

# Water Privatization Discourse in Indonesia: Legal Issues and Lessons Learnt from the UK's Experience

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## Abstract

Legal protection of water resources is important as a rule and guidelines for human behavior as the purpose of the law to regulate public order. Legal developments regarding water resources need to be updated following the development of the community, so that the creation of legal protection for water resources can have an impact on water conservation. This study examines the policy of legal protection of water resources in Indonesia. It discusses the existing legal issues emerged in water privatization. Besides, it also explores the UK's experience including the management and policy on the water exploitation. This study employed doctrinal legal research utilizing comparative, statutory, and conceptual approach. The discussion's findings demonstrate that the UK's approach to water management differs from Indonesia's. A system of water privatization is used in UK water regulation. The UK places a high focus on service quality and access to clean water. Therefore, the government offers complaint services regarding water quality in order to regulate the performance of the private sector. The Consumers Council for Water (CCWater) also provides assistance to consumers in homes and businesses. Water and sewage users in the UK and Wales are represented by CCWater, which also accepts unresolved complaints.

**Keywords:** Comparative study, Indonesia, Legal protection, The United Kingdom, Water management.

## 1. Introduction

The water crisis is often seen as a crisis of governance.<sup>1</sup> The problem of the water crisis does not only question the problem of regulating the management of water resources but also the socio-political structure within politics. There is a close relationship between power and social networks in water governance.<sup>2</sup> Therefore, the regulation and management of water cannot be separated from the political role in which the state regulates with policies in the context of efficient and effective utilization and use of water resources. The state as the operator makes policies in the form of statutory regulations as a means of regulating and controlling the use of water resources by the people.<sup>3</sup>

<sup>1</sup> V Narain, 'India's Water Crisis: The Challenges of Governance', *Water Policy*, 2.6 (2000), 433-44 [https://doi.org/10.1016/S1366-7017\(00\)00018-0](https://doi.org/10.1016/S1366-7017(00)00018-0).

<sup>2</sup> P. Woodhouse and M. Muller, 'Water Governance – An Historical Perspective on Current Debates', *World Development*, 92 (2017), 225-41 <https://doi.org/10.1016/j.worlddev.2016.11.014>.

<sup>3</sup> Iskandar Abdullaev and Shavkat Rakhmatullaev, 'Transformation of Water Management in Central Asia: From State-Centric, Hydraulic Mission to Socio-Political Control', *Environmental Earth Sciences*, 73.2 (2015), 849-61 <https://doi.org/10.1007/s12665-013-2879-9>.

Systematic and integrated efforts to address water management are needed which include planning, utilization, control, maintenance, supervision, and law enforcement.<sup>4</sup> The development of hotels with the aim of tourism facilities must also pay attention to aspects of maintenance and control of the surrounding environment in order to create a balance. Article 26 of Law Number 10 of 2009 concerning Tourism states that every tourism entrepreneur is obliged to maintain a healthy, clean and beautiful environment, and maintain environmental sustainability. Environmental maintenance as a form of actualization maintains a balance between the natural environment and humans by hotels to minimize negative impacts, especially on depletion of water discharge.<sup>5</sup>

Based on the background above, there is a need for legal protection policy efforts related to water resources in Indonesia so that cases do not recur and water resources in Indonesia remain sustainable. The laws and regulations in Indonesia have not yet protected the preservation of water resources to be used effectively and efficiently. Because there is no legal protection for the utilization of these water resources, it has resulted in a water crisis in several areas. The water crisis is also caused by humans because they are not aware of water conservation. It can be seen from the lack of water absorption capacity because many people's houses are now paved so that water does not seep into the ground but goes straight into rivers and into the sea so that water is not stored in land reserves and there are still many community activities that are unknowingly the cause of the water resources crisis in Indonesia.<sup>6</sup>

Therefore, based on the problems above, this study examines the legal protection policies of water resources in Indonesia. Legal protection of water resources is important as a rule and guideline for human behavior as the purpose of the law is to regulate social order. Legal developments regarding water resources need to be updated following developments in society, so that the creation of legal protection for water resources can have an impact on water conservation in Indonesia. And most importantly, as the main reference, this study compares policies and regulations in The UK related to water management with the hope that they can be emulated and adopted by the Indonesian government.

