



Obstacles to Normalization of The Ciliwung River in Restoring Environmental Functions

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Abstract. Rivers or streams have a function as a source of water and food production, where people use river water as a source of drinking water, washing, bathing, and a source of livelihood. In the DKI Jakarta area, the Bukit Duri area, South Jakarta, the Ciliwung River has changed its function to building houses for residents and has entered the polluted category which has resulted in flood disasters. The government is carrying out normalization to restore the environmental function of the Ciliwung River. The problem with this research is what challenges the government faces in normalizing the Ciliwung River in order to restore its function. The research method used is empirical legal research, or empirical investigation, which is the study of pertinent laws and social phenomena. As the results of the research show that the obstacle in normalizing Kaliciliwung is that the community refuses to leave the location on the grounds that they believe their ancestors have occupied the riverbanks since the 1930s and the community feels they have never been involved in the planning and implementation process of the Ciliwung River Normalization program. The next obstacle is the failure to reach an agreement between the government and the community regarding the amount of compensation. The final obstacle is the presence of third parties who disrupt the land acquisition process.

Keywords: Normalization, Environmental Function, Obstacles

1 Introduction

Water environments include lakes, seas, swamps and rivers. A river or stream is a water flow which continues to flow from upstream to downstream which has functions and benefits for people's lives. In the DKI Jakarta area, especially the Bukit Duri area, South Jakarta, there is a river or stream called Kaliciliwung. Judging from the conditions and circumstances at that time, it was already in the polluted category and had changed its function to become a residential building which resulted in loss of function and caused a flood disaster.

Illegal buildings on the banks of rivers or rivers that are built on state land are a complex problem if not handled seriously, because these buildings are also one of the causes of flooding in the city of Jakarta. Illegal buildings also cause social problems, as we can see in several places on the banks of rivers or rivers around Jakarta where houses are built illegally, on average the buildings are irregular and unfit for habitation, not only that, these buildings are seen as From the location of the neighborhood, which is on the

edge of a river or river, it looks very dirty, plus many people around the neighborhood throw rubbish into the river or river, so it can quickly cause flooding.

Article 15 of the “Regulation Number 28/PRT/M/2015 of 2015 concerning Determination of River Boundary Lines and Lake Boundary Lines, released by the Ministry of Public Works and Housing, states that “If the study’s results, as intended by Article 14 paragraph (1), reveal that any buildings are within the river border, then the building is declared to be in the status quo and must gradually put in order to restore the function of the river border”[1].

The physical factors that cause slum settlements in riverside areas include the condition of crowded and close-knit houses, poor drainage, dumping of rubbish into the river, and several other things that cause the function of the river to be damaged and result in flood disasters.[2]

The Ciliwung Cisadane River Region Center is encouraging the DKI Jakarta Provincial Government to immediately acquire land beside the Ciliwung River’s banks for normalization. Head of BBWSCC Bambang Hidayah said that land acquisition was an obstacle in the normalization of the Ciliwung River.[3] Since 2016, normalization of the Ciliwung River has begun, but until now it has not been completed and has been in place for 5 years due to land acquisition problems. According to PUPR Minister Basuki Hadimuljono, the Ciliwung River normalization target is completed in 2024 depending on the acceleration of land acquisition so that the Jakarta flood prevention project can be completed.[4]

2. Methods

This study approach is a form of a research project, also referred to as empirical juridical research, which examines pertinent legal provisions and social realities.[5] The study of law on the application or implementation of normative legal provisions in action at each unique legal event that occurs in society is known as empirical juridical research.[6] This research is descriptive in nature, namely describing explanations in a concrete, complete and systematic manner.

3. Results and Discussion

3.1. Residents Refused to Leave the Location

The Ciliwung Merdeka Community, a non-governmental organization formed by Bukit Duri and Kampung Pulo locals’ subdistricts, believes that their ancestors have lived on the riverbanks since the 1930s. Even though they were there before the Republic of Indonesia was founded, the DKI Jakarta Government apparently considers them ‘illegal residents’. The reason is that they don’t have a land certificate; all they have is proof of ownership such as gyri, deeds of sale and purchase of land and houses, and proof of payment of Dutch period taxes (responding).

The DKI Jakarta Provincial Government’s decision to move residents who were victims of eviction to flats was not intended to solve urban planning problems but instead gave rise to new problems, namely the problem of increasing poverty rates and decreasing

economic capacity of flat residents. From the results of IDEAS research presented at the Public Discussion “Understanding Indonesia as a Legal State in Guaranteeing the Rights of City Citizens” at the Jakarta Legal Aid Institute (LBH) [7], “... this significant increase in expenditure is actually faced with the bitter reality of decreasing income of residents in the flats.

