

## THE ECOCRACY OF WATER RESOURCES ON WATER CULTIVATION RIGHTS IN REALIZING SOIL AND WATER CONSERVATION

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### **Abstract**

*There are still several problems related to water resources, which can affect poverty, food shortages, hamper economic growth, and disrupt ecosystems. This research was conducted using a normative legal method through a statutory approach. Based on this legal normative study, two conclusions were generated. First, the function of Water Resources in business activities in laws and regulations still ignores the constitutional rights of the state and the people through the gap for companies to manage and make water and water resources as the profit-oriented business. Second, it is necessary to revitalize ecocracy in ensuring the existence of Water and Soil Conservation by inculcating two (legal) liabilities, namely the liability due to the inherent propriety to act or to do and the liability due to the inherent propriety not to act or not to do to protect ecosystem health and to ensure the environmental sustainability. It is necessary to reform the Water Resources Law in tackling the exploitation of water resources to justify monopoly or illegal profits made by certain parties.*

**Keyword:** Conservation; Ecocracy; Resources; Soil; Water.

### **A. INTRODUCTION**

Indonesia has an area that occupies a cross position between two continents and two oceans, with a tropical climate and weather and seasons that provide natural conditions and positions, with a strategic role of high value as a place for the Indonesian people and nation to carry out social, national and state life in all aspects.<sup>1</sup> Therefore, it is proper that the territory of Indonesia, with all its potential and natural wealth, can make its citizens prosperous.

Article 33 of the 1945 Constitution of the Republic of Indonesia is an article specifically as the basis for Indonesia's political, economic, and environmental ideology. Especially in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that: "Earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." This article is a form of state control in order to provide real added value to the growth of the national economy in an effort to achieve prosperity and welfare of the people in a sustainable and just manner.<sup>2</sup> Therefore, Indonesia bases its country on

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1 Sodikin, *Penegakan Hukum Lingkungan*, Djamban, Jakarta, 2003, page 18.

2 Rintis N. Pramugar, A. Hidayat, A. Syakhroza, and Benny R. P. Sinaga, Supervision Reconstruction of the Ministry of Energy and Mineral Resources in Corruption Prevention of

ecocratic sovereignty, which is limited to its use only for the sustainable welfare of the people.

About ecocratic sovereignty, Sutardi argues more specifically that water resources that are part of natural resources have very different characteristics from other natural resources. No one can deny that water is a basic need for all life, whether human, animal, or plant, which other substances cannot replace. Therefore, the right to water ownership belongs only to the state in order to guarantee life.<sup>3</sup> However, in reality, until now there are still several problems related to water resources, such as the use of water for agricultural needs which tends to be wasteful, existing irrigation networks that have not been optimized, and the occurrence of damage to the hydrological balance of rivers,<sup>4</sup> that can affect poverty, food shortages, hampering economic growth, and ecosystems disruption.<sup>5</sup>

It is necessary and urgent to conduct a juridical study related to the ecocracy of water resources in realizing soil and water conservation, considering that the protection, conservation and rational use of water resources are very important to ensure the balance of the hydrological cycle and the right of future generations to use this very valuable natural resource<sup>6</sup> and consider management and development of natural resources encourage various countries to invest in Indonesia. Of course, by encouraging public/private business entities to manage natural resources with solid permits and supervision by the state/government, it is expected that the increasing investment in Indonesia will improve people's living standards and improve the country's economic growth,<sup>7</sup> due to the taxes of these private business entities will finance the development and welfare of its people.

This is interesting if studied in-depth about ecocracy. To assess the urgency of Water and Land Resources, these two things cannot be separated because both are the livelihood of many people; their management must also go through strict supervision. Therefore, this study is expected to answer two main problems. First, what is the function of Water Resources in business activities in the laws and regulations? Second, how are ecocracy revitalization efforts to ensure the existence of Water and Soil Conservation?

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Indonesia's Mining Sectors, *Test Engineering and Management*, Vol. 83, 2020, page 12017-12030.

