



---

## WATER RESOURCES MANAGEMENT TO FULFILL THE BASIC NEEDS OF THE COMMUNITY

by

**Indrati Rini**

Professor of Law at Narotama, University of Surabaya

Email: [indratorini1956@gmail.com](mailto:indratorini1956@gmail.com)

---

### Article Info

#### Article history:

Received April 17, 2022

Revised April 22, 2022

Accepted May 28, 2022

#### Keywords:

Water Resource Management

Government

Society

---

### ABSTRACT

Water resources are the basic needs of society that must be met by the State. The fulfillment of water resources carried out by the central government and local governments have not been fulfilled optimally. The problem is why the state is given the authority to manage water resources, how does the government fulfill water resources as the basic needs of the community, and whether the water resources in the community have been met. The normative legal research method is used in analyzing secondary data. The government has made efforts to manage the need for water resources, but it has not been fulfilled in its entirety, so strategic steps are needed to overcome it.

*This is an open access article under the [CC BY-SA](https://creativecommons.org/licenses/by-sa/4.0/) license.*



---

### Corresponding Author:

Indrati Rini

Professor of Law at Narotama, University of Surabaya

Email: [indratorini1956@gmail.com](mailto:indratorini1956@gmail.com)

---

## 1. INTRODUCTION

Humans basically want to live and maintain their lives, so they always try to be able to fulfill their needs. Human society needs water resources as a basic need in life in society and the state, including people within the scope of the Unitary State of the Republic of Indonesia.

In the 1945 Constitution of the Republic of Indonesia, the legal ideals (rechtsidee) of the Indonesian people are stated, that "Then from that, to form an Indonesian State Government that protects the entire Indonesian nation, which protects the entire Indonesian nation and the entire homeland of Indonesia, and to promote the general welfare, educate the nation's life, and participate in carrying out world order based on freedom, eternal peace, and social justice ...". Thus, it is clear that the state is obliged to protect the entire Indonesian nation and promote general welfare, including realizing the fulfillment of the basic needs of the community, namely water resources.

Normatively it is determined that "water resources are water, water resources and the water resources contained therein". In the event that it is clear that water resources as a basic need of the community have been recognized by

formal legality, of course, in fact, society must see that the fulfillment of the basic needs of the community as human rights can be realized and managed properly by the state. In managing water resources, the state needs infrastructure, so the obstacles and solutions are very necessary to achieve the fulfillment of the basic needs of the community.

On the other hand, urban and rural communities in using water as their daily needs are certainly different from one place to another. This can be seen in the form of the availability of infrastructure that is fulfilled by the state, in this case it is actualized by the government, both central and local governments. In addition, the people's reach or purchasing power from one location to another also varies. Thus there are some people who have not been met adequately, both for the availability of clean water and drinking water.

Based on the background of these conditions, the authors are interested in research by proposing the formulation of the problem:

1. Why is the state given the authority to manage water resources?

- 
2. How does the government implement the fulfillment of water resources for the community?
  3. Have water resources as basic needs for the community been met?

The research method used, namely the type of normative legal research, which relies on the main source in the form of legal norms, laws and regulations as a secondary data source, namely in the form of primary legal materials related to water resources. As stated that "normative legal research is "doctrinal research that tends to be qualitative in nature based on secondary data". Legal data analysis was carried out in a qualitative normative manner from the collected legal data.

## 2. RESULTS AND ANALYSIS

Water is a basic human need given by God for the entire Indonesian nation. Water as part of water resources is an important branch of production that controls the lives of many people. The imbalance in the availability of water, which tends to decrease, while the need for water is increasing along with the dynamics of the community, both local, national, regional and global communities.

The normative-constitutional legal basis is regulated in the 1945 Constitution, namely Article 18 A, Article 18 B, Article 20, Article 21, and Article 33. The essence of these basic provisions is that there is a relationship of authority between the central government and provincial, district and city governments, which must be based on law with due observance of the specificity and diversity of the region. This relationship is in the form of financial relations, public services, utilization of natural resources, and other resources between the central government and regional governments, which are regulated and implemented fairly and in harmony based on the law.

