

## Distribution of Clean Water as A Public Good from Justice Perspective

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### Abstract

*Water is a very vital natural resource and is needed to determine the sustainability of the life of all living things on this earth. Along with the increase in human population, clean water is increasingly becoming a scarce resource and there is no substitute. This is the main problem faced related to the availability of clean water. The gap between demand and supply of clean water infrastructure is not easy to fulfill, making it a very heavy burden for the government to overcome. Public goods provided by government agencies using the state revenue and expenditure budget and/or regional revenue and expenditure budgets are intended to support the programs and tasks of the agency. As a product of public goods, it needs to be distributed in a younger way to the public. In relation to the concept of justice, the word justice can be interpreted as follows: The quality to be righteous; honest (honesty) Not taking sides (impartiality); fair representation of the facts. The quality of being right Retribution as revenge (vindictive); reward (reward) or punishment (punishment) according to achievements or mistakes. The research method used is a normative juridical approach, namely legal research that uses secondary legal sources, carried out by emphasizing and adhering to the juridical aspects. This type of research used a descriptive approach. As part of public goods whose availability for all Indonesians is guaranteed by the state, the government needs to intervene in order to avoid open and direct competition for these types of goods. The clean water supply policy must have a long vision that is integrated in water supply and management. The efforts that can be done are to improve the performance of PDAM as a regional company that is responsible for providing clean water services in urban areas and increase the PAMSIMAS program in providing clean water services in rural areas.*

### Keywords

Justice; public goods; water; distribution



## I. Introduction

Water is a very vital natural resource and is needed to determine the sustainability of the life of all living things on this earth (Mawardi, 2014). In all kinds of human activities, water is a basic need to carry out various activities, such as household needs, for example for drinking, cooking, bathing, washing, industrial purposes, trade purposes, agricultural and livestock needs, shipping purposes and so on. Therefore, water is very functional and plays a role in the life of living things on this earth (Ambarwati, 2014). Water, which was once considered a commodity that can be obtained from nature for free, has now undergone a process of commoditization (economical). Water is an important substance in supporting human life. Without water, the continuity of human life will be disrupted which will eventually lead to a reduction in the balance of the human environment. Along with

the increase in human population, clean water is increasingly becoming a scarce resource and there is no substitute. This is the main problem faced related to the availability of clean water (Santika, 2009). Human Resources (HR) is the most important component in a company or organization to run the business it does. Organization must have a goal to be achieved by the organizational members (Niati et al., 2021). Development is a change towards improvement. Changes towards improvement require the mobilization of all human resources and reason to realize what is aspired (Shah et al, 2020). The development of human resources is a process of changing the human resources who belong to an organization, from one situation to another, which is better to prepare a future responsibility in achieving organizational goals (Werdhiastutie et al, 2020).

The gap between demand and supply of clean water infrastructure is not easy to fulfill, making it a very heavy burden for the government to overcome. This gap was created due to the increasing demands for the level of service demand (level of service) which could not be followed by the fulfillment of their needs. Urban areas with very rapid population growth have made the demand for clean water higher and if not fulfilled will result in scarcity and a decline in the quality of life of urban communities. Then an analysis of the population's needs for clean water is carried out regarding the distribution network of clean water supply for the next few years.

Poor people in rural areas of developing countries such as Indonesia, not only face limitations on the consumption of goods traded in the market (private goods) but also on the consumption of access to public goods. The availability of access to public goods such as electricity networks, clean water from PDAM, improved sanitation in the form of access to waste transportation and distribution of public latrines for rural communities is relatively much lower than the access enjoyed by people in urban areas. government provision of access to public goods at the village level. Access to public goods in question is electricity from PLN, clean water from PDAM, and improvement of environmental sanitation in the form of garbage transportation and public latrines. First, the geographical difficulties of the village and the limited sources of livelihood of the villagers are related to the increasingly limited access to the four public goods studied.