- 3 Sutardi M., *Pengelolaan Sumberdaya Air yang Efektif*, Badan Perencanaan Daerah, Bandung, 2002, page 2.
- 4 Pemerintah Kota Tangerang, Tiga Problem Sumber Daya Air di Indonesia, available at <http://www.pdamtirtabenteng.co.id/berita/tiga-problem-sumber-daya-air-di-indonesia>, accessed on 20 Marc 2019.
- 5 Direktorat Jenderal Sumber Daya Air, Penyelamatan Sumber Daya Air Menjadi Tugas Bersama, available at [https://sda.pu.go.id/berita/view/penyelamatan\\_sumber\\_daya\\_air\\_menjadi\\_tugas\\_bersama](https://sda.pu.go.id/berita/view/penyelamatan_sumber_daya_air_menjadi_tugas_bersama), accessed on 10 August 2021.
- 6 M. E. Venezian Scarascia, F. Di Battista, and L. Salvati, Water Resources in Italy: Availability and Agricultural Uses, *Irrigation and Drainage*, Vol. 55, 2006, page 116.
- 7 Henry D. P. Sinaga, and Anis W. Hermawan, Tax Reorientation as Corruption Prevention on Investment in Indonesia, *Journal of Accounting and Finance*, Vol. 5, No. 1, 2021, page 22.

## **B. RESEARCH METHODS**

This research was conducted using a normative legal method through a statutory approach. Understanding of the concept of environmental protection and citizens' rights is done by understanding the values and norms contained in the laws and regulations that are strongly related to the problems in this research, such as the 1945 Constitution of the Republic of Indonesia; Act No. 17 of 2019 concerning water resources; Act No. 7 of 2004 concerning Water Resources; and Act No. 37 of 2014 concerning Soil and Water Conservation. The concept of ecocracy is built through the values and norms in the regulations mentioned earlier, which are compared with the concepts of human rights and environmental protection.

## **C. RESULT AND DISCUSSION**

### **1. Right to Cultivate Water**

Water is all water found on, above, or below the ground surface, including in this sense surface water, groundwater, rainwater, and seawater on land.<sup>8</sup> A sustainable water management system arises from the idea that water is a *res commune* passed down from generation to generation. The outpouring of energy in conservation efforts and community development is the most critical investment in water resources. In the absence of capital, collective communities provide the primary input or "investment" in water projects.<sup>9</sup>

If you look at the existing water resources in Indonesia, Indonesia's water reserves are estimated at 2,530 km<sup>3</sup>, including one of the countries that have the wealthiest water reserves in the world. Other data shows that the availability of water in Indonesia reaches 15,000 m<sup>3</sup> per capita per year. This figure is far above the average water availability globally, which is only 8,000 m<sup>3</sup> per year.<sup>10</sup> This availability could be Indonesia's wealth in water resources; it could also be a field for running a business on water use rights. Water, one of the natural resources, is a basic right of human needs, making it a treasure that must be protected.

Water resources are the constitutional rights of every Indonesian citizen, as it is reaffirmed in the consideration of Act No. 17 of 2019 which states that water is a basic need of human life given by God Almighty for the entire Indonesian nation, so that water which is part of water resources is an important production branch and controls the livelihood of many people which is controlled by the state to be used for the greatest prosperity of the people. However, the constitutional rights of the people and the state's right to fully control water resources are being neglected given the reality that water resources are in the interest of certain individuals, not the public interest which should be for the prosperity of the people as stated in the constitution.

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8 Article 1 Paragraph (2) Law Number 7 of 2004 Concerning Water Resources

9 Suteki, *Desain Hukum di Ruang Sosial*, Thafa Media, Yogyakarta, 2013, page 263.

10 Rohani Budi Prihadin, *Info Singkat: Air Bersih di Perkotaan*, Sekretariat Jendral DPR RI: Pusat Pengkajian, Pengolahan Data dan Informasi (P3DI), 2009, page 9.

The existence of water resources, which is the constitutional right of every Indonesian citizen, is essential. In reality, it is often in the interest of specific individuals, not the public interest which should be for the prosperity of the people as stated in the constitution. Water that has natural potential (necessities of life) is now engineered in such a way as to become commercial potential. This should not have happened in a country rich in water resources. Water, which should be the right of every layer of Indonesian citizens because of the constitutional rights guaranteed by the 1945 Constitution of the Republic of Indonesia, has now turned to the business arena of privatizing water resources. Our constitution gives legitimacy to the constitutional right of water, where a sovereign state should protect its sovereignty in various aspects, especially water, which is environmental sovereignty.

