

Water Conflict and Land Pickup at Baros-Cadasari with Mayora Company

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ABSTRACT

This journal discusses the role of law in ensuring that social changes occur in an orderly and orderly manner. social change for the sake of the sustainability of a society in a social environment. The investment permit to set up a company to exploit water in the Baros - Cadasari area is actually contrary to the 1945 Constitution Article 33 Paragraph (3) that the land, water, and natural resources of Indonesia are controlled by the State and are intended as much as possible for the prosperity of the people. This research was conducted using qualitative research, through a normative legal research approach, the data were analyzed prescriptively by taking an in-depth and detailed, and comprehensive approach to explore the research problem. The data used is secondary data, namely literature studies in the form of legislation, books, and scientific articles related to the writing of this journal. The results show that every society is always in a process of change that never ends, or in other words, social change is a symptom inherent in every society. The conflicts that occur over water and land are a series of conflicts with the community that has harmed the Indonesian people a lot, awareness of the conflicts that occur in turn that social change does not always occur gradually, through soft adjustments, but can also occur. in a revolutionary way.

Keywords: *Social change, the 1945 Constitution, Community conflicts.*

Background

The essence of life in this world, according to the historical facts of human society, we can conclude that human society has undergone various stages of development. It is an undeniable fact that humans in their development will always make changes that will shape the social development of society. The changes that occur are born from the form of human work, namely the way of production. We can distinguish them in five different phases of the mode of production of society which represent the five main types of structure or system of society, the five systems of society are: the primitive-communal system, slave ownership, feudalism, capitalism, and socialism. (D.N. Aidit, 1963)

The social changes of society that have been born to this day are inseparable from the economic and political developments that are developing in the world. Likewise, with law, the law was born as a reflection of human economic and political development so that laws were born that regulate what humans want. In the development of a society that gained independence after the establishment of the State, in this regard, it was initially thought that society would be able to develop its economy quickly if it had fulfilled and fulfilled the conditions specifically needed in the economic field such as capital, raw materials. ,

production equipment, trained personnel, overhead facilities, and others. However, experience has shown that economic conditions alone are not sufficient, besides that, changes in society are needed that can neutralize social factors that hinder economic development and which will support the development process. (Soerjono Soekanto, 1986)

Selo Soemardjan defines that social changes are: (Selo Soemardjan, 1962)

"All changes in social institutions in a society, which affect the social system, including values, attitudes and behavior patterns among groups in society"

From the above understanding, it can be understood that social changes include how these social institutions work, a social institution from sets of rules and all forms and human actions in society which have implications for other aspects of the structure of society itself. Therefore, it is important to find a wedge in the formulation of the law that will affect the social relations of the community or vice versa to what extent the social changes in society will affect a legal order.

In relation to the development of law, Max Weber divides the types of law that are irrational and rational, according to Max Weber (Soerjono Soekanto, 1986) with the existence of a bureaucracy in modern industrial societies, a rational and formal legal system arises, where the factor of legal certainty more emphasis on justice. Legal changes, as explained by Max Weber, are in accordance with changes that occur in the social system of the community that supports the legal system in question. Regarding the relationship between law and social change, another view from Emile Durkheim is that in society there are two kinds of solidarity, namely mechanical solidarity and organic solidarity (Emile Durkheim, 1964).

Mechanical solidarity exists in simple and homogeneous societies, where the bonds between citizens are based on personal relationships and common goals. Organic solidarity exists in heterogeneous societies where there is a complex division of labor. Law in Durkheim's view of law is seen as a dependent variable, namely an element that depends on the social structure of society; but he also sees law as a diagnostic tool to find structural conditions for the development of community solidarity. Law in Durkheim's view is seen as a dependent variable, namely an element that depends on the social structure of society.

