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Reconstruction of law enforcement of state land possessed by community based on value of justice: Study in the directorate general of water resources of Indonesia

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Abstract
In resolving cases of control of state land by the community, which in this case occurs within the Directorate General of Water Resources in Indonesia, needs an effort to reconstruct the rule of law in resolving the land tenure cases that could reflect dignified justice. Based on the background provided above, the author conduct a research in which the author formulates several problems discussed in this article to What are the obstacles faced in law enforcement against the control of state land by the public based on Law Number 17 Year 2019 concerning Water Resources in environment of the Directorate General of Water Resources and what an ideal reconstruction. The study was done using the constructivism paradigm and the type of research is a qualitative study with a socio-legal approach.
Research shows that the constraints faced in law enforcement against the control of state land by the community based on Law Number 17 of 2019 concerning Water Resources within the Directorate General of Water Resources are derived from the provisions in Act Number 17 of 2019 That not mention the granting of utilization of permits land authorized by the water manager (Directorate General of Water Resources) by the community, but only permits for the use of water resources, so that the ideal Reconstruction in the implementation of law enforcement against the control of state land by a society based on values of justice that is dignified within the Directorate General of Water Resources, i.e. (i) regulates the provision of permits for the utilization of land resources by provincial and district / city governments in Law Number 17 of 2019, and (ii) stipulates the assessment provisions by the Appraiser only as a guideline in the deliberations to determine the compensation value.

Keywords: reconstruction, land ownership, directorate general of water resources, justice value

Introduction

In Indonesia, land use is placed as a state policy as outlined in various laws and regulations. This can be known from the meaning contained in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which reads: "The earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. ".The state's authority to control land is further regulated in Article 2 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, which states that On the basis of the provisions in Article 33 paragraph (3) of the 1945 Constitution and matters as referred to in Article 1, the earth, water and space, including the natural resources contained therein are at the highest level controlled by the state as the entire unity of people of Indonesia.

The authority to control power by the state is held by the central government, but in its implementation, it can be authorized to the regional government (autonomous regions). This can be seen from Article 2 paragraph (4) of Law Number 5 of 1960, which stipulates that: "*The controlling right of the said state can be empowered by autonomous regions, and customary law communities, only as necessary and not contrary to national interests, according to the provisions of government regulations* ".

The existence or presence of land use rights both privately and in groups in the legal world must remain respected and protected and must not be disturbed or negated arbitrarily, even if possible, it should be endeavored so that there are results or benefits for the public interest that can be withdrawn from these benefits. Thus, which says, property rights (private / individual) must have a social function ¬ really can be realized as a reality in the application of law.

Guided by the purpose of land use, the state (government) can give such land to a person or legal entity with a certain right according to its designation and needs, such as ownership rights, business use rights, building rights or use rights, or give it in the management rights to an authority institution (regional government) to be used for the implementation of their respective duties.

The application of the principle of control by the state depends very much on the political vision of the ruling government. The state (government) which has full and broad powers to be able to provide it with a right to citizens or legal entities according to their needs and designation.

Even though various laws and regulations have been set up as restrictions and signs of control of land rights by the government, that is, they cannot rule out land rights that are owned by the people, but the government can easily override these signs and boundaries in the name of interests development and public interest.

Problems arise when land which is authorized by the Directorate General of Water Resources by the state, for example, turns out to be utilized by the community, among which is used to build houses, gardening, and other activities. Utilization of land by the Directorate General of

Water Resources by the community has a negative impact, especially if the community utilizes the land around a dam or river flow by erecting buildings permanently, so that it can no doubt inhibit the flow of currents and cause flooding in the area.

In reality, even the land that is authorized by the Directorate General of Water Resources has already been certified by the community, and some is used by the community after obtaining permission from the local government, which was not coordinated before with the Directorate General of Water Resources.

The illegal use and control of land managed by the Directorate General of Water Resources has hampered the Directorate General of Water Resources in its task of carrying out water management. Efforts made by the Directorate General of Water Resources to curb illegal buildings on the land of the Directorate General of Water Resources are considered by the community as a form of human rights violations. Whereas the use of land by a handful of people used for public purposes is a form of violation, and is even included in a criminal offense if the community acts to make a fake certificate to own the land.

