Right to health on access to clean water in Indonesia

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ABSTRACT

This paper presents the need for a human rights policy approach to eliminate climate injustice, especially in clean water. Also, the relationship between climate injustice with the right to health on the issue of clean water has been studied. In addition, a qualitative method based on library research and the decision on water cases has been presented. The main finding is that Indonesian policy regarding climate is still in the framework of programs and notions. Still, it is not yet established as a national policy with human rights approach. The article also shows that although the right to clean water does not explicitly write as a single definition, the core instruments of international human rights law oblige the government to protect, fulfill and promote the water right. In Indonesia, a water right is programmatic and regulated in economic models, but not from a right-based and public interest perspective. The right to health regarding the access, availability, and quality of water in Indonesia is not yet fulfilled under Indonesian human rights’ obligation as a member of the International Covenant on Economic, Social, and Cultural Rights.

Introduction

Water is one of the essential needs of each individual. Therefore, the demand of water has been increasing from about 4,600 km3 per year to 5,500 km3 and 6,000 km3 or 20 – 30% by the year 2050 (United Nations, 2018). The population growth (from 7.7 billion to around 9.4 and 10.2 billion people), while the economic development and changing consumption patterns are some factors regarding the increases in the demand of water at the global level (Komarulzaman et al., 2017). Asia region as a region which has a huge implication of the growing population with adding more 0.75% billion the demand for water is getting worse, while the water is getting hard to be distributed equally to all. In the end, due to the higher demand and lacking the water resources, globally 1 of 6 people do not have access to clean water (Purba and Budiono, 2019). However, Asia and South East Asia are approaching close to the issue of water resources problems, including Indonesia. The water scarcity is getting worse, while the water is getting hard to be distributed equally to all.

The main problem of water resources that has been mostly elaborated in many environmental discussions are about the water scarcity, high sedimentation and erosion rate, critical lake and decrease water quality, and land conservation in urban areas (Azmanaja et al., 2020). However, those problems create the complexity of clean water and sanitation that needed by the society (Windarto et al., 2019). Furthermore, while the water literacy among the water administration and the people are high, the knowledge about the access to water as a right becomes rare to be acknowledged (DeLuca, 2001). We are an unlikely put the issue of water resources into the human rights context and human security concept, since the water literacy are never been debated (Windari & Effendi, 2021). In Indonesia, the discussion of water and rights are separately discussed.

The countries in South East Asia, the issue of clean water and safe drinking water are placed in the privatization management (Thompson et al., 2003). The privatization creates marginalization for those who are unable to pay or buy the clean water, especially to consume the clean water (Foster et al., 2021). This privatization management that run by the profit companies results unaffordable of economic cost for buying the safe drinking water and at the end the poor quality of waters problems are outnumbered. Knowing this problem. The Association of the South East Asia Nations (ASEAN) has been moved the issue of water from national problems...
into regional challenges through ASEAN working group on water resources management and has produced the strategic plan of action on water resources management. However, the issue of the climate changes not yet as a topic in ASEAN and its member states (Kuncoro, et al., 2020). Indonesia is still far from the discussion on climate change and its’ consequences when it relates to the human rights obligation under international human rights law which are the obligation to protect, promote and fulfil. In conclusion, there are many climates injustice that leads to the human rights violation in the economic, social and cultural rights.

This paper aims to describe and analyze the gap between the right to health and water security through the legal human rights system in Indonesia and whether the response to the right to health in the right to access the clean water is sufficient enough. The methodology of the research is the qualitative method with analyzing the legal documents and law instrument nationally and internationally. The four elements of the right to health under general comment and international covenant on economic, social and cultural rights will be the tool to analyze the regulation and policy that have been issued by Indonesian or private companies.

This research is also a normative juridical research and use a qualitative approach by observing the consequences of criminalizing the use of cannabis contained in the Narcotics Law no. 35 of 2009 (Narcotics Law) and whether the International Drug Conventions which has been ratified by the Government of Indonesia provides an opportunity for policy changes. This study will look at various international human rights law instruments, drug law and policies from other countries and internationally to help analyze the consequences of the criminalization policies on health, research and criminal penalties implemented by the Indonesian government.

