

# The River Conservation for Environmental Preservation in Juristical Perspective

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**Abstract---** *The river conservation become a challenge to human life nowadays, river is a place where water has right to flow therefore the environmental conditions must be maintained. In a certain context, Indonesian public's perception making the river as an inevitable target in economy-social needs fulfilment. This study uses a normative juridical approach, based on the legal norms of government regulation number 35 of 1991 applied about River and regulation number 32 of 2009 concerning Environment's protection and management, by researching the relation between positive law and reality in the community. The damaged of the quality of river environment condition have an impact to all component of life structure in the river area, it must be avoided, considered the alternative use of legal instrument to build disciplin. The environment issue at the developing country such as Indonesia caused by efforts to maximize natural resources to fulfil community economic needs. Poverty becomes one factors causing the degradation of quality of river's environment, this reflects economic penetration take effect so much into law dimension. The efforts used to maintain the quality of river conditions through law enforcement processes, and also to coordinate the institutional function through supervision so that the preservation of the river's environment is maintained.*

**Keywords---** *River's Conservation, Environment Quality, Poverty.*

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## I. INTRODUCTION

The economic development is a backbone to national development. One of the main function of the river environment is to irrigate agricultural land and to fulfil the needs of clean water. Along with the population growth and various industrial development, so river's pollution has become a serious problem faced by humans. Even air, soil, and water can not be separated from the pollution problems, it can not be denied that the most threatened environment nowadays is water environment especially river because river is the main needs of industry and household, and finally most of water that has been used by industry and household will be released into the environment together with various pollutants type inside it.

There are many rivers at Majalengka District that is as an artery of life for the surrounding community. Those rivers are vital facilities and infrastructure for public in their daily life as transportation facilities as well as drinking water raw material, bathing and washing and also various activities such as industry, fisheries, plantation, mining, and other activities and also as a final disposal place of waste from the activities around.

According to clause 1 paragraph 2 constitution number 5 of 1990 explained that conservation of biological

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natural resources are management of biological natural resources that are used wisely to ensure the continuity of its stock by maintaining and improving the quality of variety and its value. Environmental activity in the form of biological natural resources conservation and its ecosystem is part of integral from macro national development and should be manifested and succeeded. Conservation of natural resources and their ecosystems are as one of the national development in the field of natural resources preservation that carry out its duty in order to maintain the preservation of biological natural resources and its ecosystem for the importance of sustainable development and the importance of next generations<sup>3</sup>.

The changing around the river is caused by constriction of the riverbed, illegal settlements, waste disposal or solid waste into the river and sedimentation. Furthermore there are the presence of pollution due to disposal of industrial chemical waste and domestic waste and also organic waste discharged into the river. Besides that, the change of river water colour into black turbid can be caused by the decay process of organic material and smell bed to the environment. Meanwhile inorganic material produced too much settles in the bottom of the river or floats in the water covering the surface of the river. And while the presence of domestic waste like detergent foam and other toxic material that people use can influence the changes of water river quality.

Area of the research is in Majalengka district, with a critical condition of the river including the damaged embankment at river, diversion of river channel, abrasion that makes river banks get closer to residential areas, damage of the rock cliffs to prevent erosion mounted on river banks, river bank landslides, flood, damage to retaining soil, embankment damage, river bank damage, dredging. River is the important things in the ecological system and environment, needs an environmental conservation to exploit the river as well as possible, to protect and give back the function of the river, to maintain river for the present and future known as conservation. River conservation activities need to be carried out at the research area Majalengka district.

Based on the rule of law has been regulated through constitution number 37 of 2014 concerning water and soil conservation, then because it is considered too large and not specific in handling river, related to rivers is regulated in government regulation number 35 of 1991 concerning River, it contains about legal norms about river conservation. The questions is how the Majalengka district governments' policy handle river conservation for the purpose of environmental management based on applicable legal norms.

## II. METHODS

Conservation of natural resources and their ecosystem are as one of the National developments at preservation of environmental natural resources that carries out their duties in order to maintain the preservation of the living natural resources and its ecosystem for the interests of the sustainable development and for the interest of next generation.