As stated, the community is permitted to make use of the land managed by the Directorate General of Water Resources by submitting a permit to the Directorate General of Water Resources or related parties. Of course, the use of the land has a period of time, and if the Directorate General of Water Resources will use the land, then the community must hand it back voluntarily. However, this is not done by the community, and the Directorate General of Water Resources will consider the permit application if it has a significant impact on water resource management.

The problem that occurs is that the community does not want to return the land managed by the Directorate General of Water Resources, either after obtaining a permit or even illegally. Among the reasons people objected to surrendering the land were because the community had occupied it for many years and this was a problem for the Directorate General of Water Resources because the community occupied the land without permission, and the people who got permission to use the land managed by the Directorate The Water Resources General reasoned that the land had been cultivated and produced, so that the community suffered losses if asked to return by the Directorate General of Water Resources, and other reasons so that the Directorate General of Water Resources had difficulty in recovering the land. anarchist resistance because they assume that what the Directorate General of Water Resources is doing is contrary to Article 33 of the 1945 Constitution of the Republic of Indonesia, so that citizens block the Directorate General of Water Resources from getting tkan the land back because it will be used for public purposes.

Therefore, in resolving cases of control of state land by the community, which in this case occurs within the Directorate General of Water Resources, it is necessary to carry out efforts to reconstruct law enforcement in resolving land tenure cases that could reflect a dignified justice.

Based on the background provided above, the author conduct a research in which the author formulate several problems discussed in this article as follows:

1. What are the obstacles faced in enforcing the control of state land owned by community based on Law Number 17 of 2019 concerning Water Resources within the Directorate General of Water Resources?
2. What is the ideal reconstruction in the implementation of law enforcement of controlling the state land owned by community based on the value of justice with dignity in the environment of the Directorate General of Water Resources?

Method of Research

The paradigm that is used in the research this is the paradigm of constructivism which is the antithesis of the understanding that lay observation and objectivity in finding a reality or science knowledge [1]. Paradigm also looked at the science of social as an analysis of systematic against *Socially Meaningful Action* through observation directly and in detail to the problem analyzed.

The research in writing this dissertation is a qualitative research. Writing aims to provide a description of a society or a certain group of people or a description of a symptom or between two or more symptoms.

Approach (*approach*) the research is to use the approach *of Socio-Legal* [2], which is based on the norms of law and the theory of the existing legal enforceability of a sociological viewpoint as interpretation or interpretation.

As for the source of research used in this study are:

1. Primary Data, is data obtained from information and information from respondents directly obtained through interviews and literature studies.
2. Secondary Data, is an indirect source that is able to provide additional and reinforcement of research data. Sources of secondary data in the form of: Primary Legal Material and Secondary Legal Materials and Tertiary Legal Material.

In this study, researchers used data collection techniques, namely literature study, interviews and documentation. In this study, the researcher is a key instrument that is the researcher himself who plans, collects, and interprets the data [3]. Qualitative data analysis is the process of searching for, and systematically compiling data obtained from interviews, field notes and documentation by organizing data into categories, describing it into units, synthesizing, compiling into patterns, selecting important names and what will be studied and make conclusions.

Research Result and Discussion

1. Obstacles Faced in Enforcing the Control of State Land Owned by Community Based on Law Number 17 Of 2019 Concerning Water Resources Within the Directorate General of Water Resources

The function of law in a society that has been established can be seen from two sides, namely the first side where the progress of society in various fields requires legal rules to regulate it, so that the legal sector is also drawn in by the development of that society, and the second side is where the law can either develop the community or direct the development of the community.

Changes in the system, order and values in society are not necessarily followed by changes in law. To change a law, it

[1] Faisal, (2010), Menerobos Positivisme Hukum, Rangkang Education, Yogyakarta.
[2] Johnny Ibrahim, (2005), Teori dan Metodologi Penelitian Hukum Normatif, Bayumedia, Surabaya.
[3] L. Moleong, (2002), Metode Penelitian Kualitatif, PT Remaja Rosdakarya, Bandung.

needs a certain mechanism, which cannot be done immediately. Therefore, it often also happens in society, as is the case in many fields of law in Indonesia, that changes in society are not followed by changes in law or are not in line with the direction of legal change both theoretically and practically. In cases like this, the law is said to be lagging behind, which results in the law being no longer respected by the public, and law enforcement becomes worse.

Changes in society, which are preceded by changes in laws / regulations, are usually preceded by desires in the community who have an interest in changing the laws / regulations on legislation. Furthermore, if the legal changes are successfully implemented, it will result in changes in the mindset and attitudes of the community. However, the changes in the law in question are not exactly the same as desired by the community / community groups / community organizations that encourage the implementation of these legal changes.

