

Legal Politics Formation of Act No.17 of 2019 concerning Water Resources

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ARTICLE INFO

Article history:

Received Jun 12, 2023

Revised Jun 28, 2023

Accepted Jul 29, 2023

Keywords:

Politik Hukum;
Sumber Daya Air;
UU SDA.

ABSTRACT

Act No. 17 of 2019 concerning Water Resources is a very dynamic legal product. Its formation has many influencing factors, one of which is the Constitutional Court Decision No. 85/PUU-XI/2013 which canceled Law no. 7 of 2004 and restore the enactment of Law no. 11 of 1974 concerning Irrigation. In implementing Law no. 11 of 1974 was considered incapable of being the basis for regulating water resources, so that since 2017 the Academic Paper of the Water Resources Bill has begun to be drafted. The study will focus on the formation of Law no. 17 of 2019 by using legal politics as a knife for analysis. The research method is juridical-normative with the type of library research to examine secondary sources with legal and historical approaches. The results of this study are that there are differences and developments in the style of laws related to water resources that apply in Indonesia, starting from the first with a centralized pattern to the latter becoming decentralized with the domination of permits by the center. The dynamics of the legislation of this Law runs smoothly with the forming factors which include Article 33 of the 1945 Constitution of the Republic of Indonesia, MK Decision No. 85/PUU-XI/2013, RPJP 2005-2025, RPJMN 2015-2019, and Study of the Water Resources Bill in Academic Papers. Lastly, this law was born in a democratic political configuration and the characteristics of its legal products are responsive even though it still adheres to the concept of water privatization which is rejected by several parties

ABSTRAK

Undang-Undang No. 17 tahun 2019 tentang Sumber Daya Air merupakan salah satu produk hukum yang sangat dinamis. Pembentukannya memiliki banyak faktor yang mempengaruhi, salah satunya Putusan MK No. 85/PUU-XI/2013 yang membatalkan keberlakuan UU No. 7 tahun 2004 dan mengembalikan berlakunya UU No. 11 tahun 1974 tentang Pengairan. Dalam pelaksanaannya UU No. 11 tahun 1974 dinilai tidak mampu menjadi dasar pengaturan sumber daya air, sehingga sejak 2017 Naskah Akademik RUU SDA mulai disusun. Kajian akan berfokus pada pembentukan UU No. 17 tahun 2019 dengan menggunakan politik hukum sebagai pisau analisisnya. Metode penelitian berupa yuridis-normatif dengan jenis penelitian kepustakaan untuk menelaah sumber-sumber sekunder dengan pendekatan undang-undang dan sejarah. Hasil penelitian ini adalah terdapat perbedaan dan perkembangan corak undang-undang terkait sumber daya air yang berlaku di Indonesia dimulai pertama bercorak sentralistik hingga yang terakhir menjadi desentralistik dengan dominasi perizinan oleh pusat. Dinamika legislasi UU ini berjalan lancar disertai faktor pembentuk yang meliputi Pasal 33 UUD NRI 1945, Putusan MK No. 85/PUU-XI/2013, RPJP 2005-2025, RPJMN 2015-2019, dan Kajian RUU SDA dalam Naskah Akademik. Terakhir, UU ini lahir dalam konfigurasi politik yang demokratis beserta karakter produk hukumnya yang responsif sekalipun masih menganut konsep privatisasi air yang ditolak oleh beberapa pihak.

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I. INTRODUCTION

After the Decision of the Constitutional Court (MK) No. 85/PUU-XI/2013 which canceled Act No.7 of 2004, Act no. 11 of 1974 concerning Irrigation was reinstated as a legal product that regulates water resources in Indonesia. However, in its implementation, this law is considered to have not been able to become a legal umbrella for water management in Indonesia. Thus, the DPR (Indonesian House of Representatif) began preparing a more appropriate replacement for Act no. 7 of 2004 which has been cancelled. The academic text of the Water Resources (SDA) Bill began to be drafted in 2017. After carrying out activities such as focused discussions and working visits to various places inside and outside the country, the draft discussion of the academic text and draft law began in early 2018. On 17 September 2019, Act no. 17 of 2019 concerning Water Resources was ratified by the DPR as soon as it was signed by the President on 15 October. The law is constructed of 16 chapters and 79 articles, has fewer articles than the previous law which consisted of 18 chapters and 100 articles.

