# Human Rights Constitutionalism in Indonesia's Foreign Policy

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**Abstract**

This article examines conceptual discourse of human rights constitutionalism as fundamental part of making policies in international relations. There are two key questions, first, to what extent human rights constitutionalism has been brought into discourse of its foreign policies, and second, how such human rights constitutionalism has been shaped by various actors, state and non state's relations. The politics of 'image' has been developed from regime to regime. However, such politics does not reflect substantially in progressing of human rights development. As part of democratic governance, and in the context of a more globalized society, Indonesia should rethink of its foreign policy foundations, especially in terms of transnational issues such as human rights, environment, and poverty. Therefore, central discussion in this regards is how to strengthen human rights constitutionalism is not merely internal and/or domestic affairs, but also this should build stronger and brave policies to develop and prioritize humanity values throughout international relations.

**Key words**: human rights, constitutionalism, foreign policy, Indonesia.

## I. INTRODUCTION

Foreign policy is an important thing perceived in international relations. Foreign policy is defined as 'ideas or actions designed by policy makers to solve a problem or promote some change in the policies, attitudes or actions of another state or states, in non-state actors, in the international economy, or in

the physical environment of the world'.[1] In terms of human rights foreign policy, it can be defined as 'activities by policy makers to influence another state or group of states so that they may improve the respects for human rights.[2]

As similar to other, Indonesia's foreign policy has been influenced by international politics and economic context. From internal point of view, such foreign policy has been influenced by regime character and domestic economic-politic situation, not only between state's relations, but also non-state's relation. Here, analysis of foreign policy configuration is necessarily scrutinized, especially in the sense of human rights responses since independence till present.

However, this article examines conceptual discourse of human rights constitutionalism as fundamental part of making policies in international relations. Hence, key questions are two, first, to what extent human rights constitutionalism has been brought into discourse of its foreign policies. Second, how such human rights constitutionalism has been shaped by various actors, state and non state relations.

This analysis uses policy documents and reports, while also necessary to quote some scholars who has written this issue as their academic works.

## II. ANALYZING INDONESIA'S FOREIGN POLICIES

The principles underlying Indonesia's foreign policy were expounded for the first time by Indonesian first Vice President, *Mohammad Hatta,* on September 2, 1948 at Yogyakarta in Central Java. During Cold War between West and East blocks, he has stated,

> "Do we, Indonesians, in the struggle for the freedom of our people and our country, only have to choose between Russia and America? Is not there any other stand that we can take in the pursuit of our ideals? ... The Government is of the firm opinion that the best policy to adopt is one which does not make us the object of an international conflict. On the contrary, we must remain the subject who reserves the right to decide our own destiny and fight for our own goal, which is independence for the whole of Indonesia."[3]

[1] Holsti, K.J. 1995., 7th Edition. Englewood Cliffs NJ: Prentice Hall International Editions, p. 83
[2] Baehr, Peter and Monique Castermans-Holleman. 2004. , 3rd Edition. New York: Palgrave Macmillan, p. 2
[3] Hatta, Muhammad. 1948. (Yogyakarta: unpublished paper).

These principles were inspiring the foundation of Indonesia's foreign policy, which was well known as independent and active. 'Independent' is due to Indonesia does not side with world powers. As a matter of principle, so doing war or involve into one side of party in war would be incompatible with the country's national philosophy and identity as implied in *Pancasila* (fundamental norm). The foreign policy is 'active', it means to the extent that Indonesia does not maintain a passive or reactive stand on international issues but seeks active participation in their settlement. In other words, Indonesia's independent and active policy is not a neutral policy, but it is one that does not align Indonesia with the super powers nor does it bind the country to any military pact. Essentially, it is a policy designed to serve the national interest while simultaneously allowing Indonesia to cooperate with other nations to abolish colonialism and imperialism in all their forms and manifestations for the sake of world peace and social justice. This explains why Indonesia was one of the founding members of the Non-Aligned Movement, which has been gathering the leader of Asian-African countries in 1955.

These foundations are perceived as manifestation of principles which are stated on Constitution Preamble, 'Whereas independence is the inalienable right of all nations, therefore, all colonialism must be abolished in this world as it is not in conformity with humanity and justice'. In here, the spirit of anti-colonialism has appeared to respond two blocks of power, and defended the idea of 'self determination' for countries in the south.

How does foreign policy foundation relate to 'self determination', especially in responding international pressure for independence of East Timor, Aceh, and West Papua? Three cases have appeared during Soeharto regime, when many human rights violations in the early 1970s. In 1975, Indonesia invaded and incorporated the former Portuguese colony of East Timor. The Indonesian Army also acted mercilessly against separatist movements in Aceh and West Papua. If there was international pressure coming, Indonesian government responded with non-interfere principles, and those cases were categorized as internal or

domestic affairs.[4] In this context, 'self determination' does not reflect in the real foreign policy of Indonesia, especially if it is dealt with human rights violations in domestic level. This could lead to greater assumption to sort of a hypocritical foreign policy which has been carried out during Soeharto regime.

**Indonesian Foreign Policies in Responding Human Rights**

Responding human rights issues in international relations might be discussed into three indicators. First, how Indonesian government responds to human rights violations in other countries, or 'self determination'. Second how Indonesian government respects to human rights instruments as a part of international agreements. Third, how Indonesian government explains to international community in regards human rights violations in internal or domestic level.

Since early independence, Indonesian government has been campaigning about 'self determination' and the spirit of anti-colonialism, as clearly mentioned in Constitution Preamble. It was an Asia-Africa conference held in April 1955 in Bandung, Indonesia. The main purpose was to use the conference as a platform for expressing the sentiment of solidarity among the member states, most of which are recently independent third world countries. The conference declared ten principles, which one of them was the first principle to respect for fundamental human rights and the purposes and principles of the Charter of the United Nations.[5] The conference was no further steps taken afterwards, and it has been only developing promotion and cooperation among countries of Asia-Africa in the short term without any tangible result.