## 2. Method

This study uses a doctrinal legal research method. Doctrinal research is a scientific research procedure to find the truth based on legal scientific logic from a normative perspective. Therefore, this research will cover the analysis of written law that has been inventoried in Indonesian positive law. The results of the study of legal norms that are inventoried in positive law help in analyzing the abstraction of positive legal norms. Furthermore, this study also uses several approaches to determine from which side the research object will be studied. The approaches used in this legal research are statutory approach, conceptual approach, and comparative approach.

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<sup>4</sup> Chansheng He, Carol P. Harden, and Yanxu Liu, 'Comparison of Water Resources Management between China and the United States', *Geography and Sustainability*, 1.2 (2020), 98–108 <https://doi.org/10.1016/j.geosus.2020.04.002>.

<sup>5</sup> Antonio Rico and others, 'Declining Water Consumption in the Hotel Industry of Mass Tourism Resorts: Contrasting Evidence for Benidorm, Spain', *Current Issues in Tourism*, 23.6 (2020), 770–83 <https://doi.org/10.1080/13683500.2019.1589431>.

<sup>6</sup> V. Srinivasan and others, 'The Nature and Causes of the Global Water Crisis: Syndromes from a Meta - analysis of Coupled Human - water Studies' , *Water Resources Research*, 48.10 (2012), 2011WR011087 <https://doi.org/10.1029/2011WR011087>.

### 3. Discussion and Analysis

#### 3.1. The 2004 Water Resources Law: Why is it failed?

The current development of state policy is experiencing various water governance problems, namely those related to transboundary issues that need to be regulated both within a river basin covering various administrative areas or the country. Therefore, even though Indonesia has an average surface water availability that is relatively large, up to 25 times the world average, the utilization of water must be carried out as effectively and efficiently as possible because otherwise it will cause problems. If the utilization of this water resource is not controlled, there will be a water crisis or even flash floods.<sup>7</sup> This incident has occurred in various parts of Indonesia.<sup>8</sup>

The importance of efficient use of water resources is in accordance with the mandate of the 2002 UN Convention on the International Covenant on Economic, Social, and Cultural Rights, Article 12.1, in this Covenant it is stated that water is a limited natural resource and a public good that is fundamental to life and health. The right to consume water is a right for every human being and one form of human rights. Article 33 of the 1945 Constitution of the Republic of Indonesia states that the state guarantees and protects the utilization of water resources and that they are used as much as possible for the life and prosperity of the Indonesian people.<sup>9</sup>

Implicitly, the utilization of water resources is guided by the principles of economic efficiency in the formulation of patterns including utilization priorities. The principal issue that is not touched on in the draft law is the issue of justice in the allocation and utilization of water related to the nature of water resources in an area as a common pool of resources and common heritage resources. Utilization of resources like this often causes symptoms of externality both between places or regions and over time. For example, damage to the upstream area of a river will have a negative impact on the downstream area and if it continues will have a negative impact on the availability of water resources for future generations, just as we are currently feeling the negative impact of forest destruction that has occurred since two or three past decades.

Indeed, this is not an easy thing considering that experience so far has shown that there is a tendency for private actors who obtain permits to manage natural resources such as forests to treat these resources in an exploitative manner. The description of financing, which is also included in the law, which lists sources and methods of obtaining financing, should not only pay attention to the principle of efficiency, but should also be used to realize the aspired principles of justice.

The Constitutional Court in its decision annulled the entire 2004 Water Resources (SDA) Law. According to the Court, the Water Resources Law in its implementation has been interpreted differently so that the Court needs to reaffirm the meaning that the earth and water and the natural resources contained therein are controlled by the state and used for the greatest

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<sup>7</sup> Erica DeNicola and others, 'Climate Change and Water Scarcity: The Case of Saudi Arabia', *Annals of Global Health*, 81.3 (2015), 342 <https://doi.org/10.1016/j.aogh.2015.08.005>.