There are several parts of Act no. 7 of 2004 which was lost or condensed into another chapter within it. The chapters that are put together are the Chapter on Dispute Resolution and Community and Organization Lawsuits. In addition, there has been the addition of a special chapter on state control and people's rights to water which is a differentiator from the previous law which used a system of usufructuary rights and usufructuary rights which can be granted with arbitrary permits to individuals or business entities. Then, environmental considerations are included in the calculation of water resource service fees, as well as related to the use of water resources for businesses requiring permits based on recommendations from stakeholders. When this law was implemented, it was not long before Act No. 11 of 2020 concerning Job Creation (UU Ciptaker) which changes several provisions in it (Astriani, 2021). Apart from being amended, this law remains in force as a whole.

As a legal product, the Natural Resources Law is a very dynamic one. In its formation there are many influencing factors, one of which is the Constitutional Court Decision No. 85/PUU-XI/2013 which canceled Act no. 7 of 2004. With chronological richness and reasons, this research will focus on the study of the formation of Act no. 17 of 2019 by using legal politics as a knife for analysis. Explanation of the legal politics of forming the a quo Law will be preceded by a conceptual presentation, a description of the style of the law related to water resources both before and after it, then closed with an explanation of the dynamics of legislation, factors that influence the formation, and political configuration and the character of the legal product of Act no. 17 of 2019. The implication of this research for science is as an effort to develop legal science in the field of legal politics, other than that there are efforts to test and supervise legal products related to water resources laws which can then be used as evaluations and references for the development of arrangements for water resources management.

II. RESEARCH METHODS

This research uses the juridical-normative law research method. Normative legal research is research by reviewing secondary materials or data which include research on legal principles, legal systematics, the level of legal synchronization, comparative la. and legal history. This study uses secondary data from primary legal material in the form of act no. 11 of 1974 concerning Irrigation, act no. 7 of 2004 concerning Water Resources, Constitutional Court Decision No. 85/PUU-XI/2013, act No. 17 of 2019 concerning Water Resources, Act no. 11 of 2020 concerning

Job Creation, secondary legal material such as books, journals and tertiary legal sources related to water resources and documents related to the process of forming laws.

The analysis method used is qualitative, where this method manages data that has been systematically arranged from documents, observations, and literature. The technique of collecting legal material is done by examining library books to obtain secondary legal material. This is done by cataloging, researching and citing books, articles and relevant laws and regulations. After the legal material is collected, it is recorded, summarized and reviewed according to the issue. Then, during the collection of legal material, a discussion, or a qualitative analysis, is performed that combines literature research with interpretation and discussion.

III. RESULTS AND DISCUSSION

1. Politics and Law Concept

Linguistically, Politics comes from the Greek "Polis" which means City-State. As a science, politics was only born in the 19th century and developed rapidly together with other branches of science. As an everyday praxis, politics has been carried out long ago when humans formed their "self-government", either in the form of bands, tribes, chiefdoms, or even in its present form, the state. And that goal is civic virtue (the common good)(Agustino, 2020). Carlton Clymer Rodee in his book Introduction to political science states that when humans try to determine their position in society, when they try to achieve personal well-being through existing resources, or when they try to influence other people to accept their views, then they are busy with an activity that we all named as "politics"(Seta, 2011). Thus politics can be recognized down to the smallest human activities with the intention of achieving certain goals by influencing the surrounding environment to help realize their interests, so that the meaning of politics becomes very broad.

In this modern era, with the existence of a state, politics gets a more narrow understanding in the scope of the state. Gabriel A. Almond et.al defines politics as "activities related to the control of public decision-making in certain communities in certain areas. Where this control is supported through instruments that are authoritative (legally authorized) and coercive (forceful). Politics refers to the use of these authoritative and coercive instruments – who has the right to use them and for what purposes"(Seta, 2011). From the above understanding it can be interpreted that politics cannot stand autonomously or alone, but politics requires binding instruments and forces to use its power. In the simplest terms, one of the instruments that can be used is law.

In Indonesian, the word "law" comes from the Arabic huk'mun, which means "to determine". In English, the law is called "law". In German and Dutch, law is called (das/het) "recht" which contains several multiple meanings, such as; "straight", "next to the room" or "right" – in German and Dutch "Recht" can also mean "right" and "right". Parallel to German and Dutch, "el derecho" in Spanish and "le droit" in French also mean "law". From the root of the term, then etymologically at least law can be interpreted as an affair to determine something straight and right.(Arifin Mochtar, 2022).

In terms of terminology, there are many experts who provide legal understanding and it will be very difficult to provide a precise and uniform, let alone comprehensive legal understanding, because the coverage area is very wide. At least there are several meanings that can provide some understanding of the law, in the black law dictionary law in the general sense is the overall rules of action or behavior that are determined by the controlling power, and have binding legal force; or law is what citizens must obey and follow with legal sanctions or consequences. (Safrudin, 2017)According to R. Soeroso, the definition of law is a set of regulations made by the authorities that are useful for regulating the order of social life which has the characteristics of ordering, prohibiting and forcing by imposing sanctions on those who violate them(Safrudin, 2017).