As a public good whose availability is increasingly limited, clean water management is one of the main tasks of public authorities to regulate and provide public services in the field of clean water supply. Regulation of production, distribution and consumption of clean water by the government based on the existence of "public obligations" which can ensure the quantity, quality and continuity of the supply of clean water as well as support environmental conservation efforts, especially the conservation of these water resources. This is done by the government through the implementation of clean water services directly or by implementing related regulations. Legal products that regulate the use and utilization of water include Law no. 7 of 2004 concerning Water Resources, Law no. 32 of 2004 concerning Regional Government, PP No. 16 of 2005 concerning the Development of Drinking Water Supply Systems and Government Regulation No. 67 of 2005 concerning Government Cooperation with Business Entities in the Provision of Infrastructure. In addition to the measurable targets contained in national and regional planning documents, there are also targets for achieving the 2015 Millennium Development Goals (MDGs), target number 7 is "...ensure environmental sustainability" and target number 10 is "reduce by half the proportion of people without sustainable access to safe drinking water and sanitation".

The clean water crisis does not only incur extra costs for the community. but also threatens public health. According to WHO research, the water crisis causes diseases

including cholera, hepatitis, polymyositis, typhoid, dysentery trachoma, scabies, malaria, yellow fever, and intestinal worms. In Indonesia, diseases that often appear when there is a clean water crisis include diarrhea, typhoid, polio, and intestinal worms. With the important role of water in various aspects of human life, the United Nations Convention on Economic, Social and Cultural Rights in 2002 recognized the right to water, including the freedom to manage access to water. Thus, these two rights are strictly categorized as human rights.

## II. Review of Literature

Public goods provided by government agencies using the state revenue and expenditure budget and/or regional revenue and expenditure budgets are intended to support the programs and tasks of the agency, for example:

- a. provision of medicine for avian influenza, the procurement of which uses the state budget of revenues and expenditures at the Ministry of Health;
- b. passenger ships managed by PT (Persero) PELNI to facilitate inter-island transportation services whose procurement uses the state revenue and expenditure budget at the Ministry of Transportation; and
- c. provision of urban transportation infrastructure whose procurement uses local revenue and expenditure budgets.

Public goods services include

- a. procurement and distribution of public goods carried out by government agencies whose funds are partly or wholly sourced from the state revenue and expenditure budget and/or regional revenue and expenditure budget.
- b. procurement and distribution of public goods carried out by a business entity whose establishment capital is partly or wholly sourced from state assets and/or separated regional assets; and
- c. procurement and distribution of public goods whose financing is not sourced from the state revenue and expenditure budget or regional revenue and expenditure budget or a business entity whose establishment capital is partly or wholly sourced from separated state assets and/or regional assets, but whose availability becomes a state mission as stipulated in the legislation.

Public goods whose availability is the result of the activities of state-owned enterprises and/or regionally-owned enterprises that have been delegated the task of providing public service obligations, for example: electricity from the management of PT (Persero) PLN; and clean water from the management of regional drinking water comp

The importance of the presence of water

Water is an important chemical molecule for the life of all creatures on earth. One of the main factors that make the earth the only habitable planet is the availability of water. Water covers about 70% of the earth's surface with 95.6% in the sea, 4% in glaciers, ice sheets, groundwater, lakes, rivers, soil (humidity), and the atmosphere. However, even though the volume of water on earth is relatively abundant, the water that is suitable for use is threatened with a crisis.

Challenges related to water today include the scarcity of clean water, the lack of water management infrastructure that is resistant to climate change, and the demand for infrastructure that is affordable by the community. The threat of a water crisis does not only affect people in certain areas, but has become a threat to the entire world community, including in Indonesia.

## **2.1 Water access in Indonesia**

Based on the results of the Household Drinking Water Quality Study (SKAMRT) from the Ministry of Health in 2020 stated that 7 out of 10 Indonesian households consume drinking water contaminated with *Escherichia coli* (E-coli) bacteria. Considering that water is also the main component of the human body, the threat of a crisis of clean and potable water should be a concern. However, in Indonesia, according to the Ministry of National Development Planning, the achievement of safe sanitation in Indonesia is still very low. Indonesia's safe sanitation rate has only reached 7% in 2020. This achievement is lower than Thailand's 26% sanitation rate and India's 46%.

Difficult access to clean water in Indonesia occurs in various regions. Even in the outskirts of Jakarta that are not covered by water company pipes, there is a water mafia that exploits the poor to gain access to water. The water mafias cut the pipes of the water company and made a channel to the residents' homes at a higher fee compared to those living in official residential areas.

