



International Journal of Economic Research

ISSN : 0972-9380

available at <http://www.serialsjournal.com>

© Serials Publications Pvt. Ltd.

Volume 14 • Number 13 • 2017

Effect of Globalization on Establishment of Water Resource Law: A Practice in Indonesia

Agus Surachman, I Gusti Ayu Ketut Rachmi Handayani and Yudho Taruno

Universitas Sebelas Maret, E-mail: Surachman.ozzz@yahoo.com; ayu_igk@staff.uns.ac.id; yudho_fbuns@yahoo.com

Abstract: Globalization influences the whole world including Indonesia. The state's control over water resources has been taken over by private sectors. Privatization in managing water resources has been dominant and liberalization in managing drinking water resources is very worrying. The liberalization has encouraged the amendment of Article 33 of the 1945 Constitution from three paragraphs into five paragraphs, and the substitution of Law Number: 11 of 2007 into Law Number 4 of 2014. It made privatization in managing water resources inevitable and lead to a prolonged conflict until 2015 when the Constitutional Court, by Decision of the Constitutional Court Number 85/PUU-XII/2015, annulled Law No. 4 of 2014 concerning Water Resources since it opposed to the 1945 Constitution. This means that they tried to end the liberalization in managing water resources. The control over water resources is returned to the state. This research was conducted by using doctrinal or normative method in which the data were collected from primary, secondary and tertiary legal materials. In the current globalization, the state must actively participate in the establishment of the rules of law at the international, regional and national levels so that there is a balance between the growth of globalization and the welfare of the people in third world countries. Do not let, as Mahathir Muhammad cited by Abdul Mua'ti (2015) says, the globalization, created by the West, become more profitable for them and bring disaster to the economy of developing countries.

Keywords: globalization, law establishment, water resources.

I. INTRODUCTION

Article 33, Paragraph(3) of the 1945 Constitution states: "The earth and the water and the natural resources contained therein are controlled by the state and utilized for the greatest prosperity of the people." It clearly states that the state has the authority to regulate, administer and utilize things concerning the potential of natural resources, including water resources, contained in Indonesia's earth.

The role of the government especially in administering and utilizing water resources must be well played. This is in line with what W. Friedmann claimed that the state/government carries out three things concerning their duties in managing natural resources,¹ namely:

1. as a regulator (*destuurende*) which relies on the economy and as a jury.
2. as a provider (*de prestende*)
3. as a manager (*entrepreneur*).

The government plays role in conducting the policy on water resources for the sake of people's just welfare. The authors agree with John Rawl's view on the concept of justice that is the value of creating a balance among the parts of unity and between personal and community's goals.²

The state's control over water resources as mandated by Article 33 Paragraph (3) of the 1945 Constitution shall continue to be implemented by the central or local government in accordance with the considerations of the Constitutional Court including (1) conducting a policy (*beleid*), (2) administering (*bestuurdaad*), (3) regulating (*regelendaad*), (4) managing (*beheersdaad*), and (5) supervising (*toezichthoudendaad*).³

Like in many other countries, the condition of water resources in Indonesia has reached a stage where integrated actions are needed to reverse the current trends of excessive water utilization, pollution, and the increasing threat of drought and floods.⁴

The concerns are answered by privatization in which private parties were given the opportunity to open a business in managing water resources, by buying shares either of State-Owned Enterprises (SOEs) or Regional Owned Enterprises (ROEs) partly or wholly because these enterprises get much financial loss. Throughout the year 2014 there were at least 21 state-owned enterprises did so. Some of them were PT Garuda Indonesia, Tbk., PT Krakatau Steel, PT Merpati Nusantara, and PT Antam, Bulog.⁵ Why did SOEs and ROEs get financial loss?

