule on Public Order as revision result of District Rule 11/1988. The orderliness based on people's awareness in relying upon fairness and reliability of norms or law regulation. Instead the newly approved District Rule on Public Order by DPRD DKI does not show that the norms on Public Order start from the agreement with the society. Those norms are more defined and forced one-sidedly by authority. It is observed from several indications as follows:

1. The District Rule only contains prohibitions and obligations intended mostly for poor people and the weak economy class. Therefore, this District Rule on Public Order is tended to put responsibility to create Public Order in DKI to the poor and economically vulnerable people. In the endeavor of creating Public Order, lower class people are positioned as the "black sheep".
2. The substance of District Rule on Public Order is directed towards the expulsion of the poor and economically vulnerable people systematically, accompanied by penalty threats for people that do not support this expulsion attempt.
3. Many formulations of the norms and law regulation in District Rule on Public Order are not clear / reliable, so it does not guarantee the law reliability and potential in creating violence and ill treatment by *Pemprov* DKI. The unreliability and in-transparency of law norms formulation in this District Rule also potential of creating violence and ill treatment between people. Many articles that the implementation depend on the interpretation of Governor and his apparatus. It seems that the Governor is the only one who surely knows about everything and how to generate Public Order. Newly approved District Rule on Public Order by DPRD all along has emitted responsibility and participation of all classes of societies in formulating the norms or related law with public order.
4. The revision result District Rule on Public Order from District Rule 11/1988 does not manage the responsibility or obligation of *Pemprov* DKI to create circumstances enabling all citizens has capability of obeying the law. In this subject *Pemprov* DKI cannot differ between willingness and capability. When an owner of individual car violates District Rule on orderliness by using jockey, then the problem of the car owner is not his/her lack of capability to obey the law but the lack of willingness. On the other hand, when a beggar violates District Rule on Orderliness by begging on the streets, the problem of the beggar is not his/her lack of willingness to obey the law but the lack of capability. Either not having occupation or physical disability that prohibits him/her to work. Same with peddler or street vendor, who violates District Rule by selling things in public area. The problem of street vendor and peddler are not their lack of willingness to sell in public places but because their lack of ability to find a place to trade that does not violate District Rule. Either because of limited investment or because areas to trade legally have already occupied by the rich. In other word, if by obeying that District Rule on Public Order the poor must loose their right of living, then there is no other choice for them except violating the norms or law regulation that inhuman. Unjust Law, moreover potential of killing poor people, is not worthy to be obeyed. All along the law violation

accused by *Pemprov* DKI to the poor in DKI mostly caused by background of the lack of facilities needed by them to obey the orderliness norm in District Rule. Therefore, *Pemprov* DKI should have performed its obligation to empower the poor so they have capability to fulfill regulation or norm of orderliness demanded by *Pemprov* DKI. After that *Pemprov* DKI has the rights and jurisdiction to catch and punish them if discovered in committing violation of orderliness norm.

5. Sanctions or penalty imposed to the person violates District Rule on Public Order only for the people, particularly the lower class. While the obligation and penalty for Governor and his officers who commit violations on the requirement in this District Rule are tend to be ignored.
6. District Rule on Public Order gives such enormous power for the Governor in interpreting meaning, committing and controlling the function of law norm. While the power of Governor is not accompany with clear and transparent regulation, so creates chances of corruption, collusion and nepotism (KKN) all along turn into source of disorder.

It is clear that "Public Order" that all citizens of Jakarta have in mind would be impossible to accomplished, if *Pemprov* DKI still holds on the norms of orderliness in the newly approved District Rule on Public Order by DPRD. Those orderliness norms in the District Rule on Public Order are revealed not to be intended for the interest of people dreaming of orderliness, comfort and peacefulness, but more intended to build the image of authority. The amount of poor people degrades the image of authority because it shows the evidence of city government failure. The simplest effort to create the image is by expelling poor people from the territory of city authority. This is the background of why the District Rule substantially not fair and not answer modern people's needs of social order based on collective awareness, and not orderliness from pressure.

IV. Closure

The election of Governor DKI was within just a month surpassed, even the endeavor to fulfill Jakarta for all (citizens) are not made yet. But on 10 September 2007 the people of Jakarta were shocked by the knock of DPRD DKI's hammer approving Draft of District Rule on Public Order as the substitute for District Rule 11/1988. It is not a work program of eliminating poverty that raised by *Pemprov* and DPRD DKI in the period of duty the new Governor, but a systematical plan of *Pemprov* DKI to expel poor people from DKI Jakarta with excuse of Public Order.