During Soeharto's administration, the government has been developing relationship more regionalism cooperation, especially through ASEAN (Association of South East Asian) which was established in 1967. Actually, it has been developed under Soekarno through ASA (The Association of South East Asia, established in 1961) and Maphilindo (Malaysia, Philippines and Indonesia, established in 1963), but it had failed because conflict among ASA and Maphilindo countries. In responding to Kampuchea, where a lot of human rights violation because of

[4] Indonesian Government. 1992. , 25 March 1992.
[5] Asian African Summit. 2005. (http://asianafricansummit2005.org /history.htm, accessed on 26, October 2005).

massacre conducted by Khmer Rouge or under Pol Pot regime, and then Vietnam sent troops in order to prevent human rights violations, Indonesian government's position initiated with other ASEAN members, to recommend UN Security Council to take action for withdrawing Vietnamese troops from Kampuchea. This position was taken in regards to propose 'non-interfere principle', where Kampuchean people have right to chose their own government and cannot be driven by Vietnamese authority. On 15 January 1979, the Security Council voted in supporting this principle with a vote of thirteen to two, but Soviet Union, a permanent member, vetoed the resolution.[6]

Indonesian foreign policy in post Soeharto has rather shown more concerns to human rights violations in other countries. Especially during Megawati administration, she strictly stated to not recognize United States of America's invasion to Afghanistan as well as Iraq. And, she also supported the UN resolution for Palestine. In ASEAN communities, Indonesian government was the most active state to request Myanmar military junta for releasing democracy leader Aung San Suu Kyi. In addition, as Chairman of ASEAN, Indonesia also sent Foreign Minister to meet with General ThanSwee and General KhinNyunt, even failed to see Suu Kyi.[7]

But, in other side, she did not respond anything in regards to issue of illegal migrant workers who were expelled arbitrarily during Malaysian Prime Minister, *Mahathir Muhammad*, or she did not respond strongly in the case of human rights violation in Burma. In this context, geo-politic relationship with neighbour countries has an important factor to influence Indonesia's foreign policy, and mainly the relation among ASEAN members.

In responding to human rights in other countries, Indonesia's foreign policy has currently shown inconsistent matters. Inconsistent here is not related to whether the current policy following the previous one, but inconsistent because of consistency failure to promote and strengthen human rights values. It is also inconsistent with foreign policy foundation which states 'active' to participate in

[6] Sukrasep, Vinita. 1989. Bangkok: Institute of Security and International Studies-Faculty of Political Science Chulalongkorn University, p. 68-71.
[7] Kuntari, Rien. 2003. Jakarta: Kompas, 23 September 2003.

international relations. Ambiguity position also was shown in Indonesia's foreign policy when human rights violation happened in neighbour countries, simply due to maintain 'friendship relation'.

**Ratifying International Human Rights Law**

Indonesian government ratified several international human rights instruments, such as CEDAW (ratified in 1989), CRC (ratified on 5 October 1990), CAT (ratified on 27 November 1998), CERD (ratified on 25 July 1999) and ILO Convention. Under RANHAM 1999-2004 (National Action Plan for Human Rights), it stated that Indonesian government would ratify two important instruments, ICCPR and ICESCR. But up to the deadline on December 2004, both of instruments were not yet ratified. Under RANHAM 2004-2009, Indonesian Government under Yudhoyono regime ratified both of international covenants, ICCPR and ICESCR.

One of key instruments in international ethic says that whether or not the government violates treaty obligations or international human rights laws.[8] Through annexation in East Timor in 1976, or "integration" terms defined by Indonesian government, it was the first controversial globalized issue because of human rights questions. UN never recognize this "integration", and it was more critical when massacre in East Timor committed by Indonesian army after referendum in 1999. It was considered as gross violation of human rights because of crimes against humanity and genocide happened, and under Chapter VII UN Charter, UN can intervene in order to maintain or restore international peace and security.

Referendum for East Timor independence was held during Habibie regime, and in the same year Indonesian government at first time passed Act Number 39/1999 about Human Rights. Under Abdurrahman Wahid regime has also enacted Act Number 26/2000 about Human Rights Court. And under Megawati regime has enacted Act No. 27/2004 about Truth and Reconciliation Commission, and renewed National Action Plan for Human Rights 2004-2009. Unfortunately, the

[8] Cingranelli, David Louis. 1992. New York: St Martins Press.

Truth and Reconciliation Commission has been ended by Constitutional Court through its decision, while National Action Plan has been also not significantly changing the human rights situation.

Under Yudhoyono's administration ICCPR and ICESCR was ratified on 30 September 2005. Also, the Indonesian government has submitted a report of the Periodic Reviews of Indonesia's human rights compliance with international treaties (see: http://www.ohchr.org/EN/HRBodies/UPR/Pages/idsession1.aspx). In here, it has shown that after Soeharto, Indonesian government has been developing human rights reputation at international level through ratifying international instruments and passing human rights legislations.

**Explaining Human Rights Violation In Own Country**

Even though Indonesian government has ratified and enacted human rights instruments, it does not reflect stopping human rights violations. Improvement at legislation papers could not be said improvement at field level. So that is why government explanation to international community in regards human rights violations in internal or domestic level is important to be understood as part of human rights foreign policies.

During Soeharto regime, there was several serious human rights violation which was questioned by other countries. Beside East Timor case 1976-1999, there was mass killing over half a million people who were members of Indonesian Communist Party or ordinary people during 1965-1968, a number of mysterious murder took place between 1982-1984, killing Moslem people in Tanjung Priok case, Aceh and West Papua case, and the last period before he stepped down, killing student activist on May riot or Trisakti case in 1998.