In the use of land that is authorized by the Directorate General of Water Resources, the community gets a permit from the regional government both the provincial and district government. This has its legal basis in Law Number 17 Year 2019In this Law, the duties and authorities of provincial and district / city governments only carry out the process of licensing the use of water resources and regulate, stipulate, and grant permits for the use of water resources for non-business needs and permits for the use of water resources for business needs. The articles do not mention the granting of a land use permit that is authorized by the water manager (DG Water Resources) by the community, but only a permit to use water resources. Article 1 number 1 of Law Number 17 Year 2019 states that:

"*Water Resources are water, water sources, and water resources contained therein*".

Article 1 number 1 of Law Number 17 Year 2019, states that:

"*Water is all water contained in, above, or below the surface of the land, including in this sense surface water, ground water, rain water, and sea water which on land* ".

Article 1 number 6 of Law Number 17 Year 2019, states that:

"*Water source is a place or container of natural and / or artificial water that is on, above, or below ground level*".

Then Article 1 number 7 of Law Number 17 Year 2019, states that:

"*Water Power is the potential contained in water and / or water sources that can provide benefits or losses for human life and livelihood and the environment*".

In reality, the local government grants the community land use permit, with the obligation to pay fees. Of course, this local government action is not in accordance with the provisions of Law Number 17 Year 2019, because the granting of land use permits by the community is granted without the coordination of the water management agency, namely the Directorate General of Water Resources.

Land acquisition / acquisition for public purposes is regulated in Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest.

The Directorate General of Water Resources in the context of water management is in need of land or land to then be built a dam or reservoir. Of course, the construction of dams or reservoirs requires extensive land, and land acquisition must be done through land acquisition.

Article 1 number 2 of Law Number 2 of 2012 states that: "*Land acquisition is the activity of providing land by providing appropriate and fair compensation to the parties entitled*".

Article 1 number 3 of Law Number 2 Year 2012 states that: "*The party entitled to is the party who controls or owns the object of land acquisition*".

The main problem in land acquisition is related to compensation given to landowners. As it is known that the amount of compensation is carried out by the Appraiser. This is contrary to the principle of agreement adhered to by Law Number 2 of 2012. In addition, the existence of a consignment agency is also contrary to the principle of the agreement.

Both the Appraiser and the consignment agency are in conflict with the principle of agreement which is carried out by consensus. Impressed deliberation is just a formality to determine compensation to the owner of land rights. The land owner is forced to accept the amount of compensation determined by the Appraiser, and if he refuses, the compensation is deposited with the district court.

Compensation that is not in accordance with the expectations of the land owner, will cause friction and even strong rejection from the land owner. They will fight if their land is taken forcibly even if it is intended for development in the public interest.

2. Ideal Reconstruction In The Implementation Of Law Enforcement Of Controlling The State Land Owned By Community Based On The Value Of Justice With Dignity In The Environment Of The Directorate General Of Water Resources

Law in Indonesia is the basis for the implementation of all state power. To emphasize that all behavior and power must comply with laws and regulations, in Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, it is stated that all citizens have the same position before the law and government, and must uphold the law and government without exception. Therefore, it can be said that the Indonesian state fulfills the elements to be called the rule of law. The Indonesian rule of law originates from the values of the Pancasila as the nation's view of life and the Indonesian state has its own characteristics. The characteristics of the Pancasila legal state, among others [4]:

1. There is a close relationship between religion and state;
2. Rests on the beliefs on the one and only god;
3. Freedom of religion in a positive sense;
4. Atheism is not justified and communism is prohibited;
5. The principle of family and harmony.

The concept of the rule of law in Indonesia although it still adheres to the concept of a Western rule of law, the concept has been adapted to the conditions of the Indonesian people, namely by using the benchmark of the Indonesian nation, Pancasila. The rule of law which is based on Pancasila owned by Indonesia, aims to create a safe, peaceful, orderly and prosperous life order. The legal status of citizens in society is guaranteed by the state, so that a balance and harmony is reached between individual interests and the interests of the public at large. The State of Indonesia is a state based on Pancasila which aims to achieve a just and

[4] M. Tahir Azhary, (1992), *Negara Hukum Suatu Studi tentang Prinsip-prinsipnya Dilihat dari Segi Hukum Islam, Implementasinya pada Periode Negara Madinah dan Masa Kini*, Bulan Bintang, Jakarta, p.69.

prosperous, safe and secure society, not only to maintain public order, but more broadly than that is, as a basis for thinking and guiding ethics and morals of the Indonesian people.