Politics and Law, when these two words are combined to become "Legal Politics" it will form a new meaning. According to Mahfud MD, Legal Politics is a legal policy or official line (policy) regarding law that will be enforced either by making new laws or by replacing old laws, in order to achieve state goals (Mahfud MD, 2009). So that in this sense legal politics focuses on the policies of which rules will be enforced or which will be repealed.

In the study of legal politics, according to Satjipto Rahardjo, several fundamental questions arise, namely: (1) what goals are to be achieved with the existing legal system; (2) what methods and which ones are considered the best to be used to achieve these goals; (3) when the law needs to be changed and in what ways the change should be done; and (4) a standard and well-established pattern can be formulated, which can help us decide on the process of selecting goals and ways to achieve these goals properly (Ahmad, 2009).

As an entity that tends to be a political product, the law in it reflects the interests of the authorities. Therefore, in a rule-of-law state, legal products are bound by a number of things, such as: the principle of legality, basic rights, division of powers, and oversight of government actions (through the Administrative Court). In general, especially in this study discussing the realm of law formation, the function of legal politics is to provide lines or boundaries that must be obeyed when forming laws. Moreover, in order to formulate the law so that it can run effectively and efficiently, and can become a tool for renewal as well as development (Arifin Mochtar, 2022).

2. Another Pattern of Act related to Water Resources

a. Algemeen Water Regulation (AWR) 1936 concerning Public Waters Regulations.

This law was originally formed to overcome hunger and death on a large scale due to drought that occurred in Java in the mid-19th century. The passage of this law was accompanied by a massive physical irrigation development process on the island of Java. AWR is the first generation of laws related to irrigation and water resources implemented in Indonesia, the emphasis is on the development of physical infrastructure and hydraulics technology, followed by trials of management institutions over a period of several decades. During the formation of this law in the colonial era, irrigation management was centralized (Pasandaran, 2015). On the other hand, this regulation is inseparable from the implementation of the forced cultivation system by the Dutch government, the management principle is also monopoly, namely that water resources are owned and intended for business interests from the government (Astriani, 2021).

b. Act no. 11 of 1974 concerning Irrigation

The term irrigation in this law reflects the utilization of water other than irrigation. This law was born as a substitute for the Algemeen Waterreglement, a product of Dutch legislation formed in 1936 which was considered inadequate in supporting development needs. Through this Law, the scope of irrigation includes irrigation, river management and flood control, as well as swamp and tidal reclamation (Pasandaran, 2015). In this law, the nature of water resources management is still centralized. The function of water is addressed to the social with the government as the regulator and provider (Astriani, 2021), simple permits, as well as community participation that exists but is not as prominent or prominent as the Law that followed. With regard to private involvement, the most visible arrangement is the mandatory requirement for the private sector after requesting permission from the central government to be guided by joint ventures and kinship (cooperatives) (Azil Maskur, 2019). At first this law was replaced by law. No. 7 of 2004, but was reinstated after being canceled by MK Decision No. 85/PUU-XI/2013.

c. Act no. 7 of 2004 concerning Water Resources

This law is a substitute for Act no. 11 of 1974 concerning irrigation which is considered not in accordance with the demands of the development of conditions and changes in society. In addition, this law was born under pressure from the World Bank through WATSAL (Water Resources Sector Adjustment Loan) which introduced the water paradigm in an effort to accommodate the idea of the

value of water as an economic good and a public good through economic and social functions (Surachman, 2019). The regulation of the right to water in this Law is realized through the determination of the right to use water (the right to obtain and use or exploit water for various purposes). Management of water resources is applied on a river basin basis concept in a management pattern without being influenced by administrative boundaries in an area traversed.

The conceptual difference between Act no. 7 of 2004 and Act no. 17 of 2019 can be found in the considerations considering the two laws. That facing an imbalance in the availability of water which tends to decrease and the need for it increases, in Act no. 7 of 2004 "mandatory" is managed by taking into account social, environmental and economic functions in harmony. Meanwhile in Act no. 17 of 2019, it is discussed "needs to be managed" (not mandatory). Then the considerations which were not contained in Act no. 17 of 2019 is the concept of the community's role in the management of water resources based on the spirit of democratization, decentralization and openness.