The sovereign rights of the state and people to water resources in Indonesia have been explicitly reflected in Article 3 of Act No. 17 of 2019, among others, provides protection and guarantees the fulfillment of people's rights to water, ensures the sustainability of water and water sources availability in order to provide fair benefits to the community, and guarantees the preservation of the function of water and water sources to support sustainable development.

But in reality, businesses that use Water Resources are increasingly mushrooming in Indonesia. Businesses that use Water Resources are increasingly mushrooming in Indonesia. Based on data from the Indonesian Bottled Drinking Water Association (ASPADIN), which oversees Bottled Drinking Water (AMDK) entrepreneurs, ASPADIN members reach 193 industries, while the total number of bottled drinking water industries is 615 with more than 500 brands, including aqua, nestle, club, vit, oasis, and ades.<sup>11</sup> These companies arise because there is a right to use water, specifically the right to cultivate in Act No. 17 of 2019 concerning Water Resources, which the Constitutional Court has now cancelled.

The right to use water is the right to obtain and use or cultivate water for various purposes.<sup>12</sup> There are several types of usufructuary rights. The water business field is the business right, where the meaning of the right to cultivate is the right to cultivate water, which is the right to obtain and cultivate water.<sup>13</sup> Furthermore, about the right of cultivation concerned with who has the right to manage it, it is stated in Article 47 of the Water Resources Law that:

- a. The use of water resources for business needs can be used if the water for daily basic needs and smallholder agriculture has been fulfilled and as long as the availability of water is still sufficient.

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11 Kompas.com, Negara Belum Siap Kelola Air , 3 March 2015, available at <https://nasional.kompas.com/read/2015/03/03/15130071/Negara.Belum.Siap.Kelola.Air?page=3>

12 Article 1 Paragraph (13) Law Number 7 of 2004 Concerning Water Resources

13 Article 1 Paragraph (5) Law Number 7 of 2004 Concerning Water Resources

- b. The use of water resources for business needs is carried out by considering social and environmental functions and ensuring the safety of state assets and environmental sustainability.

The article provides an opportunity for private companies to manage and make water a profit-oriented business field. There are three kinds of rights to water found in the Water Resources Law: the right to use water, the right to use water, and the right to use water.

Certainly, the normative-juridical shift in governmental regulations has implications for water management companies that have been established to date. The clear implication is the implication of regulation, as the existence of a regulation as a valid statutory regulation always refers to a formal body that is part of a legal system of a country.<sup>14</sup> So that, like it or not, all companies that make water an economic commodity must obey and comply with the implications of these regulations.

## 2. Ecocracy Revitalization Efforts to Ensure The Existence of Water and Soil Conservation

Sovereignty is one of the keywords in ensuring the existence of water and soil conservation. One of the modern versions of "sovereignty" statements officially comes from Article 3 of the *Declaration des droits de l'homme et du Citoyen* of August 26, 1789 which states that essentially the principle of sovereignty lies with the state. Sovereignty is an independent power as well as the highest source of internal legitimacy in a country.<sup>15</sup> Then, Asshiddqie argued that the concept of state sovereignty includes two contexts of understanding, namely internal and external understanding. In an internal sense, sovereignty as the highest concept of power known so far in the world of legal and political philosophy includes teachings on the Sovereignty of God (Theocracy), Sovereignty of the People (Democracy), Sovereignty of Law (Nomocracy), and Sovereignty of Kings (Monarchy).<sup>16</sup>

In the course of time, there were several debates about sovereignty. Sorensen suggested that there are three different aspects of sovereign statehood: (a) the constitutive rules of sovereignty; (b) the regulatory rules of sovereignty; and (c) substantial, empirical statehood.<sup>17</sup> Then, Baker stated that there are several critical factors that affect sovereignty in the future, namely:

*"1) Globalization and the weakening of traditional sovereignty, 2) New politics and ethnic and cultural resurgence, 3) The issue of the viability*

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14 Norman Doe, The Positivist Thesis in Fifteenth-Century Legal Theory and Practice, *The Journal of Legal History*, Vol. 11, No. 1, 1990, page 29.