The conception of the rule of law that applies in Indonesia, namely the Pancasila law state is not a *rechtstaat* (State of Law) nor the rule of law. This is because Pancasila as the basic and legal source of all legal sources. Therefore, the rule of law in Indonesia can also be called the Pancasila State of Law. Conception of Pancasila legal state means a legal system that is built based on the principles and rules or norms contained and or reflected by Pancasila values as the basis of community, nation and state life. Indonesia based on Pancasila is not a religious state because it does not base on a particular religion, but cannot be called a secular state like the concept of other rule of law.

The state law of Pancasila is a religious state that protects and facilitates the development of all religions embraced by its people as long as it does not violate the laws and regulations in Indonesia. The Pancasila rule of law does not impose the will to embrace a religion, but instead gives freedom and protection to its citizens to embrace the religion or beliefs it believes in. This is where the uniqueness of the Pancasila rule of law is compared to other concepts of the rule of law.

Indonesia as a State of State Law was inspired by the basic idea of *rechtsstaat* and rule of law. This step was carried out on the basis of the consideration that the legal state of the Republic of Indonesia is basically a state of law, meaning that in the concept of the rule of law the Pancasila in essence also has elements contained in the concept of *rechtsstaat* and in the concept of rule of law. It is undeniable that the concept of the rule of law of Pancasila owned by Indonesia is inseparable from the concept of a mixed state law, namely *rechsstaat* and rule of law in the state of Pancasila there is an assumption that humans are born in relation to or existence with God Almighty. Therefore, the state was not formed because of a covenant or "*dualistic vertrag*" but "By the blessing of the grace of Allah Almighty and by being motivated by noble desires, so that a free national life...". So the position of God in the state of law of Pancasila becomes one of the main elements that are a *"causa prima"* [5].

Pancasila as the source of all sources of Indonesian law contains the basic values of Pancasila, realized in the ideals of legal *rechssidee* as well as the principles of law in Indonesia, which are incorporated into the concept of Indonesian national law. The concept of national law embodies the value of justice, and protects the entire Indonesian nation and all of Indonesia's People and provides certainty, justice and benefits. Based on the function of the Pancasila as the source of the law, the Indonesian legal state can be named the Pancasila legal state.

The concept of the Pancasila rule of law basically has elements contained in the concept of *rechtsstaat* and the rule of law. The difference in principle lies in the foundation of the state philosophy, that the Pancasila legal state is based on the Pancasila philosophy [6] Pancasila is the original philosophy of the Indonesian people and not a liberal philosophy. Pancasila as a national ideology provides basic provisions as the foundation of the Indonesian legal system, including the foundation of the rule of law. This reality can be fully understood in the Preamble, the articles and the explanation of the 1945 Constitution before the amendment and the Preamble and the articles of the 1945 Constitution after the amendment to the 1945 Constitution.

The concept of the Pancasila rule of law emphasizes human rights in shaping the law which prioritizes the principles of justice based on Pancasila. The concept of the Pancasila rule of law is the concept of the rule of law which contains principles that cannot be separated from the Pancasila values, constituting a unified whole. This is what is called the concept of the rule of law in Indonesia, namely the law state of Pancasila.

In the use of state land by the community, where the land has been authorized to an agency or legal entity such as the Directorate General of Water Resources, it is very wrong if there is an opinion that utilizing the state-authorized land to a government agency is the right of citizens as stipulated in Article 33 paragraph (3) The 1945 Constitution of the Republic of Indonesia. The Land of the Directorate General of Water Resources used bya handful of people, of course, hinder the state to realize the greatest prosperity of the people [7].

Based on the theory of dignified justice, what is done by the Directorate General of Water Resources by taking control measures against buildings can hinder the management of water resources, basically in accordance with the Five Principles of Pancasila, namely Social Justice to all people of Indonesia.

According to social justice is justice which states that a person's personal ownership must be respected and people should be left free to make use of their personal ownership. This private ownership is absolute so people are free to make use of it according to their personal interests and desires [8].