When it was in the process of being formed so that it was passed on March 18, 2004, this law was widely opposed by members and community groups. There are two main reasons: First, this law places water as a commodity, raises and has the potential to trigger conflict between communities, can cause suffering for the poor because it prioritizes the interests of community members who live in urban areas, densely industrialized areas, densely populated areas and communities. middle class who have the ability to buy clean, proper and adequate water. Second, this law is considered contrary to the principle of protecting human rights (Astriani, 2021).

Meanwhile in terms of exploitation, in this law it is given to state or regional owned enterprises, private companies/individuals through a water resources exploitation permit from the government. During its journey, this law was later annulled by the Constitutional Court in MK Decision No. 85/PUU-XI/2013 on February 18 2015 and the re-enactment of Act no. 11 of 1974 concerning Irrigation (Naskah Akademik Rancangan Undang-Undang Sumber Daya Air, 2018). While in practice, even though changing water management to be more decentralized, this Law gives a very broad role to the private sector to manage, and the right to control the state is not as large as Act no. 11 of 1974. In Muhammad Azril's research, this was proven by the subjects in implementing these rules which through Act no. 7 of 2004 the private sector is increasingly playing a role, and the purpose of the law is shifting from maximizing people's prosperity (social justice) to individual justice (Azil Maskur, 2019).

d. Act no. 11 of 2020 concerning Job Creation (Business Licensing Arrangement Sector)

Arrangements related to water resources in the Job Creation Law are located in Chapter III Improving Investment Ecosystems and Business Activities. Technically, there are sixteen articles that have been amended from Act no. 17 of 2019 which includes several replacement terms, adding sentences and paragraphs, deleting word phrases, sentences, and paragraphs (Yuwono, n.d.). In detail, there has been a change in the nomenclature from "water resources use permit" to "water resources approval", as well as the requirement to follow norms, standards, costs, procedures, and criteria set by the Central Government in terms of water resources use (Astriani, 2021). In this law, there is a reduction in regional autonomy with the aim of national economic growth through trimming regulations and the dominant role of the central government compared to the previous law (Kusumaputra, 2021). This law was later canceled through MK Decision No. 91 of 2020 which was declared conditionally unconstitutional but returned to effect after being amended by Perppu no. 2 of 2022 and enacted through Act no. 6th year 2023.

3. Legislative Dynamics, Political Configuration and Character of Legal Products Act no. 17 of 2019.

a. Legislative dynamics

After the cancellation of Act no. 7 of 2004 through a Judicial Review at the Constitutional Court (MK) with Decision Number 85/PUU-XI/2013, Act no. 11 of 1974 concerning Irrigation. The Constitutional Court's decision indirectly gives a mandate to lawmakers to follow up on their decisions, this phenomenon was mentioned by Allan R. Brewer and Carias with binding orders and directives to the legislator (Laksono, 2018). Seeing this fact, the DPR took the initiative to submit a new bill on Water Resources and included it in the Priority Prolegnas through DPR-RI Decree Number 19/DPR RI/I/2018-2019.

UU no. 7 of 2019 was officially passed on September 17 2019. Formally, this law has met the requirements to become a law because it was approved at a plenary session. However, the thing that needs attention is the number of members of the DPR who attended the meeting, only 289 out of a total of 560 members (51.7%) (Dokumen Pokok-Pokok Pembicaraan DPR RI Masa Persidangan I 2019-2020, 17 September 2019, 2019). This shows that the government is not serious in forming it, even though water is a vital object that must be maintained. Because of its important position for life, the Constitutional Court emphasized that access to water is a human right for everyone, so that the state is obliged to protect, respect and fulfill this right (Abdul Aziz Wibowo, 2021).

In the process of formulating this law, there were several parties who firmly requested that the ratification of the Draft Law on Water Resources be postponed, arguing that this bill seemed to be rushed considering that the authorities (Legislative and Executive) had entered the end of their term of office, lack of public involvement and there was no complete socialization regarding the draft. This bill is something that must be considered. Several parties requesting the postponement are the Indonesian Forum for the Environment (WALHI), the Indonesian Legal Aid Foundation (YLBHI), the Indonesian Center for Environmental Law (ICEL), YPPI, the People's Coalition for the Right to Water (KRuHA). Five organizations merged into one and provided several notes regarding the Water Resources Bill through the Press Release of 1 September 2019, the contents of which were (Walhi, 2019): a) The rules in the Water Resources Bill are still very partial and view water as a commodity, attention to ecosystems that affect water ecosystems is also very lacking, even though the Constitutional Court's decision confirms that water is a people's right by taking into account environmental sustainability. So we propose that this bill should be called the Water Bill, which regulates its management comprehensively, not partially, and does not only look at water from a commodity and exploitation point of view. b) The Water Resources Bill must be harmonized and aligned with Act no. 32 of 2009 which provides protection for water quality. This is important because water quality is fundamental and must be fulfilled in the provision of good and healthy water. In addition to protecting water quality, alignment of accountability mechanisms is also needed. c) This bill must add a conservation cost point, as an affirmative part to ensure corporate responsibility. d) The cancellation of the Law on Water Resources is a reminder that water is a vital thing so that its exploitation must be optimized for the benefit of all creatures on earth. Therefore, the existing bill must reflect the prohibition on privatization of water, the existence of a mandate to evaluate and review permits for existing water concessions.