15 Luc J. Wintgens, Sovereignty and Representation, *Ratio Juris*, Vol. 14, No. 3, 2001, page 272

16 Jimly Asshiddqie, Gagasan Kedaulatan Lingkungan: Demokrasi Versus Ekokrasi, [http://jimly.com/makalah/namafile/160/Demokrasi\\_dan\\_Ekokrasi.pdf](http://jimly.com/makalah/namafile/160/Demokrasi_dan_Ekokrasi.pdf) diakses pada 20 Maret 2019

17 Georg Sorensen, Sovereignty: Change and Continuity in a Fundamental Institution, *Political Studies*, Vol. 47, No. 3, 1999, page 591-604.

*of some states : residual post-colonial stress and the phenomenon of 'failed' states and 'rogue' states, 4) The size and reach of multinational organizations, 5) The information revolution, 6) Trade and economic reconfiguration".<sup>18</sup>*

This change in the meaning of sovereignty can clearly be an entry point in ensuring the existence of water and soil conservation, namely the existence of a power perspective regarding the teachings of Environmental Sovereignty which we can introduce with the term 'Ecocracy'. Meanwhile, from an external perspective, the concept of sovereignty is usually understood in the context of relations between countries. In international relations, people usually talk about an independent country that is sovereign outward and inward. Because in the practice of relations between countries, it is necessary for international recognition of the status of a country that is considered independent and sovereign. Without recognition, a state that unilaterally claims to be a state will find it challenging to participate in international relations.<sup>19</sup>

The concept of supreme power, commonly called sovereignty, is generally associated with understandings that have developed in history, alternating with one another. Sometimes when a new concept emerges, people tend to forget the old concept. Sometimes the old concept reappears when the new concept has begun to be considered of little use.<sup>20</sup>

Environmental sovereignty is the concept of power by the environment and by the ecosystem. The concept of environmental sovereignty can be associated with the term ecocracy or ecological power.<sup>21</sup> The idea of Environmental Sovereignty (Ecocracy) can be developed as a counterweight to the democratic system developed by humanity today, considering that without the presence of an ecological meaning as an added value to democracy, the 'democracy' that has been practiced so far is only a victory for empty or shallow people's power.<sup>22</sup> The concept of ecocracy can be understood in balancing the relationship between God, Nature, and Humans. So far, power relations have only been seen as human problems. In a democracy, only humans, called the people, are the only starting point and center of attention. This view is known as anthropocentrism, which places life centered only on humans. Compared to previous times, especially in pre-modern times, this 'anthropocentric' view can certainly be considered more advanced and

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18 Randall Baker, Challenges to Traditional Concepts of Sovereignty, *Public Administration and Development*, Vol. 20, No. 1, 2000, page 2.

19 Jimly Asshiddiqie Gagasan Kedaulatan Lingkungan: Demokrasi Versus Ekokrasi, available at [http://jimly.com/makalah/namafile/160/Demokrasi\\_dan\\_Ekokrasi.pdf](http://jimly.com/makalah/namafile/160/Demokrasi_dan_Ekokrasi.pdf), accessed on 20 March 2019.

20 Jimly Asshiddiqie, *Green Constitution: Nuansa Hijau Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*, Rajawali Press, Jakarta, 2009, page 96-120.

21 *Ibid.*

22 Phillip G. Payne, The globally great moral challenge: ecocentric democracy, values, morals and meaning, *Environmental Education Research*, Vol. 16, No.1, 2010, page 167-168,

better. However, today, people must realize that democracy is not everything if it causes human beings to destroy their ecosystems and sources of life.<sup>23</sup> Therefore, it is necessary to recognize and inculcate meaning that contains ecocentric as a global imperative in democracy which will create a democracy that always gives birth to constant vigilance and rearrangement with a socio-ecological concept.<sup>24</sup>

The discourse on environmental sovereignty in Indonesia is contained in the 1945 Constitution of the Republic of Indonesia, where the highest power or sovereignty is in the hands of the people, which is reflected in the concept of human rights to a good and healthy environment as referred to in Article 28 H paragraph (1) The 1945 Constitution of the Republic of Indonesia, and also reflected in the concept of democracy related to the principles of sustainable development and environmental insight, as confirmed in Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia<sup>25</sup> which reads: "The national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity."