Another opinion regarding law and social change, Arnold M. Rose put forward 3 general theories regarding the causes of social changes which were then associated with the formation of Law, namely:

1. Progressive accumulation of technological discoveries;
2. Contact or conflict between cultures; and
3. Social movement (Soerjono Soekanto, 1986)

Law is the result of factors causing social changes, law is only a reflection of the technological and economic foundations of society. Social changes and legal changes do not always go together. That is, in certain circumstances the development of law may be left behind by the development of other elements of society and its culture, or perhaps the opposite will happen. If this happens, then there will be a social lag, which is a condition in which there is an imbalance in the development of social institutions which results in inequalities. (W. Fielding Ogburn, 1966)

The role of law relating to social changes that occur in society are as follows: (Satjipto Rahardjo, 2010)

1. Law as social control

A process is carried out to influence people to behave in accordance with the expectations of society. Thus, by law, social control is exercised by mobilizing various activities, which involve the use of state power as a politically organized institution, through the institutions it establishes.

2. Law as a social engineering tool

Law in its current use is almost always a means to do social engineering. The conscious use of law to achieve an orderly or social condition as aspired or to make the desired changes.

Demands for legal changes begin to arise when there is a gap between conditions, relationships, and events in society and existing legal arrangements. When the gap has reached such a level, the demands for legal changes are increasingly pressing. There are several possibilities to interpret what is meant by the change in law, namely: (Satjipto Rahardjo, 1983)

1. Changes in the form of giving concrete content to abstract norms, because it is physically unique to law to give a general abstract form to the things it regulates so that the regulations can last a long time.
2. Change the rules formally. In such a form, the change in the law is a function of the operation of various factors of change that burden the law with various demands.

Changes in the first form above, occur because of demands for social change or in other words, legal changes are left behind by social changes. Whereas in the second change, it occurs to change the social structure, or in other words, social change is delayed from legal changes.

Therefore, social changes on the one hand highlight the dynamics of a society which can be said to be a permanent feature of every society. On the other hand, the law as a social phenomenon is a means to maintain and maintain order. The role of the law is to ensure that these changes occur in an orderly and orderly manner, however, as a tool to change society and ensure the orderliness of the change process, the law has limits of ability and is bound by certain conditions in the context of social change for the sake of sustainability. a society in a social environment.

One of the phenomena of social change in Indonesia with the relevance of the law that plays a role in social change today is in the case of water conflicts and land grabbing that occurred in the Banten Province, Serang and Pandeglang Regencies, Baros and Cadasari regions. The portrait of the laws in this country which is present as a tool of state power has provided facts on how the law repressively provides changes to the community just as it is felt by the citizens of Baros and Cadasari who are affected by repressive laws for the authorities.

Literature Review

This research approach is normative legal research and socio-legal review, namely research conducted by examining a particular legal problem by looking at the reality that occurs in the community. Normative Legal Research is a type of research by examining the rules contained in each article in law, by looking at the reality that is happening in today's society which can be studied as a causal variable that causes consequences in various aspects of social life. (Ronnyhanitijio, 1990)

In this paper, the researcher examines the water conflict in Baros-Cadasari, Banten Province in the legal context as a tool for social change.

Method

The research conducted is qualitative research and the nature of this research is prescriptive, namely an intensive, in-depth, detailed, and comprehensive approach to explore in-depth the research problem and maintain the integrity of the research object. (Faisal Sanafiah, 1995) This type of research uses secondary data. Secondary data is data obtained through literature review studies, legislation, court decisions, and other legal materials that support normative legal research.

Result and Discussion

In 2011, Mayora started to set foot in the bottled water market with the Le Minerale trademark. This product is issued by a subsidiary of PT. Tirta Fresindo Jaya, which led to an unavoidable conflict in Pandeglang with local residents.

PT Fresindo has applied for a permit since August 2013. In December, the company received a letter of approval from the Pandeglang Regency Government to build a factory site plan. The seeds of conflict began to appear in early 2014 when the Pandeglang Regional Government gave PT Tirta Fresindo Jaya (Mayora Group) a location permit and groundwater exploitation permit to establish a Le Minerale bottled water factory. The location is in the area of springs and sustainable agricultural land as well as a geological protected area. The total area of land and buildings is 12 hectares and 4.6 hectares with an investment value of IDR 250 billion. Although the permit was granted by the Pandeglang Regional Government, the water source area at the location of PT Fresindo is also included in the administration of Serang Regency. There are at least 8 springs in the area. For Baros District (Serang) there are four springs named Cilarangan, Cilisungbunian, Cikondang, and Cikopo. In Cadasari District (Pandeglang), there are four other springs named Cinangka, Ciwarasta, Kedu Bedul, and Kadu Buut. (Pinterpolitik.com, 2018)