**Literature Review**

Several studies related to climate injustice and the right to health on access to clean water in Indonesia have been intensively studied by various scientists. Nurcahyono et al. (2019) studied of to create a clean water policy formulation or model which is based on justice for future generations and to reconstruct the clean water management policy which is currently oriented to economic interests, not the public interest. They found that the Government have obligation to guarantee the availability and the accessibility to water of the citizen, as a God’s gift, people have to manage water for humans’ life. Kusdarini et al. (2019) proposed the depiction about the availability of clean. They found that the society use lake water and water resource as clean water which is used for their needs water and the problem in the location of the research.

Nastiti et al. (2018) presented to assess climate potential risks on clean water supply based on the vulnerability indicators. They found that the demonstrate that many wards in South Tangerang would be exposed to high climate risks of clean water supply. Sitorus et al. (2022) discussed about environmental management law policy in Indonesia. They found that the implementation of environmental law policies in Indonesia which has been applied as an instrument of environmentally sound and sustainable development since 1973 until now has not prioritized the creation of environmental quality and its implementation is still not real, this is because environmental quality considerations are often inferior to environmental considerations. existing economy.

Purba et al. (2019) studied the to determine the effect of clean water, sanitation and electrical energy on economic growth in the Indonesian Territory. This study uses an econometric model with secondary data cross section from 500 districts and cities in Indonesia. They found that the provides advice on policies for clean water management, sanitation and electricity sufficiency to pursue economic growth for the new government in Indonesia. Handayani et al. (2019) determined the arrangements for the Municipal Waterworks (PDAM) to ensure water availability for the community. They found that the PDAM regulation in fulfilling water availability for the community has not been maximized due to the decrease in the environmental carrying capacity of water sources. Based on this problem of literatures above, there is no literature discussing climate inequality and health’s right to access to clean water in Indonesia. So, this topic should be presented in this paper.

**Indonesian Policy on Water and Climate Justice**

*The Absence of the Right to Water in International Law*

Due to the understanding that water is essential for every single human being around the globe, it is undeniable that water is a part of human rights that should be protected in any circumstances (Sergio, 2022). However, International human rights law neither International Covenant on Civil and nor Political Rights (ICCPR) and International Covenant Economic, Social and Cultural Rights (ICESCR) describe the right to water in particular article within the covenants, in the other words, there is no explicitly definition on the right to water. It raises the question on whether water and clean water are a human right (Eckstein, 2009). This concern becomes crucial and more needed to be rethought since in the practices, the state has no clear guideline to fulfil its obligation to fully fulfil the right to water and being monitored by the committee who has power to give the guideline and critics to the state member of the covenants or other human rights instruments (Bulto, 2011).

This debate has been evolving through the international human rights law’s discussion and debates (Filmer-Wilson, 2005). Through the international law on the right to water leads to the clearer national law and international law instrument. Hypothetically, it will deliberately reduce the presumption that water is important but State does not have accountability to uphold the human rights relates to the right to water, because of the absence of definition through the international legal responsibilities.

However, regardless the absence of particular article in the human rights law relates to precise the right to water definition, the water security for drinking and household’s needs as well as the sufficient sanitation have been referred in almost international human
rights treaties, especially their access for children and women. The Committee on Economic, Social and Cultural Rights in particular recognizes the right to water as “the right to everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses”. Furthermore, the United Nations Independent Expert declares that sanitation as a universal prerequisite for human dignity and is a system for collection, transport, treatment and disposal or re-use of human excreta and associated hygiene. Relating to this recognition, the United Nations obliges the State member that the access should not discriminatory for everyone and to be able to access the sanitation in all spheres of life that are safe, hygienic, socially and culturally acceptable, provides privacy and ensures dignity (Atapattu, 2002).