Even though there are provisions in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the paradigm and activities of environmental management remain oriented to the utilization or use of the environment (exploitation) of natural resources by making articles by making Article 33 paragraph (3) The 1945 Constitution of the Republic of Indonesia as its justification and constitutional basis. The presence of Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia emphasizes the close relationship between the management of the environment and natural resources with the fulfillment of the human rights of every citizen to a good and healthy environment. Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, which emphasizes that the implementation of development within the framework of the national economy must be based on sustainable and environmentally sound principles, has not yet become a policy framework together with Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia on environmental management and sustainable development in Indonesia.<sup>26</sup> This is where the role of environmental sovereignty, the ecosystem as stated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia as interpreted extensively and creatively by various laws in the environmental field, must be managed for the benefit of development based on sustainable principles and insight. Environment as determined

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23 Jimly Asshiddiqie, *Green Constitution: Nuansa Hijau Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*, *Ibid.*

24 Phillip G. Payne, *Ibid.*

25 *Ibid.* Page 8

26 Deni Bram, *Politik Hukum Pengelolaan Lingkungan Hidup*, Setara Press, Malang, 2014, page 4.

by Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia.<sup>27</sup>

As an affirmation of bureaucratic reform, in the utilization of the state apparatus, the implementation of policies and programs must continuously always support the realization of good governance as often conveyed by experts, then also become a recommendation from the People's Consultative Assembly (as in the Decree of the People's Consultative Assembly II, VI, 2002) which essentially: (1) carry out the arrangement of state institutions and human resources of the apparatus; (2) eradicating all forms of illegal levies, corruption, collusion and nepotism, as well as eradicating smuggling in a firm and complete manner to eradicate smuggling; (3) the creation and management of the business world that is good and clean from the central level to the regional level; (4) build a culture of bureaucracy that is transparent, accountable, clean and responsible as well as being a public servant and servant of the state; (5) fixing the government bureaucracy, either directly or indirectly related to the implementation of the economic recovery program in the context of increasing bureaucracy supervision.<sup>28</sup>

The implementation of Soil and Water Conservation which includes protection of Soil Function on Land, restoration of Soil Function on Land, improvement of Soil Function on Land, and maintenance of Soil Function on Land is carried out on Prime Land, Critical Land, and Damaged Land in Protected Areas and in Cultivation Areas on each type of land use which includes agriculture, plantation, forestry, pasture, animal husbandry, fishery, mining, industry, tourism, settlements (urban and rural) and roads.

In order to prevent the decline in the availability of suitable land and ensure its sustainability to grow to produce plants, including agricultural land, plantations, forests, and grasslands, excluding cities, settlements, and waters, protection of the function of land on land in the implementation of soil and water conservation implemented by controlling the conversion of prime land use, as well as securing and structuring the area.

Restoration of Soil Function on Land is carried out on Critical Land and Damaged Land with the vegetative method of planting conservation plants and civil engineering to construct soil and Water Conservation buildings. Civil engineering methods are not carried out in Protected Areas. Improvement of Soil Function on Land is carried out on Critical Land and Damaged Land using agronomic, vegetative, and civil engineering methods. Maintenance of Soil Functions on Land is carried out on Prime Land, Critical Land, and Damaged Land, which have been restored and their functions improved by using agronomic methods and maintenance of Soil and Water Conservation buildings.

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27 Jimly Asshiddiqie, *Op.Cit.* page 94

28 Feisal Tamim, *Reforamsi Birokrasi: Analisis Pendayagunaan Aparatur Negara*, Belantika, 2004, Jakarta Selatan, page 26.



Every person consisting of individuals and legal entities, and business entities have the right to:

- a. Enjoys Soil Functions on Land resulting from the implementation of Soil and Water Conservation;
- b. Knows the plan of land designation, land use, information on soil and water conservation; and
- c. Participates and supervise in Soil and Water Conservation.

Along with having these rights, everyone is obliged to carry out Soil and Water Conservation to prevent severe land degradation in every type of land use, except in conservation forest areas and protected forests which the government carries out, provincial, regional governments, and regency/municipal governments by his authority. Anyone who does not carry out these obligations will be subject to administrative sanctions. Anyone who converts land use in Protected Areas and Cultivation Areas resulting in severe land degradation and disasters is subject to administrative and criminal sanctions.