## **2.2 Concept of Justice**

Judging from the above conditions, as one of the products of public goods, it needs to be distributed in a younger way to the community. In relation to the concept of justice, the word justice can be interpreted as follows: The quality to be righteous; honest (honesty) Not taking sides fair representation of the facts. The quality of being right Retribution as revenge (vindictive); reward or punishment according to achievements or mistakes. logical reason (sound reason); truthfulness; validity The use of power to defend what is right, just, or lawful. The word justice has in common with the word equity, namely justice, which can be interpreted as follows (Munir Fuady, Dynamics of Legal Theory, Ghalia Indonesia, Bogor, 2010, p. 91): Justice, impartial, gives everyone their rights (his due), Everything is fair, or fair (equitable); General principles of fairness and justice in terms of applicable law

The distribution of justice according to Aristotle in his book Ethics, divides justice into two groups, namely (Munir Fuady, Dynamics of Legal Theory, Ghalia Indonesia, Bogor, 2010, p. 109): Distributive justice, namely the balance between what a person gets (he gets) and what he deserves (he deserves).; Corrective justice, namely justice that aims to correct unfair events, as a form of balance (equality) between what is given and what is received.

Corrective justice as a form of justice that is enforced through a legal process with the aim of correcting an unfair situation that has occurred, for example the imposition of a criminal in a criminal case. The definition of justice can be understood as a value that is used to create a balanced relationship between humans by giving what one is entitled to by procedures and if there is a violation related to justice, one needs to be punished.

## **2.3 MDGs Declaration on water distribution justice**

Based on the explanation above, the distribution of clean water must be given fairly in accordance with the MDGs Declaration calling on the government to "provide access to clean water and adequate sanitation for people who currently cannot enjoy it."

when the UN Committee on Economic, Social and Cultural Rights in its general comment No. 15 gave a stricter interpretation of articles 11 and 12 of the Convention on Economic, Social and Cultural Rights which states that the right to water cannot be separated from other human rights, namely water not only as an economic commodity and access to water (right to water) is a human right. The human right to water entitles everyone to adequate, affordable, physically accessible, safe and acceptable water for

personal and domestic uses. The right to water also includes the freedom to manage access to water.

The human right to water entitles everyone to adequate, safe, acceptable, physically accessible and easily available water for personal and domestic use. Adequate amounts of clean water are needed to prevent death from dehydration, to reduce the risk of water-related diseases, and to be used for consumption, cooking, and personal and domestic hygiene needs. The right to water clearly falls into the category of absolute guarantees for meeting an adequate standard of living, especially since this right is one of the most fundamental conditions for survival.

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### **III. Research Method**

The research method used is a normative juridical approach, namely a legal research that uses secondary legal sources, carried out by emphasizing and adhering to the juridical aspects. The type of research used with a descriptive approach is to provide data that is as accurate as possible for humans, circumstances or other symptoms 4 Types and sources of data include, secondary data has a scope that includes personal letters, books to official documents issued by government. The method of data collection is through library research and interviews, the data obtained by the author from field studies in the form of interviews with the respondents or sources concerned, for this reason, data collection and compilation are carried out systematically and describes it in regular sentences with a conclusion drawn.

### **IV. Result and Discussion**

The fulfillment of the element of the right to water is carried out in the context of maintaining human dignity, life and health. Indonesia itself has ratified the Convention with Law no. 11 of 2005 concerning Ratification of the International Covenant on Economic, Social and Cultural Rights (International Covenant on Economic, Social and



Cultural Rights). In accordance with UN general comment No. 15 of 2002, the Government of Indonesia is obliged to respect, protect and fulfill the right to water for all communities. Further, Law no. 7 of 2004 concerning Water Resources, especially Article 5 also states that "the state guarantees the right of everyone to obtain water for their minimum daily basic needs in order to fulfill a healthy, clean and productive life". This provision requires the state to carry out various efforts to ensure the availability of water for everyone living in the territory of the Unitary State of the Republic of Indonesia, including guaranteeing everyone's access to water sources to obtain water.

#### **4.1 The concept of fair distribution of clean water**

Many people believe that water is a public good, that is, a non-rival good which is characterized if the goods are consumed by one person, it will not reduce the opportunity for others to also consume it. As a public good, water also has a non-excludable nature, that is, anyone has the right to consume it. However, in practice the use of water poses a potential problem of large social costs for the community. First, water as a public good cannot prevent its joint use and excessive consumption. Second, there is a tendency for people to use water bodies as cheap waste/garbage disposal sites, causing water pollution so that the supply of raw water to be processed into clean water of low quality. On the other hand, forest destruction in the upstream watershed (DAS) is also increasing. These potential problems occur simultaneously. This can damage nature and the hydrological cycle that affects the supply of clean water. As a result, there is a decrease in the quantity, quality, and continuity of proper water sources as a source of raw water in the provision of clean water and a source of water that is consumed directly by the community. Another problem is related to negative externalities that must be borne by the community. This is where state intervention is needed so that there is no open and direct competition that will confront unequal forces. and promoting welfare (development function) as a form of state obligation in fulfilling the social rights of its citizens.