Law is an instrument to maintain community order. The nature of law is basically conservative, it is preserving and maintaining what has been achieved. The such law function is needed for every community, including the developing community. In the social community, law not only maintain order, but also helps community's changing process. In carrying out its function in the community, Law must be supported by a quite effective application, both in the position as social controller for the community and for changing pattern of life, pattern of behaviour and pattern of actions or create pattern of life required by the law including pattern of culture. Based on its function as

community controller, law has a role to protect the community in order to behave as desired, and they must not behave against the law. While community always behave as desired by law, so its role as a community controller has been achieved. Likewise, on the contrary if community behave against the law, so its role as community controller is not achieved as expected. Law is not able to carry out its functions to do social engineering at the time community run into continuous changing process, as the result of developments process that has a great implication in the dynamics of community development (Sutrisno, 2015). In daily informations people are able to find out events and actions that categorized as violations of law which ultimately caused victims or disadvantages, to both individuals and communities. It gives an interesting impression, as if irony had happened because the violation of law actually occurs between community development process (Sutrisno, 2013). *The government must be able to give affirmation to the community, the law that is made leads to the interests of the community and oriented towards social justice* (Sutrisno, 2019).

The awareness of law is formed in actions and therefore it is a matter of law as behaviour, and not law as norm rules or principles (Rahardjo, 1991). To build law awareness is not easy, because not all people has this awareness. Law as a social phenomenon is an institution and community controller. In the community can be found various institutions which is each needed in the community to fulfil their needs and to expedite the fulfillment of those needs, because of those functions, community needs the presence of institutions as an understanding of law awareness. *Law is an important element in the development of politics and it makes the relationship with government policy clearer. Through legislation, the Government determines what it can do and what not to do. Law defined as legislation is a system of norms where the rule of law is arranged in unity within a hierarchical manner. The lower legal norms should not be contradictory to the higher legal norms* (Sutrisno & Jazilah, 2019).

Protection and management of the environment demands the development of an integrated system in the form of national policy on environmental protection and management that must be carried out in accordance to obey the principle and be consistent from the center to the regions.

The definition of conservation in constitution number 5 of 1990 concerning conservation of living natural resources and its ecosystem, in clause 1 paragraph (2) means that conservation of living natural resources is the management of living natural resources, that is used wisely to ensure the continuity of their supplies while still maintaining and improving the quality of variety and its value. Constitution number 32 of 2009 concerning Environmental Protection and Management clause 57 paragraph (2) that conservation of natural resources as referred to paragraph (1) letter *a* includes:

- a. Protection of natural resources
- b. Preservation of natural resources; and/or
- c. Natural use of natural resources.

And in clause 57 paragraph (5) that further provision concerning conservation and reserve of natural resources and also preservation of atmospheric function as referred to paragraph (1) are regulated by government regulation.

Based on the description of the paragraph above, that conservation activities are very important and must be implemented, conservation is more determine to aspects of environmental preservation, which includes protection of

natural resources, preservation of natural resources and preservation of atmospheric function. The conservation of natural resources include natural resources protection, preservation of natural resources and utilization of natural resources which is intended to protect non-renewable natural resources, also to maximize their use so that the benefits can continue to be carried out for the present and next generations and further provisions related to conservation are further regulated by government regulations in order to be more specific and directed.

### III. DISCUSSION

River is the body of flowing water (tapering). About 69% river water are from hundreds groundwater (*base flow*) and the rest are from rainfall that flow as surface flow (*surface run off*). The critical condition of river can be assessed from the parameters of flow quantity (debit) and water quality (Dinas, 2017). *Das Gefühl der Verbundenheit mit einem Ort kann sich einstellen, wenn die betreffende Person diesen Ort nicht nur kennt, sondern ihm im eigenen Leben Bedeutsamkeit zuerkennt* (Schemel, 2004). It means feeling connected to some place, will happen when someone not only understand or just know to the place, but those place give meaning in his/her life. Then it also applies to rivers, that people can make the rivers as a place that must be preserved by principles that the river contains many memories (memorable place), this will be targeted by Majalengka district government so that people are able to maintain rivers well and also do the conservation activities based on its portion.