<sup>8</sup> Aziza Akhmouch and Francisco Nunes Correia, 'The 12 OECD Principles on Water Governance – When Science Meets Policy', *Utilities Policy*, 43 (2016), 14–20 <https://doi.org/10.1016/j.jup.2016.06.004>.

<sup>9</sup> F. Coomans, 'The Extraterritorial Scope of the International Covenant on Economic, Social and Cultural Rights in the Work of the United Nations Committee on Economic, Social and Cultural Rights', *Human Rights Law Review*, 11.1 (2011), 1–35 <https://doi.org/10.1093/hrlr/ngq055>.

prosperity of the people considering that water is one of the most important and basic elements in life and human life.

Based on these considerations, in the exploitation of water there must be very strict restrictions as an effort to maintain the preservation and continuity of the availability of water for the life of the nation which includes (1) exploitation of water must not interfere with, exclude, let alone negate people's rights; (2) the state must fulfill the people's right to water considering that people's access to water is a separate human right; (3) environmental sustainability, because as one of human rights it must be safeguarded bearing in mind that the 1945 Constitution also states that, "everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to get a good and healthy environment and has the right to obtain health services" ; (4) supervision and control by the state over water is absolute; and (5) the main priority given to the exploitation of water is State Owned Enterprises or Regional Owned Enterprises. Nevertheless, it is still possible for the Government to grant permits to private businesses to exploit water by taking into account the restrictions mentioned above.<sup>10</sup>

The Constitutional Court's decision is prospective and not retroactive so that all clauses in the agreement that were agreed before the cancellation are still valid.<sup>11</sup> Thus, the contract is still being carried out while hoping for the drafting of a new Law on Water Resources which accommodates the interests of protecting the people's prosperity as much as possible. The Constitutional Court's decisions are prospective, especially those concerning agreements between the private sector and the government as well as between other actors. Another implication that needs to be followed up immediately is steps to harmonize regulations that emerged as a follow-up to the cancellation of the Law on Water Resources where the alternative way is to enact Law no. 11 of 1974 concerning Water Resources Development as a consequence of the cancellation of the Water Resources Law.

According to Sentot Sudarwanto, important matters regarding the management and utilization of water resources that have not been regulated by Law no. 11 of 1974 is the principle of water management and use rights, details of authorities and responsibilities for each river area, four water resources management missions (conservation, utilization of water resources, control of the destructive power of water, and water resources information system), community participation, implementation of construction, operation and maintenance, coordination, dispute resolution, community and organizational lawsuits, and criminal sanctions.<sup>12</sup>

### 3.2. Post Revocation: What's Next?

With the annulment of the Water Resources Law, private water management companies no longer have an umbrella act and opened up wide opportunities for state-owned water companies (PDAMs) to provide clean water distribution services to the community with the aim of not being commercial or seeking profit, but fulfilling the community's right to water to ensure the welfare of society.

However, this does not necessarily make the permits pocketed by several private companies cancelled, but in every region the private companies are still operating under the

<sup>10</sup> William A. Jury and Henry J. Vaux, 'The Emerging Global Water Crisis: Managing Scarcity and Conflict Between Water Users', 2007, pp. 1-76 [https://doi.org/10.1016/S0065-2113\(07\)95001-4](https://doi.org/10.1016/S0065-2113(07)95001-4).

<sup>11</sup> Iskandar Muda, 'The Legal Logic of the Collapse on Non-Retroactive Doctrine in the Constitutional Court Decision', *Constitutional Review*, 3.1 (2017), 98 <https://doi.org/10.31078/consrev315>.