At the end of the same year, the company's activities began to dredge the lands of former settlements and rice fields that had been purchased by residents. On March 5, 2014, the then Regent of Pandeglang, Erwan Kurtubi, gave Hendarta Atmadja, one of the directors of the Mayora Group company an integrated license, to build the soft drink industry of PT Tirta Fresindo Jaya. On May 22, the company obtained a groundwater exploitation permit. The total

area of land and buildings is 12 hectares and 4.6 hectares with an investment value of Rp 250 billion. The factory location is in the Sacred Mosque Village, Cadasari Village, Cadasari District. The location of the factory is located in the area of eight springs in the districts of Serang and Pandeglang. It is included in the Serang-Pandeglang Groundwater Basin (CAT) area. When the company stockpiled four springs at the end of 2013 and conducted a trial of extracting groundwater as raw material in early 2016, residents from villages in Baros and Cadasari sub-districts, located on the border of Serang and Pandeglang, protested relentlessly. Residents are afraid of the impact of the water shrinking and the irrigation of their fields being disrupted when the factory operates. There are at least 8 springs in the area where the company is located and 42 Islamic boarding schools in the Cadasari (Pandeglang) and Baros (Serang) neighborhoods, the center for residents' rejection and the areas most affected by the business expansion plan of a subsidiary of the Mayora Group.

In Regional Regulation Number 3 of 2011 concerning Regional Spatial Planning (RTRW) of Pandeglang Regency 2011-2031, Cadasari District, where PT Fresindo is located, is designated as a geological protected area. In addition, it is called the area around springs and sustainable food agricultural land. In the Water Resources Potential Map of the Regional Development Planning Agency of Banten Province, Cadasari is designated as a gushing water source area. The area is marked in green and the water source comes from Mount Karang. Because of the green area, it is also an ecological belt. Become agricultural land and plantations. Its main commodities include oil palm, rubber, coconut, cocoa, coffee, cloves, pepper, and sugar palm. However, in the same RTRW Regional Regulation, this geological protected area is also designated as a medium-sized industrial area. It was this final zoning determination that became the basis for the related offices of the Pandeglang Regional Government to issue a location permit to PT Tirta Fresindo Jaya to establish a soft drink industry. (Tirto en, 2018)

The source of this spring for residents is a sacred area, a blessing that has long been the lifeblood of residents and pesantren activities. The threat of losing access to water continues to be a very big concern for all the people of the Baros and Cadasari areas.

Until throughout 2014-2017, residents protested. The biggest action was on February 6, 2017, where approximately 400 residents came to the Pandeglang Regent's office, then headed to the company's location. The protest resulted in the burning of the backhoe (Beko) and the destruction of the company building. (Tirto en, 2018)

The 1945 Constitution is a constitution that is not just a formal constitution that only regulates power relations within the state, meaning that the state is not seen as a house of power but covers all state power relations vertically and horizontally and regulates human rights. That is, the constitution becomes a directive in the development of national law, not just legal order. The constitution is embodied in laws and regulations that are used as regulations in everyday life. In its implementation in Indonesia, this constitution is implemented by the organs of the state itself. The existing laws and regulations in Indonesia as a democratic country require the role of all citizens, both male, and female, in parliament. (Mahfud MD, 1999)

Jimly Asshiddiqie stated that, insofar as the type of content it regulates, the 1945 Constitution is close to the tradition of writing constitutions in socialist countries such as the USSR, Czechoslovakia, Albania, Italy, Belarus, and Hungary which places the constitution in addition to functioning as a basic law in the political field, it is also a basic law in the field of politics, economic (economic constitutional) and even social (social constitution). As a basic law in the economic field, the relationship between the state and society towards natural resources as an economic component is seen in Article 33 of the 1945 Constitution. (Jimly Asshiddiqie, 2005) *"The economy is structured as a joint effort based on the principle of kinship, where production branches are important for the state and which controls the livelihood of the people, as well as the earth and water and the natural resources contained therein, shall be controlled by the state and used for the greatest prosperity of the people. For this reason, the national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity, which will be further regulated in law".*