When Netherlands was criticizing human rights condition in Indonesia regarding to political prisoner, violence in East Timor, and other human rights violations, by withdrawing 27 million guilders (about 13.5 million US dollar), it was causing serious tension between the Netherlands and Indonesia. At that time, Soeharto started a diplomatic offensive in order to prevent other donor countries from using the Dutch approach. A diplomatic offensive could be

referred to the statement "reckless use of development aid as an instrument of intimidation or as a tool of threatening Indonesia".[9] During this period, human rights problem was perceived as internal or domestic affairs, and other countries should respect non-interfere principle.

After Soeharto, human rights violation in those cases above still happened, or in other word, international attention and domestic requirements to solve the human rights problem are still questioned. During Abdurrahman Wahid and Megawati regime, human rights court was working to punish army for killing Teuku Bantaqiyah and his followers in Aceh case, and dozens army were punished for committing gross violation of human rights in East Timor in 1999. The government wanted to show that Indonesia was serious to punish human rights violator. Although judicial process was conducted, but it was not properly proceed according to international human rights standard in terms of finding the most responsible actor and judicial independence[10] In this context, UN Secretary General and also other countries are still questioning Indonesian government for ending impunity, but in the other hand the government felt this problem already solved by establishing and punishing human rights violator.

Under Yudhoyono regime, human rights problem was perceived with different approach, especially by using dialogue and more strengthening law enforcement. Intensive dialogue between Indonesian government and GAM (Liberation Aceh Movement) in Helsinki, Finland, and also agreement to establish Truth and Friendship Commission between Indonesian government and East Timor government for solving human rights violation during annexation 1976-1999. Indonesia has been developing human rights foreign policy through cooperation with the third parties or UN to involve solving human rights. Under Yudhoyono regime, human rights foreign policy is not using a diplomatic offensive, but developing non-violation approach and more openly cooperation for involving third parties.

[9] Baehr, Peter and Monique Castermans-Holleman. 2004. , 3rd Edition. New York: Palgrave Macmillan, 56-9.

[10] Cohen, David. 2003. (Jakarta: International Center for Transitional Justice) <www.ictj.org/downloads/Intended_to_Fail--FINAL.pdf> (accessed 20 August 2005); Commission of Expert. 2005. (Geneva: 26 May 2005); Cumaraswamy, Dato'Param. 2003. , July 15–24, 2002: As the Special Rapporteur on the Independence of Judges and Lawyers (E/CN.4/2003/65/Add.2, 13 January 2003).

**The Role of Indonesian Human Rights Foreign Policies**

After looking at foreign policies in responding to human rights, this part would analyse what factors are contributing to Indonesia foreign policy and how much human rights are quite striking reflected into foreign policy. After independence in 1945, 'independent' and 'active' principles were launched as foundation for Indonesian foreign policy to respond two blocks power between Soviet Union and United States during Cold War. In here, it was clear that global politics as main reason which has been influencing Indonesian foreign policy at that time. In order to respond global politics, Indonesian and other Asian-African countries developed solidarity among them which most of them currently just independence from colonialism, through non-alignment movement conference in 1955 as mentioned above. It was geo-politic strategy of Indonesian foreign policy.

Even though Indonesia developed non-alignment movement, but under Soekarno regime, he spoke a lot on *'Anti-Nekolim'* (Anti Neo-Colonialism and Imperialism) and brought left ideology into domestic level. At international politics, idea of 'Anti-Nekolim' has been seen clearly during Guided Democracy in 1959, and clearer when Soekarno developed NEFOS (or New Emerging Forces) which consist of the third world countries and linkage the 'Jakarta-Phnom Penh-Beijing-Pyongyang' to respond Cold War. This linkage actually was closer with communist bloc, and it could be critically said that the 'independent' and 'active' politic was left in Indonesian foreign policy. Foreign policy shifting in here was contributed by ideological and political dynamics at domestic level. In this context also, Soekarno was a key player in influencing international relations, especially for campaigning 'self determination' in Asian and African countries.

If Soekarno brought 'independent' and 'active' closer to Soviet Union and China, but during Soeharto, he developed 'independent' and 'active' diplomacy closer to United States and Japan. Under his authoritarian regime, 'national interest' was defined as national stability, included economic stability and political stability.

Economic stability was developed through borrowing debt from international financial institutions and countries such as United States and Japan, in order to

achieve certain level of economic growth. Development program by using foreign debt has been formed as economic development in the early 1970's. Regional economic cooperation through establishing ASEAN in 1967 was also considered as key factor to develop foreign policy. Soeharto also enacted Foreign Investment Act in 1967 and invited domestic and foreign investor to invest their capital in Indonesia. Political stability was strengthened in order to support economic stability, such as securing investment, facilitating industrial development, and guaranteeing capital safety. If any people or community against government's development program, they would be threatened because not supporting economic development.

During Soeharto's administration, 'developmentalism machine' has been influencing Indonesian foreign policy, where 'national interest' in terms of economic development as the most important factor to contribute in every policy. But on the other hand, 'developmentalism machine' has been also creating a number of serious human rights violations, and it could be easily seen during his authoritarian period. Soeharto believed that natural resources and geographical position as key factors to develop economic relationship with other countries to maintain 'national interest'. He defined political matters as 'internal or diplomatic affairs', included human rights issues, which other country should not pressure Indonesian policy.

Beside internal factors, the political and economic interest of external factors played role. For instance, the United States also influenced Indonesian foreign policy. United States was politically supporting Indonesia to against communist bloc and ideology including extremely supporting to Indonesian military defense. In this context, United States has contributed in hindering communist role in Indonesian foreign policy, but in responding to human rights violations which happened in Indonesia, United States kept quite only.