*How far the restoration/ conservation project will move a system towards the guiding image will depend on many factors, some of which are non-ecological (e.g. existing infrastructure limitations, stakeholder need and society, available funding)* (Palmer, 2005). Therefore those factors must be compatible to compliment each other in conservation activity.

*Das gilt sowohl für die persönliche als auch für die überpersönliche Entscheidungsebene wie die eines Gemeinderats. Seit einiger Zeit werden von Seiten des Naturschutzes die zunehmenden Akzeptanzprobleme bemerkt und Lösungswege diskutiert* (Schemel, 2004). Related to conservation problems involve personal awareness as well as public society, from state officials to public society. In a certain time conservation is taken as acceptance of environmental problems and discussion to find solutions. Therefore in conservation activities need personal involvement and all society to be realized that conservation is a common problems.

The Majalengka district government's policy in responding to environmental preservation to fulfil law government's regulation number 35 of 1991 concerning River at Majalengka district is done spontaneously or partial, it is not good because in handling environmental problem, especially river must be carried out sustainable or continuously accompanied by an adequate budget, since the approaches to environmental problems must be handled integrally-holistically-comprehensively. It is quite reasonable, considering that there is a correct argument that law does not work in an empty space, therefore the social problems must be handled extraordinary and also must work in an extraordinary ways (Sutrisno, 2014). *Law enforcement refers to implementing the textual of legal norms in the social realities of society. The contents of the substance of the norm is hoped to be clarified through legal behavior so that questions about legal awareness, legal compliance, legal feelings, legal attitude will be more prominent* (Sutrisno, 2017).

The law provision clause 7 Government regulation number 35 of 1991 concerning River, that river is as water source which is a part of natural resources that has multipurpose for human life and livelihood, therefore its function is very vital and very influential for human life, river must be protected and preserved, improved its functions and uses, that's why it must go through conservation. Meanwhile at Majalengka District itself, the legal norms haven't been implemented well, because there are people who still less concern to the environment, for example they throw away the litters to the river and most big rivers in Majalengka District are in polluted condition, as the effect of land use activities in the river flow area such as oil palm plantation and mining as well as illegal gold mining activities, both carried out by local people and migrants and also public activities that dispose waste to the river as final disposal site. The pollution that occurs in the river can effect the ecosystem and harm people's health that use those river water for their daily needs. It of course contradict with the legal norms that river must be protected and preserved, and also improved its functions and benefits. This is really realized well considering that so far the legal development in this country tends to move in an artificial and directionless space (Dayanto, 2013). *Indonesia today is faced with a very "unique" problem of law performance regarding the formal truth treated as the most dominant consideration of legal decision embracing reine Rechtslehre Kelsenian's way of thinking. An approach that is still in further discussion through a more holistic alternative paradigm* (Sutrisno, 2015).

The river conservation is one of the sub part of the efforts to preserve the river environment, or we can say river restoration. An effort to use river, protect, and restore river function, and also maintain river for the present and future. River conservation concept can be interpreted as something that has value and character, it is also an education for people related to three things, there are utilization, protection and maintenance of river area. Many various local wisdom related to river environment that develops in the society has an educational value that must be maintain and bequeathed to the next generations (Marlang & Rina, 2015). As regulated in clause 246 constitution number 23 of 2014 concerning Regional Government, in paragraph (1) to implement the Regional Government on the authority of laws and regulation, the regional head officer determines the regulation of regional head and /or regional head's decision. And paragraph (2) regulated the regional head's regulation and or regional head's decision as referred to paragraph (1), prohibited from being in conflict with public interest, Regional Regulations and the higher laws and regulations. Based on the provision by the presence of Regional Autonomy, Majalengka District has right to organize a decentralized government, in the terms of conservation according to the provision of Regional Government which consists of several departments in Majalengka District related to conservation.