The dichotomy between individuals and society in Robert Nozick's ideas seems similar to Friedrich von Hayek's. They basically reject any form of state policy intervention on the rights of individuals who intend to distribute resources to society or it can be said that: *"Justice is simply about respecting people's property rights, about leaving people free to do what they like with what theirs"*.

This statement can be interpreted that let the community run as it is according to the freedom of the rights and private ownership of each individual, and the conditions of justice will be created automatically in the community.

From the perspective of multiple identities in society, Nancy Fraser also explained the meaning of social justice in a comprehensive manner. According to Nancy Fraser that social justice refers to 2 (two) things, namely the problem of redistribution and the problem of recognition. The tendency that arises in the development of socio-political ideas is to separate and distinguish the two types of views:

1. The problem of redistribution focuses on the problem of injustice in the socio-economic framework and this injustice

[5] Ahmad Syafii Ma'arif,(2006), *Islam dan Pancasila Sebagai Dasar Negara Studi Tentang Perdebatan Dalam Konstituante*, Edisi Revisi, Pustaka LP3ES Indonesia, Jakarta, p. 150.

[6] Mohammad Noor Syam,(1998), *Penjabaran Filsafat Pancasila dalam Filsafat Hukum, Sebagai Landasan Pembinaan Sistern Hukum Nasional*, Laboratorium Pancasila IKIP Malang, Malang, p. 120.

[7] Arianto, S.T., M.Si., *Interview*, in his position as Head of the State Property Sub-Division of the Pemali-Juana River Region, Semarang, on February 20, 2020.

[8] Robert L. Weku, (2013), *Kajian Terhadap Kasus Penyerobotan Tanah Ditinjau Dari Aspek Hukum Pidana dan Hukum Perdata*, Jurnal, Lex Privatum Vol. 1 No. 2, April-June 2013.

is rooted in the economic structure of society. Efforts to overcome these problems include income equality programs, regulation of labor organizations, democratization of investment policy-making procedures, or changing other basic economic structures;

2. The problem of recognition has the goal of injustice that is in the realm of culture that is considered rooted in problems that are socially patterned such as problems of representation, interpretation, and communication. Efforts to address the problem of injustice in this view are in the form of respect for the identity and cultural products of marginalized groups, including efforts to acknowledge cultural differences. All of that is done according to the radical change in the existing social style, namely the transformation of forms and ways of representation, interpretation, and communication so as to change people's awareness of diversity of identities.

Furthermore Nancy Fraser [9] states that as a practical matter, every case of injustice must also contain problems of distribution and recognition. Instead of distinguishing and exclusioning each other, it is better for distribution and recognition issues to form synthesis. The result is a new concept called the Bivalent Conception of Justice. In this concept it is stated that:

A bivalent conception of justice encompasses both distribution and recognition without reducing either one of them to the other... a bivalent conception treats distribution and recognition as distinct perspectives on, and dimensions of justice, while at the same time encompassing both of them within a broader, overarching framework.

There are 2 (two) important ideas based on this view, as follows:

1. The first idea is that social justice viewed in terms of normative-philosophical, social-theoretical issues, and practical problems, in which there is always a synthesis between the business of distribution politics and the politics of recognition. Nancy Fraser stated that "*no redistribution without recognition and no recognition without redistribution*". An example of this idea is seen from social welfare programs which are usually the main characteristic of the welfare state. Social welfare programs have targets for example the poor who not only need material assistance but also welcome and hospitality from their social environment. There is always a link between economic equality and social recognition;
2. The second idea is the concept of equality of participation. Based on this concept, justice -especially social justice- requires a social arrangement that allows all members of society to interact with one another as a group. For this reason, it is necessary to support conditions so that this can be achieved, that is:

a. *The distribution of material sources must be such as to ensure participants independence and "voice"*;
b. *Institutionalized cultural patterns of interpretation and evolution express equal respect for all participants and ensure equal opportunity for achieving social esteem.*

Besides every person or individual, every community or social group also has rights. These communitarian or social rights must be fulfilled so social justice occurs. So social justice is a condition where a community or group gets what is rightfully from the community or group. Social justice states that the wealth or welfare of a nation must be distributed proportionally to the regions, organizations, communities, or social groups owned by the nation. The principle of social justice demands that the welfare or wealth of a nation not only be enjoyed by certain individuals, families, or groups. The principle of social justice seeks to balance the strong and weak sectors of society; areas that are rich in areas that are poor. Even within the wider scope, social justice demands that rich countries must provide assistance to poor countries [10].