b. Factors affecting formation:

Zainal Arifin Mochtar in *Legal Politics for the Formation of Laws* states that there are four sources and basis for legal politics. The first is the 1945 Constitution as a legal political basis, the second is the National Development Plan, the third is the President's Vision and Mission in the Presidential System, and the fourth is the Academic Paper as a Blueprint for the Law (Arifin Mochtar, 2022). Some of these sources according to the author in their application affect the formation of a law. Developing this idea, especially in the Law on Water Resources, the following are some of the factors that influenced its formation:

Article 33 of the 1945 Constitution of the Republic of Indonesia, In the constitution, water-related arrangements can be found explicitly in Article 33 of the 1945 Constitution of the Republic of Indonesia. This article is the spirit that must animate the entire bill related to water resources. In

paragraph (2) of Article a quo, it is stated that "Production branches which are important for the state and which affect the livelihood of many people are controlled by the state," meaning that the relevant norms must be able to prevent control by individuals or groups over water resources. For various purposes, control of water resources must remain with the state so that their use by the public for various purposes does not create ownership or block access for other water users. Regarding private ownership, it is only limited to the use of water resources (Naskah Akademik Rancangan Undang-Undang Sumber Daya Air, 2018).

In paragraph (3) which reads "Earth and water and the natural resources contained therein are controlled by the state and used for the greatest possible prosperity of the people," the word "water" is explicitly stated which shows how important its position is compared to other natural resources. . Implicitly means that its management requires stricter regulations than others. There are two important variables in this paragraph, the first is "state control" and the second is used "for the greatest prosperity of the people". Regarding the meaning of state control, in the Constitutional Court Decision No. 85/PUU-XI/2013 provides an interpretation that the state's right to control over land, water, and the natural resources contained therein means that the state is given the mandate to make policies (beleid), administer (bestuursdaad) (Naskah Akademik Rancangan Undang-Undang Sumber Daya Air, 2018).

Then, "to be used for the greatest prosperity of the people" due to the dynamic nature of water resources and the many uncertainties that may occur in their management. For this reason, the hard task of managing it for the greatest possible prosperity of the people is carried out based on the concept of optimization in derivative products of the Water Resources Law as stated in Article 33 paragraph (5) of the 1945 Constitution of the Republic of Indonesia that further provisions regarding the implementation of this article are regulated in the law (Naskah Akademik Rancangan Undang-Undang Sumber Daya Air, 2018).

MK Decision No. 85/PUU-XI/2013: Judicial Review of Act no. 7 of 2004 regarding Water Resources was requested to be reviewed by the Constitutional Court by several parties including Muhammadiyah Central Executive, Al Jami'yatul Washliyah, Solidarity with Parking Attendants, Street Vendors, Entrepreneurs and Employees (SOJUPEK), Vanaprastha Association and several individual applicants. In their petition, there are several reasons behind the petitioners' submission of a Judicial Review of the a quo Law as stated in the Constitutional Court Decision No. 85/PUU-XI/2013, including: a) That water is a vital necessity for the life of all living things and therefore it is necessary to have fair arrangements in terms of designation and use so that it is hoped that the use of water can be carried out optimally for all living things on earth. b) The a quo law contains content of domination and monopoly of water resources which is contrary to the principles of being controlled by the state and used for the greatest prosperity of the people. c) The a quo law contains content positioning that the use of water is inclined to commercial interests. d) The a quo law contains content that triggers horizontal conflict. e) The a quo law eliminates the responsibility of the state in fulfilling water needs. f) The a quo law is a discriminatory law.

Seeing from this background, the applicant requests the Panel of Constitutional Justices to grant the request, namely: 1) Accept and grant the Petitioner's Application in its entirety; 2) Declare Law Number 7 of 2004 concerning Water Resources as a whole contrary to the 1945 Constitution; 3) Declare that Law Number 7 of 2004 concerning Water Resources does not have binding legal force as a whole; 4) Order the publication of this decision in the State Gazette of the Republic of Indonesia in accordance with the applicable laws and regulations. (Dokumen Putusan MK No. 85/PUU-XI/2013, n.d.)

