

## **CHAPTER II**

### **INTERNATIONAL NORMS OF WATER AND GLOBAL WATER MOVEMENT**

Before exploring the issue of the right to water further, the writer will talk about where actually this right comes from. Right to water was born from the agreement between countries in the world to recognize water as part of human right. When the United Nations' Universal Declaration of Human Rights was drafted more than 60 years ago, water was not included in the list of protected rights (Blue Planet Project). But times has changed, people realize that our daily life depends on water and also access to water still far from equal or guarantee. However, many people still lack of access to a safe and adequate water supply and sanitation, which greatly affects their health, life expectancy and ability to develop. Through this concern, the United Nations member states created some declarations in order to the realization of right to water.

#### **A. International Water Resolutions**

As the first step among United Nations member states in order to increase the world awareness that water is part human right, they create a norm whereby each country should respect the right to water. This norm became a new regime in the international level which is binding to all parties agree to recognize and contribute in realizing the right to water. According to Stephen Krasner, international regimes are defined as principles, norms, rules and

decision making procedures around actor expectations converge in a given area of international relations (Regimes as Intervening Variables, 2001).

Take a look from the history, when the Universal Declaration of Human Right continued in 1966 with the implementation of International Covenants on Economic, Social and Cultural Rights (ICESCR) and International Covenant on Civil and Political Rights (ICCPR), water is not mentioned explicitly as a human right but mentioned as an integral part of the right to life, right to health, right to housing and also right to food (Nurcahyono, Syam & Sundaya, 2015).

Years has been passed, declaration of water as a right slightly turned up. In 1979, CEDAW (The Convention on the Elimination all of Forms Discrimination Against Women) on the article 14 paragraph 2 states that the state parties should take the wise step to eliminate various forms of discrimination against women, specifically guarantee women's right to enjoy a decent standard of living for sanitation and safe drinking water (Nurcahyono, 2015).

Afterwards in 1989, CRC (Convention on the Rights of the Child) on the article 24 states that as an effort to prevent nutritional deficiencies and the spread of disease, each child has a right to have clean drinking water (Nurcahyono, Syam & Sundaya, 2015).

Declaration of water as a right is also implied in the project of the MDGs (Millennium Development Goals), which was initiated by the United Nations

to combat global poverty within period of 2002 - 2015. One of the measures is called for the heads of state to provide access to clean water and adequate sanitation to people who are currently not able to enjoy it (Nurcahyono, Syam & Sundaya, 2015).

United Nations continues their efforts to realize the right to water. Within the period of 12 years, United Nations has produced three resolutions that discussed water as a right. The first resolution issued in 2002 declared that the human right to water is implicitly derived from the human right to an adequate standard of living. In 2010, the United Nations in General Comment No. 15 explicitly mention water. In comments were interpreted more firmly on articles 11 and 12 which stated that the right to water could not be separated from other human rights. Elements of the right to water must be adequate for human dignity, life and health (Kelompok Kerja Air Minum dan Penyehatan Lingkungan, 2010). After a long process, finally in 2013, all participants adopted a resolution of the United Nations Assembly the right to water. The decision making process is done by voting, followed by the 163 United Nations member states. There are 122 countries that support this resolution such as China, Russia, Germany, France, Spain, and Brazil. While there are 41 countries abstained such as Canada, USA, UK, Australian and Botswana. There is no country has refused this resolution.

Based on the resolution above, it could be concluded that the international community agreed that the human right to water entitles everyone to have sufficient water, safe, acceptable, physically accessible and available for

personal and domestic use. The availability of sufficient amount of clean water is necessary to prevent death from dehydration, reduce the risk of diseases related to water, and used for consumption, cooking, and other personal needs.

Inside the resolution in General Comment No. 15, the United Nations actually has set several major components of the right to clean water in which everyone must have water access with the following criteria (KRUHA, 2011):

1. Sufficient, means that sufficient amount of water must be provided in accordance with the international guidelines about 50 - 100 liters, or at least 20 liters per person per day.
2. Safe, water used for personal needs and household should be safe.
3. Physically accessible, the water should be in a safe physical reach, in or near the home, school and medical facility.
4. Affordable financially, water should be purchased without reducing the ability of person to buy other essential goods.

Based on the norms produced by United Nations that recognize water as a human right at least signal that water has several characteristics below; inclusive, universal, and inalienable. Inclusive, these characteristic make the right to water can be owned individually or along with others. Claims of someone of this right could not make others lose their rights to water. Universal, the recognition of the right to water is carried out by the international community. Special treatment is not required, so every human

being can automatically have the right to water. Inalienable, anyone does not have the right to alienate water from human life. These characteristics make the right to water could not be exchanged or sold.