As part of public goods whose availability for all Indonesians is guaranteed by the state, the government needs to intervene in order to avoid open and direct competition for these types of goods. This is done in order to protect vulnerable and marginalized communities in accessing clean water supply services. One of the government interventions in question is in the form of a series of social policies that view water not as a commodity or traded item but as a public good which is a basic right of the community that must be fulfilled.

If the state recognizes the right to water for the community, the state must be the party that intervenes in the provision of clean water. According to Oskar Mungkasa, indicators for the fulfillment of the right to water by the state are if it is able to fulfill: (1) availability, meaning that water supply for everyone must be sufficient and sustainable for individual and household needs; (2) quality, meaning that water for each person or household must be safe, free from micro-organisms, chemical and radiological elements that are harmful to human health; (3) easily accessible, meaning that water and water facilities and services must be accessible to everyone without discrimination. Ease of access to water is characterized by: (a) physically accessible, meaning that water and water facilities and services must be physically accessible for all groups in a population; (b) economically affordable, meaning that water and water facilities and services must be affordable for most people's income; (c) non-discrimination, meaning that water and water facilities and services must be accessible to all, including vulnerable or marginalized groups, in law and in reality without discrimination; and (d) access to information,

meaning that access to water also includes the right to seek, receive and share information regarding water.

Referring to Oscar's opinion, respect for the right to water can be done by no longer viewing water as a commodity but on the contrary as a fundamental life support element so that water supply is an absolute must by the government. The clean water supply policy must have a long vision that is integrated in water supply and management. The efforts that can be done are to improve the performance of PDAM as a regional company that is responsible for providing clean water services in urban areas and improve the PAMSIMAS program in providing clean water services in rural areas.

The improvement of PDAM performance is carried out by restructuring the PDAM's institution from a regional company to a Public Service Agency (BLU) or Regional Public Service Agency (BLUD). BLU/BLUD is a Regional Apparatus Work Unit (SKPD) or Work Unit on SKPD within the regional government which was formed to provide services to the community in the form of providing drinking water that is sold without prioritizing profit-seeking and in carrying out its activities based on the principles of efficiency and productivity. There are several PDAMs that have become BLU/BLUD and have succeeded in providing clean water services to the community well, such as the Tirta Mon Mata SPAM BLUD (Aceh Jaya Regency), Musirawas Regency UPTD, and Gorontalo Regency SPAM BLU. Meanwhile, the improvement of the PAMSIMAS program is carried out by increasing the participation of village communities in the PAMSIMAS program. Increased participation of rural communities can be done through community empowerment programs. Community empowerment programs will raise public awareness of the importance of water for health. The emergence of this awareness will encourage village communities to actively participate in the PAMSIMAS program.

## V. Conclusion

The fulfillment of the element of the right to water is carried out in the context of maintaining human dignity, life and health. Many people believe that water is a public good, that is, a non-rival good which is characterized if the goods are consumed by one person, it will not reduce the opportunity for others to also consume it. First, water as a public good cannot prevent its joint use and excessive consumption. Second, there is a tendency for people to use water bodies as cheap waste/garbage disposal sites, causing water pollution so that the supply of raw water to be processed into clean water of low quality. As part of public goods whose availability for all Indonesians is guaranteed by the state, the government needs to intervene in order to avoid open and direct competition for these types of goods. This is done in order to protect vulnerable and marginalized communities in accessing clean water supply services. One of the government interventions in question is in the form of a series of social policies that view water not as a commodity or traded item but as a public good which is a basic right of the community that must be fulfilled. so that the provision of water is absolutely must be done by the government. The clean water supply policy must have a long vision that is integrated in water supply and management. The efforts that can be done are to improve the performance of PDAM as a regional company that is responsible for providing clean water services in urban areas and increasing the PAMSIMAS program in providing clean water services in rural areas.

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