On the one hand, the principle of social justice provides demands on the parties in power to maintain and ensure that the distribution of welfare is really evenly proportionately distributed to all regions, organizations and social groups. On the other hand, the principle of social justice provides the basis and support for regions, organizations, and social groups to be brave enough to demand from the authorities what their rights are. The principle of social justice ensures that all levels of society get their welfare. With this principle, it is also not possible for parties who are strong, rich, and in power to invade other parties who are weak, poor, and powerless.

Indonesia is a country whose territory is very wide which stretches across thousands of islands. Social justice becomes evident, if the welfare of the community can be enjoyed by people from various islands, and not only in certain islands such as Java and big cities; if various public facilities are found in thousands of islands and not only in big cities in Java; Likewise, if assets do not only accumulate in a few conglomerates, they are equally owned by all citizens.

The principles of proportional justice above provide guarantees to every individual or social group that has the right to wages, compensation, or assistance to claim their rights. These principles also urge those who have an obligation to provide wages, gifts, compensation and donations so that they are willing to fulfill their obligations.

Land for most humans is an identity that is attached to their nationality and state. Especially for the people of Indonesia, the Indonesian Agrarian Law states that the relationship between citizens and their land is eternal and basic. From this relationship, it greatly impacts the welfare, prosperity, justice and sustainability, as well as the harmony of the Indonesian nation and state. To that end, the use of land by the people is to continue the mandate of the 1945 Constitution of the Republic of Indonesia, in which land is utilized as much as possible for the prosperity of the people. This is possible because the state has power over all earth, water and space.Social justice is not only the responsibility of the state to realize it, but it is a shared responsibility, namely the state, economic actors, and the people as a whole. The state in this context acts as a facilitator and regulator as well as good referees, if necessary intervening so that access to ownership, control, use, and use of land and natural resources for people, especially small, is increasingly wide open and well available.

Linking social justice with law enforcement is a very logical thing considering the first legal ideal is justice in addition to

[9] Fraser, Nancy. (1998). Social justice in the age of identity politics: Redistribution, recognition, and participation. Tanner Lectures on Human Values. 19. 10.4135/9781446218112.n2.

[10] Yoachim Agus Tridiatno,(2019), *Keadilan Restoratif*, Cahaya Atma Pustaka, Cetakan Kelima, Universitas Atma Jaya, Yogyakarta, p. 14.

order and expediency. One of the main sources of social injustice is a capitalist economic system with a neo-liberal ideology. The United Nations Environment Program (UNEP) as one of the international institutions that specifically looks at environmental issues launched an idea in 2008, which is as follows: *"Green economy as one that results in improved human well-being and social equity, while significantly reducing environmental risk and ecological scarcities. In its simplest expression, a green economy can be trought of as one which is low carbon, resource efficient and socially inclusive"* [11].

Situations that encourage humans to weigh the meaning of justice are experiences of injustice experienced, whether experienced by a person in facing other individuals, certain groups, certain ethnicities or even a nation. In history, so many incidents of injustice were born in the midst of society and the world that forced people to try to smooth the meaning of justice from the experience of injustice. An important moment in reflection on the meaning of justice is the Universal Declaration of Human Rights (UDHR) of 1948 with all its demands. Individual justice is elaborated in civil and political rights which are summarized in the International Covenant on Civil and Political Rights of 1966 and socially colored justice are outlined in economic, social and cultural rights summarized in the International Covenant on Social, Economic, and Cultural Rights in 1966.

Law enforcement in the Pancasila rule of law must prioritize justice, which justice respects human rights. Law enforcement is not permitted through violent means, because this will only add to the long-standing conflict. Law enforcement, should be done through preventive efforts before being resolved through legal channels. Deliberation can be an alternative solution to resolve any conflicts or disputes in the community, both civil and criminal problems.

Based on the description above, the ideal value reconstruction in the implementation of law enforcement against the control of land which is controlled by the state by a value-based community of dignified justice in the environment of the Directorate General of Water Resources are as follows:

1. Certainty regarding licensing provisions in the use of land controlled by the state by the community in the environment of the Directorate General of Water Resources;
2. Clarity of the status of the results of the compensation assessment on land acquisition for public purposes as a guide in determining the value of compensation;
3. Preservation of the culture and traditions of the Indonesian people in deliberation as a preventive effort to resolve problems in the civil and criminal fields.