In order to make the realization of the right to water, the highest authority in this right must be held by the state. Thus, the state has some obligations to respect, to protect, and to fulfill (United Nations, 2013). To respect, the government is obliged to respect the right to water by not doing an unfair intervention regarding access to water, for example by disconnection of water even though the community is not able to pay. To protect, the government is obliged to protect community access to clean water from the threat of other parties, such as water pollution or unaffordable price increases carried out by the service providers of clean water. To fulfill, the government is obliged to use all available resources to realize the right to water for the whole community, for example by creating policies which keep water in affordable prices, the expansion program of community access to clean water and sanitation.

Each the head of state is obliged to participate in realizing the right to water for all citizens and provide assistance to other countries that are experiencing a crisis of availability of clean water. It is also possibility for the government to build some cooperation with the non-governmental organizations in order to create the prosperity of citizens through the fulfillment of the right to water.

In July 2005, the United Nations has taken an action in organizing the activities of the International Decade called “Water for Life” for periods 2005 – 2015. The United Nations Water is a coordinate activity between United Nations and their non-member state partners. Until the year 2014, the membership consist of 31 members from within the United Nations and 37 partners includes the representative from civil society and non-governmental organizations. The chairmanship of United Nations Water has rotated every two years. The pass chairs have been the World Health Organization (WHO) from 2005 - 2007, the Food and Agriculture Organization of the United Nations (FAO) from 2007 - 2009, the United Nations University (UNU) from 2009 - 2011, and the World Meteorological Organization (WMO) since 2012. There are some programs that have been operationalized throughout the decade such as (United Nations Water, 2015):

1. The World Water Assessment Program (WWAP) in Paraguay, Italy. It was established in 2000 and hosted by the United Nations Educational, Social and Cultural Organization (UNESCO). This program was designed to monitor the world’s water resources by providing recommendations, developing case studies, enhancing assessment capacity at a national level and informing the decision making process. They produced the World Water Development Report which moved to an annual publication started in 2014.

2. The United Nations Water Decade Program on Capacity Development (UNWDPC) in Bonn, Germany. It was established in 2007 and hosted by the United Nations University (UNU). This program was created to support the Decade and works to strengthen the coherence and effectiveness of the capacity development activities of United Nations Water members and partners, and support them in their efforts to help member states achieve the MDGs and other international water related goals and targets. They also works to support the United Nations Water in collecting, collating and evaluating existing knowledge through assessments, mappings and analyses, as well as in producing, disseminating and managing new knowledge through training events, workshops and publications.
3. The United Nations Water Decade Program on Advocacy and Communication (UNW-DPAC) in Zaragoza, Spain. It was established in 2008 and hosted by the UNDESA. This program was promoted the visibility of United Nation Water actions to all people with joining activities on awareness raising, media and communications in coordination with other campaigns and in support of World Water Day, including media training, workshops and supporting media networks in Asia, Latin America and the Caribbean, and Africa.

## **B. Global Water Movement**

The recognition of the human rights to water and sanitation was an evolutionary step for humanity. Now the world community must come together to bring justice and equality to the right to water issues in a time of rising demand. The world communities need to build on the work that has gone on before and expand the scope of the obligations that has been recognized by the United Nations General Assembly No. 15 and the Human Rights Council.

Global water justice movement was born as a form of opposition against the conception that water is an economic good. The conception has emerged when the world is attacked by the economic framework of capitalism. On 31<sup>st</sup> January 1992, the Dublin Statement became the first international forum stated that water has economic value so it should be treated as an economic good. But the Dublin Statement got opposition from many parties. As sources of human life, water should be access at an affordable price.

In the same year of June 1992, the Rio Earth Summit was held as the continuation of International Conference on Water and Environment in Dublin before. Based on World Meteorological Organization, in this conference was born Dublin Principles which contains some guidelines:

1. Fresh water is a finite and vulnerable resource, essential to sustain life, development and the environment.

Since water sustains life, effective management of water resources demands a holistic approach, linking social and economic



development with protection of natural ecosystems. Effective management links land and water uses across the whole of a catchment area or groundwater aquifer.

2. Water development and management should be based on a participatory approach, involving users, planners and policy-makers at all levels.

The participatory approach involves raising awareness of the importance of water among policy-makers and the general public. It means that decisions are taken at the lowest appropriate level, with full public consultation and involvement of users in the planning and implementation of water projects.

3. Women play a central part in the provision, management and safeguarding of water.

This pivotal role of women as providers and users of water and guardians of the living environment has seldom been reflected in institutional arrangements for the development and management of water resources. Acceptance and implementation of this principle requires positive policies to address women's specific needs and to equip and empower women to participate at all levels in water resources programs, including decision-making and implementation, in ways defined by them.

4. Water has an economic value in all its competing uses and should be recognized as an economic good.

Within this principle, it is vital to recognize first the basic right of all human beings to have access to clean water and sanitation at an affordable price. Past failure to recognize the economic value of water has led to wasteful and environmentally damaging uses of the resource. Managing water as an economic good is an important way of achieving efficient and equitable use, and of encouraging conservation and protection of water resources.