The revision result District Rule on Public Order from District Rule 11/1988 that has been newly approved by DPRD becomes an examination stone for the new Governor. Is the Governor will run a democratic government by creating Jakarta as a city for all citizens (including the poor) or Governor will create Jakarta as a market for the rich? Jakarta all along has monopolizes economy resources for development. It is proved by 90% amount of money distribution are in Jakarta and at least 60% of tax objects are in Jakarta. Economically Jakarta has been benefited by the economy resources stacked in Jakarta. *Pemprov* DKI should commit its responsibility to get deeper to overcome problem of poverty, not the contrary, create Jakarta as the city of biggest poor people expulsion in the world.

The passion to get rid of the poor that embody District Rule on Public Order shows the disoriented point of view of *Pemprov* DKI in looking the city's problems, where the poor are positioned as the source of problem. A researcher on city problems, Louis K. Loewenstein (1977)¹⁶, has proved that the increasing number of poor people is the sign of problem in the policy of the city and not as the source of the problem itself. The expansion number of poor people in the city happened because of the discrimination in the regulation and the city plan/management. If this discrimination does not stop, then it cannot be denied that the making of this District Rule on Public Order is no more than a public lie committed by *Pemprov* DKI to erase the trail of corruption that have been done all along, either material or point of view corruptions.

According to Loewenstein, the emerge of city crisis/problem is sourced from the people's mind or generally called as states of public mind, which shows from these symptoms: decreasing trust for the government, increasing hedonism and consumerism, prioritizing personal interest, decreasing of moral values – not only individually but also institutionally (on business, executive, legislative and judicative, and religious institutions), etc. city crisis, therefore, cannot be handled or solved by government programs (or only by District Rule on Public Order), but only by the mutual need of the people collectively.

Since the crisis begins, informality in Jakarta rapidly increased. The crisis situation not only creates enormous level of unemployment, but also has the tendency of bringing Indonesia back into a poor country for along time. This reality is supported by the absence (yet) of national leadership and adroit board of bureaucrats; the lack of willingness to sacrifice on the elite levels; the absence of minimum agreement in association of basic living of civilized government, nation and city; and the bereaved of strategic bases such as people education.

Therefore, Jakarta and other cities in Indonesia need to prepare policies in an anticipative way that realistically recognize and accommodate small-scale and well-distributed people's economy activities. Including, for example, revising the city plan and city lands consolidation to give more opportunity for the growth of small scaled people's economy activities. Jakarta will still be the magnet of more narrowly number of occupations. The stagnant decentralization and regional autonomy will still cause the focusing of economy and meaningful occupations in Jakarta. Solving city problems by raiding, expulsion and expelling of the poor and worker of informal sector, will never achieved any goal, instead it will create new problem that destroys the city more.

Crating Public Order – even in a crisis situation – is the hope of every citizen. But the norm of formulated orderliness, either in District Rule 11/1988 or in the replacing District Rule definitely not complies with criteria of good norm and law regulation, which is needed in answering the crisis. A good law at least must fulfill 3 aspects, i.e.: jurisdiction aspect (the procedural drafting), philosophical aspect (materially must comply with people's sense of justice) and sociological aspect (answer the need of social order). Those 3 aspects are not found, either in District Rule 11/1988 or in replacing District Rule. Juristically the District Rule on Public Order is drafted by violating procedure of law making. There isn't any academic transcript that accompanies the Draft of District Rule proposed by *Pemprov* DKI to DPRD and also the process of drafting does not through process of public consultation.

¹⁶ Loewenstein, Louis K, *Urban Studies*, 1977, Macmillan Publishing Co., Inc. New York.

Philosophically District Rule on Public Order is not fair and has character of expelling the poor from DKI. Sociologically, norms or regulations in District Rule on Public Order do not answer the modern society's needs of social order, which should have been made based on mutual awareness of people instead of pressure. With this kind of District Rule not public order that will be created but constant collisions between, either the people and the *Pemprov* DKI or people and each other, which it will end in chaos situation at the capital. To this kind of District Rule on Public Order there is no other way that can be done to all concern carriers in Jakarta as Capital city of Indonesia except to cancel and re-revised the District Rule on Public Order that has been approved by DPRD DKI on 10 September 2007.

Jakarta, 16 September 2007

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