If pre-eviction 35% of respondents were able to earn an income of above IDR 3 million per month, then after living in the flat there were only 24% of respondents whose income was above IDR 3 million per month. This finding is consistent with changes in the employment status of respondents, where initially 29% had independent businesses, now it has decreased to 21%. At the same time, respondents who were workers increased from 27% to 30%, and unemployment even increased by 8%. The loss of their source of livelihood means that eviction victims lose their independence and become more dependent on aid. However, after being evicted, fewer residents have social security. As many as 74% of respondents do not have a Jakarta Healthy Card and 65% of respondents do not have a Jakarta Smart.

Card even though they have school-aged children. “If initially 52% of respondents received Raskin at the initial location, in the flats only 6% of respondents remained who received Raskin.”

The primary tenet of effective government management—participation—has been broken by the acts of public servants who disregard the wishes of locals who do not wish to relocate to Rusunawa Rawa Bebek. Together with Presidential Decree No. 71 of 2012 and the Amdal of the Ciliwung River Normalization Project, the policy of transferring forms of compensation that depart from Law No. 2 of 2012 is a violation of both the law and good governance standards.

Government official must should disregard good governance standards when doing so will benefit the public. A choice and/or action must not go against moral, social, or religious standards in order to promote the general welfare [8]. In order to improve the welfare and interests of all citizens, public benefits must be provided. [9].

Even though all residents rejected the Legislative City in South Jakarta Government’s decision, the decision was still implemented. The data on the need for flats in Rusunawa Rawa Bebek should be 363 units. The number of 363 units was taken from the Master Data of Normalization Victims who had not been evicted in the RW area. Tebet District, South Jakarta / Bukit Duri Village / 10, 11, and 12. Local governments produce reports using a variety of data. The diversity of these data is as follows:

- a) It was recorded that there were 26 building owners who did not have plot maps and these 26 owners stated that they did not take rental rights in Rusunawa Rawa Bebek;
- b) It is recorded that there are 45 building owners who have plot maps but they refuse to accept rental rights in Rusunawa Rawa Bebek;
- c) There are 13 recorded building owners with proof of property ownership represented by certifications. All of them refused to accept rental rights in Rusunawa Rawa Bebek;

- d) It was recorded that 49 building owners had plot maps but they refused to accept rental rights in Rusunawa Rawa Bebek.

From the data above, especially those who have plot maps but are refused rental rights in Rusunawa Rawa Bebek, there are 45 plus 13 plus 49 buildings so that a total of 107 plots of land and buildings are recorded as victims affected by the Ciliwung River Normalization Program and 107 residents have plot maps.

From the Main Data of Normalization Victims, it was recorded that there were 363 plots minus the residents who clearly refused the rental rights in Rusunawa Rawa Bebek totaling 107 plots of land and houses. The number of residents who want to be moved to Rusunawa Rawa Bebek should be $363 - 107$ to 256 plots.

The Bukit Duri Village Head's report stated that there were 346 residents who had received rental rights and had moved to Rusunawa Rawa Bebek. Where does the data for these 346 fields come from? Are residents of the 346 plots included in the 256 plots whose status is unclear whether they receive rental rights for Rusunawa in Rawa Bebek or not? From data on 346 plots that received rental rights and were willing to move to Rusunawa Rawa Bebek, only 121 families or around 34.97% had plot maps and were victims of the Ciliwung River Normalization who had been evicted. Of the 256 remaining plots that have not been reported, 121 plots have been moved to Rusunawa Rawa Bebek.

So, 256 plots - 121 plots, around 135 plots are unknown and not recorded by the local government, where are they located? From the local government report, it explains that one plot map obtained 2 (two) rental flats in Rawabebek. From this information, it proves that the Head of Bukit Duri Village gave recommendations so that these residents could get flat units without reference or without clear instructions. The South Jakarta City Government does not have technical guidelines in carrying out its duties to implement the Ciliwung River Normalization Program and the provision of apartment units in Rusunawa Rawa Bebek.[8]