“One of the reasons why many SOEs and ROEs get financial loss is the rise of corruption. SOEs and ROEs have become financial source for various political interests. Instead of benefiting the state, they give money to politicians. Enterprises may get financial loss but the salary of every SOE staff will never be reduced and still they get various facilities. Corruption also occurs in the procurement of goods and services in SOEs. Other corruption occurs in the privatization process. In other countries, enterprises having a good performance are privatized and their stocks' price will rise sharply due to high demand. But what happens in Indonesia is quite the opposite. Once privatization is announced, SOE shares are arranged so that the price drops and the government must sell them in a low price. The cases of the privatization of PT Perusahaan Gas Negara and the privatization of PT Indosat that occurred several years ago are a few examples.⁶

Privatization in Indonesia is regulated by Law Number 19 of 2003 on State-Owned Enterprises. Article 1 Point 12 of the Act states:

“Privatization is the sale of shares of an enterprise, partly or wholly, to others in order to improve the performance of the enterprise, increase the value of the enterprise, raise the benefits for the state and society, and expand the ownership of the shares by the public.

The purpose is mentioned in Article 74 as follows:

“Privatization is intended to expand public or company ownership, improve the efficiency and productivity, and create financial and management structure. It is aimed to improve the performance and increase the value of the enterprise, and raise the public participation in the ownership of the enterprise’s shares.”⁷

“Privatization in developing countries including Indonesia is accompanied by the opening for foreign investors, both individuals and companies. It can bring the countries to the grip of economic imperialism because capitalist individuals or companies will later take a control over the Islamic countries. Then they will rob the countries and strengthen their political domination over people of the Islamic countries.”⁸

India and Brazil reject global economic policy as John Ralston Saul says,

“Advocates of globalization, who say ‘privatization’ again and again, now realize that they are wrong because the national rule of law is more important. Economists are strictly separated into two groups in which they loosen or tighten the control of the capital market. Increasingly powerful nation states, like India and Brazil, challenge the global economic policy. Transnational corporations in the field of pharmacy attempt to avoid people movements.”⁹

Investors in Indonesia are domestic and foreign investors in which there is no distinction in the original state of them. Article 3 Letter (d) Law Number: 25 of 2007 concerning Investment is not a solution for Indonesian problem, but a threat to the existence of the service and fulfillment needs on water resources for the people. Privatization of SOEs has been contradictory to the Indonesian constitution. The Constitution has given a mandate stipulated in Article 33 Paragraph (3) stating: “The earth and the water and the natural resources contained therein are controlled by the state and utilized for the greatest prosperity of the people.”

In the end, privatization which is not managed by a clean government will only mean transferring the control of Indonesia’s natural resources to individuals or companies, either domestic or foreign to meet the agenda of neoliberalism and capitalism that will harm Indonesian people.

The Jakarta Legal Aid Institute (LAI) believes that privatization in Jakarta has harmed PAM Jaya. This is due to a wrong privatization policy causing some residents in Jakarta not to be able to access clean water so that they have to buy water using jerry cans in a high price to meet the need for clean water every day.

“President Joko Widodo, also called Jokowi, and his governmental ranks should prevent the privatization of clean water by stopping various legal steps taken by any corporation in Jakarta. That is what the Jakarta LAI and the coalition of people say to refuse the privatization of water in Jakarta. Suhendi Nur, a Jakarta resident who sued private companies, namely: PT PAM Lyonnaise Jaya and PT Aetra Air Jakarta expects Jokowi to obey the 1945 Constitution which explicitly says: “Water must be controlled by the state for the sake of the people.”¹⁰

If water privatization and commercialization efforts continue to be done even though the law concerning water has been canceled, it can be said that Indonesia has no sense of crisis on water conflict.¹¹

The influence of globalization in managing water for the benefit of the people in the form of privatization has failed in distributing water evenly. Private companies consider water to be an economic commodity and are perceived to fail to make significant new investments in water infrastructure.