In the regulation of water resources, Law No. 11/1974 was enacted. Subsequently, it was replaced by Law Number 7 of 2004 concerning Water Resources, which was later annulled by the Constitutional Court. Cancellation by the Constitutional Court on the basis of the consideration that there are many shortcomings and has not been able to comprehensively regulate the management of water resources, in accordance with the development and legal needs of the community. Currently, what is in force is Law Number 17 of 2019 concerning Water Resources, as a positive law nationally.

Basically, water is all water found on, above, or below the ground surface, including surface water, ground water, rain water, and sea water. For this reason, water resources need to be managed by taking into account the functions of water, namely social functions, environmental functions, and economic functions in harmony. Thus, these functions must be realized in order to create synergies between regions, between sectors, and between generations to meet the community's need for water.

The managers of water resources are the central government and local governments, which are synergistically tasked and responsible for the availability and sufficiency of the community's water needs. In line with the dynamics of community development, namely the increase in population and various daily community activities, the management of water resources must be carried out seriously and professionally.

The management of water resources must also be guided by the underlying legal principles. The essence of legal principles, namely ethical guidance and guidance that contains values, so that is the reason for the birth of legal regulations (*ratio legis*). Thus the law governing water resources, which in its implementation must be based on these legal principles, in order to meet the needs of people's lives.

In applying the principle of public benefit to the management of water resources, the government must be able to provide the maximum benefit to the public interest or the interests of the community at large. Furthermore, the principle of affordability requires the government to realize the availability of water, which can be reached by every individual as a member of the community, both in terms of location and economy. In addition, the government in managing water resources must apply the principle of justice, which is realized evenly to all levels of society in the country. Thus, every citizen has the right to have the same opportunity to play a role in the management and use of water resources.

In the management of water resources, the government is also required to be based on the principle of balance, that its management must pay attention to the balance between social functions, environmental functions, and economic functions. Next, the government is also required to pay attention to the principle of independence, which the management of water resources is carried out by optimizing national resources. Management of water resources is also required to be based on the principle of local wisdom that its management must pay attention to the noble values that apply in the life of the community.

The principle of environmental insight must also be used as a basis, that the government must pay attention to the ecosystem and the carrying capacity of the environment. Management of water resources must also be based on the principle of sustainability that the utilization of water resources is carried out by maintaining the existence of the function of water resources in a sustainable manner. This is closely related to the principle of sustainability which



mandates that the government is in the management of water resources, not only for the benefit of the current generation, but also for the benefit of future generations.

The government must also pay attention to the principle of integration and harmony, that the management of water resources is carried out in a coordinated and integrated manner, namely by involving all inter-sectoral and inter-administrative stakeholders, as well as realizing harmony of various interests, taking into account the dynamic nature of water.

The management of water resources has the scope of being controlled by the state for the greatest prosperity of the people. This is in accordance with the mandate of the 1945 Constitution which stipulates that "Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people". This is also in line with Jeremy Bentham's Theory of Benefit Law, that the purpose of law is to provide the greatest benefit and happiness to as many people as possible.

The national economy is based on economic democracy in the form of prosperity for all. Thus, the production branches which are important for the state and which affect the livelihood of the people must be controlled by the state. This implies that if it is not controlled by the state, then the reins of production can fall into the hands of those in power, and the people they oppress a lot. Water resources cannot be owned or controlled by individuals, community groups, or business entities. Only companies that do not control the lives of many people, may be in the hands of individuals. Thus, the earth and water, and the natural resources contained in the earth as the basis for the prosperity of the people, must be controlled by the state and used for the greatest prosperity of the people. The state's authority to manage water resources for the welfare of the community has a clear juridical basis as a guide for its application.

The fulfillment of the people's right to water is guaranteed by the state as a daily minimum basic need. For this reason, the state prioritizes the people's right to water in fulfilling their daily basic needs, people's agriculture, and using water for business needs to meet their daily basic needs through a water supply system. Furthermore, the order of priority is the use of water resources to fulfill business activities for the public interest, and the use of water resources for other business needs for which the permit has been determined.

In addition, people's rights to water and the environment are not ownership rights over water, but are limited to the right to obtain and use a certain water quota according to its allocation.