The most important factor in contributing Indonesia's foreign policy at regional level was also establishment of ASEAN. ASEAN is one of the pillars of Indonesian foreign policy. Soeharto has played actively to promote economic cooperation and developed regional security among ASEAN members. ASEAN

has seven aims, which three of them are (i) to accelerate the economic growth, social progress and cultural development in the region; (ii) to promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter; (iii) to promote active collaboration and mutual assistance on matters of common interest in the economic, social and cultural, technical, scientific and administrative fields.[11]

In terms of economic cooperation, there are two kinds of cooperation. First, cooperation in the government sector, such as establishment Committee of Finance and Banking (COFAB), Committee on Food, Agriculture and Forestry (COFAF), and Committee on Trade and Tourism (COTT). Second, cooperation in the private sector, such as establishment of ASEAN Industrial Complementation Scheme and ASEAN Industrial Joint Venture (AIVJ).[12] That cooperation has brought economic development into foreign policy, not only for Indonesia, but also other countries. In terms of political cooperation, through ASEAN, Indonesia became the most articulate advocate of a Southeast Asian Zone of Peace, Freedom, and Neutrality (ZOPFAN, 1971) and a Southeast Asian Nuclear Weapon Free Zone (SEANWFZ, 1995). The basic principles to maintain relations among ASEAN member were Treaty of Amity and Cooperation in Southeast Asia signed in First ASEAN Summit, February 1976 in Bali. Those principles covered: (i) Mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations; (ii) The right of every state to lead its national existence free from external interference, subversion or coercion; (iii) Non-interference in the internal affairs of one another; (iv) Settlement of differences or disputes by peaceful means; (vi) Renunciation of the threat or use of force; and (vii) Effective cooperation among themselves. The first case after this summit was when Vietnam invaded Cambodia, and interestingly, Indonesian Minister of Foreign Affairs, Mochtar Kusumaatmadja, was chairman of the ASEAN Standing Committee in December 1978. Vietnam invasion, known also as the

[11] Bangkok Declaration or the ASEAN Declaration, 8 August 1967.
[12] Sukrasep, Vinita. 1989. Bangkok: Institute of Security and International Studies-Faculty of Political Science Chulalongkorn University, p. 33-60.

Third Indochina War (1978-1991), was placed as crucial agenda for Indonesia and other ASEAN members, and they placed the issue on the agenda of the UN Security Council. After taking 'dual track' diplomacy, done by Soeharto on 12 November 1990 in Hanoi for the first meeting between ASEAN and Vietnam counterpart, and done by UNTAC in 1992, Indonesia foreign policy has shown commitment to bring peace in this region. At the peak deployment of foreign peacekeeping forces in late 1992, Indonesia had the largest force in Cambodia with nearly 2,000 military and police personnel (US Library of Congress).

In this context, Indonesian government through ASEAN has played key roles in international relations, especially in Southeast Asian region. The cooperation in economic and political development was greatly paid attention. Ironically, at the same time in 1976 Indonesia has also invaded East Timor and committed serious human rights violation during annexation. However, Indonesia defended that East Timor case was internal affairs and non-interference principle applied for this case. So, during Soeharto regime, we could see what attitude was applied for Vietnam invasion contradicted with what was applied in East Timor. Here, according to principle and theory in international ethics[13], Indonesian government foreign policy has actually been done in an inconsistent and hypocritical way.

**Post Authoritarian Regime of Soeharto**

Economic crisis and political turbulence in Southeast Asian has brought multidimensional crisis, included in Indonesia. Soeharto regime has been leading during 32 years in his president chair, stepped down after mass striking conducted by student activist in many Indonesia regions in 1998. After him, Indonesia has four presidents (1998-2005), namely Jusuf Habibie, Abdurrahman Wahid, Megawati Soekarnoputri, and Soesilo Bambang Yudhoyono.

During these periods, there have been foreign policies which importantly has marked economic and political dynamics at regionally and international level. In the early years after 1998, Indonesian has been facing international community pressure because the case of Jakarta riots which was causing hundreds Chinese

[13] Cingranelli, David Louis. 1992. New York: St Martins Press.

women were brutally raped, East Timor massacre, killing and kidnapping in Aceh and West Papua. Mainly, after referendum took place in East Timor 1999, Indonesian military committed on gross violation of human rights. International reactions happened to blame Indonesian government. At that time, United States government stopped military aid and cooperation to Indonesia in 1999 because of gross violations of human rights. UN and other European countries also condemned Indonesian military for carrying out serious violations. Those human rights as 'internal or domestic affairs' have been bringing Indonesia's foreign policy in regards to human rights changed.

On the other hand, changing situation in international relation which also is influencing and being faced by Indonesian foreign policy, pictured by fundamental global trend, including: (i) United States as politic-military superpower in the world which has economic-politic power in North America, Europe and East Asia; (ii) globalization and interdependence mainstream which are stronger; (iii) the stronger roles of non-state actors in international relation or 'multi-track diplomacy' in international relations; (iv) the raise of dominant transnational issues, such as human rights, democracy, good governance, environment in the international agendas.

To respond those changing situations, according to economic and political dynamics, the Foreign Affairs Department stated Political Policy and International Relation which was known as 'Ecumenical Diplomacy'. This policy is an idea to gather all countries to strengthen friendship and mutual cooperation with prioritizing.[14] First, Rehabilitation of Indonesian image in international community eyes; Second, Recovering national economic and social welfare; Third, Preserving national unity and national stability, and preventing nation disintegration; Fourth, Enlarging bilateral relationship with states who can assist recovery on economic, trade, investment and tourism project; Fifth, Supporting international cooperation in accordance to peace throughout the world. The government policy was in accordance with *Majelis Permusyawarakatan Rakyat* or People Assembly Decree Number IV/MPR/1999 concerning State Guidelines (GBHN), said that

[14] Shihab, Alwi. 2000. "Foreign Policy Guidelines and Indonesian Diplomacy in 21st Century", in Jakarta: Foreign Affairs Department.

Indonesia's foreign policy would be oriented to national interest, strengthen the developing countries solidarity, support the decolonization or independence, strengthen international cooperation for social welfare.