The importance of globalization has forced the rule of law to be changed including the 1945 Constitution by several amendments. Likewise, Law Number: 11 concerning Irrigation was changed into the Law Number: 7 of 2004 concerning Water Resources which is more liberal. There are water concessions

and utilizations for the commercialization of water which eliminate the government's role to provide water.¹²

To that end, the Constitutional Court canceled Law Number: 7 of 2004 concerning Water Resources and all the lower regulations. The cancellation was done at the plenary session of the Constitutional Court. They overturned the enactment of the entire contents of the law because it did not comply with some basic principles of water resource management restrictions¹³ as follows:

Firstly, any exploitation of water should not interfere, put aside, or eliminate people's right on water because the earth, water and natural resources contained therein must be controlled by the state and also must be utilized for the greatest prosperity of the people.

Secondly, the state shall fulfill people's right on water. In this case, access to water is one of human rights. Furthermore, Article 28I, Paragraph (4) states, "The protection, promotion, enforcement, and fulfillment of human rights are the responsibility of the state, especially the government."

Thirdly, considering the preservation of the environment as one of human rights, Article 28H Paragraph (1) of the 1945 Constitution determines that "Every person has the right to live a prosperous and spiritual life, to have a home, and to get a good and healthy environment as well as to receive health services".

Fourthly, as an important production branch and essential for people's life, water resources shall be controlled by the state (vide Article 33, Paragraph (2) of the 1945 Constitution) and according to the same Article, Paragraph (3), they must be controlled by the state and utilized for the greatest prosperity of the people. Thus the state's control over water resources is absolute.

Fifthly, as the continuation of the state's right to control and because water is something that is essential to people's life then the main priority to exploit water resources is given the State-Owned Enterprises or Regional Owned Enterprises.

Sixthly, if water resources are still available after all these restrictions have been fulfilled, the government may grant permission to private parties to carry on water exploitation under certain and strict conditions.

With the annulment of the Law Number 7 of 2004 concerning Water Resources by the Constitutional Court through Decision Number: 85 / PUU-XII / 2013 dated February 18th, 2015, the management of water resources again refers to the Law Number: 11 of 1974 concerning Water Resources/Irrigation. Then Article 6 Paragraph (2), Article 6 Paragraph (3), Article 7, Article 8 Paragraph (1), Article 8 Paragraph (2), Article 9 Paragraph (1), Article 11 Paragraph (3), Article 29 Paragraph (3), Article 40 Paragraph (4), and Article 49 were declared contrary to the 1945 Constitution and had no binding legal force.¹⁴

Minister of Public works and Public Housing at that time, Basuki Hadimuljono, said:

"We are very respectful of this decision and still prioritize community service. Then it is also a momentum to restore the rights to the state. So, our position is getting stronger in managing water resources".¹⁵

In order to avoid legal vacuum, the Constitutional Court stipulated that the Law Number: 11 of 1974 concerning Irrigation was re-enacted, and some actions would soon be taken. First, they prepared an academic draft of the law on water resources as the foundation in managing water resources in Indonesia according to the current condition. Second, they strengthened Law Number: 37 of 2014 concerning Soil and Water

Conservation, accelerated the issuance of government regulations on land and water, and implemented soil and water conservation.

This research used the doctrinal or normative method, and its data were collected from primary, secondary and tertiary legal material.¹⁶

II. DISCUSSION

(A) Amendments to the 1945 Constitution

The effects of globalization cannot be avoided by countries around the world. In Indonesia, it resulted in the amendments of the 1945 Constitution, as Samsul Wahidin says:

“The wave of globalization attacks people all over the world that its effects cannot be avoided by Indonesia. The Constitution of the Republic of Indonesia required to adapt to such a global development. That is why the amendments were carried out.”¹⁷

Article 33 of the 1945 Constitution states that the economy is constituted as a joint effort based on the principle of kinship. Production branches that are important to the state and essential to the people's life are controlled by the State. While the earth and the water contained therein are controlled by the state and utilized for the greatest prosperity of the people. Based on the article, the Indonesian economic system is directed to the people's economic system. Accordingly, Samsul Wahidin states:

“Before Article 33 of the 1945 Constitution was amended, the Indonesian economic system were developed by fulfilling several principles of paragraphs (1), (2), and (3) as the framework and the politics of Indonesian national economy was directed to an economic construction called Indonesian socialism.”¹⁸ Political law thus clearly rejects private's or individual's control over the earth, water, and natural resources contained therein.