<sup>12</sup> Ching Leong, 'Persistently Biased: The Devil Shift in Water Privatization in Jakarta', *Review of Policy Research*, 32.5 (2015), 600-621 <https://doi.org/10.1111/ropr.12138>.

old legal framework. One example is PT Tirta Investama Klaten using the Regulation of the Minister of Mines and Energy as the legal umbrella for groundwater management, while for surface water management permits it uses the Water Resources Development Law as the legal umbrella. The issue of permits that have been pocketed by private companies that are considered inappropriate adds to the thorny problem of the messy laws and regulations regarding water resources.<sup>13</sup>

After the promulgation of Law no. 7 of 2004 concerning Water Resources which does not have binding legal force and the re-enactment of Law Number 11 of 1974 concerning Water Resources Development (Watering Law), based on Constitutional Court Decision No. 85/PUU-XI/2013, the Government then stipulated Government Regulation (PP) Number 121 of 2015 concerning the Management of Water Resources and PP Number 122 of 2015 concerning Drinking Water Supply Systems to become implementing regulations of the Water Resources Development Law.

Government Regulation Number 121 of 2015 explains that water resources are controlled by the state and used for the greatest prosperity of the people. This is in accordance with the mandate of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states "the earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people". State control over water resources is carried out while still recognizing the customary rights of local customary law communities over water as long as they do not conflict with national interests and statutory provisions. Control by the state over water is carried out by arranging and managing permits and water allocation to guarantee everyone's right to obtain water for the fulfillment of daily basic needs.<sup>14</sup>

Article 28A of the 1945 Constitution of the Republic of Indonesia states that every citizen has the right to live and has the right to defend life, in order to fulfill the right to live and to defend life, the state is obliged to guarantee the fulfillment of the rights of every citizen, where one way is through the provision of basic needs of daily drinking water. This is in line with the provisions of Article 33 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that production branches which are important for the state and which affect the livelihood of the people at large are controlled by the state and the provisions of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that land and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.<sup>15</sup>

Furthermore, on February 18 2015, the Constitutional Court issued Decision Number 85/PUU-XI/2013 on the second judicial review lawsuit against Law Number 7 of 2004 concerning Water Resources. The decision, among other things, stated that Law Number 7 of 2004 concerning Water Resources had no legal force and reinstated Law Number 11 of 1974 concerning Water Resources Development. In this regard, it is necessary to make

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<sup>13</sup> Paul Nelson, 'Citizens, Consumers, Workers, and Activists: Civil Society during and after Water Privatization Struggles', *Journal of Civil Society*, 13.2 (2017), 202–21 <https://doi.org/10.1080/17448689.2017.1320865>.

<sup>14</sup> Teddy Prasetyawan, Anindrya Nastiti, and Barti Setiani Muntalif, "'Bad" Piped Water and Other Perceptual Drivers of Bottled Water Consumption in Indonesia', *WIREs Water*, 4.4 (2017) <https://doi.org/10.1002/wat2.1219>.

<sup>15</sup> Sri Irianti, Puguh Prasetyoputra, and Tri Prasetyo Sasimartoyo, 'Determinants of Household Drinking-Water Source in Indonesia: An Analysis of the 2007 Indonesian Family Life Survey', ed. by Albert Lee, *Cogent Medicine*, 3.1 (2016), 1151143 <https://doi.org/10.1080/2331205X.2016.1151143>.

arrangements regarding the exploitation of water resources in accordance with the current conditions. This is in line with the Constitutional Court Decision which states that one of the meanings of water control by the State is to regulate (*regelendaad*).

This principle implies that in the management of water resources, the exploitation of water resources by private business entities is the last priority so certain and strict requirements for the exploitation of water resources are not only a condition in the permit application but are part of all aspects in the implementation of water resources management. Thus arrangements regarding specific and stringent requirements must be regulated starting from arrangements for preparing plans for the supply of water resources which are part of the water resources management plan, prioritizing the issuance of permits, prioritizing water allocation, and supervising the implementation of water resources exploitation activities as well as imposing sanctions in the context of law enforcement.