Here, during duet of Abdurahman Wahid and Megawati Soekarnoputri believed that 'image' in international community eyes was important, and this 'image' dealt with human rights. Prioritizing human rights could be clearly seen in domestic or internal policy as well as in foreign policy. During Abdurrahman Wahid's administration, Indonesian government has human rights act and *RANHAM* (National Action Plan for Human Rights) for the first time. During Megawati Soekarnoputri's administration, the human rights court started prosecuting gross human rights violators for the first time.

Soesilo Bambang Yudhoyono, a military background and former Minister of Defense during Megawati's cabinet, who was directly elected by people in democratic general election 2004, has also been campaigning human rights at the first priority. He has been trying to use peace conflict resolution or promoting a dialogue approach to respond Nangroe Aceh Darussalam and West Papua cases. Global politics context has been also influencing Indonesian foreign policy, especially in responding security issues or terrorism issues after bombing happened in Paddys Café Bali, Australian Embassy in Jakarta, and other places in Indonesia. In regional level, learning from East Timor case, Indonesian foreign policy now is trying to respond political dynamics and releasing concrete mechanism of 'enhanced interaction' or 'flexible engagement' in ASEAN context, to replace principle of 'non-interference'. Not only to develop cooperation with regional state, but also involving the role of non-state actors (non-government organizations), to strengthen human rights. Also, Indonesian government is preparing to make 'White Foreign Paper' for the rehabilitation of the name of Indonesian government at international level, especially in responding human rights tracking which is compatible with 'White Defense Paper'. Under Yudhoyono, 'independent' and 'active' foreign policy is being run by strengthening the role of diplomacy in regional and international region.[15] It is clearer in the campaign

[15] "Dinamika Diplomasi Luar Negeri", 2005. , Friday 12 Aug 2005. (http://www. suarapembaruan.com/News/2005/08/12/index.html, accessed 28 September 2005).

of human rights in international level when Hassan Wirayudha, Indonesian Minister of Foreign Affairs said that, "there are three challenges which should be answered by United Nations, development, security and human rights".[16]

International pressures for maintaining human rights better, global security against terrorism, and also democratic government transition at domestic level influenced Indonesia's foreign policy and human rights have been put at higher priority in order to develop better 'image'. As mentioned above, United States as politic-military superpower in the world which has a strong economic-politic power, has influenced human rights foreign policy, especially in responding to security or terrorism issues.

**International Financial Institutions and Human Rights**

Astonishingly, a senior International Monetary Fund (IMF) staff threw two Members of Parliament (MPs) out of the meeting of the Group of 24 Developing Country Ministers on 23 September 2005. Dradjad Wibowo MP from Indonesia and Hon. Mohammed Jagri MP from Ghana had been invited to attend the meeting by the G24 Secretariat to present a petition calling for democratic oversight of World Bank and IMF policies, and to question World Bank President Paul Wolfowitz and IMF Managing Director Rodrigo Rato. The International Parliamentarians Petition (IPP) has been signed by over 1100 MPs from 55 parliaments.[17]

This story has given a clear situation that international financial institutions (IFIs) have power to interfere and dictate states, economically. IFIs have played important roles in South countries, and significantly have driven policy in practical situation. Even driving South countries only in terms of economic, but the negative effect of policy given by IFIs would be unavoidable, especially in social, cultural and political situations. Hence, this part assesses to what extent the role of IFIs has been influencing human rights and Indonesia's foreign policy.

Two controversial IFIs in modern world today are IMF and World Bank. It is because both of them have had a significant impact on the world economy.

[16] SukarjaputraRakaryan. 2005."Menlu RI di PBB: Sampaikan Pelajaran dari Aceh"(Minister of Foreign Affairs in UN: Learning From Aceh), , 21 September 2005.
[17] IPP Info. 2005. http://www.ippinfo.org/ (accessed 25 September 2005).

Historically, they were set up at the Bretton Woods Conference in New Hampshire in 1944. It was attended by 43 countries and funded by themselves as member countries in proportion to their national incomes and received votes in proportion to their contributions. It meant that United States of America has always had dominant voice.[18]

The goal of World Bank was to encourage international investment particularly in poorer parts of the world. According to the article 1 of the World Bank Constitution, it says "to assist in the reconstruction and development of territories of members by facilitating the investment of capital for productive purposes." Ideally, the World Bank would help poorer countries by facilitating to build climate investment plans, sustainable growth, empowering poor people and providing capital for the projects. The important focus of World Bank work is reconstruction after natural disasters and post conflict rehabilitation needs that affect developing and transition economies. World Bank has portfolio's focus to include social sector lending projects, poverty alleviation, debt relief and good governance. World Bank work focuses on achievement of the Millennium Development Goals that call for the elimination of poverty and sustained development. The goals indicators are used for targeting yardsticks for measuring results.[19]

The World Bank is like a cooperative, where its 184 member countries are shareholders. The shareholders are represented by a Board of Governors, who are the ultimate policy makers at the World Bank. The five largest shareholders are France, Germany, Japan, the United Kingdom and the United States. By tradition, the bank president is national of and is nominated by the largest shareholder in the bank, the United States. The President is elected by the Board of Governors for a five-year, renewable term.[20]

IMF, or The International Monetary Fund was created in 1945 to help promote the health of the world economy. Headquartered in Washington D.C., it is governed by and accountable to the governments of the 184 countries

[18] Nicholson, Michael. 1998. London: Macmillan Press.
[19] World Bank Group. 2005. , http//:www.worldbank.org/ (accessed 11 October 2005).
[20] World Bank Group. 2005. , http//:www.worldbank.org/ (accessed 11 October 2005).

that make up its near-global membership. It is not far different from World Bank in addressing recovery of poor countries by financing them. It has seven purposes, included first, to promote international monetary cooperation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems; and second, to facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy.[21]

Both of them have been closely cooperating with World Trade Organization (WTO) and sounding several programs which were seemed helping for poorer countries, and those roles could be easily seen from their promotion through various campaigns, papers, websites, and other sources of information, included outsider criticism to themselves which were put openly in their information. But, their roles have been still inviting serious debate into practical situation, and these were criticized by many scholars, non-governmental organizations, civil society organizations and many others.