The constitutional basis is the starting point for the elaboration of national economic efforts as seen in a number of laws in the field of natural resources. Problems that often arise in laws and regulations in the field of natural resource economy, as long as they are related to Article 33 paragraph (2) and paragraph (3) are: (a) how the state control over natural resources (b) guarantees and is intended for the greatest prosperity the people and (c) how the role of the private sector/capital/investor in the economy relates to natural resources. Article 33 of the 1945 Constitution is the place where the three issues are addressed and evaluated. This issue, at the level of the political superstructure, will direct the debate between the concept of public control face-to-face with the concept of civil ownership of the state over natural resources and the consequences of their legal relationship. (Elsam, 2007)

In January 2018, the Ministry of Public Works and Public Housing (PUPR) submitted the academic text of the Draft Water Resources Law (RUU SDA) to Commission V of the DPR in lieu of Law no. 7 of 2014 concerning Water Resources which has been canceled by the Constitutional Court (MK) through Decision No.85/PUU-XI/2013. This bill is believed to have revived the spirit of water privatization which had previously been accommodated by Law no. 7 of 2004. Before finally being canceled by the Constitutional Court due to pressure from civil society because it was considered contrary to the state constitution. This concern is not without reason, the article is that the Water Resources Bill is one of the laws drawn up through a World Bank program loan (Water Resources Sector Adjustment Loan) of US\$ 300 million. The bill is also based on a new perspective on water, namely as an economic commodity that encourages the commercialization, commodification, and privatization of water. As a derivative, of course, water as an economic good is the main basis in drafting the Water Resources Bill. This chaos should not have occurred if the government as the executor of the constitutional mandate was able to carry out its mandate properly. Our constitution in Article 33 of the 1945 Constitution clearly mandates that water as one of the national agrarian assets must be controlled by the state to be distributed as much as possible for the benefit of the lives of many people. This means that as a basic need of the nation's children, water should

not be controlled by a handful or a group of people. This mandate was further emphasized by the birth of the Basic Agrarian Law (UUPA) which was born 15 years after this nation became independent. As a legal umbrella for the management of national agrarian wealth, the LoGA clearly and unequivocally mandates that everything related to national agrarian management is controlled by the State for the greatest prosperity of the people. (KPA, 2018)

The emergence of Law Number 7 of 2004 concerning Water Resources (UU SDA) replacing Law Number 11 of 1974 concerning Irrigation caused debate in the community. The management of natural resources in the country, which was originally centralized, has turned into a liberal one, providing opportunities for the private sector due to foreign pressure. The Dublin principle which states water as an economic good has driven efforts to change the management of water resources in the world. Water scarcity is the main reason for changing the perspective on water. The traditional view that sees water as a public good belonging to the commons (global commons or as a common resource) is replaced with a modern water management paradigm that is based on the intrinsic economic value of water. Ownership rights to water are also being contested starting from ownership by the state, communities, and individuals. The debate between the two paradigms above cannot be separated from the regime of property rights to natural resources, in which there are three rights, namely state property, community property, and private property. (April edition of Drinking Water Monthly Magazine, 2007)

The momentum of regional autonomy should be an opportunity for more ideal water resource management for local communities, which is expected to encourage the transformation process of regional administration in various fields. In the economic field, for example, regional autonomy, on the one hand, is expected to ensure the smooth implementation of national economic policies in the regions, and on the other hand, there are opportunities for regional governments to develop regional and local policies to create and optimize the utilization of economic potential in their regions. In this context, regional autonomy will allow the birth of various local government initiatives to offer investment facilities, facilitate the business licensing process, and build various infrastructures that support economic cycles in the region (Rasyid, 2002). Thus, regional autonomy is expected to bring the community to a higher level of welfare from time to time with the existence of infrastructure, including infrastructure for drinking water and sanitation services. So far, there are still many debates among various groups about how water should be managed. (Suteki, 2010)

Two major perspectives that still dominate are: first, those who agree to make water a commodity. The group argues that only by paying for water use will water scarcity such as dry seasons, pollution, and increasing demand for water be properly accounted for and addressed. For example, in situations of water scarcity, the price of water can be increased thereby reducing water demand, and to overcome this, water technology and more efficient water management are needed (Hoekstra 1998 in Danardono, 2005). The Economist magazine as quoted by Haryanto (2005) states that one of the problems of humans accessing clean water

is because humans refuse to make water a commodity, and do not take it into account as goods that have economic value. Therefore, humans should use water by paying for it.