Regulating permits and water allocation is necessary because the natural availability of water is not proportional to the growing population.<sup>16</sup> In this regard, the competition between the need for water to fulfill daily basic needs and the need for water for other uses, including business activities that require water resources, will increase in the future. To guarantee fair and equitable use of water, it is necessary to regulate permits and allocate water, both for the fulfillment of daily basic needs and for smallholder agriculture as well as the exploitation of water resources. Licensing for the management of water resources is carried out with the aim of providing protection for the people's right to water, fulfilling the needs of users of water resources, and protecting water resources.<sup>17</sup>

The stipulated water resources exploitation permit is not a permit to own or control water and/or water sources but is limited to granting licenses by the government to permit holders to obtain and exploit a certain amount (quota) of water, water resources and/or water sources in accordance with the allocation determined by the Government or Regional Government for water users. Permits for the exploitation of water resources cannot be rented out or transferred either in part or in whole.<sup>18</sup>

Government Regulation Number 121 of 2015 concerning the Exploitation of Water Resources has been determined as the executor of the Water Resources Development Law, control over water resources is guided by the principles of joint ventures and kinship, and the form of business that fulfills these principles is in the form of cooperatives. Although it has been determined that the form of business that meets the principle is a cooperative, Article 13 PP PSDA still allows the exploitation of water resources to be carried out by State-Owned Enterprises, Regional-Owned Enterprises, Village-Owned Enterprises, Private Enterprises, Cooperatives, Individuals, and cooperation between a business entity.

Permits for the exploitation of water resources are granted for a maximum period of 10 (ten) years. The validity period of the water resources exploitation permits as referred to in paragraph (1) is determined by the minister administering government affairs in the field of

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<sup>16</sup> María Molinos-Senante and Ramón Sala-Garrido, 'The Impact of Privatization Approaches on the Productivity Growth of the Water Industry: A Case Study of Chile', *Environmental Science & Policy*, 50 (2015), 166-79 <https://doi.org/10.1016/j.envsci.2015.02.015>.

<sup>17</sup> Alex Loftus, Hug March, and Thomas F. Purcell, 'The Political Economy of Water Infrastructure: An Introduction to Financialization', *WIREs Water*, 6.1 (2019) <https://doi.org/10.1002/wat2.1326>.

<sup>18</sup> J. Biggs, S. von Fumetti, and M. Kelly-Quinn, 'The Importance of Small Waterbodies for Biodiversity and Ecosystem Services: Implications for Policy Makers', *Hydrobiologia*, 793.1 (2017), 3-39 <https://doi.org/10.1007/s10750-016-3007-0>.

water resources, governors, or regents/mayors in accordance with their authority. The validity period is determined by taking into account the availability of water, the conditions and environment of the water sources, and the purpose of the exploitation.<sup>19</sup> For the exploitation of water resources that require infrastructure and facilities with large investments, concession permits are granted for a period of time in accordance with the calculation of the investment financial plan.<sup>20</sup>

Permits for the exploitation of water resources are given to individuals or business entities not in the form of legal entities whose business owners change, so the permits are automatically cancelled. Meanwhile, an extension of an expired water resources exploitation permit can be extended by submitting an application for an extension of the permit in writing to the minister administering government affairs in the field of water resources, governors or regents/mayors in accordance with their authority no later than 3 (three) months before permit period ends. If the permit extension has not been submitted within 4 (four) months prior to the expiry of the permit period, the water resources exploitation permit giver shall notify regarding the expiry of the permit. The permit extension decision is made no later than 3 (three) months after receipt of the permit extension application along with the complete requirements. In addition to PP PSDA, the Government also stipulates PP Number 122 of 2015 concerning Drinking Water Supply Systems to implement the provisions of Article 3, Article 7 and Article 10 of Law Number 11 of 1974 and to fulfill the responsibility of the State in guaranteeing the fulfillment of the people's right to drinking water. and access to drinking water.<sup>21</sup>