Conclusion

1. Constraints faced in law enforcement against the control of state land by the people based on Law Number 17 of 2019 concerning Water Resources within the Directorate General of Water Resources: (a) in terms of legal substance: (i) provisions in Law Number 17 of 2019 does not mention the granting of land use permits authorized by the water manager (General Directorate of Water Resources) by the community, but only water resources utilization permits, (ii) the provisions in Law Number 2 of 2012 determine the amount of compensation by the Appraisal and the existence of a consignment agency contrary to the principle of agreement; (b) in terms of legal structure: (i) lack of personnel and supervision of the land authorized by the Directorate General of Water Resources; (ii) there is no coordination between the Directorate General of Water Resources and local governments in relation to community land use licensing, and (iii) there is no coordination with the National Land Agency, in relation to the certification of land authorized by the Directorate General of Water Resources by the community; and (c) in terms of legal culture: (i) lack of community legal awareness to obey regulations, (ii) lack of public awareness of the public interest; and (iii) the culture and traditions of the Indonesian people of deliberation which slowly began to disappear.

2. The Ideal reconstruction in the implementation of law enforcement of the control of state land by a community based on the value of dignified justice in the environment of the Directorate General of Water Resources, namely: (a) in terms of legal substance: (i) regulates the provisions on licensing for the utilization of land resources by local governments provinces and regencies / cities in Law Number 17 Year 2019, and (ii) stipulate the appraisal provisions by the Appraiser only as a guideline in the deliberation to determine the compensation value; (b) in terms of legal structure: (i) increasing the number of personnel and increasing supervision of the land authorized by the Directorate General of Water Resources, (ii) coordinating with local governments related to licensing for land use controlled by the Directorate General of Water Resources, and (iii) coordinating with Government's Land Office is related to registering land by the community; and (c) in terms of legal culture: (i) socialization or counseling, especially related to the construction of buildings on land authorized by the Directorate General of Water Resources, which are used for water management processes that are useful for the public interest, and (ii) Directorate General of Water Resources has always tried to prioritize deliberations to resolve conflicts with the community as preventive measures and legal channels as repressive measures.

References

1. Ahmad Syafii Ma'arif, Islam dan Pancasila Sebagai Dasar Negara Studi Tentang Perdebatan Dalam Konstituante, Edisi Revisi, Pustaka LP3ES Indonesia, Jakarta, 2006.
2. Al Andang Binawan, Tanius Sebastian. Menimbang Keadilan Eko-Sosial, Kertas Kerja Epistema No. 7/2012, Epistema Institute, Jakarta, 2012.
3. Arianto ST, M Si, Interview, in his position as Head of the State Property Sub-Division of the Pemali-Juana River Region, Semarang, on February 20, 2020.
4. Faisal. Menerobos Positivisme Hukum, Rangkang Education, Yogyakarta, 2010.
5. Fraser Nancy. Social justice in the age of identity politics: Redistribution, recognition, and participation. Tanner Lectures on Human Values, 1998, 19. 10.4135/9781446218112.n2.
6. Johnny Ibrahim. Teori dan Metodologi Penelitian Hukum Normatif, Bayumedia, Surabaya, 2005.
7. Moleong L. Metode Penelitian Kualitatif, PT Remaja Rosdakarya, Bandung, 2002.

[11] Al Andang Binawan and Tanius Sebastian, (2012), *Menimbang Keadilan Eko-Sosial*, Kertas Kerja Epistema No. 7/2012, Epistema Institute, Jakarta, p. 5-6.

8. Tahir Azhary M. Negara Hukum Suatu Studi tentang Prinsip-prinsipnya Dilihat dari Segi Hukum Islam, Implementasinya pada Periode Negara Madinah dan Masa Kini, Bulan Bintang, Jakarta, 1992.
9. Mohammad Noor Syam. Penjabaran Filsafat Pancasila dalam Filsafat Hukum, Sebagai Landasan Pembinaan Sistern Hukum Nasional, Laboratorium Pancasila IKIP Malang, Malang, 1998.
10. Robert L Weku. Kajian Terhadap Kasus Penyerobotan Tanah Ditinjau Dari Aspek Hukum Pidana dan Hukum Perdata, Jurnal, Lex Privatum, 2013, 1(2).
11. Yoachim Agus Tridiatno. Keadilan Restoratif, Cahaya Atma Pustaka, Cetakan Kelima, Universitas Atma Jaya, Yogyakarta, 2019.