In its Decision Amar the Constitutional Court stated that First, Petitioner III's Petition could not be accepted; Second, to grant the petition of Petitioner I, Petitioner II, Petitioner IV, Petitioner V, Petitioner VI, Petitioner VII, Petitioner VIII, Petitioner IX, Petitioner X and Petitioner XI in its

entirety; Third, Law Number 7 of 2004 concerning Water Resources (State Gazette of the Republic of Indonesia of 2004 Number 32, Supplement to the State Gazette of the Republic of Indonesia Number 4377) is contrary to the 1945 Constitution of the Republic of Indonesia; Fourth, Law Number 7 of 2004 concerning Water Resources (State Gazette of the Republic of Indonesia of 2004 Number 32, Supplement to the State Gazette of the Republic of Indonesia Number 4377) does not have binding legal force; Fifth, Law Number 11 of 1974 concerning Irrigation (State Gazette of the Republic of Indonesia of 1974 Number 65, Supplement to the State Gazette of the Republic of Indonesia Number 3046) applies again; Sixth, Order the loading of this decision by placing it in the State Gazette of the Republic of Indonesia as appropriate..

RPJP (2005-2025), The Long Term Development Plan (RPJP) for 2005-2025 contained in Act no. 17 of 2007 has a development vision of "An Indonesia that is Independent, Advanced, Just and Prosperous". From that, with regard to water resources, there are several directions, stages, and long-term development priorities that are explicitly directed towards it. The main objectives aimed at are the realization of a competitive nation to achieve a more prosperous and prosperous society, the target of water resources lies in the desire to realize the conservation of water resources which is able to maintain the sustainability of the function of water resources (Undang-Undang Nomor 7 Tahun 2007 Tentang Rencana Pembangunan Jangka Panjang Nasional Tahun 2005 – 2025, 2007).

Meanwhile, in the long-term development direction points for 2005-2025, especially in the area of realizing a competitive nation, in terms of infrastructure and facilities, there are specific targets for water resources. The development direction contains the construction of water resources infrastructure directed at realizing several functions of water as a social good (social resource) and economic good (economic resources) which are balanced between the two through integrated, efficient, effective, just and sustainable management with the target of achieving ensure the basic needs of life and improve the welfare of society. Between supply and demand, the balance is realized through management of needs aimed at increasing the effectiveness and efficiency of water use, consumption, as well as supply management aimed at increasing the capacity and reliability of water supply. This point also includes the concept of partnership with the business world without burdening the community to realize increased service reliability. In addition, at other points there are targets for the development and supply of drinking water and sanitation which are directed at meeting the basic needs of the community and other related sectors (industry, trade, transportation, etc.), as well as efforts to boost economic growth. Then, in the Long Term Development Direction section of Creating a Beautiful and Sustainable Indonesia, there is a point of protecting and conserving water resources. This point also includes the concept of partnership with the business world without burdening the community to realize increased service reliability. In addition, at other points there are targets for the development and supply of drinking water and sanitation which are directed at meeting the basic needs of the community and other related sectors (industry, trade, transportation, etc.), as well as efforts to boost economic growth. Then, in the Long Term Development Direction section of Creating a Beautiful and Sustainable Indonesia, there is a point of protecting and conserving water resources. This point also includes the concept of partnership with the business world without burdening the community to realize increased service reliability. In addition, at other points there are targets for the development and supply of drinking water and sanitation which are directed at meeting the basic needs of the community and other related sectors (industry, trade, transportation, etc.), as well as efforts to boost economic growth. Then, in the Long Term Development Direction section of Creating a Beautiful and Sustainable Indonesia, there is a point of protecting and conserving water resources. as well as efforts to encourage economic growth. Then, in the Long Term Development Direction section of Creating a Beautiful and Sustainable Indonesia, there is a point of protecting and conserving water resources. as well as efforts to encourage economic growth. Then, in the Long Term Development Direction section of Creating a Beautiful and Sustainable Indonesia, there is a point of protecting

and conserving water resources (Undang-Undang Nomor 7 Tahun 2007 Tentang Rencana Pembangunan Jangka Panjang Nasional Tahun 2005 – 2025, 2007).

RPJMN (2015-2019), The National Medium Term Development Plan (RPJMN) for 2015-2019 contained in Presidential Regulation no. 2 of 2015 contains the entire national development agenda within a five year period. The national development vision that is carried out in it is "The realization of an Indonesia that is sovereign, independent, and has a personality based on mutual cooperation" (Rencana Pembangunan Jangka Menengah Nasional Tahun 2015 - 2019, 2015).