The implementation of the Drinking Water Supply System (SPAM) is the responsibility of the Central Government and/or Regional Governments in accordance with their authority to fulfill a healthy, clean and productive life in accordance with the provisions of laws and regulations. In order to carry out SPAM implementation, BUMN and/or BUMD are formed by the Central Government or Regional Government in accordance with their authority. If the implementation of SPAM is beyond the scope of BUMN or BUMD services, then the Central Government or Regional Government can form a UPT or UPTD in accordance with their authority which is carried out in accordance with the provisions of laws and regulations. The Central Government and Regional Governments can cooperate in the framework of the efficiency and effectiveness of SPAM operations. Business Entities can organize SPAM to meet their own needs in areas where drinking water services have not been reached by BUMN, BUMD, UPT, and UPTD. The implementation of SPAM to fulfill its own needs is carried out to fulfill the basic needs of daily drinking water and does not serve the general public.<sup>22</sup>

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<sup>19</sup> María Pedro-Monzonis and others, 'A Review of Water Scarcity and Drought Indexes in Water Resources Planning and Management', *Journal of Hydrology*, 527 (2015), 482-93 <https://doi.org/10.1016/j.jhydrol.2015.05.003>.

<sup>20</sup> Laurence Carvalho and others, 'Protecting and Restoring Europe's Waters: An Analysis of the Future Development Needs of the Water Framework Directive', *Science of The Total Environment*, 658 (2019), 1228-38 <https://doi.org/10.1016/j.scitotenv.2018.12.255>.

<sup>21</sup> Kai Zhang and others, 'Microplastic Pollution in China's Inland Water Systems: A Review of Findings, Methods, Characteristics, Effects, and Management', *Science of The Total Environment*, 630 (2018), 1641-53 <https://doi.org/10.1016/j.scitotenv.2018.02.300>.

<sup>22</sup> L.E.D. Smith and G. Siciliano, 'A Comprehensive Review of Constraints to Improved Management of Fertilizers in China and Mitigation of Diffuse Water Pollution from Agriculture', *Agriculture, Ecosystems & Environment*, 209 (2015), 15-25 <https://doi.org/10.1016/j.agee.2015.02.016>.

SPAM for raw water units and production units, investment in distribution units which are subsequently operated and managed by the BUMN or BUMD concerned, and investment in operating and maintenance technology in the context of seeking effective and efficient SPAM implementation with a performance-based contract mechanism. With the cancellation of the Water Resources Law, the Constitutional Court temporarily enacted the Water Resources Development Law to fill the legal vacuum so that there would be no legal chaos in the field of water resources management. It should be remembered that this implementation is only temporary, so the Government needs to immediately draw up a Bill related to the management of water resources in accordance with the current situation and conditions, which contains elements of the principles of management and rights to use water, details of authorities and responsibilities for each river area, four water resources management missions (conservation, utilization of water resources, control of water destructive power, and water resources information system), community participation, implementation of construction, operation and maintenance, coordination, dispute resolution, community and organizational lawsuits, criminal sanctions which is more logical.<sup>23</sup>

The Water Resources Development Law still provides opportunities for the private sector to get involved in water management. The involvement of the private sector in water management will make water have economic value that can be traded, this will make people lose their rights to get water. Therefore, in drafting the water resources bill, the private sector should not be involved in the process of managing water resources and supplying drinking water, because when it comes to capital to exploit water resources it is not as heavy as exploiting oil and gas resources. This simpler water management should enable the Government to fully control and exploit water resources for further distribution to the people.<sup>24</sup>

### 3.3. Lessons Learnt from the UK

The UK is a country known for its prowess in the field of water management. Even The UK became a distributor of water for countries that lack water like Singapore. British water management is indeed different from Indonesia. The UK's water management uses the water privatization system. Privatization of water is the transfer of water management either partially or completely from the public sector to the private sector. So that all forms of water management and distribution are carried out by the private sector with more direction towards profit or profit seeking by the private sector. The British form of water privatization is divestiture, a system of water privatization by transferring assets and operations either in part or in whole to private parties. Unlike the case with Indonesia, which is currently still not using the maximum water privatization system because water privatization is seen negatively as an effort to make a profit, in this case the company will reduce production management costs to gain more profit, while production and service quality do not meet existing standards.<sup>25</sup>