The pollution that occurs in rivers more and less will affect the ecosystem and can harm people's health that use those river water for their daily needs. It is of course contradict to applicable law norm, river must still be protected and maintained for its conservation's effort so that at the end it must be able to be improved its functions in order to provide benefits for people's life. The effort to control river's function are very important so the damage can be avoided. It can harm the river's ecosystem. Therefore it must be avoided from people's action who throw away litter into river, throw the waste to rivers, and other activities that caused river pollution.

Lokal government must be able to develop regulation that aim to preserve and control people's behaviour that damage river preservation. *The existence of local autonomy cannot be used as alternative solution of development to prosper communities. Another approach is needed for the sake of communities' interest. Local should be able to*

*understand its communities better. In this case, state existence (local government) among communities' interest is the absolute pre-requisite in order that the development can reach the target (Sutrisno, 2015).*

Existing condition, the importance of carrying out policies to river conservation is that there are 81 (eighty one) critical river location in Majalengka District which currently need treatment. Critical river conditions are mostly experiencing crucial river bank, the changes of river flow, settlement threatened, abration, landslides, erosion of river bank, the damage to river basin, flood, to the break of river embankment and river condition that are still found rubbish heap around river, this fact needs handling as soon as possible(Dinas, 2019).

The policy of Local Government through relevant departments in Majalengka District do periodic inspections related to river including the testing of water surface, it is based on Government Regulation number 82 of 2001 concerning Management of water quality and Water Pollution Control. The selection of river that are monitored accordance with priorities of each of which is prone or potentially causing environmental impact, such as river which surround industrial areas, home industries and settlements. In the effort to conserve river for environmental preservation based on Government Regulation number 35 of 1991 concerning River, the following policies were implemented:

1. The Department of Environment as the administrator reports on critical river points as the beginning part of river conservation called river protection;
2. The Department of Settlement, Housing and Water Resources receive reports from Department of Environmental that is next compiled into an integrated report based on The River Authority section which is accompanied with river data, type of repair, up to cost estimation value, it is to make easy which party has the authority to manage or even repair the river mentioned, those parties are the authorized parties consist of Minister (central), Governor (province), or Local Government (District) as part of authority in river conservation.

Majalengka District Local Government has policy, that is started with administrative coordination, then when it has been decided that the river is the authority of Majalengka District the Majalengka District Government policy applied. But in its implementation those efforts always meet obstacles and often river conservation actually is not implemented, that is related when the report has been made but due to a considerable cost estimation, river conservation efforts related to water pollution have not been implemented(Dinas, 2019).

Basically, river conservation has been regulated in Government Regulation number 35 of 1991 concerning River, to be used as guidance in river conservation activities in Majalengka District, but to support Government Regulation policy number 35 of 1991 concerning River, it needs implementing regulation in the form of Regional Regulation made by Majalengka District Government, especially related to river conservation at Majalengka District.

The above regulation is considered quite important in supporting river conservation efforts. Nevertheless, it also needs commitment, awareness and public participation to make it real, so the river conservation activities can be carried out and run well. The implementation of this rule of law must have supervision from Government and from social community. So that these rules can be enforced and the Local Government must formulate policies in the

form of Local Regulation or District Regulation related to the river conservation problems.

#### IV. CONCLUSIONS

The policies related to river conservation program in environmental conservation become very important to build people's health, even a written of regulatory products have set them up through several laws and regulations, including Regulation No. 32/2009 concerning Environmental Protection and Management and Regulation Government No.35/1991 concerning River. The regulation does not directly apply effectively since it has to deal with legal awareness aspects and legal compliance of citizens, the process of law works place. The dynamics of the law operation must be balanced with the socialization process and legal counseling on target. The local Government Policies must formulate regulations for river conservation efforts and maintain river functions through river conservation policy, related to these, specific regulation products must be developed in the form of Regional Regulations or Regent Regulation, especially regarding river conservation program as a form of environmental preservation.

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