The second perspective is those who think that water is a basic human right. The Indonesian Forum for the Environment (WALHI) is an institution with a second perspective. Water is a public good and people's access to water is open, for that the government is obliged to ensure that every citizen gets guaranteed water for his life through law. Thus, water should not be commoditized and water management must be carried out in an integrated manner by the community.

The legal construction of thinking that has been wrong in interpreting a legal arrangement will have an impact on the social environment of society, post-modernity law today is too directed to a neoliberal political system, all forms of international regulatory designs today are actually dictating from the Imperialist State in power today, the impact is it is inevitable for the colonized countries and semi-colonized countries under the shadow of the grip of the international economy and politics itself.

The law used by power, in order to smooth the flow of capital investment and circulation of capital continues to rotate, the law is incarnated as a repressive force, enforced, by using power. This is in line with Philip Nonet's thoughts on repressive law that a very clear form of repression is the unrestricted use of coercion to raise orders or suppress deviance. But repression is often subtle and indirect, encouraging and exploiting passive consent (Satya Arinanto, 2018). This method is what the State is doing today to the people, using repressive methods to legitimize what is in the interests of that power, the government's reckless action, in this case, giving investors permission to exploit water and make it a commodity is a wrong action, in fact, it does not provide welfare to the people, on the contrary, it makes the people even more miserable because practically the land owned by the residents for production is also being taken away by the big landlords and businessmen to monopolize the land and exploit the land. When the people resist, the State will present its repressive apparatus, namely, the police and the people will be intimidated, criminalized, threatened, and so on, as in the case of **the water conflict that occurred in Baros-Cadasari**.

In line with the thought of repressive law, that repressive law also requires an *apparatus of coercion*, it is mentioned that the repressive influence of organizational imperatives is also expressed in the relationship of the State to its own law-implementing agency. They can interpret the meaning of order according to their own needs and views, so the State shares its "monopoly" with the coercive apparatus that has been created (Satya Arinanto, 2018).

What has happened in the case of water conflicts and open land grabs carried out by corporations today to the community in Baros-Cadasari in particular, can be seen from a sociological perspective that there are efforts from existing social phenomena and implications for coercion that must be accepted. by the public, that the entry of investment into natural resources in Indonesia is then to be freely exploited by the owners of capital which is contrary to the spirit of the constitution. The rulers and businessmen reflect on the actions

they take, this is in accordance with the thinking of Talcott Parson, Parson sees that the social conditions of society are in fact always dynamic, and when there are new social phenomena that come from outside, it can be immediately reconciled, as Parson explains in his structural functionalist approach that (Nasikum, 1995):

1. Society must be seen as a system rather than interrelated parts;
2. Thus, the influence relationship between the parts is dual and reciprocal;
3. Even though social integration is never achieved perfectly, fundamentally the social system always tends to move towards a dynamic equilibrium: responding to changes that come from outside with a tendency to maintain that the changes that occur in the system, as a result, will only reach a minimal degree;
4. Even though dysfunction, tensions, and deviations always occur, in the long run, the situation will eventually resolve itself through adjustments and the process of institutionalization. In other words, even though social integration at its perfect level will never be achieved, the social system will always proceed in that direction;
5. Changes in the social system generally occur **gradually, through adjustments, and are not revolutionary.**

This means that society is illusioned and hegemonized by all forms of infrastructure and superstructure owned by the power, by the State, so that society is ultimately forced to be reconciled from all forms of conflict. Antonio Gramsci's theory of hegemony analyzes various relations of power and oppression in society. From the perspective of hegemony, it will be seen that writing, the study of society, and the mass media are awareness control tools that can be used by the ruling group. That is, the hegemonic groups agree on the ideological values of the rulers, emphasizing how the acceptance of the dominated group towards the presence of the dominant group takes place in a peaceful process so that the controlled obey the ruler, the controlled must not only feel they have and internalize the values and norms of rulers, moreover they must also give consent to their subordination (Roger Simon, 1999).