The issuance of the concept of water as an economic good in the Dublin Principles has an impact on the emergence of water privatization. World Bank as an international financial institution focusing their investments on water resources infrastructure suddenly changed their policy framework. In 1993, the World Bank focused on the world's water market mechanism, it makes water become an economic good. Water is seen as goods that have been, are, and will become increasingly rare in the future. In order for water services to be implemented properly and efficiently, water privatization should be undertaken. Water privatization conducted by private sector is considered to assist the government in maintaining the quality of clean water supply for the community.

Water privatization makes water has economic value. It causes poor people difficult to gain access to water because they cannot afford to buy water. The unavailability of access to water for poor people led to the water crisis and the impact on the emergence of disease, starvation, and death. As an effort to solve the problem, global water justice movement emerged to fight for water as a human right.

The global water justice movement is comprised of social movements, labor groups and non-governmental organization who have worked together to challenge the global mechanisms that have promoted the corporate takeover of water in various forms at the local level (Blue Planet Project, 2017).

There are several movements incorporated in the global water justice movement such as Blue Planet Project, the Transnational Institute, the Food and Water Europe, and the Association for International Water Studies (FIVAS). Blue Planet Project is part of a global movement from Canada who promotes the fundamental truth that “Water is life.” Their goal is to protect water as a vital resource and ensure that it is publicly managed so that it is available to everyone at reasonable and public rates. Water is a vital source of life and a human right, and as such, must be available to all (Blue Planet Project, 2017).

The Association for International Water Studies (FIVAS) is an independent organization that monitors the role of Norwegian development assistance and Norwegian companies in water related projects in developing countries. Their goal is to prevent support for policies and projects with adverse social or environmental impacts, and to contribute to improved decision making processes. They are also focuses on Norway’s role in international financial institutions, such as the World Bank (Wiser Directory).

Food and Water Watch is a non-profit organization that advocates for common sense policies that will result in healthy, safe food and access to safe and affordable drinking water. They are located in 15 offices in the United States, works with several constituencies to inform and hold policymakers accountable. Food and Water Watch advocate for public control of water resources and services, strong conservation measures and tough regulation of

toxic emissions. They promote some policies that will result in safe and affordable drinking for everyone, rather than reliance on bottled water.

Together with their partners, Global Water Justice Movement from around the world calls for the United Nations to focus on the implementation of the Sustainable Development Goal on water and sanitation. The obligation of governments to sustainably ensure the human rights to water and sanitation for all without discrimination must be the driving force behind the implementation of Sustainable Development Goal.

### **C. Right to Water in Other States**

The issue of water rights is a problem in many parts of the world. But only a small part of it can solve the water crisis that occurred in their country like Paris. Long before the United Nations declared water as a right, many water crisis problems occurs in various countries due to the water privatization conducted by private water companies. Based on some articles reported in Kompas and Detik Finance, from 1985 to 2000, Paris had suffered from the privatization of water which caused the price of water to be expensive. Beginning in 1985, when Paris's mayor, Jacques Chirac decided to hand over the arrangement of clean water services including the production and distribution process to two multinational companies; Veolia and Suez. The water price also jumped sharply. Within 15 years, the increase in water prices in France reached 260%. Since water is controlled by the private sector,

improvement of the water network was not improved as well as water management was not transparent.

In 1987, production and water transport were also privatized. The privatization that took place in Paris greatly harmed the central government and customers. Both Veolia and Suez companies took profits by raising the water price 4.6 times.

Bertrand Delanoë as a candidate for the mayor of Paris at that time took advantage of the issue of water privatization that was going on into his campaign material. He promised the return of power over water management in Paris to the central government. He promised that water services, from production to distribution, would be handed over to a public company if he was elected mayor of Paris.

Bertrand Delanoë managed to become mayor of Paris, he made his promise on 1<sup>st</sup> January 2010. Bertrand formed Eau de Paris, the Regional Government-Owned Enterprise that took the responsibility for provide water. Eau de Paris controlled the entire process of water supply from the start of production to the distribution of water to the public in Paris. Although technical activities are still carried out by the private sector, but control by Eau de Paris makes the whole process more transparent. Distribution function and upper limit of tariff for all parts of drinking water has been set up. The result, in 4 years the government of Paris successfully reduce water costs by 40%.

In France itself, there are several policies that regulated water, the Water Law of 1964, the Fisheries Law of 1984, and the Water Law of 1992. But the main policy that regulated water is contained in the Water Law of 1992. The Water Law of 1992 stated several things. *First*, water is a national heritage. Its protection and development as a usable resource is a public affair. *Second*, management of water resources aimed to ensuring the conservation of ecosystems and wetlands areas, protection and recovery of surface water and ground water quality, development of quantitative water resources protection to ensure public health and the need for economic and recreational activities. *Third*, collection and treatment of household wastewater shall be the obligation of all nations started in 2005.