So that the implementation of Soil and Water Conservation can achieve the goals and objectives to be achieved, the Government and Regional Governments are obliged to carry out empowerment in growing and increasing community participation. Community participation is not community mobilization but liability due to the inherent propriety to act or to do and the inherent propriety not to act or not to do<sup>29</sup> for environmental sustainability. The liability due to propriety to act or to do must refer to the fulfillment of the following four criteria:<sup>30</sup> 1) it is carried out in good faith to fulfil its legal obligations unless it can be proven that a state of *force majeure* or coercion or other things make it act otherwise, 2) carried because of the danger or damage or loss that may occur immediately and or cannot be avoided, 3) there is no better alternative, or if the action is not taken it will cause even greater harm or damage or loss, and 4) the act or deed is purely by accident.<sup>31</sup> Meanwhile, the liability due to propriety not to act or not to do must refer to the fulfillment of the following four criteria:<sup>32</sup> 1) it is a *mala prohibita* act, 2) it is not within the scope of its capacity so that it cannot act/act according to its professional judgment, 3) there are still some alternative actions/other actions that are even better that do not violate the applicable laws and regulations, and 4) are actions/actions that

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29 Benny R. P. Sinaga, Elvrida N. Sinaga, Leo B. Barus, Reny Y. Sinaga, and Henry D. P. Sinaga, Justice Reconception In Establishing Responsive Tax Law In Indonesia: A Rawlsian Perspective, *Ayer Journal*, Vol. 27, No. 3, 2020, page 185.

30 Joni Emirzon, and Henry D.P. Sinaga, Dispute Resolution Model of Construction Work Contract: A Case Study in Indonesia, *International Journal of Global Community*, Vol. 6, No. 2, 2021, page 163-176.

31 Henry D. P. Sinaga, and Benny R. P. Sinaga, *Rekonstruksi Model-Model Pertanggungjawaban di Bidang Perpajakan dan Kepabeanaan*, Kanisius, Yogyakarta, 2018, page 103-104.

32 Joni Emirzon, and Henry D.P. Sinaga, *Ibid*.

enrich oneself/a group and/or other parties that cause financial losses to the victim.<sup>33</sup>

There are several forms and practices of those (legal) liability in ensuring the existence of water and soil conservation that can be carried out through the involvement of active and voluntary community involvement and participation in planning, implementing, funding, and controlling the implementation of Soil and Water Conservation. Sources of Funding for the implementation of Soil and Water Conservation may come from the state revenue and expenditure budget, regional revenue and expenditure budget, legal entities, business entities, individuals, and other legal and non-binding sources of funds. In order to achieve high usability and usability, environmental sovereignty (in the form of the Government, provincial governments, and regency/city regional governments, by their respective authorities and by always involving the community or surrounding community level) must carry out guidance and supervision in the implementation of Soil and Water Conservation in reconciling commercial/trade anomaly justifications and fixing water resource problems.<sup>34</sup> The implementation of such guidance and supervision may use instruments in the form of assistance, incentives, compensation, and compensation mechanisms, by the provisions of the legislation.

In the context of realizing a transparent, participatory, and accountable implementation of Soil and Water Conservation, this Law on Soil and Water Conservation also includes provisions for dispute resolution through courts and out of court as well as the right to sue the Government, Regional Governments, communities, and organizations. Imprisonment provisions and significant fines are also given to any person who commits an unlawful act intentionally or due to his/her negligence not carrying out soil and water conservation or converting land use resulting in disaster, severe land degradation, and the expected loss of property or goods. It can have a deterrent effect on the violators of the Law concerned. However, to uphold the principle of legal justice, against criminal acts committed by farmers working on food crops that do not have farming land and work on a maximum of 2 hectares, farmers who own land and carry out food crop cultivation on a land of a maximum area of 2 hectares, and horticultural farmers, planters, or small business scale breeders by the provisions of laws and regulations, are subject to the threat of a lighter criminal sentence.

Land users (farmers, plantation companies, and non-agricultural land users) are directly related to land management. The activities they carry out determine the current condition of the land and also in the future. They must realize that Soil and Water Conservation is very important to maintain the future of the next generation and its

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33 Henry D. P. Sinaga, and Benny R. P. Sinaga, *Ibid.*

34 Editorial, Sovereignty, community environmental inspection and the globalisation of the drinking water directive, *Water Law*, Vol. 10, No. 1, 1999, page 7.

sustainability. As for the government, the challenges tend to be more significant.