When amended, the Article was added with Paragraph (4) that is, the national economy is organized based on the system of economic democracy with the principles of togetherness, efficiency, fairness, sustainability, environmental friendly, independent, and maintaining the national economic balance, progress, and unity.

The following is Jimly Asshidiqi's opinion on the hard controversy over amendments of the 1945 Constitution. It is in the context of constitutional reform, the will to eliminate Articles 33 and 34:

“When the Consultative Body of National Congress finished its duty, they submitted their report to the General Assembly in 2002. In the draft of the fourth amendment, Articles 33 and 34 shall not be changed or deleted. What happened was a refinement with the addition of a new paragraph, and the phrase ‘National Economy’ to the chapter title. Initially Article 33 only consisted of 3 paragraphs, but then it was added with a new paragraph, so it consists of 4. Also, the title of Chapter XVI, which was initially ‘Social Welfare’, was added a new phrase to be

‘National Economy and Social Welfare’. In other words, rather than being abolished altogether because of its incompatibility to the present time or its inconsistency with the general practice of constitutional arrangements in the liberal states, this chapter was reinforced to regulate the constitutional policy on the national economy. Nevertheless, the provisions that were deemed important to ensure the people's needs were adopted so that they are not considered out of date. It just happens nowadays when every state seems not to be able to avoid the need to conduct an efficient policy. The principle of efficiency is adopted by keeping up with the principle of justice, so that the two words are combined to be one phrase, i.e. ‘just efficiency’.”¹⁹

The above description shows that the long debate occurs between the proponents of Article 33 of the 1945 Constitution, who are Prof. Mubyarto's group and its opponents, who are Dr. Syahrir's group. It implies in Jimly Asshidiqi's book which is written as follows:

“Dr. Syahrir, the most violent against Mubyarto's views in various team meetings, in a rowdy atmosphere after Mubyarto declared his resignation in the Consultative Assembly's plenary forum, took time to go to Mubyarto's desk and asked to shake hands apologetically”²⁰

The fourth amendment-generated Article 33 of the 1945 Constitution is a compromise of two groups' views, namely: the anti-liberal and the pro-liberal economic system. Thus it can be said that it is as a blend of liberal and social economic system, as outlined in the Article 33 of the 1945 Constitution which is applicable today.

Globalization is not to eliminate local wisdom because it is the characteristic of a nation, tribe or class that it should not be eliminated just for the global interests.

Accordingly, William Twining says,

“The global does not exclude the local, but rather they are interact in very complex, some time contradictory ways.”²¹

Globalization must be reformed. It must be shaped and adapted to the interests of the nations who want to move forward. Globalization must do a metamorphosis from a greedy and non-humanist character into a non-greedy, humanist and just-minded character. It is in line with what Joseph E. Stiglitz states:

“Today's globalization does not favor the world's poor. It does not work for most of the existing environment and does not create a global economic stability. The transition from communism to the market economy is very badly managed, except in China, Vietnam and some Eastern European countries. Poverty rises sharply when income slumps.”²²

Therefore the demands for a reformation are very clear, as he states as follows:

“The demands for a reformation are very clear. It can be seen from the commissions appointed through congresses and their supported groups consisting of well-known economists who wrote reports in the global financial architecture and demonstrations conducted before the international meetings.”²³

Thus, it is necessary to create a law that guarantees the sovereignty of water resources for the greatest prosperity of the Indonesian people and a clear understanding of Article 33, especially Paragraph 4. This means that the private sector may not exercise control over water resources but is limited to exploit them in certain amount or allocations in accordance with what is strictly granted by the state. Water should not be viewed as a mere economic commodity but it has a social function because it is the grace of God for all mankind and not for the benefit of any individual or group of businessmen.