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<sup>23</sup> Jacob I. Ricks, 'Building Participatory Organizations for Common Pool Resource Management: Water User Group Promotion in Indonesia', *World Development*, 77 (2016), 34–47 <https://doi.org/10.1016/j.worlddev.2015.08.014>.

<sup>24</sup> Alexandra Law and others, 'Transitioning to a Green Economy: The Case of Tourism in Bali, Indonesia', *Journal of Cleaner Production*, 111 (2016), 295–305 <https://doi.org/10.1016/j.jclepro.2014.12.070>.

<sup>25</sup> Kate Bayliss, Giulio Mattioli, and Julia Steinberger, 'Inequality, Poverty and the Privatization of Essential Services: A "Systems of Provision" Study of Water, Energy and Local Buses in the UK', *Competition & Change*, 25.3–4 (2021), 478–500 <https://doi.org/10.1177/1024529420964933>.

In fact, the privatization of water has good goals and benefits if it is followed by adequate regulations from the government, because in this era more and more water use and management is carried out by individuals who tend to want to control natural resources with private ownership rights and use it for themselves. According to Rian Nugroho, one of the objectives to be achieved through privatization is to make a financial contribution to the state and business entities, accelerate the application of the principles of good corporate governance, and open access to international markets, and transfer technology and best practices to business entities.<sup>26</sup>

As previously explained, the UK uses a water divestiture privatization system, so that all water utilization is carried out by the private sector with private ownership and investment of capital, with full binding regulations from the government. Regarding regulations, the British government provides strict requirements for any private company wishing to obtain a license for water utilization by first consulting to obtain a permit from the relevant ministry. The permit includes the company's responsibility for empowering the surrounding environment.<sup>27</sup>

Not only regarding the several requirements that must be met by the water company, there are various responsibilities that become a separate burden for the company, in the form of providing facilities and infrastructure in the utilization of water, namely in the form of clean water pipes, managing household waste (manure) by distributing separate licensed dirty water pipes, as well as empowering water resources (plans to overcome drought from an early age), and overcoming flood problems. Against this system, the company will collect fees for distribution of clean water and distribution of dirty water separately. The distribution of dirty water will be treated first, so it does not pollute the environment, especially rivers. The amount of the tariff is determined by the OFWAT (office of water service) which does not use volumetric determination but is based on the property value (size of the house). So that in this case, people with a high economic level will cover the payment of tariffs in people with a low economy.<sup>28</sup>

Regarding any damage to pipes or drainage channels, it is the full responsibility of the company with a system of providing insurance to each customer. If the company goes bankrupt, the British government will protect consumers to be transferred and transfer them to other companies or the companies will be merged.<sup>29</sup>

The quality of service and clean water is a top priority for the UK. In order to control the performance of the private sector, the government provides complaint services about water quality. Support for household and business consumers is also available from the Consumers Council for Water (CCWater). CCWater represents consumers of water and sewage in The UK and Wales and receives unresolved complaints. If the company is found to provide inadequate

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<sup>26</sup> Huanming Wang and others, 'Public-Private Partnership in Public Administration Discipline: A Literature Review', *Public Management Review*, 20.2 (2018), 293-316 <https://doi.org/10.1080/14719037.2017.1313445>.

<sup>27</sup> Vanessa L. Speight, 'Innovation in the Water Industry: Barriers and Opportunities for <sc>US</Sc> and <sc>UK</Sc> Utilities', *WIREs Water*, 2.4 (2015), 301-13 <https://doi.org/10.1002/wat2.1082>.