Legal umbrellas for Soil and Water Conservation needs to be available, not only in the form of laws but various implementing regulations that must be implemented firmly and fairly. Act No. 37 of 2014 concerning Soil and Water Conservation mandates various government regulations, including planning, implementation, and funding. The government should also encourage programs related to soil and water conservation, for example, increasing public awareness of the importance of protecting the environment with its multifunctionality, strengthening agricultural extension institutions, including the procurement of exceptional staff for soil and water conservation extension workers, law enforcement in cases related to land protection. Moreover, intensive advocacy to explain that saving land and environmental resources is a shared responsibility of the whole community. Closing Natural disasters caused by land degradation can be minimized by planning and implementing massive Soil and Water Conservation by all elements of society, both in rural and urban areas. So far, soil and water conservation activities are still limited to being driven and carried out by the government, especially on a large scale and in development projects.

The law reform of Soil and Water Conservation will be needed in regulating the rights and obligations of the community and the government in its implementation. The reform must be beyond anthropocentrism, toward to an ecocentric or ecocracy paradigm,<sup>35</sup> as the main manifestation of ecocentric is protecting ecosystem health, while anthropocentric is meeting human needs more efficiently.<sup>36</sup> Prior to the renewal of the Law on Soil and Water Conservation, the House of Representatives needs to continue to monitor so that the Law can be implemented properly with an ecocentric concept, one of which is urging the government to enforce regulations fairly and firmly for environmental destroyers. Likewise, implementing regulations needs to be established immediately to become the legal umbrella for planning and implementing Soil and Water Conservation.

#### **D. CONCLUSION**

This study generates two conclusions. First, the function of Water Resources in business activities in the laws and regulations has ignored the sovereign rights of the state and the people. The neglect of the constitutional rights of the state and the people, one of which is reflected in

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35 Ronald E. Purser, Changkil Park, and Alfonso Montuori, Limits to Anthropocentrism: Toward An Ecocentric Organization Paradigm?, *Academy of Management Review*, Vol. 20, No. 4, 1995, page 1082-1083.

36 Sophia Imran, Khorshed Alam, and Narelle Beaumont, Reinterpreting the Definition of Sustainable Development for a More Ecocentric Reorientation, *Sustainable Development*, Vol. 22, No. 2, 2011, Page 134-144.

Article 47 of the Water Resources Law, have provided a profit-oriented business for companies in water resources area. In fact, the state as a formal body that holds the highest sovereignty over the earth, water and natural resources contained therein is obliged to protect and to guarantee the fulfillment of the people's right to water, to guarantee the sustainability of the availability of water and water resources in order to provide fair benefits to the community, and to guarantee the preservation of the functions of Water and Water Resources to support sustainable development. Second, ecocracy revitalization efforts in ensuring the existence of Water and Soil Conservation must be carried out by instilling two liabilities to the government, the people, and investors who are engaged in water resources, namely the liability because of the inherent propriety to act or to do and the liability because of the inherent propriety not act or not do in order to protect ecosystem health and to ensure environmental sustainability.

## BIBLIOGRAPHY

### Books:

- Deni Bram, 2014, *Politik Hukum Pengelolaan Lingkungan Hidup*, Setara Press, Malang;
- Feisal Tamim, 2004, *Reformasi Birokrasi: Analisis Pendayagunaan Aparatur Negara*, Belantika, Jakarta;
- Jimly Asshiddiqie, 2009, *Green Constitution: Nuansa Hijau Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*, Rajawali Press, Jakarta;
- Rohani Budi Prihatin, 2009, *Info Singkat: Air Bersih di Perkotaan*, Sekertariat Jendral DPR RI, Pusat Pengkajian, Pengolahan Data dan Informasi (P3DI);
- Sodikin, 2003, *Penegakan Hukum Lingkungan*, Djamban, Jakarta;
- Sutardi M., 2002, *Pengelolaan Sumberdaya Air yang Efektif*, Badan Perencanaan Daerah, Bandung;
- Suteki, 2013, *Desain Hukum di Ruang Sosial*, Thafa Media, Yogyakarta;