Regarding the national development strategy, especially in the Development Norms section of the RPJMN and Three Dimensions of Development, there are development policies related to resources. In the third point, the Development Norms in the RPJMN contain norms in the form of "Development activities must not damage, reduce the carrying capacity of the environment and disturb the balance of the ecosystem". Then in the three dimensions of development, two of them explicitly target water and water resources as targets (Rencana Pembangunan Jangka Menengah Nasional Tahun 2015 - 2019, 2015).

In detail, in the Leading Sector Development Dimension, the food sovereignty section, there are several targets related to water resources which include: construction and improvement of surface water, groundwater and swamp irrigation networks with a target of 9.89 million ha in 2019, rehabilitation of surface irrigation networks, groundwater and swamps with a target of 3.01 million ha in 2019, construction and improvement of additional irrigation with a target of 3014.75 thousand ha in 2019, and construction of reservoirs with a target of reaching 49 in 2019. Then in the section on water security, infrastructure basic and connectivity, there is an increase in national raw water capacity to 118.6 m³/sec, construction of a cumulative reservoir of 49, access to drinking water and proper sanitation with a target of 100%, and so on. (Rencana Pembangunan Jangka Menengah Nasional Tahun 2015 - 2019, 2015).

Study of the Draft Water Resources Law (Academic Text of Law), DPR RI has conducted a study to prepare a replacement for Act no. 11 of 1974 concerning Irrigation. The study was carried out by studying literature/literature by examining various studies and related laws and regulations. Then it was complemented by discussions in the form of Focus Group Discussions (FGD) to several universities such as Nusa Cendana University and Hasanudin University on March 30 2017, as well as FGDs at Sebelas Maret University Solo by also presenting representatives from community groups from the Rekso Lepen Solo Community, professional groups from the Transformation of Infrastructure Goals and so on. Then a Hearing Meeting (RDP) was also held in September 2017 with experts and various elements of community groups and NGOs (Naskah Akademik Rancangan Undang-Undang Sumber Daya Air, 2018).

The four main issues raised in the study are: First, what are the theories and thoughts that are currently developing about water resources and what are the empirical practices regarding water resources management. Second, how are the laws and regulations related to the current management of water resources. Third, What are the considerations or philosophical, sociological, and juridical foundations of the drafting of the Bill on Water Resources. Fourth, What are the targets, scope, direction of regulation, and contents that need to be regulated in the Bill on Water Resources (Naskah Akademik Rancangan Undang-Undang Sumber Daya Air, 2018).

The study concluded that Act no. 11 of 1974 concerning Irrigation needs to be replaced immediately with a bill that regulates the overall conception which includes normative, substantive, and operational matters for the conservation of water resources, utilization of water resources, and management of water-related disasters. The Water Resources Bill was also formed with the main points of regulation which include the stages of management and activities, government authorities and responsibilities, community involvement, and finally sanctions by reinforcing the concept of water control by the state (Naskah Akademik Rancangan Undang-Undang Sumber Daya Air, 2018).

4. The political configuration and legal character of the Law on Water Resources

With the approach that law is a product of politics, to track how the law is affected as a variable, it is necessary to use political configuration as an independent variable. There are two kinds of political configurations, namely democratic configurations which tend to produce responsive/populist characteristics of legal products, and authoritarian configurations which tend to produce conservative/orthodox/elitist characteristics of legal products(Mahfud MD, 2009).

Mahfud MD uses the three pillars of democracy to measure the political configuration at a time. The three pillars are the role of political parties and representative bodies, freedom of the press, and finally the role of the executive. Democratic political configurations occur when these things are carried out in a political system that opens opportunities for full public participation to actively participate in determining public policies. Apart from that, there is a plurality of organizations where the organizations are autonomous and there is also the freedom of the people to criticize the government through the people's representatives. The authoritarian configuration is the other way around. The power elite enforced unity, the elimination of open opposition, the domination of political power by the eternal elite and there was a doctrine that justified the concentration of power(Mahfud MD, 2009).

Regarding the character of legal products, responsive/populist legal products reflect a sense of justice and fulfill people's expectations. In the process of its formation, this type of legal product provides a large role and full participation to social groups and individuals in society, and is responsive to the demands of these social groups and individuals. Meanwhile, conservative/orthodox legal products have contents that reflect more on the social vision of the political elite, are more concerned with the wishes of the government, are positivist-instrumentalist (become implementers of ideology and state programs). Orthodox law is also more closed to group and individual demands, application and community participation is also relatively small in making it(Mahfud MD, 2009).