(B) Changes in Law on Water Resources

Water resources initially were regulated in Law Number: 11 of 1974 on Irrigation. The law was then changed into Law Number: 7 of 2004 concerning Water Resources. The change is based on the grounds that water resources need to be managed to realize synergy and harmonious integration among regions, sectors, and generations. Then communities need to be given a role in managing water resources. This is

strongly influenced by the wave of globalization that is capitalist-minded. Capitalism is the idea that aims for capital investment through capital accumulation processes.²⁴

In practice, the fulfillment of capitalist interests requires expansion beyond the territory in the form of market control, raw material supply and provision of labor as cheaply as possible.

“The establishment of Law Number: 7 of 2004 concerning Water Resources is strongly influenced by donor agencies as a global power to pass privatization process in Indonesia. This is related to the increasingly depleted amount of water, which eventually puts it as a very profitable commodity for trading.”²⁵ The establishment of Law Number: 7 of 2004 concerning Water Resources which is followed by Law Number: 16 of 2005 concerning Development of Water Supply System is considered to take the state’s control over water resources and give it to the private sector. Related to the changes in the law of natural resources in Indonesia, the attitude of international financial institutions is described by Wahidin as follows:

“In the field of natural resources, water resources have a future threat. It could happen if water were treated as an economic commodity, like what is desired by the World Bank and Asian Development Bank, and the parties would get water based only on economic advantage. An example of this is what happened to the West Java Regional Government. In 2002 they issued a new Regional Regulation on irrigation. One of the instruments they adopted is the implementation of cost recovery to farmers on the use of irrigation water and consequently the agricultural sector will be more expensive.”²⁶

The inclusion of Article 9 Paragraph (1), Article 11 Paragraph (3), and Article 14 to Law Number: 7 of 2004 concerning Water Resources changes the meaning of water which initially is public goods into a commodity which is more concerned with economic aspects and profit-oriented.

There is a contradiction in Government Regulation Number: 16 of 2005 concerning the Development of Water Supply System in which, according to Hans Kelsen, lower legal norms should not conflict with the above legal norms^{27, 27} namely: between one article and another article. Here are some examples of the contradiction: between Article 37 Paragraph (1) and Article 37 Paragraph (3), and between Article 64 Paragraphs (1) and (3) and Article 64 Paragraph (4). At last Law Number: 7 of 2004 concerning Water Resources and Government Regulation Number 16 of 2005 concerning the Development of Water Supply System was annulled by Decision of the Constitutional Court Number 85 / PUU-XII / 2013.

About the above government regulation, Handayani, says:

“Verdict of the Constitutional Court on judicial review Act of Water Resources on July 19, 2005 said that the State was responsible for meeting the basic needs of the people on water. Decision of the Constitutional Court stated the responsibility of water supply was held by the government through state or local enterprises. But, Government Regulation Number: 16 of 2015 concerning Water Supply System (SPAM) issued by the government provides the opportunity to manage drinking water to the private sector without limitation (at all stage of activity).”²⁸

Privatization in Indonesia poses many problems because usually the private sector is merely profit oriented. Amartya Sen, in his book *The Idea of Justice*, discusses ethics, human rights, globalization, and democracy, and says that human rationality is much more important than the principle of maximizing self-interest. That is in line with the rational choice theory that human rationality, which has recently suffered moral decadency, is important to the economy.²⁹ This moral slump takes place because human beings justify all means, are greedy and place profits above all else.

(C) Water Resources Orientation

Water is a basic human need that its crisis can cause potential conflict in a community because it is public property but in limited amount and has a sacred meaning for certain groups. No forest, No water, No future.³⁰In the case of water resources that are part of natural resources, it should legally be oriented to the Constitution of the Republic of Indonesia, especially Article 33 Paragraph (3). It states: “Earth, water and natural resources contained therein is controlled by the state and utilized for the greatest prosperity of the people.”