### Journals:

- Benny R. P. Sinaga, Elvrida N. Sinaga, Leo B. Barus, Reny Y. Sinaga, and Henry D. P. Sinaga, Justice Reconciliation In Establishing Responsive Tax Law In Indonesia: A Rawlsian Perspective, *Ayer Journal*, Vol. 27, No. 3, 2020;
- Direktorat Jenderal Sumber Daya Air, Penyelamatan Sumber Daya Air Menjadi Tugas Bersama, available at [https://sda.pu.go.id/berita/view/penyelamatan\\_sumber\\_daya\\_air\\_menjadi\\_tugas\\_bersama](https://sda.pu.go.id/berita/view/penyelamatan_sumber_daya_air_menjadi_tugas_bersama), accessed on 10 August 2021;

- Editorial, Sovereignty, community environmental inspection and the globalisation of the drinking water directive, *Water Law*, Vol. 10, No. 1, 1999;
- Georg Sorensen, Sovereignty: Change and Continuity in a Fundamental Institution, *Political Studies*, Vol. 47, No. 3, 1999;
- Henry D. P. Sinaga, and Anis W. Hermawan, Tax Reorientation as Corruption Prevention on Investment in Indonesia, *Journal of Accounting and Finance*, Vol. 5, No. 1, 2021;
- Henry D. P. Sinaga, and Benny R. P. Sinaga, *Rekonstruksi Model-Model Pertanggungjawaban di Bidang Perpajakan dan Kepabeanaan*, Yogyakarta, Kanisius, 2018;
- Jimly Asshiddiqie "Gagasan Kedaulatan Lingkungan: Demokrasi Versus Ekokrasi" [http://jimly.com/makalah/namafile/160/Demokrasi dan Ekokrasi .pdf](http://jimly.com/makalah/namafile/160/Demokrasi%20dan%20Ekokrasi.pdf) diakses pada 20 Maret 2019.
- Joni Emirzon, and Henry D.P. Sinaga, Dispute Resolution Model of Construction Work Contract: A Case Study In Indonesia, *International Journal of Global Community*, Vol. 6, No. 2. 2021;
- Kompas.com, Negara Belum Siap Kelola Air , 3 March 2015, available at [https://nasional.kompas.com/read/2015/03/03/15130071/Negara.a.Belum.Siap.Kelola.Air?page=3](https://nasional.kompas.com/read/2015/03/03/15130071/Negara.belum.Siap.Kelola.Air?page=3).
- Luc J. Wintgens, Sovereignty and Representation, *Ratio Juris*, Vol. 14, No. 3, 2001;
- M. E. Venezian Scarascia, F. Di Battista, and L. Salvati, Water Resources in Italy: Availability and Agricultural Uses, *Irrigation and Drainage*, Vol. 55, 2006;
- Norman Doe, The Positivist Thesis in Fifteenth-Century Legal Theory and Practice, *The Journal of Legal History*, Vol. 11, No. 1, 1990;
- Pemerintah Kota Tangerang, Tiga Problem Sumber Daya Air di Indonesia, available at <http://www.pdamtirtabenteng.co.id/berita/tiga-problem-sumber-daya-air-di-indonesia>, accessed on 20 Marc 2019;
- Phillip G. Payne, The globally great moral challenge: ecocentric democracy, values, morals and meaning, *Environmental Education Research*, Vol. 16, No.1, 2010;
- Randall Baker, Challenges to Traditional Concepts of Sovereignty, *Public Administration and Development*, Vol. 20, No. 1, 2000;
- Rintis N. Pramugar, A. Hidayat, A. Syakhroza, and Benny R. P. Sinaga, Supervision Reconstruction of the Ministry of Energy and Mineral Resources in Corruption Prevention of Indonesia's Mining Sectors, *Test Engineering and Management*, Vo l. 83, 2020;
- Ronald E. Purser, Changkil Park, and Alfonso Montuori, Limits to Anthropocentrism: Toward An Ecocentric Organization

Paradigm?, *Academy of Management Review*, Vol. 20, No. 4, 1995;

Sophia Imran, Khorshed Alam, and Narelle Beaumont, Reinterpreting the Definition of Sustainable Development for a More Ecocentric Reorientation, *Sustainable Development*, Vol. 22, No. 2, 2011;

**Regulation:**

1945 Constitution of the Republic of Indonesia.

Act No. 17 of 2019 concerning Water Resources.

Act No. 37 of 2014 concerning Soil and Water Conservation.

Act No. 7 of 2004 concerning Water Resources.