Establishment of Act no. 17 of 2019 in 2019 indicates that the law is a legal product of the post-reform era. According to Lintje Anna Marpaung, post-reform political configuration is a democratic configuration. This was marked by the emergence of a reform regime which also fundamentally changed the constitutional system to become democratic(Marpaung, n.d.). Categorizing it as period IV, the reform era by Peggy Dian and Wardah Yuspin called constitutional democracy or Pancasila with a democratic political configuration(Dian Septi Nur Anggraini & Yuspin, 2022).

From such a political configuration, the character of the legal product of Act no. 17 of 2019 tends to be responsive/populist in character. Reflecting on the responsive/populist nature of legal products that fulfill the sense of justice and the expectations of society, Act no. 17 of 2019 is enough to meet these criteria. In the process of its formation, community participation was also involved in several agendas for hearings (RDP). 85/PUU-XI/2013 is also conceptually accommodated by this law. It's just that, even though this law has a responsive/populist character, the aspirations of some community groups such as WALHI to strictly prohibit the privatization of water are not embodied in this law.

IV. CONCLUSION

There are four other law-level regulations besides Act no. 17 of 2019 which was once in force in Indonesia which has a different style from Act no. 17 of 2019 and between one and the other. The first is the 1936 Algemeen Water Regulation (AWR) concerning Public Water Regulations, the style of this law is centralized for colonial interests, water-related regulations are still focused on physical infrastructure. The second is Act no. 11 of 1974 concerning Irrigation, the style of this law is quite centralized but the participation of the community is starting to be involved even though it is not prominent, arrangements related to water are expanded in a paradigm that is not just physical.

Third is Act no. 7 of 2004 concerning Water Resources, the style of this law is decentralized but the role of the private sector is becoming increasingly large, reaching the realm of privatization of water resources. Fourth is Act no. 11 of 2020 concerning Job Creation, the style of this law is still the same as Act no. 17 of 2019 concerning Water Resources, it's just that the dominance of the Central Government is added in terms of business licensing. In general, the style of the law starts looking centralized, becomes decentralized with the dominant role of the public and private sector, becomes decentralized with reduced roles of the public and private sector, and finally becomes decentralized with the same style but is dominated by licensing by the center.

In the process of its formation, this law runs smoothly. However, for the record, getting a lot of input from various parties both related to the material content which has not fully accommodated efforts to prevent privatization and the process which seems to be accelerated considering the end of the term of office. Then there are five factors that influence the formation of the Law on Water Resources. The first is the regulation of Article 33 of the 1945 Constitution of the Republic of Indonesia, especially in paragraph (2) of Article a quo, it is stated that "Branch of production which is important for the state and which affect the livelihood of the people at large is controlled by the state". Second, MK Decision No. 85/PUU-XI/2013 which canceled the enactment of Act no. 7 of 2004 with the main issue of privatization of water resources and state control. Third, the Long Term Development Plan (RPJP) in Act no. good. Fourth, the National Medium Term Development Plan (RPJMN) in Presidential Regulation No. 2 of 2015. Development norms in the RPJMN contain norms in the form of "Development activities may not damage, reduce the carrying capacity of the environment and disturb the balance of the ecosystem". Then in the three dimensions of development, two of them explicitly target water and water resources as targets. Fifth, Study of the Draft Water Resources Law (Academic Manuscripts), the study concluded that Act no. 11 of 1974 concerning Irrigation needs to be replaced immediately with a bill that regulates the overall conception which includes normative, substantive, and operational matters for the conservation of water resources, utilization of water resources, and management of water-related disasters.

Establishment of Act no. 17 of 2019 in 2019 was born post-reform which has a democratic configuration. This was marked by the emergence of a reform regime which also fundamentally changed the constitutional system to become democratic. From such a political configuration, the character of the legal product of Act no. 17 of 2019 tends to be responsive/populist in character. Reflecting on the responsive/populist nature of legal products that fulfill people's sense of justice and expectations, Act no. 17 of 2019 is enough to meet these criteria. In the process of its formation, community participation was also involved in several agendas for hearings (RDP). 85/PUU-XI/2013 is also conceptually accommodated by this law. Although this law has a responsive/populistic character, the aspirations of some community groups such as WALHI to strictly prohibit water privatization are not embodied in this law.

This research is an effort to evaluate and further examine the efforts to supervise the formation of laws. This research can be used as a reference and input for the formulation of regulations related to water resources and also references related to research using legal politics as a basis for assessment. For further researchers, they can fill in the empty spaces that have not been discussed in this study, for example discussions related to the implementation of water resources laws, or related to more specific matters in the law such as the management and conservation of water resources.

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