Related to the phrase ‘controlled by the state’, Asshiddiqie further states:

“The phrase ‘controlled by the State’ in Article 33, Paragraph (3) of the 1945 Constitution means taking control in the full sense including the meaning of ownership, which, in legal term, means serving as a source for private ownership. Being controlled by the state, all our natural resources are for the benefit of the people.”³¹

The Constitution of the Republic of Indonesia provides an opportunity for private parties to participate in the operation of production branches, including drinking water, essential for the people’s life but is limited not to eliminate the meaning of the state’s control. Private participation can be undertaken in cooperation and in stages of implementation which does not restrict the State in managing drinking water.

III. CONCLUSIONS AND RECOMMENDATIONS

(A) Conclusions

First, globalization has influenced the whole world including Indonesia. The Constitution of Indonesia is adapted in accordance with global developments. Amendments to the 1945 Constitution were made, especially to Article 33. Furthermore, there was a change in the law on irrigation, namely: the enactment of Law Number: 4 of 2004 concerning Water Resources which substitutes Law Number: 11 of 1974 concerning Irrigation. About the control over water resources, the law limits the role of the state only as the regulator and supervisor. The state is the regulator while private parties are the organizer. The water system is an elaboration of the implementation of a liberal economic system. The state as the regulator will lose control over every stages of water management to guarantee the safety and quality of service for each water user. Here economic liberalization which is not in favor of the people happens. That is what causes Law Number: 4 of 2007 to be annulled by the Constitutional Court due to its contradictory to the 1945 Constitution.

Second, the water management system is returned to be in the frame of *Pancasila* and the 1945 Constitution. This is done by evaluating the existing acts by using *Pancasila* (Indonesian philosophy) and the 1945 Constitution as the parameters and by submitting the material of law to be tested by the Constitutional Court. If there is any material which is contradictory to *Pancasila* or the 1945 Constitution, the Constitutional Court will conduct a judicial review to the Supreme Court of Justice on the rules whose position is under the 1945 Constitution.

(B) Recommendations

First, when Law Number 4 of 2007 on natural resources is annulled, it is considered to establish laws that regulate water management which are more integrated and conservation oriented. Second, in the globalization era, the state shall actively participate in establishing the rules of law at the international, regional and

national levels so that there is a balance between the interests of the growth of globalization and the welfare of the people in third world countries including Indonesia. And finally, the government should continue to encourage local enterprises in the field such as PDAM to continue being innovative in keeping water quality and in water distribution and services that it can be superior to private companies.