In General Comment, although the general comment is a non-binding legal instrument, but it is important to be viewed. The General Comment No. 15 mentions that state has obligation to respect human rights on other countries, to refrain from actions that interfere with the enjoyment of the rights to water and sanitation and to facilitate the realization of those rights through the provision of water supply and sanitation services, financial and technical assistance and necessary aid. The State has obligation to realize the human rights to water and sanitation through policy, decision-making processes and activities of those organizations. This comment imposes the obligation that need to be fulfill by the government under international human rights law based on customary international law and general principles of international law relates to right to water. The state and other institution should take into account the right to water in their lending policies, credit agreement and other international measures. International organization is also bound by human rights – the related provision in their constitution (Fitzmaurice, 2006).

In sum, although international human rights laws do not have particular article relates to the right to water, due to the international law obligation, State obliged to uphold human rights relates to water. The fulfilment of the obligations needs to implement with nondiscriminatory and freedom principles as the main norms in human rights. Those norms also applied when State establishes regulation through law and policy relates to the access, availability, affordability and the quality of water for the population. This obligation is mandatorily based on the bill of rights and the absence of the clear understanding of whether the right to water a human right is or not could be found within the type of human rights which are unalienable and inseparable among rights themselves. Therefore, the right to water is a part of human rights when we agree that the right to health is a customary international law. Indonesia as a party of the bill of rights is responsible to govern the water policy, law and practices in the lens of human rights (Feris, 2015).

In South East Asia, particularly Indonesia who’s the biggest population among ASEAN countries, water links to any serious problem, from access to drinking water, basic sanitation to the water-related disaster. This issue should not be ignored and mandatorily the Indonesia should have a law, policy and mitigation management in order to ensure state accountability. On the one hand, it needs the integrated approach and need multi-stakeholders and cross sectors partnership, but on the other hand, the clear State’s mandate and responsibility to provide the right to clean water should be has strong relationship with water as a human right and constitutional law as stated in the international human rights and their obligation towards the member states.

**Water Security in Indonesia and its progressive realization on the right to water**

Water issue should be placed in most of the law and legal responsibility as a right instead of being put in the limited discussion on the economic cost and the technology used that will exclude some groups who are not within the circle of discussion, which is society and marginalized group. However, most of the time, the government focus the issue of the right to access the clean water and affordability of water for household, which has law and legal dimension on responsibility to the economic and technology domination use and benefit. This economical approach instead of human rights approach will give wider doors to the private sectors, industrial sector or manufacture companies, and nowadays to real estate company and water company but lesser attention to the society regarding the access and availability of the clean water for the community. As stated before, in the international law, the state has obligation to uphold the state responsibility, not only based upon municipal law but also both treaties and other breaches of a legal duty internationally. Nevertheless, the discussion in most of the international development program runs through the state, donors, funder and private sectors and left alone the community. The community is constituted as end users of the policy and technology but not as a subject.

Under international human rights mandates, state has obligation to open access the participation of the people, especially when it relates to the land and environment where they live, stay and doing their daily life. However, one of the crucial values of human rights in the issue of water is participatory elements from the community as a right’s holder. Therefore, it is important to assess the development of law and case law related to water in the national and international level. Because of the following issues:

i. Whether the State and Private sectors have a common understanding that they have accountability regarding the violation of human rights relates to the access, availability, affordability and the quality of water that they face.

ii. The assessment on law and policy will assist the development of concept the right to water and shaping the international on human rights to be more specific.

iii. The law review and the decision of the court will be able to capture whether the participation from community is acknowledged and preserved on access the right to water.

When those answer are negative, it means that there is flaw perception that the economic, social and cultural rights on water right are unable to be exercise before the independent court. The other hypothetical is the wrong perception of economic, social and cultural rights, especially the right to water as an issue about the natural disaster or national events that occur within the society only. Unfortunately, there are rare cases that we can view from countries in South East Asia, including in Indonesia.
The most concern on the issue of water management is the privatization. Whether the companies have the linear obligation when it comes to the right to water similiarly with state as a member of human rights instruments. The emerging of multi-national corporations has been monitored by the United Nations since the private sectors are increasing not only in numbers but also the power, including the private companies in water management. As the growth of global population is expected by 75 million annually or at rate 1.1% per year, in 2050 the world expect 9.9 billion people and it increase 33% from estimate 7.4 billion in 2017. Therefore, the water and waste water treatment market are rapidly growing in order to provide the need and increase their financial benefit extremely high, which is $242.6 billion by 2027 in 2020-2027. As the world face Covid-19 Pandemic, the need of water and waste water are tremendously urgent. Although Covid-19 pandemic has negative consequences on many economics, including Indonesia and impacted many manufacturing and service industries in water and wastewater treatment, but water is the essential need to ensure individual can maintain their health condition during and post Covid-19 treatment.

Based on the international human rights law, especially the Covenant of Economic Social and Cultural law, the third party has obligation on human rights. The State or non-State Actors have obligation to respect, protect and fulfill the right to water not only into the society’s issue or philanthropy perspective, but as a human rights concept. There are many projects and programs which are involved the private sectors and society regarded water preservation and management. However, there are unclear law, regulation or interlink between human rights and water management make the State as a duty bearer on human rights can be directly and indirectly violate human rights relates to right to water. This uncertain definition and recognition on the right to health in accessing clean water for example impacts negatively to individual. The non-State Actors or companies can contribute to the violence against human rights through two ways of violence. Asbjorn Eide et.al. states that the violence against human rights can be through conspired or schemed with the host countries, and the second violence can occur through home country where the company establish his economical system. Addition to the David Weissbrodt and Muria Kruger elaborate that the Transnational corporation are still can be held accountable through norms of the responsibility with regard to human rights. In the recent years, when the states pledge together in the same of creating better world through achievement of the Sustainability Development Goals (SDGs) establish the discussion on the clean water and sanitation. However, the law issue of water is hidden. The right of clean water becomes the social issue but not the law and norms through the legal responsibilities.

The legal responsibility was establishing through cases, however the case studies on the right to water are not many. The Mazibuko Case in South Africa is an interesting case regarding the access to water. Mazibuko case elaborate whether there is a human right to sufficient or adequate water. So, what is the right’s normative basis, its scope and content and how might this differ in international law, constitutional law, and the domestic law and policy of states. This case describes how the minimum core obligation under General Comment No. 3 on the Nature of State Parties’ Obligations define and how the international law in human rights should be interpreted into national law.

The Economic, social and cultural rights have a strong characteristic that can be differ from the civil and political rights, which is the progressive realization by taking steps towards improvement of the right that should be done by the Member State. This is one of the important measurements to find the reasonableness standard and program that should be implemented. In order to ensure the practices, the State should establish the national policy or law though proper process. The aim is the State is able to conduct the fulfillment of its obligation under international law and prescribed the planning into the domestic level with the national standard of progressive realization approach. Therefore, what we can learn from the case is the state should have a national planning which are progressive realization and the standard to assess the reasonable policy reasoning. The Mazibuko case also describes how the issue of the right to water raised based on the flaw perception on the standard based on national law’s ability to respond. Mostly, the misconception of right in the access to water approach leads to the failure on building the progressive policy and law, since the program and law based on perception that resulted a discriminatory policy and assessment towards certain population.

In Indonesia, there is a case regarding the right to water and the access to water. Although from some researches stated that Indonesia is a country with the most significant changes in water governance since 2001. However, despite the water scarcity in many places and privatization of water management that create issues of access and distribution of water for Indonesian population, we hardly find the case that has been exercise before the independent court. The debate among judges is also interesting to be followed. The Indonesian Constitutional Law for examples, establishing the definition to what extend the public domain discussion is. A Constitutional Judge describe this dissenting opinion among the judges of Indonesian Constitution Court when the case relates to the issue of public domain, such as natural resources, the right to water, and land rights as governed in article 33 of Indonesian Constitution. The interpretation of public domain in Article 33 of Indonesia Constitution should be define as, “(1) The economy shall be organized as a common endeavor based upon the principles of the family; (2) Sectors of production which are important for the country and affect the life of the people shall be under the power of the state; (3) The land, the waters and natural resources within shall be under the power of State and shall be used to greatest benefit of the people; (4) The organization of the national economy shall be conducted on the basis of economic democracy upholding the principles of togetherness, efficiency with justice, continuity, environmental perspective, self-sufficiency, and keeping a balance in the progress and unity of the national economy; (5) Further provisions relating to the implementation of this article shall be regulated by law.

The new case on the rights to water is debated before the Supreme Court. There was a Citizen lawsuit against water privatization in Jakarta. The case challenges the issues that the privatization of water has negatively impacted the access of the population in Jakarta to water, as well as the local government. The Supreme Court decided that firstly the privatization of water should be stopped.
Secondly, the water management should be governed by the local government and not the private company. Thirdly, the water management in local government should be based on article 11 and article 12 of ICESCR jo. General Comment No. 15 relates to the right to water. This is one of the landmark cases, where the national court based its decision based on international human rights law and cites the proper law argument on human rights. Based on this case we learn two major law establishment. First, the judges imply the direct responsibility of the state to comply with international law and preserve the right of the people to be protected, including when State or government conduct the agreement with third party. Secondly, non-state actors also should obey the human rights protection as much as the State.

In Indonesia, the water security is urgently need to be defined as a human rights issue and it should be tackled without delay. The Indonesia Infrastructure Initiative (IndII) conduct an indexing in 22 Provinces in Indonesia, and especially in DKI Jakarta on the quality of water in Indonesia. The result shows that in 7,049 household, 2,694 household or around 38% have problem with water quality, such as water coloring 33% (1,312 household), bad water taste 19% (1311 household), smelly water 19% (1312 household) from total 2,327 household.

**Figure 1: Water Quality in Indonesia**

The quality of water in Indonesia seems not have much different from one province to another. Most of Indonesian provinces and regions have water problems, especially in the Sumatra Island, particularly in Jambi. Regarding the quality of the water in Indonesia. This graphic shows how the unsecure of clean water to be accessed. Many provinces in Indonesia have water problem, such as the most one is Jambi and other provinces in Sumatra Island. Riau, continue by Borneo Island and Sulawesi.

**Figure 2: The Water Problem compared to Normal Water; Sources: Pulse Lab Jakarta, 2019**

The UN resolution and the Economic Social and Cultural Committee have declared that the right to water is a fundamental right and to be distributed and gained by all without discrimination. The affirmative action is needed, especially for the population in the poor communities, in urban and rural, children rights include the water clean rights and women who are most the group who are social constructive care their households also being impacted the unequal distribution or access to clean water. Indonesia tries to implement some programs regarding the distribution on the clean water through pipelines. However, this program is still ongoing and still far from the target that has been promised. Currently Indonesia initiates the water pipe from 17% in 2015 becomes 60% in 2019 in order to reduce the ground water (non-pipe) from 54% to 40% in 2019. This plan is accordance with SDG with the stressing point is to ensure the society and community participation.
Indonesian Law on Water Resources, Law No. 17 Year 2019 gives a strong authority to the local government from provincial to the village level. The local government has duties and authority to regulate and control the water resources. Half of the authorities are still in the central government. The control of water resources can be contributed to the State Companies. The law mandates the government to establish the water and wasted water management as well as planning to regulate the programs and the actions. One of the lacking of the law is, the law concentrates to the distribution of power with the limitation of participation of the marginalized groups such as urban poor society, rural women and indigenous group since the evolvement are focus on the governmental mechanism. Although the state companies have been chosen to a leading sector on the water resources, but yet the private companies are able to control the distribution of water supply. The water privatization is not the prime response to the water crisis and access to water inequality. When the state allows the private or non-state actors provide this essential need of human being in Indonesia, the state should be able to control the price, distribution, quality and creating a proper policy and law to ensure the responsibility of non-state actors.

The Right to Water as the Right to Health and links to the Climate Injustice in Indonesia

The project or program that go into the domestic law should be planned and oriented as the project or program with a right based approach. It based on the norms of human rights that mandate state to the take the role and accountable. Therefore, the sustainability of the program is the crucial issue. While we agree to uphold the human right to water and sanitation, we should also discuss the cross-cutting principles and element of rights which are universality, non-discrimination, equity, participation, access to information, and accountability also sustainability. The right to water is beyond the daily life need, but it marks the life that full with dignity as a human being. This is one of the crucial elements of social rights, which is the right to the highest standard of living.

The High Commissioner for Human Rights describe the elements of the right to health on Fact Sheet 31 through the key aspect the right to health as an inclusive right. The Committee on Economic, Social and Cultural Rights give the underlying determinants of health, include:

i. Safe drinking water and adequate sanitation;
ii. Safe food
iii. Adequate nutrition and housing;
iv. Healthy working and environmental conditions;
v. Health-related education and information;
vi. Gender equality

The Economic Social and Cultural Committee on the Fact Sheet also emphasizes that all services, goods and facilities must be available, accessible, acceptable and of good quality. It means:

i. Functioning public health and health-care facilities, goods and services must be available in sufficient quantity within a State.
ii. They must be accessible physically (in safe reach for all sections of the population, including children, adolescents, older persons, persons with disabilities and other vulnerable groups) as well as financially and on the basis of non-discrimination. Accessibility also implies the right to seek, receive and impart health-related information in an accessible format (for all, including persons with disabilities), but does not impair the right to have personal health data treated confidentially.
iii. The facilities, goods and services should also respect medical ethics, and be gender-sensitive and culturally appropriate. In other words, they should be medically and culturally acceptable.
iv. Finally, they must be scientifically and medically appropriate and of good quality. This requires, in particular, trained health professionals, scientifically approved and unexpired drugs and hospital equipment, adequate sanitation and safe drinking water. These guidelines can be used to examine whether all the planning, program conducted and cooperation among stakeholders are according with the international human rights standards.

The program that has been planned and conducted by States should be surrounded and analyzed through those principles in order to determine whether all the program fulfill the criteria concerning the right to water and sanitation or not. The international human rights law obliges the State to ensure the fulfilment the elements of social and economic rights. The CESCR defines the right to water as:

“the right of everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.” Indonesia as a member of ASEAN should also paid attention to the target that have been set up. ASEAN sets up the vision of water by 2025 by stating that:

“the attainment of sustainability of water resources to ensure sufficient water quality of acceptable quality to meet the needs of the people of Southeast Asia in terms of health, food security, economy, and environment”.

The ASEAN vision establishes four aspects of water management that are:

i. Access to safe, adequate and affordable water supply, hygiene and sanitation
ii. Provision of sufficient water that will ensure food security for the region.
iii. Provision of sufficient water to spur and sustain the economies of the region
iv. Protection of the water environment to preserve flow regimes, biodiversity and cultural heritage as well as the mitigation of water-related hazards.

Based on the vision and goals of the ASEAN relates to water, it is clear that ASEAN agrees on the access, availability, affordability and quality of water are necessary. This vision relates strongly to the concept of the right to health. One of the challenges that Indonesia and other countries in ASEAN is the judicial commitment through the legal obligation and establishing the responsibility on the right to water. This needs to improve the access of the society to claim the rights when they are failed to be protected by states or multi-national companies. The Inter-American Court of Human Rights, the European Court of Human Rights and the African Court on Human and People’s Rights has move forward by enforcing the rights to water and sanitation with binding decisions. The Regional institution is able to assess the human rights condition within their jurisdiction.

In Indonesia and other country in Asia, the conflict relates to water resources are occurred. The research found that the quality of the water is not sufficient and the sanitation facilities are technically not safe and hygienic. This concern is not only about the social conflict among those are who able to access and who are not, but further issue is related to fulfilment of accessing water as a right with the good quality of the water and sanitation. The other concern issue is about the acceptability as one of the rights to health elements. The water and sanitation based on the diversity of Asian culture and social needs should be taken onto account to ensure the program and policy are accepted voluntarily and ethically by the society, especially the local community, women and indigenous people. It is important in order to implement the project with high acceptability, especially regarding the sanitation facilities.

The affordable becomes the pivotal issues regarding water and sanitation. Especially when the control of water management is in the hands of the private or multi-national companies. Based on the Indonesia Supreme Court Decision, it is impossible to having affordable clean water when the control of price and distribution belongs to the private company. The poorer of the society is, more difficult to access to water are because they are not able to afford the fee or pay for the clean water.

The Special Rapporteur suggest the concept of a “human rights development cycle” as a framework for funders to safeguard and implement the human rights to water and sanitation in their development cooperation activities. It means not only State a right bearer, but also it appoints the third actors, which are company or corporation to be responsible for upholding the right to water for the citizen. The economic, social and cultural right has a vertical and horizontal line regarding the accountability. The economic, social and cultural rights are not only has a vertical line between state and citizen, but also has horizontal line that create triangle relationship between State – People – Private Sectors (to some extend it included the funders, state partner and the implementer). This begins with the discussion on the business and human rights and nowadays to the fulfilments of the Sustainable Development Goals. The concept of the rights bearer should be expanded for the private sector when the impact of their activities could be negative or positive in the realization of human rights. The private sectors have duty not only for gaining the financial or market benefit, but they should be as a development cooperation and should be able to clarify their work to implement the right to safe water and sanitation.

These triangle relationship between People, State and Non-State Actors are needed when we discus further about the clime injustice. Flavio Comim states that” Injustice is manifested in terms of cost–benefit asymmetries and in the erosion of individuals' capabilities. To understand the overall impact of climate change on poverty and human development, it is relevant to contextualize this discussion within the general issue about the impact of ecosystem services on human well-being. Moreover, it is important to qualify what we
understand by ‘climate justice’ and use this characterization to think about policy directions for better responses.” Comim continues to explain that to examines the division between distributive and procedural justice, putting forward a capability reading of ‘climate justice’ that focuses on the integration of these two dimensions of justice.

The ongoing and future changes in climate will continue to alter nature’s life-support systems for human life in many parts of the globe, especially to water issues. The implication of the climate change such as global warming threats to human security and well-being across the planet include diverse risks and some potential benefits. The issue of climate change need for more comprehensive evidence, collected across multiple locations, and over long durations to build and test theories about relationships between climate change and livelihoods, culture, migration, and conflict.

The implication of climate injustice, especially in water in Indonesia is interlink with the fulfilment of the right to health, since the right to health need the clean water to be provided. The climate injustice also leads to the violation of human rights when the State is neglecting the issue of the availability of clean water, the unaffordable clean water, and difficulties of clean water for all society, especially for the poor communities and marginalized groups. The quality is most of the time being abandoned, the distribution of water without good quality are also a violation of the right to health. The issue of climate change in Indonesia are still limited. We have yet contesting climate justice issue as a human right relates to the right to health.

**Conclusions**

The Clean water is a human right. Indonesia as a member state of the bill of rights has human rights obligations to protect, promote and fulfil the human rights, including the right to water. This obligation should be conducted to the principles and norms on human rights such as freedom and non-discrimination. Despite there is limited discussion on the law and legal jurisprudence on the right to waters and the absence explicitly of the right to waters, however the international human rights law has established several determinants on the right to health protection and one of the determinants are the water, clean water and sanitation as an essence of human rights.

The right to water contributes to the discussion on the golden triangle of the subject of human rights which is People – State – Non-State Actor. Through the progressive realization and the expanding role of the private sectors in water management, therefore the expanding of obligation also appears. The non-state actors should build the good cooperation with state to fulfil the right to health on water through giving access to water to all, especially for marginalized group; ensuring the availability of clean water to be distribute and consumed by the society, the affordable price and places of clean water; the acceptability of water according to the values and ethical standard. The quality of clean water also should be guarantee by the State and Private sectors. However, Indonesia still faces the problems with the right to health since the access and the quality of water are still far from good and proper.

The climate injustice reduces the equal treatment and participation as a pivotal element of human rights perspective. the climate change is hidden in Indonesian agenda, and focus on the environment and technology in terms of the manufacturing and infrastructure but not yet in the terms of water as a right and constitutional rights. It leads to the marginalizing many groups.

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