In the end, the cases of conflicts that occurred over water and land that have been described above are not the first conflicts that have occurred in Indonesia, they are a series of conflicts with the community that has harmed the Indonesian people a lot, therefore it is not impossible to create awareness - a new awareness for the community in the stage of realizing its alienation from the events experienced by society, the process for the stage of awareness of the conflicts that occur will give birth to revolutionary changes in the future. Patson's view on the structural-functionalism approach seems to be wrong in seeing the existing social phenomena, that in fact the contradictions that occur in society will eventually peak and cannot be reconciled because it gives birth to new contradictions, such as the analysis described in viewing the conflict approach as following:¹

1. Every society is always in a process of change that never ends, or in other words, social change is a symptom inherent in every society;

2. Every society contains conflicts within itself, or in other words, conflict is a symptom inherent in every society;
3. Every element in a society contributes to the occurrence of disintegration and social changes;
4. Every society is integrated over domination or domination by a number of people over a number of other people.

Therefore, with the occurrence of leaps over every social phenomenon, **the birth of negations, in turn, social change does not always occur gradually, through soft adjustments, but can also occur revolutionarily.**

CONCLUSION

1. In 2011, Mayora began to set foot in the bottled water market with the Le Minerale trademark. This product is issued by PT. Tirta Fresindo Jaya, its subsidiary, is currently in a conflict in Pandeglang with local residents. The seeds of conflict began to appear in early 2014. At that time, the Pandeglang Regional Government gave a location permit and a permit for groundwater exploitation to PT Tirta Fresindo Jaya (Mayora Group) to establish a Le Minerale bottled water factory. The location is in the area of springs and sustainable food agricultural land as well as a geological protected area.
2. At the end of the same year, the company's activities began to dredge the lands that had been purchased for former settlements and rice fields for residents. On March 5, 2014, the then Regent of Pandeglang, Erwan Kurtubi, gave Hendarta Atmadja, one of the directors of the Mayora Group company an integrated license, to build the soft drink industry of PT Tirta Fresindo Jaya. On May 22, the company obtained a groundwater exploitation permit. The total area of land and buildings is 12 hectares and 4.6 hectares with an investment value of Rp 250 billion. The factory location is in the Sacred Mosque Village, Cadasari Village, Cadasari District. The location of the factory is located in the area of eight springs in the districts of Serang and Pandeglang. It is included in the Serang-Pandeglang Groundwater Basin (CAT) area. When the company stockpiled four springs in late 2013 and experimented with extracting groundwater as raw material in early 2016, residents from villages in Baros and Cadasari sub-districts, located on the border of Serang and Pandeglang, protested non-stop. Residents are afraid of the impact of the water shrinking and the irrigation of their fields being disrupted when the factory operates. There are at least 8 springs in the area where the company is located and 42 Islamic boarding schools in the Cadasari (Pandeglang) and Baros (Serang) neighborhoods, the center for residents' rejection and the areas most affected by the business expansion plan of a subsidiary of the Mayora Group.
3. The investment permit to establish a company to exploit water in the Baros-Cadasari area is actually contrary to the 1945 Constitution Article 33 Paragraph (3) that the land,

water, and natural resources of Indonesia are controlled by the State and are intended as much as possible for the prosperity of the people, the State has violated the mandate from the constitution, the Law Number 7 of 2004 concerning water resources is, in fact, contrary to the constitutional mandate as already canceled by the Constitutional Court that the law is unconstitutional, Regional Regulation Number 3 of 2011 of Pandeglang Regency concerning Spatial Planning of the Regional Plan states that the location of the conflict is a geological protected area, therefore it should be protected. However, then the corporation broke through all forms of regulations that had been set.

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