Community rights related to water resources, including the right to obtain access to use water, the right to use water for meeting basic daily needs, agriculture and non-business activities, the right to benefit from the management of water resources, the right to obtain compensation. Appropriate losses for losses suffered as a result of the implementation of water resources management, the right to obtain information related to the management of water resources, the right to file reports and complaints to the competent authorities for the losses that befell him, relating to the implementation of water resources management. The implementation of community rights over these water sources is, of course, influenced by factors of legal compliance and legal awareness of the community.

Efforts in fighting for community rights to water resources are in line with the statement that "the aim is to obtain resources, the legal guidelines must tell about how each community member acts in relation to one another in pursuing these resources. " In this case, it is a water resource.

The central government and local governments determine the order of priority for water fulfillment in river areas, taking into account the need for water for the maintenance of water resources, and the environment. On the basis of the state's assignment to the management of water resources, the central government and local governments regulate and manage water resources for the benefit of the community.

The duties of the central government in regulating and managing water resources include, among others, making national policies on water resources, and supervising the implementation of the duties and authorities of water resources management by the provincial and district/city governments. The tasks of the provincial and district-city governments include regulating, stipulating and granting permits, the use of natural resources for non-business needs, as well as permits to use water for businesses at certain locations in the river area.

Management of water resources that is carried out in harmony, based on social, environmental and economic functions, the utilization of which is for sustainable use with the main priority, namely the fulfillment of the basic daily needs of the community. The stages of water resources management by the government include planning for water resources management, implementing the construction of water resources facilities and infrastructure, implementing the operation and maintenance of water resources, as well as monitoring and evaluating water resources management.

Funding for water resources management is determined based on the real need for water resources management, which can be sourced from the State Revenue and Expenditure Budget, Regional Revenue and Expenditure Budget, as well as other legitimate sources in accordance with the provisions of the applicable laws and

---

regulations. Permits to use water resources for business needs can be granted to Regional-Owned Enterprises, Village-Owned Enterprises, Cooperatives, and private or individual business entities.

Communities, in addition to having rights to water resources, also have obligations, including protecting and maintaining the continuity of the function of water resources, protecting and using water resource infrastructure, providing access to the use of water resources. Water resources in the land they control, and provide opportunities for other water users to drain water through the land they control, and pay attention to the public interest.

On the other hand, community participation is highly expected in the management of water resources, among which the community has the same opportunity to participate, by channeling the aspirations, thoughts, and interests of the community in managing water resources. Community participation can take the form of public consultations, deliberation, partnerships, conveying aspirations, supervision, and other participatory engagements.

In the management of water resources, in addition to containing administrative aspects, civil aspects, as well as criminal aspects. For the occurrence of criminal acts in the field of water resources, among other things it was determined that "In addition to investigators of the Indonesian National Police, certain civil servants within government agencies, whose scope of duties and responsibilities are in the field of water resources, are given the authority as investigators to conduct investigations of criminal acts of water resources. The criminal threat is that anyone who intentionally causes damage to water resources and infrastructure, pollutes water, or carries out activities that cause water damage, is threatened with a minimum imprisonment of three years and a maximum of nine years, and a minimum fine of five billion rupiah. And a maximum of fifteen billion rupiah provision is of course intended so that the community participates in protecting and using water resources, obeying orders for the use of water resources in order to avoid criminal prosecution.

The government strives to meet the water needs of the community, as the ultimate task in realizing the welfare and prosperity of the people at large. This is in line with the Welfare State Theory by Kranenburg which teaches that the state must actively seek prosperity, act fairly, which can be felt by the entire community in an equitable and balanced manner, not for the welfare of certain groups, but for the welfare of all people.

In an effort to meet the needs of water resources by the community, of course there are obstacles, so a solution needs to be found. The facts show that there has been pollution of the Bengawan Solo River by factory waste in Central Java, East Java as well as with Kali Mas pollution, and other areas. This condition can lead to a decrease in water quality, endanger public health, and damage the environment. The government must act decisively to resolve this condition as well as possible, for the sake of law enforcement in the field of water resources, so that the community can again utilize water resources to the maximum, affordable and quality.