NOTES

1. W. Freidmen, 1971, *The State and The Rule of Law in A Mixed Economy*, Published by Stevens & Sons, London, page 3.
2. Yudho Taruno Muryanto, *Memaknai Kewenangan Pengelolaan Sumber Daya Air Pasca Putusan MK No.85/PUU-XI/2013*, a paper presented in National Seminar on “*Optimization of the role of university in the implementation of Decision of the Constitutional Court concerning Annulment of Water Resource Law*” administered by the Faculty of Law, Sebelas Maret University, September 4th, 2015.
3. Ni'matul Huda, *Sumber Daya Air Dalam Tafsir Putusan MK*, a paper presented in National Seminar on “*Optimization of the role of university in the implementation of Decision of the Constitutional Court concerning Annulment of Water Resource Law*” administered by the Faculty of Law, Sebelas Maret University, September 4th, 2015.
4. <https://umityangyoyo.wordpress.com/2012/07/02/>, downloaded on June 11th, 2017.
5. <http://bisnis.liputan6>, downloaded on March 9th, 2017.
6. <http://swaraskjm.blogspot.co.id> downloaded on March 9th, 2017.
7. Constituion of Republic of Indonesia, Lawt on State-Owned Enterprise Law Number 19 of 2003.
8. http://www.kompasiana.com/mas_iman/kebobongan, downloaded on 12 February 2017.
9. John Ralstan Saul. *Runtuhnya Globalisme dan penemuan kembali dunia (The Collapse of Globalism and the reinvention of the world)*, translated by Dariyanto, first edition, April 2008, Pustaka pelajar Yogyakarta, page 4.
10. <http://www.mongabay.co.id>, downloaded on /2016/06/13.
11. SamsulWahidin, *ibid.* page 38.
12. Jakarta Kompas.com’s interview with Minister of Public Work and Property on February 26th, 2015 at <http://properti.kompas.com>. downloaded on 9 March 2017.
13. The Decision of Constitutional Court. *No. 85/PUU-XII/2013 on Legal Consideration*. pp 138-139.
14. Handayani, I Gusti Ayu Ketut Rachmi. *Hak Menguasai Negara Dalam Pengelolaan Sumber Daya Air sebagai permujudan doktrin Negara hukum kesejahteraan, masalah-masalah hukum*, book 44 no.22, pp 133.
15. Properti, <http://properti.kompas.com> downloaded on March 9th, 2017.
16. *Op.cit* 138.
17. Samsul Wahidin, *Op.Cit.* pp 34.
18. *Ibid.* Page 35.
19. Jimly Asshidiqi, *Konstitusi Ekonomi*, second edition, 2016, PT. Kompas Media Nusantara, Jakarta, pages 253-254.
20. *Ibid.* pp. 253.
21. Willian Twining. *Globalisation & legal theory*, Butterworth, London, Edinburgh, Dublin, 2000, pp. 5.
22. Joseph E. Stiglitz. *Kegagalan Globalisasi dan Lembaga-lembaga Keuangan Internasional*, Alih Bahasa, Ahmad Lukman, second edition, 2012, P.T. Ina Publikatama, page 299.
23. *Ibid*, pp. 300.
24. Sri Edi Swasono, *ekpose ekonomi globalisasi dan kompetensi ekonomi pancasila* UGM, 2003, pp. 47.
25. Samsul Wahidin. *Hukum Sumber Daya Air*. Pustaka Pelajar, Yogyakarta, first edition, November 2016 pp. 31.
26. *Ibid.* pp. 39.

27. Hans Kelsen, *Pure Theory of Law*, translation from the second (revised and large), german edition by max knight, university of California Press Berkeley, Los Angeles, London: pp. 200-201.
28. Gusti Ayu Ketut Rahmi Handayani, *Implementation of Verdict of the Constitutional Court of the Republic of Indonesia Against Judicial Review Act No.7 of 2004 on Water Resources in the Ex Region Surakarta Indonesia*, Journal of Law Policy and Globalization, 2012, pp. 7.
29. Amartya Sen , *The Idea of Justice*, Allen Lane an imprint of penguin book, 2009.
30. Handayani, I Gusti Ayu Ketut Rachmi, *Krisis Air, Ilegal Logging dan Penegakan Hukum Lingkungan di Indonesia*, Yustisia Edisi Nomor 69 Sept –Desember 2006, pp. 44.
31. Jimly Asshiddiqie, op.cit. pp. 274.

REFERENCES

- Asshiddiqie Jimly, *Konstitusi Ekonomi*, cetakan kedua, (2016), PT. Kompas Media Nusantara, Jakarta.
- Freidmen W. (1971), *The State and The Rule of Law in A mixed Economy*, Penerbit Stevens & Sons London.
- Kelsen, Hans *Pure Theory of Law*, translation from the second (revised and large), german edition by max knight, university of California Press Berkeley, Los Angeles, London: pp. 200-201.
- Ralstan Saul John *Runtuhnya Globalisme dan penemuan kembali dunia (The Collapse of Globalism and the reinvention of the world)*, Stiglitz, Joseph 2006, *Dekade Era 90an dan Awal mula Petaka Ekonomi Dunia Keserakabahan*, MarjinKiri
- _____, *Kegagalan Globalisasi dan Lembaga-lembaga Keuangan Internasional*, Alih Bahasa, Ahmad Lukman, cetakan kedua, 2012, P.T. Ina Publikatama.
- Sen, Amartya, *The Idea of Justice*, Allen Lane an imprint of Penguin book, 2009.
- Swasono Sri Edi *Ekspose Ekonomika Globalisme Dan Kompetensi Sarjana Ekonomi*, Pusat Studi Ekonomi Pancasila, UGM, 2003.
- Wahidin Samsul (2016), *Hukum Sumber Daya Air*: Pustaka Pelajar. Yogyakarta, cetakan pertama, nopember 2016.
- William Twining. *Globalisation & legal theory*, Butterworth, London, Edinburgh, Dublin, 2000, Law Number: 19 of 2003 concerning State-Owned Enterprises.
- Decision of the Constitutional Court Number: 85/PUU-XII/2003 dated February 28th, 2013.
- Law of the Republic of Indonesia Number: 11 of 1974 concerning Irrigation.
- Government Regulation Number: 16 of 2005 Development of Water Supply System (SPAM).
- I Gusti Ayu Ketut Rachmi Handayani (2012), *Implementation of Verdict of The Constitution court of the Republic of Indonesia again Judicial Act Review Act No. 7 Of 2004 on water Resources in the Ex Region Surakarta Indonesia*. Journal of Law, Policy and Globalization, ISSN 2224-3240 (paper) ISSN 2224-3259 (online) vol 6, 2012.
- _____, (2006), *Krisis Air, Ilegal Logging dan Penegakan Hukum Lingkungan di Indonesia*, Yustisia Edition Number: 69 Sept- December 2006
- _____, (2015), *Hak Menguasai Negara Dalam Pengelolaan Sumber Daya Air Sebagai Perwujudan Doktrin Negara Hukum Kesejahteraan, Masalah-masalah Hukum*, Edition 44 No. 22, April 2015.
- Huda Ni'matul, *Sumber Daya Air Dalam Putusan MK*. a paper presented in National Seminar on “*Optimization of the role of university in the implementation of Decision of the Constitutional Court concerning Annulment of Water Resource Law*” administered by the Faculty of Law, Universitas Sebelas Maret, September 4th, 2015.
- Muryanto Yudho Taruno (2015), *Memaknai kewenangan Pengelolaan Sumber Daya Air Pasca Putusan MK No. 85/PUU-XI/2013*, a paper presented in National Seminar on “*Optimization of the role of university in the implementation of Decision of the Constitutional Court concerning Annulment of Water Resource Law*” administered by the Faculty of Law, Universitas Sebelas Maret, September 4th, 2015.

- Sidharta Arif, “*Penelitian Hukum Normatif : Analisis Filosofis dan Dogmatik*”, Makalah presented in National Workshop on Updating Legal Research Methods, Study Forum of Law Dynamics, Bandung, March 20th-21st, 2006.
- Stiglit Joseph. mobelos.blogspot.co.id downloaded on February 17th, 2017.
- Setiono, *Pemahaman Terhadap Metodologi Penelitian Hukum*, (Surakarta : Program Pascasarjana Universitas Sebelas Maret, 2010), hlm. 20.
- Wignyosoebroto Soetandyo, *Hukum, Konsep dan Metode*, (Malang :Setara Press, 2013), pp. 13-31.
<http://www.mongabay.co.id/2016/06/13>.
- <http://bisnis.liputan6.com>, downloaded on May 25th, 2015.
- <http://swaraskjm.blogspot.co.id> diunduh 9 Maret 2017.
- http://www.kompasiana.com/mas_iman/kebobongan, downloaded on February 12th, 2017.
- <http://properti.kompas.com>. Downloaded on March 9th, 2017 an interview by Jakarta Kompas.com with Minister of Public Works and Public Housing on February 26th, 2015.
- <https://unityangyoyo.wordpress.com/2012/07/02/Pengelolaan-Sumber-Daya-Air-Terpadu>, downloaded on June 11th, 2017.