3.2. Failure Getting Close to an Understanding Regarding the Quantity of Reward Funds

Measuring, mapping and data collection on the status of residents' land has been carried out by the DKI Jakarta Provincial Government and the South Jakarta City Government. The promise to provide adequate compensation for all residents' property was made during the first period of project socialization in 2014. Residents responded to this promise and assisted with the measurement, mapping and data collection process with enthusiasm because they hoped that residents' property would be given appropriate compensation. To the residents' surprise, at the socialization in March 2016 in Bukit Duri Village, the South Jakarta City Government said that there would be no compensation for profits. Because citizens' land is state land. Residents were asked to immediately demolish their houses and immediately move to Rusunawa Rawa Bebek. Facts about what happened to the eviction victims inside the RW region of the Ciliwung River Normalization Program. 10, 11, and 12 Bukit Duri, South Jakarta's Tebet District until now they have not received the right to acquire their land and demolish their house. Residents objected to the regional government's treatment and filed a class action

lawsuit with the West Jakarta District Court against the Ciliwung Cisadane River Basin Center (BBWSCC), the DKI Jakarta Provincial Government, and the South Jakarta City Government and filed a lawsuit with the Jakarta State Administrative Court against South Jakarta City Government. The government does not acknowledge that there are land acquisition funds for residents' land. This confession was made during trials in both courts. This confession was made by the attorney for the South Jakarta City Government.

Rusunawa Rawa Bebek was established unilaterally given as recompense to Bukit Duri Village inhabitants impacted by the Ciliwung River Normalization Program by the DKI Jakarta Provincial Government and the South Jakarta Administrative City Government. At Bukit Duri RW locations 09, 10, 11, and 12, the process of figuring out the kind of compensation for residents impacted by the Ciliwung River Normalization Program is conducted without taking into account some components of public information disclosure. This process violates justice for the residents of Bukit Duri and is contrary to the principles of the rule of law. The compensation policy is in the form of providing flat units (*sarusun*) in Rawa Bebek flats without a legal basis that can be used by policy makers. The provision or distribution of flat units in Rawa Bebek flats is given based on the subjective assessment of policy implementers. This creates uncertainty in the number of flat units and the subjects of flat recipients in the Rawa Bebek flats.[8]

In relation to this research, the researcher conveyed the results of interviews with residents regarding the process of widening the Ciliwung River in the Bukit Duri area, South Jakarta:

"I was one of the second wave of residents who were moved to Ruaunawa Rawabebek because my house was not certified, I only paid PBB, the first wave were residents who had house certificates, and they were demanding compensation from the government but they were only given Rusunawa, and then they paid again. move to Cenrawasih, Merpati, Gelatik, Merak towers. There are also those in the Kampung Pulo area, those whose houses are certified are compensated by being moved to row houses, but many residents don't want to and prefer to rent their own houses, but I don't know for sure why they don't take the row houses, I don't know the location either. "You know, I know it was replaced with a row house because a friend of mine lived there before, and the dance studio was affected by land acquisition"[10]

The DKI Jakarta Provincial Government's decision to move Bukit Duri residents as victims of eviction to Rusunawa Rawa Bebek is a public policy. This policy was conveyed by a public official, the Governor of DKI Jakarta, who received a mandate from the people of Jakarta as the Regional Head of DKI Jakarta Province for the period 2012 – 2017. This policy of the Governor of DKI Jakarta was implemented by state administration officials of the South Jakarta Administrative City Government. This decision is binding on victims of the Ciliwung River Normalization evictions, especially some RW residents. 10, 11, and 12 Bukit Duri Village, South Jakarta. Public policy according to James E. Anderson [11] is a series of actions that have a specific goal. The policy is always oriented towards certain goals. This goal must be followed and carried out by other state administrative officials. The policy was created to solve a public problem. Anderson [11] classifies policies into 2 categories. The first category, policies are negative. This category of policy is a decision by government officials not to do something.

The second category, policies are positive. Positive policy requirements are regulated in more detail, such as: (1) policies oriented towards problem solving (solving problems); (2) this policy must be based on statutory regulations; and (3) this policy must be coercive (authoritative).

As stated, Anderson, the governor of DKI Jakarta Province made the decision to relocate the Bukit Duri inhabitants to apartments for a specific reason. In accordance with Presidential Regulation No. 71 of 2012 concerning the Implementation of Land Acquisition for Development in the Public Interest [10] (Presidential Decree No. 71/2012), the goal is to change the type of compensation for residents who were forced to leave their homes due to the Ciliwung River normalization eviction. Currently, they are receiving compensation based on Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest⁸¹ (Land Acquisition Law). Even though this policy has received a lot of criticism from the public and strong rejection from Bukit Duri residents, the DKI Jakarta Provincial Government does not seem to care about this rejection and criticism.

The decision to grant rental rights to flats in Rusunawa Rawa Bebek was conveyed by the South Jakarta Administrative City Government to residents during socialization on 14 March 2016⁸³, 19 April 2016⁸⁴, 25 April 2016. [8]

At the two socializations on April 19 2016 and April 25 2016, during the socialization all residents rejected the decision: 1) residents' land was said to be state land; 2) Residents' land and buildings are not given compensation; and 3) in return residents are given rental rights to flats in Rusunawa Rawa Bebek.

At that time, the residents' refusal was ignored by the Central Government, the DKI Jakarta Provincial Government and the South Jakarta Administrative City Government. The government continues to move residents to Rusunawa Rawa Bebek. Although previously, the DKI Jakarta Provincial Government had agreed with the residents of Bukit Duri who were affected by the Ciliwung River Normalization Program To present the locals recompense for their losses and possibly even a profit in the shape of a row or flat community. In the consideration of the Panel of Judges in the Jakarta State Administrative Decision Number: 205/G/2016/PTUN-JKT it was said that: The promise of profit compensation to build Kampung Susun cannot be withdrawn unilaterally (see PTUN Decision pages 124 and 125)

"...The Provincial Government of DKI Jakarta...has promised to provide compensation and even profits to the residents of Bukit Duri Subdistrict for the land and buildings where they live in connection with the Ciliwung River normalization project, and the people of Bukit Duri previously during the campaign for the candidate for Governor of DKI Jakarta or 2 days "After the inauguration of the Governor of DKI Jakarta who was in office at that time, he came to the Bukit Duri sub-district with the hope that a kind of flat village/row village would be built for the local residents."

... responding to reasonable expectations where if a hope has already been given to citizens, it cannot be withdrawn even though it is unprofitable for the government, therefore the Plaintiffs deserve to be given their demands and their claims must be granted."[3]

3.3. The existence of a third party that disrupts the land acquisition process

On 29-30 September and 1-3 October 2016, the houses of Bukit Duri residents were forcibly destroyed. Before that, terror, intimidation, stigmatization that Bukit Duri residents were illegal, occupied state land, caused floods, and many more negative labels were given to them.

The governments of Jakarta and South Jakarta City (Pemkot) were the sources of terror. In order to forcibly remove them at that time, Governor Basuki Tjahja Purnama, often known as Ahok, issued warning letters (SP), 2, and 3.

Since it expired on October 5, 2015, the Governor's Decree Number 2181 of 2014, which extended the location determination for the building of the Ciliwung River tracing from the Manggarai floodgate to Kampung Melayu, serves as the foundation for normalization. 87. The government frequently uses these three justifications to evict residential areas:

Initially, evictions brought on by disagreements about who owns a property or home. The parties in dispute took their case to the district court. Execution requests can only be made by the winner once the court rules that one of the parties has won the land or property and that the ruling is final and enforceable. the request for execution involves a request to execute or forcibly evict the party possessing the house and land, addressed to the district court head, clerk, bailiff, and local mayor/regent, Satpol PP, police, and military. The applicant for execution will pay all eviction-related expenses.

Second, evictions caused by changes in spatial planning. This reason is often used by the government. Impacts felt by residents: First, residents were accused of violating spatial planning regulations. Second, they are accused of being squatters or squatters or occupants/looters of state land. Negative stigmas have a very bad impact on citizens. Citizens will lose their right to receive compensation and insults will be hurled at citizens from other parties such as the public and the media.

The Spatial Planning Law (UU No. 26/2007) regulates several rights of affected residents. Rights such as:

- a) Know the spatial plan [Article 60 letter a]
- b) Participate in the preparation of spatial plans; space utilization; and controlling space utilization [Article 65 paragraphs (1) and (2)]
- c) The community plays an active role in the formulation of spatial planning conception plans including in the procedures for preparing spatial planning plans [PP No. 15/2010 concerning Implementation of Spatial Planning Article 7 (4), Article 20, and Article 27 (1)]
- d) People who suffer losses due to the implementation of spatial planning can file a lawsuit through the courts [Spatial Planning Law Article 66 (1)]. The community has the right to receive compensation if there are changes to the spatial planning of their land and houses.

In short, it can be concluded that if the government wants to change the spatial planning in an area according to the Spatial Planning Law, the government is required to ask for approval from the affected residents. If residents agree to changes in space, the government must provide appropriate compensation for residents as land owners.

Third, evictions due to the construction of roads, toll roads, normalization of rivers, construction of reservoirs or airports. In statutory language, this development is often called development for the public interest. Development activities for the public interest are carried out in accordance with the Land Acquisition Law (UU No. 2/2012). Implementation of land and building acquisition for project implementation must refer to Presidential Regulation no. 71/2012. The stages are:

- 1) Before project development is determined, the government must consult with the people who own the land and houses.
- 2) If residents refuse, the government cannot continue the project.
- 3) If the residents agree, the appropriate compensation value for the residents' land and buildings will be determined. This pricing must be agreed upon by both parties. If residents do not agree with the price set by the price setting committee, then residents are given the opportunity to submit an objection to the price setting to the district court. If the price discrepancy drags on, the government can entrust the land price to the court (often referred to as consignment).
- 4) Until the agreed value is received in the residents' accounts, the government cannot evict the residents from their houses and land.

In the case of the normalization of the Ciliwung River, the DKI Jakarta Government and the Ciliwung Cisadane River Basin Center (BBWSCC) should have gone through the steps mentioned above. But the DKI Jakarta Government actually blames the residents on the edge of the riverbank as squatters, looters of state land, poor residents who reclaim the river, and all the negative labels are given to the residents so that the DKI Jakarta Government does not have to provide adequate compensation. Residents only deserve to be given simple rental flats (Rusunawa) in Rawabebek, in a place that is not economically strategic.[12]

The main problem in the Jakarta Regional Government's policy when implementing a development project for the public interest in the form of normalizing the Ciliwung River, has two different actions, namely that legal actions and factual actions are not the same. Legal action to issue the three SPs on the legal basis of the Tibum Regional Regulation. After the eviction, the Jakarta Regional Government took factual action [13] to implement a normalization program whose legal basis had expired.

From the results of the local inspection carried out by the panel of judges at the first level on 18 November 2016, it was concluded that: (1) the plaintiffs were residents affected by the issuance of SP 3; (2) the plaintiffs are victims of unlawful forced eviction; (3) the plaintiffs are owners of land and buildings used for the Ciliwung River normalization project which have expired and have not received adequate compensation; (4) the plaintiffs have real losses from the publication of the object of dispute (the three SPs); and (5) real losses in the form of loss of houses and land, loss of jobs, and loss of social and public facilities in Bukit Duri.

After conducting a local inspection and considering the evidence presented by the defendant, the panel of first instance judges was of the opinion that the land used for the Ciliwung river normalization project was land belonging to the plaintiffs which had been controlled for generations, and even though the river normalization project Ciliwung has expired, but the Jakarta Regional Government's legal obligation to provide compensation for land and buildings belonging to the plaintiff must still be provided.

The panel of judges in Decision Number 205/G/2016/PTUN.JKT is of the opinion that the issuance of SP 3 is contrary to the It's to the Land Acquisition Law and the principles of good government, particularly the notion of legal clarity. The judges' panel's conclusion was accurate. The panel of judges considered that the SP 3 dispute object was issued on a legal basis that was different from the factual action. The authority to carry out this normalization project has expired. The evidence presented at the trial was held at the first instance (PTUN Jakarta) and the defendant's confession confirmed this difference in action.

Based on the facts above and the defendant's confession at the Jakarta PTUN trial, the considerations of the PTTUN panel of judges' conflict with those of the PTUN A team of judges. The judges' viewpoint in Decision Number 95/B/2017/PT.TUN.JKT, which was examined, was particularly noteworthy when taking into account: (1) the evidence submitted by the plaintiffs/appellees apparently did not contain evidence in the form of Certificates of Ownership in the names of the plaintiffs/ comparable; (2) therefore, the panel of appeals judges is of the opinion that the defendant's actions in controlling and destroying houses and buildings standing on the banks of the Ciliwung River were appropriate for controlling; (3) furthermore, the panel of appeals judges considered that "the publication of the disputed object does not conflict with statutory regulations and also fails against the fundamentals of responsible governance; (4) the final conclusion that the panel of appeals judges must reject this lawsuit. [13]

4. Conclusion

The obstacle to normalizing the Ciliwung River in restoring environmental function is a complex problem involving impacts on the ecosystem, community participation, waste management, and cooperation between related parties. The conclusion from this overview is that normalization efforts need to pay careful attention to these issues in order to achieve the goal of effectively restoring the environmental function of the Ciliwung River. In the normalization process, there must be a balance between the benefits of flood management and restoration of natural ecosystems, while involving local communities and maintaining coordination between related parties to achieve success.

5. Suggestion

The obstacle to normalizing the Ciliwung River in restoring environmental function is a complex problem involving impacts on the ecosystem, community participation, waste management, and cooperation between related parties. The conclusion from this overview is that normalization efforts need to pay careful attention to these issues in order to achieve the goal of effectively restoring the environmental function of the Ciliwung River. In the normalization process, there must be a balance between the benefits of flood management and restoration of natural ecosystems, while involving local communities and maintaining coordination between related parties to achieve success.

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