<sup>28</sup> Dieter Helm, 'Thirty Years after Water Privatization – Is the English Model the Envy of the World?', *Oxford Review of Economic Policy*, 36.1 (2020), 69-85 <https://doi.org/10.1093/oxrep/grz031>.

<sup>29</sup> Hope Johnson, Nigel South, and Reece Walters, 'The Commodification and Exploitation of Fresh Water: Property, Human Rights and Green Criminology', *International Journal of Law, Crime and Justice*, 44 (2016), 146-62 <https://doi.org/10.1016/j.ijlci.2015.07.003>.

water services, the company itself must be responsible and provide compensation to customers.<sup>30</sup>

This is different from Indonesia, where water management, both groundwater and surface water, is still carried out by BUMN and PDAM, in this case not all areas are covered due to the swelling budget that must be issued and taken through the APBN and the main problem currently faced is the abolition of Law No. 7 of 2004 in which there is a regulation regarding the privatization of water which is considered negative by the public and other individuals.<sup>31</sup>

Water ownership and water management in Indonesia seem to overlap because it cannot be denied that Indonesia is a pluralistic country that still recognizes customary rights over water use. So that the governance of water use in Indonesia still seems chaotic, which allows some individuals or community groups as well as business entities to use groundwater (for their own needs) based on permits from the central government or local government, in this case each region has its own policies. Thus, resulting in the government being unable to control the discharge of water used in every activity which often causes drought problems in the future.<sup>32</sup>

Another problem is that not all regions in Indonesia carry out household sewage management, most of the household sewage flows into rivers and causes rivers to become polluted. This is exacerbated by Indonesia's drainage system which is very bad resulting in frequent flooding in several areas. So that water management does not run effectively and efficiently which has an impact on drought during the dry season. Water rates set also tend to increase which is calculated based on the volume of water use.<sup>33</sup>

#### 4. Conclusion

Water governance in Indonesia is largely regulated for the benefit of the farming community due to the use of water for farmers as the use of irrigation. Water management arrangements in Indonesia have not been regulated explicitly. Therefore, it is necessary to clarify through implementing the 2004 Water Resources Law and in particular the National Policy on Water Resources that there is a need for an inclusive policy instrument that allows the poor to have guaranteed water supply. However, the Constitutional Court in its decision annulled the entire the 2004 Water Resources Law. There must be very strict restrictions on the exploitation of water as an effort to maintain the preservation and continuity of the availability of water for the life of the nation.

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<sup>30</sup> Eva Lieberherr and Bernhard Truffer, 'The Impact of Privatization on Sustainability Transitions: A Comparative Analysis of Dynamic Capabilities in Three Water Utilities', *Environmental Innovation and Societal Transitions*, 15 (2015), 101–22 <https://doi.org/10.1016/j.eist.2013.12.002>.

<sup>31</sup> Harlan Koff and Carmen Maganda, 'The EU and The Human Right to Water and Sanitation: Normative Coherence as the Key to Transformative Development', *The European Journal of Development Research*, 28.1 (2016), 91–110 <https://doi.org/10.1057/ejdr.2015.77>.

<sup>32</sup> María Molinos-Senante, Alexandros Maziotis, and Ramon Sala-Garrido, 'Assessing the Relative Efficiency of Water Companies in the English and Welsh Water Industry: A Metafrontier Approach', *Environmental Science and Pollution Research*, 22.21 (2015), 16987–96 <https://doi.org/10.1007/s11356-015-4804-0>.

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The UK is a country known for its prowess in the field of water management. Even The UK became a distributor of water for countries that lack water like Singapore. British water management is indeed different from Indonesia. The UK's water management uses the water privatization system. The quality of service and clean water is a top priority for the UK. So, to control the performance of the private sector, the government provides complaint services about water quality. Support for household and business consumers is also available from the Consumers Council for Water (CCWater). CCWater represents consumers of water and sewage in The UK and Wales and accepts unresolved complaints. If the company is found to provide inadequate water services, the company itself must be responsible and provide compensation to customers.

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