Criticisms addressed to international financial institutions become much more severe in 1981. At that point, when Ronald Reagan-for whom extreme neo-liberal doctrines were gospel-come to power, the institutions became instant converts to these doctrines, as if it was necessary for them to follow every change of fashion inside the white house. It was crystallized as a universal program which was known as 'structural adjustment program', or SAP. This program imposed the South countries who were considered to be in crisis, to 'adjust' unilaterally to new conditions, especially to 'help' them through a swift reconversion to 'normal' capitalism.[22]

After applying SAP, the general consequences of SAPs have been a sharp increase in unemployment, a fall in the remuneration of work, an increase in food dependency, a grave deterioration of the environment, a deterioration in

[21] IMF. 2005. , http//:www.imf.org/glance (accessed 11 October 2005).
[22] Amin, Samir. 1997. Delhi: Madhyam Books, p. 13.

healthcare systems, a fall in admissions to educational institutions, a decline in the productive capacity of many nations, the sabotage of democratic systems and the continued growth of external debt.[23]

In this context, first, the roles of IFIs were not based on human rights perspective in order to improve progressively socio-economic rights. But their roles are more focusing on building climate market orientation which centered on capital investment, infrastructure development, and adjustment program. Second, adjustment program, as an idea was created in 'western desk thinkers', has been making universal assumption and believing that those adjustment programs can be applied universally. Referring to different situation in domestic level, for instance comparing African countries and South East Asian countries, or with Eastern Europe countries, would be having different and self characteristic of problems and economic resources. It meant that applying universal adjustment program would be resulting adverse situations, as mentioned above. In here, different situation at domestic level should be assisted by using specific programs in accordance with domestic needs.

Financial institutions are banks, dealing with this, general perspective says that banks aim to take benefit from their operation, and support for development. Not necessary to say that Banks should be responsible much on human rights issues, especially to intervene those issues in other countries. This perspective can be interpreted when the banks do not want to deal with human rights issues.

Clearer statement in dealing with this perspective above is, under World Bank Constitution says, "The Bank and its officers shall not interfere in the political affairs of any member, nor shall they be influenced in their decisions by political character of the member.....Only economic considerations shall be relevant to their decision" (article 4.10). World Bank does not take into consideration whatever poor human rights situation in countries given financial aid or technical assistance, because human rights are considered as internal political affairs. World Bank has given large number of financial assistance to regime who has poor human

[23] Amin, Samir. 1997. Delhi: Madhyam Books; Bello, Walden. 2003. London: Zed Books; Pieterse, Jan Nederveen Pieterse. 2004. New York: Routledge.

rights record, such as during Marcos regime in Philippines, Pinochet regime in Chile and Soeharto regime in Indonesia. World Bank policy is not different from IMF policy. Both of them do not care with internal affairs, because their bank constitution says that assistance should be given regardless any human rights violation in such countries.

Because human rights are not fully considered as important to be seen as factor contributing to the effectiveness of financial aid and technical assistance given by the World Bank and IMF, unsurprisingly if these money went to other use or misuse policy at domestic level, or it went to personal benefit for those who have position at bureaucracy level or dominant political parties. It meant that loan or grant assistance would be corrupted and useless.

For instance, case in the field found that a large number of loan projects in Madiun, East Java, Indonesia, World Bank assistance during 1985-1990 in water infrastructure programs especially to reconstruct irrigation for field crop were corrupted by local politician for supporting general election campaign. At that time, *Golongan Karya* Party, or Soeharto party was dominating and influencing political decision in almost all bureaucracy level, and the winning party since 1970s.[24] World Bank fully understood that their money went improperly, but the bank could not do anything to prevent or impose the government at domestic level. This case has shown whatever political reasons at domestic level could not be interfered. In here, many critical views say that how the bank will reach economic purposes without applying human rights which closely dealt with poverty issues, unemployment, right to development and other rights.

Beside policy problems which could not touch human rights issue, the bank was also questioned regarding to whom the decision making has been done. It is known as governance issues at internal of bank itself. Governance system in the international financial institutions, World Bank as well as IMF, is dominated by the largest shareholders. As mentioned before, members' vote always depends on the largest shareholders, and it automatically closed the opportunity of poor or

[24] Wiratraman, Herlambang P. 2004. "'Sambong'& Legal Conflict of Water Rights: Portrait the Clash Between State Law vs. Folk Law over Water Management in Madiun District", "", University of New Brunswick, Fredericton-NB. Canada, 25-29 August 2004.

developing countries to lead voting. Because of governance model in international financial institutions, the rich countries such as United States (especially the U.S. Treasury who has about 17 % of the total voting power) always drive policy program for debtor countries. This governance model does not give opportunity for debtor country to decide and develop how their government should do best for themselves.