Local governments through regional regulations may allow the establishment of Regional Owned Enterprises, including Regional Drinking Water Companies. Establishment of Regional Drinking Water Companies, which include providing services to the community in accordance with their scope of business, contributing to Regional Original Revenue, participating in improving the regional economy, and participating in realizing a healthy living environment. To achieve this goal, the Regional Drinking Water Company must be managed in accordance with the guiding principles of good corporate governance. Activities that can be carried out by Regional Drinking Water Companies include producing drinking water, distributing drinking water to customers, and assisting government tasks in providing public services. In meeting the community's need for water for their daily needs, which is as much as 60 liters per day. This need is among others carried out by the Regional Drinking Water Company. The position of society as consumers (consumers). Basically, "Consumers are people who use goods and or services available in the community, both for the benefit of themselves, their families, other people, other living creatures, and not to be traded". Actually, in this case the position of the community is as customers, more than just consumers, because there is an element of sustainability, which deals with Regional Drinking Water Companies as business actors. The legal relationship (*rechts relatie*) that occurs between the community as a customer, and the Regional Drinking Water Company as a business actor. Precisely between the two there was an agreement for the sale and purchase of drinking water, both of which had rights and obligations. Communities as customers of course have to spend funds for their daily needs for water fulfillment. Between business actors and customers, if there is a loss, it can be resolved, either through litigation (court) or non-litigation (out of court), including through deliberation between the parties, complaints to the Non-Governmental Consumer Protection Agency, or to the Settlement Agency. Consumer Disputes in each district or city.

The occurrence of community difficulties over water resources, including during the long dry season, remote areas and other obstacles. A solution must be given by the government or local government so that the adequacy of meeting water needs is realized properly, for the sake of achieving community prosperity.

### 3. CONCLUSION



- 
- a. The government, both the central government and regional governments, is given the management of water resources based on the 1945 Constitution, Law Number 17 of 2019, and other relevant laws and regulations, namely the power to realize social functions, environmental functions, and economic functions for as much as -Great welfare and prosperity of society.
  - b. The government's ways of meeting the needs of water resources for the community, namely procedural steps based on positive law and legal principles, as well as the dynamics of development and community needs, both for current and future generations.
  - c. Meeting the needs of water resources for the community has not been fulfilled optimally, both in terms of location, funds and infrastructure, and people's purchasing power.

### SUGGESTIONS

- a. The government's authority to manage water resources is to be more integrated between the government's ability and the people's purchasing power.
- b. Participation of the community using water resources, to be more facilitated and improved in order to realize the adequacy of the need for clean water and drinking water in daily life
- c. Settlement of problems or disputes over water resources by deliberation so that they are more utilized, and carried out as well as possible by the government or Regional Drinking Water Companies.

### REFERENCES

- [1] Black, Henry Campbell, Black's Law Dictionary, St. Paul Minnesota, West Publishing Co., 1983.
- [2] Bruggink, JJ. H., Reflections on Law, Translation, B. Arief Sidharta, Citra Aditya Bakti, , Bandung, 2011.
- [3] Lemhannas of the Republic of Indonesia, Gatra Natural Resources, PPSA Force XVIII, Jakarta, 2012.
- [4] Paton, GW., A Textbook of Jurisprudence, Oxford, University Press, 1981. J. Supranto, Legal and Statistical Research Methods, Rineka, Jakarta, 2003. Rahardjo, Satjipto, Legal Studies, Citra Aditya Bakti, Bandung, 1996. \_\_\_\_\_, Law, Society and Development, Alumni, Bandung , 1980. Soekanto, Soerjono, Normative Legal Research, Rajawali, Jakarta, 1985.
- [5] \_\_\_\_\_, Factors Affecting Law Enforcement, Rajawali, Jakarta, 1983
- [6] Steward, Susan, Conflict Resolution : A Foundation Guide, Winchester, Waterside Press, 1998
- [7] Shofie , Yusuf, Consumer Dispute Resolution, Citra Aditya Bakti, Bandung, 2003.
- [8] \_\_\_\_\_, Business Actors, Consumers and Corporate Crime, Ghalia Indonesia, Jakarta, 2002.
- [9] Vago, Setven, Law and Society , Preventive Hall, New Jersey, 1971. Law 1945 Constitution, Amendment n Fourth
- [10] Law Number 8 of 1999 concerning Consumer Protection Law Number 17 of 2019 concerning Water Resources

THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK