

THE INFLUENCE OF UNITED NATIONS WATER ACTION RESOLUTION TOWARD KRUHA ADVOCACY PROCESS IN PROMOTING RIGHT TO WATER IN INDONESIA

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Abstract

KRuHA is a coalition of more than 30 Indonesian organizations, they working to promote the right to water access for all Indonesian people. KRuHA build a network with cross border non-governmental organizations who share the same mission and vision by developing cooperation with the global water justice movement who working globally. KRuHA fight against the water privatization that makes water become an economic good. In doing advocacy, KRuHA upholds the norm declared by the United Nations that water must be recognized as a human right. The norm on the right to water created an obligation for state to respect, to protect, and to fulfill.

Key words: advocacy process, network, right to water.

Introduction

Water is one of the basic human needs. The existence of water is very important in supporting human daily life and others; such as for drinking, irrigation, also could be used as power generation. According to Thomas Aquinas, water has inner goodness which means that without water there would be no life. Estranging access to water from a person is as well as estrange that person from life (KRuHA, 2016). Based on that statement, water is related with the right to life for someone, so water could not be separated in terms of human rights.

In the past, when the United Nations Declaration of Human Rights was drafted, water was not included in the list of protected rights. Started on November 2002, for the first time through the International Covenant on Economic, Social and Cultural Rights (ICESCR) issued General Comment No. 15 where the United Nations affirmed that the human right to water is implicitly derived from the human right to an adequate standard of living (World Health Organization).

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. 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.

This agreement creates an obligation for the state to make the realization of right to water. Those obligations are categorized into three; obligation to respect, to protect, and to fulfill (Barlow, 2015).

At the international level, right to water has been spelled out clearly. While at the national level, Indonesia has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) through Law No. 11/2005.

Based on the contents of the law above, Indonesia is obliged to respect, to protect, and to fulfil the right to water. Indonesia has specific policies about water contained in Water Law No. 7/2004 article 5 and 6 (Prasetyo, 2008):

On the article 5 reads as follow, the state guarantees the right of every person to obtain water for their minimum basic needs in order to meet a healthy, clean and productive daily of life. Followed by article 6, water resources is controlled by the state and used for the greatest prosperity of the people.

Even had a lot of regulation on the recognition of right to water, this right still could not be realized fully in Indonesia. There are still many people who have limited access to water. There is also the problem where private sector controlled some water resources in Indonesia. In this context, where the water is supposed to be treated as a social good, but it used as an economic good that is traded. This condition calls several parties such as local non-governmental organization to contribute for some actions in promoting the right to water in Indonesia. One of the non-governmental organizations in Indonesia that focus in the right to water issue is KRuHA. KRuHA itself stands for *Koalisi Rakyat untuk Hak Atas Air* or it can be translated as Coalition of People's Right to Water in English. They want to promote and protect people right to water in Indonesia.

KRuHA Advocacy Process

1. Providing information to the people about the dangers of water privatization by private companies

KRuHA primary mission is to spread the idea that water is a public good. Community participation in the implementation of water management should be prioritized so that existing water resources are not controlled by private sector. However, the ability and knowledge of the community related to the management of water resources is still very limited. Therefore, KRuHA wants to provide a basic understanding about water, include of the importance of water in human

life, the right to water, what will happen if water is privatized, and the reasons why the right to water should be fought together. Hopefully after people understand exactly why the right to water needs to be realized, the public awareness to participate in the advocacy process will increase. Because, the advocacy process will be more successful if there are many people who join.

2. Developing cooperation with global water justice movement

KRuHA is a coalition of more than 30 Indonesian organizations, they working to promote the right to water access for all Indonesian people. KRuHA established in 2002 as group of people in Indonesia who responded the World Bank loans in the sector of water resources which is called Water Resources Sector Adjustment Loan Project (WATSAL). The project aimed to restructure the policy of the water resources sector in Indonesia. Water Law No. 7/2004 was part of a \$300 million US World Bank loan. It deemed water to be an economic good and changed resource management rules in Indonesia in order to make ground and surface water accessible to multinational corporations. It also strengthened the role of the private sector in the delivery of water services.

KRuHA argued that restructuring the water resources sector by placing water as an economic good will only make water become a commodity and encourage water privatization that will harm poor people. KRuHA also argued that the state has responsibilities and obligations to meet the basic needs of people, including

water. But placing water as an economic good, which encourages water privatization will obviously shift the responsibility for providing water from the state to the private sector.

Water privatization in Indonesia is protected by Water Law No. 7/2004. This law provides for the privatization of the water supply sector and the control of water resources by private sector and individuals. This is not in accordance with what has been mandated by the United Nations that water and sanitation as essential for the full enjoyment of the right to life. The state is obliged to respect, to protect, and to fulfil the right to water.

As coalition of people who want to promote and protect the right to water in Indonesia, KRuHA strongly refused the water privatization. To advocate the right to water in Indonesia, KRuHA cannot move on its own. In the advocacy process requires a lot of mass support. In order to suppress the Indonesian government's policy, KRuHA must mobilize assistance from international level organizations that share a common vision and mission to promote the right to water.

KRuHA strengthens their advocacy base by forming alliances and working with several cross border non-governmental organization. KRuHA cooperated with global working base called global water justice movement. Global water justice movement consists of the Blue Planet Project, Transnational Institute,

Food and Water Europe, and the Association for International Water Studies (FIVAS).

3. Giving pressure to the national authorities to renew the Water Law in Indonesia

Water privatization in Jakarta is clearly proof that the validity of the contents Water Law no. 7/2004 is not in accordance with Article 33 of the 1945 Constitution and has violated the water norms declared by the United Nations. KRuHA together with the Community Coalition for Water Justice has filed a lawsuit against the president, DPRD DKI Jakarta, PDAM Jakarta, PT. Lyonnaise and PT. Aetra to the Jakarta District Court. KRuHA wants the government to immediately terminate the cooperation contract with the private sector. KRuHA also wants the government and parliament to renew the Water Law in Indonesia.

On 18 February 2015, the Constitutional Court overturned the entire contents of Law No. 7/2004 on Water Resources through decisions numbered No. 85 / PUU-XII / 2013 as opposed to the 1945 Constitution and constitutes as form of discrimination against human rights values.

Therefore, on the grounds that the implementation of Law No. 7 / 2004 without Article 7, Article 9, Article 40 Paragraph (4), Article 45 Paragraph (3), and Article 98, becomes difficult, then Law No. 7 / 2004 on Water Resources should be declared to have no overall binding legal force (Mahkamah Konstitusi Republik Indonesia, 2015).

The Constitutional Court re-enacted Law No. 11/1974 on Watering to regulate drinking water supply system in Indonesia (Mahkamah Konstitusi Republik Indonesia, 2015). Those decisions become a moment to restore the rights of water resources management to the state. Responded to the decision, Muhammad Reza, the chairman of KRUHA revealed that the content in Law No. 11/1974 does not regulate the respect, protection and fulfilment of the right to water, and does not regulate the principle of privatization of water restrictions. KRUHA requested the government to immediately revise the Government Regulation No. 16/2005 on Development of Water Management System that regulates the management of water to private sector (Fajar, 2015).

After the Constitutional Court overturned the Law on Water Resources in 2013, the government is mandated to formulate a new draft of Law that has a perspective on the fulfilment of human rights. The decision of Constitutional Court No. 85/ PUU-XI/2013 stated that water is a public right owned by the community (Erdianto, 2017). Therefore, in the process of drafting a new water resources law, it should involve the community participation.

In 2016, KRUHA submitted an academic texts bill to the Parliament Commission V. According to article 20 (1) of the 1945 Constitution, the power to produce a law is in the Parliament. In the process of law making, the bill should be submitted and accompanied by an academic text. The academic texts serve as a reference for drafting and discussion of water bill. Until 2017, the head of

Parliament, Fari Djemi stated that the discussion of the draft on water resources law is still in the stage of seeking input from the community and academics to improve the academic texts and the draft of the new bill. After the academic texts is complete, it will be held a working meeting, a hearing with the relevant non-governmental organization before it is formulated by the government and taken to the plenary session of the Parliament.

Conclusion

Water is one of vital element that serves to sustaining human life. The United Nations has been declared that the right to water and sanitation as essential for the full enjoyment of the right to life through the International Covenant on Economic, Social and Cultural Rights (ICESCR). World Water Day is commemorated every year on 22nd March. But, there are still many people have not access to clean water.

Indonesia is a country with the fifth largest of water wealth in the world, after Brazil, Russia, China, and Canada. Based on data from the Ministry of Public Works in 2006 stated that the availability of water in Indonesia reached 15,500 cubic meters per capita per year. The amount is much higher than the level of availability of the world average is only 8,000 cubic meters per year. Although Indonesia has much water, it is not offset by the ability to manage water resources properly.

In 1998, in the era of Suharto government, the government transferred the control of water resources management in Jakarta toward private companies Thames Water (UK) and Suez Lyonnaise des Eaux (France). The 25-year cooperation contract has resulted in suffering for the poor people. Water turned into goods that have economic value. This is evidence of the practice of privatization.

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As coalition of people who want to promote and protect the right to water in Indonesia, KRuHA strongly refused the water privatization. They believe that water is public good, could not be treated as an economic good. KRuHA fight for people to get safe, clean, accessible and affordable drinking water and sanitation for all.

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