All of those policies are developed under New Political Economy (NPE) of development that provides the theoretical underpinning to the structural adjustment program (SAP) of the World Bank, and this package sponsored by the IMF. Adjustment involves both some finance and a set of conditionality. This conditionality has provoked many controversies. Some see them as a perfectly normal banking practice to guarantee repayment, some others see, in these conditionalities, an attempt to retain the recipient countries as perpetually dependent client-states of the rich countries operating at a low level of development.[25] The role of World Bank and IMF directly play in evolving economic policy, and also external agencies, according to Little et al. say that USAID, the US Government play influential roles 'by holding out carrot and sticks', or through foreign experts, such as the Berkeley Mafia in Indonesia or the 'Chicago Boys' in post-Allende Chile.[26] The pursuit of the New World Order and the widespread adoption of SAP led to a new enabling policy framework for a global free trade regime and the constitution of a new imperial economy.[27]

After describing policies made by international financial institutions, the next question is what impact would be happening of their policies, especially in terms of human rights and impoverishment in the South. As mentioned before that IFIs have several roles which aim to develop market liberalization and climate investment plans. The core of this idea is economic policy should be left to the market, and the prices determined by the interaction of demand and supply forces. Any intervention by the state, such as the form of controls, subsidies, and selective protection, should be minimized. Under SAP, state

[25] Dasgupta, Biplap. 1998. New Delhi: Vistaar Publications.
[26] Little, I.M.D., Richard N Cooper, W. Max Corden and SarathRajapatirana. 1993. (New York: Oxford University Press, p. 386-87.
[27] Petras, James and Henry Veltmeyer. 2001. Delhi: Madhyam Books, p. 18.

should take a back seat in economic matters, even it is included public sector, in order to reduce inefficient economic policy and fiscal deficit. Here, the idea of liberalization, privatization and many other deregulations should be applied in order to support market efficiency or capitalism.

To give a clear example in this regard is related to water privatization. On water issues, Indonesia basically accepted privatization and commercialization policies, which have been involving several multinational corporations and financial institutions, including the World Bank. Privatization on Jakarta Water Utilities for instance, World Bank and Japan OECF involvement in water privatization in Jakarta was started in June 1991, when it extended a $92 million loan to improve the infrastructure of Jakarta PAM Jaya. The loan was used to establish a new water purification installation at Pulogadung, Jakarta. Both the World Bank and Japan OECF advised government to privatize Jakarta PAM Jaya water utilities.[28] The Bank also appointed consultants to give inputs to the water utilities management how the privatization should be carried out. The World Bank loan opened opportunities for private investment to penetrate the Jakarta water service. The privatization of Jakarta's water is the story of how powerful multinationals have deftly used the World Bank and a compliant dictatorship to grab control of a major city's waterworks. In alliance with the Suharto family and its cronies, water corporations like Thames and Suez won favorable concessions without public consultation or bidding. Thames and Suez offered to modernize and expand the system. PAM Jaya also agreed to force businesses and private homes to shut down private wells and buy their water from the consortia. At the time, about 70 percent of Jakarta's drinking water came from private wells. In exchange, the private companies agreed to pay PAM Jaya's foreign debts amounting to $231 million, from their revenues. World Bank official Alain Locussol, who has been involved in financing the water system and wrote the 1997 report, issued a second report the following year stating that the $190 million World Bank loan (of which $92 million was for water infrastructure improvements) had "facilitated"

[28] Harsono, Andreas. 2003. "Water and Politics in the Fall of Suharto"in (ICIJ), p. 1-2.

the privatization and would "further achieve development objectives". The report predicted that the two companies would be "more successful" in lobbying for more money for management of the waterworks.[29] In further program, in 1998, World Bank approved a US$ 300 million loan to the Indonesia Government. The proposed three-tranche loan would provide balance of payments assistance to the Republic of Indonesia to support a structural adjustment program of policy, institutional, regulatory, legal, and organizational reforms in the management of the water resources and irrigation sector. The first tranche of US$50 million was disbursed immediately upon the effectivity of the loan facility. In return, government agreed to issue a new irrigation policy, requiring the decentralization of irrigation management to the farmer organization. Decentralization means the farmers will bear the cost of management and maintenance. The second tranche of US$100 million was disbursed on December 31, 1999; and the third tranche of US$150 million upon completion of the sector reform program during the second or third quarter of 2000.[30] Beside foreign debt policy, Indonesia government was imposed to enact legislation to guarantee water privatization.

Consequently, as requirement of water infrastructure investment, the Government should provide or pass a new water management bill which is friendly with privatization, commercial treatment for supporting free market. Act Number 7/2004 is one of law produced by neo-liberalism thought. Although under article 33 of the Indonesian Constitution (mainly section 2-3), which clearly stated that "all sectors of production, the land, the waters and the natural resources within shall be under the powers of the State and shall be used to the greatest benefit of the people". In this case, water privatization in Jakarta has impacted to poor communities who became more difficult to access clean water, and they could not spend money for education, food and other basic needs, because they should spend it more for buying water. In this situation, impoverishment would happen as direct effect of privatization.

[29] Harsono, Andreas. 2003. "Water and Politics in the Fall of Suharto"in (ICIJ).
[30] Siregar, P. Radja. 2003. ' http://www.jubileesouth.org/news/EpZyVyEyylgqGYKXRu.shtml (posted on 12 December 2003, accessed 5 October 2005).

## IFIs and Indonesia's Foreign Policy

Today, human rights issues are becoming globalized issues, and universally being more accepted as fundamental values in various culture, nations, and state. In international relation, human rights have been placed in important roles, through developing international legal instruments, international institutions, and many others. It has principle of interdependency that mentions human rights concerns appear in all spheres of life, such as home, school, workplace, courts, markets and everywhere. Human rights violations are interconnected; loss of one right detracts from other rights. Similarly, promotion of human rights in one area supports other human rights.[31] And also it has principle of responsibilities, which not only bind government or individual, but also bind every organ of society including corporations, financial institutions, non-governmental organizations, foundations, and others. These principles of human rights are also important considered in defining ethical measurement in international relation.

World Bank and IMF, as stated earlier, under their constitution have policy of non-interfere, especially in responding to internal affairs in certain countries, or involving in human rights issues. It means that whatever regime has been done on human rights violations in such countries, adjustment program, loan, or many other projects could be applied regardless poor human rights situation. There is no responsibility of World Bank and IMF to develop measurement or requirement for improving human rights. In certain situation, their money or assistance has been impacting to larger human rights violation and influencing on impoverishment, especially in South countries.[32] World Bank and IMF, through financial assistance or adjustment programs always defend their purposes and acts for development in given countries, but development in their frame of thinking is not dealing with human rights improvement. Whereas, problem of poverty or impoverishment is a part of human rights problem, especially on economic, social and cultural rights. Separation between development policy and human

[31] Ravindran, D. J. 1998. Human Rights Praxis: A Resource Book for Study, Action and Reflection. Bangkok, Thailand: The Asia Forum for Human Rights and Development; Flowers, N. 2000. The Human Rights Education Handbook: Effective Practices For Learning, Action, And Change. Minneapolis, MN: University of Minnesota.

[32] Winters, Jeffrey A. 1996. Ithaca: Cornell University Press.

rights policy within World Bank and IMF policy, which can be seen from various adjustment programs or letter of intent in South countries, are clear evidence that human rights are not respected progressively.

Other criticism addressed to IFIs is also mechanism to impose World Bank and IMF responsibility in human rights. Mechanism in human rights could not reach IFIs responsibility, especially if their policy failed or intentionally caused poorer or worse situation. So far, only state and individual are covered under international human rights law, and they can be imposed or punished under this instrument. International human rights law has limits to reach and impose financial institutions, whatever they do and consequences in terms of bad human rights condition. In order to encourage better relationship and ethically accepted as humanization of policy, human rights policy should be applied in all sectors within financial institutions, both the World Bank and IMF which were extremely criticized because of it. Hence, the role of Indonesia's foreign policies are very limited in criticizing those institutions, since their capital roles have been really strong in influencing economic and investment climates. On the other side, it also shows a politic of image, which has been influencing the Indonesia's foreign policy in making a sustainable financial support from IFIs.

## III. CONCLUSION

There are several points to make as concluding remarks. First, the 'independent' and 'active' principles as foundation of Indonesian foreign policy, which were created in 1948, should be revised accordance to different international context with currently situation. Clash ideology between communism and liberalism in the past has been much changing. Indonesia's foreign policy should respond how to explain 21st century situation which most of political-economic driven, especially in the age of technological market power. Indonesia's foreign policy should respond how Indonesia can exit from burden of debt and how it can participate to decide progressive economic for Indonesian and other poor or developing countries. Shortly, rethinking of foreign policy foundations is

fundamental matter, especially in terms of transnational issues such as human rights, environment, and poverty.

Second, if comparing among Soekarno, Soeharto and post Soeharto regime, they had different kinds of responding to human rights. Soekarno is more provocative to defend Asia Africa countries for independence, while Soeharto is more exclusive to respond human rights in internal affair, by using non-interfere principles. After the demise of Soeharto, indeed, a more progressive way has been shown to prioritize human rights into internal or foreign policies, even some cases showed that government does not really take it seriously to respond human rights problem in other countries, such as responding Burma case and trafficking or migrant workers in Southeast Asia. In this regard, I refer to what Friedman has written, in which he says that it is a type of 'Asian Authoritarianism' where actually Asia is only a geographical word, and shares nothing in common, especially in terms of human rights.[33] Today, Asia is a region that grows and influences the world, especially in facing North countries. Asian countries should be hand in hand as G-Asia to balance G-8 power, through participating in international systems and also focusing problems of poverty, as a dominant part of human rights situation in Asia.

The third, for understanding of Indonesia's foreign policies, it has been quite dynamics, changing from time to time. Soeharto has turned the 'globalist' Soekarno foreign policies into 'realist' one. It could be seen when Soeharto always construct and more accommodate 'national interest' than strengthen humanity values like previous government. Even Soekarno has been closer with communist bloc than liberalism of United States. Interestingly, the post Soeharto regime has been developing an 'image' at international level in responding to human rights. Human rights are strongly reflected into various policies, domestic as well as foreign policies. Unsurprisingly, MakarimWibisono, a former Indonesian Ambassador for UN was elected as chairman of Human Rights Commission. Rudi Rizki, an ad hoc human rights court judge was also chosen as Commission

[33] Friedman, Edward 1999."Asia as A Fount of Universal Human Rights", in Peter Van Ness (ed) Debating Human Rights: Critical Essays from the United States and Asia. London and New York: Routledge, p. 56-7.

of Human Rights Expert in UN. Both of them were elected in 2005. The big question for this context here is to what extent international politics on human rights has been orchestrated on during leading as chairman of UN Human Rights Commission.

The politics of 'image' is developed quite successfully by post Soeharto regime, but it does not reflect substantially in progressing of human rights development. Progressive human rights realization is more important than develop only 'image', and it is not easily conducted in regards to complexity of human rights violation around the world. Global issues such as terrorism, poverty, migration, freedom of hunger, trafficking/slavery, HIV/AIDS, privatization or commercialization, and war, are shadowing Indonesian foreign policy. These are factors contributing human rights foreign policy for Indonesia.

The fourth, Indonesia's foreign policy should address the World Bank and IMF, especially in reforming organizationally in accordance to support democratic governance and human rights improvement, which should be attracted within their policies, programs, and any kind of assistance in more meaningful ways.

Fifth, US domination within IFIs should be seen as failure of governance. The largest shareholder should give democratic ways in involving debtor or recipient countries to decide kinds of development for themselves which concerns human rights as an important part of measurement or requirement to develop programs. The roles of state, non-state actors, or others, become important and crucial to protect human rights and to fight inequality, through democratic governance in IFIs. Poverty reduction programs could not be a success if domination of the largest shareholders within IFIs still sustains inequality or gap between North and South, and "good governance" projects in the South could not be applied if World Bank and IMF have no democratic governance in their organization.

Those are challenges for Indonesia's foreign policy, which need to be necessarily considered by current Jokowi's administration. The main message in this paper is how to strengthen human rights constitutionalism which is not merely internal and/or domestic affairs, but this should build stronger and braver

policies to develop and prioritize humanity values throughout international relations.

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