

## Water as a Fundamental Right: State Responsibilities and Regional Water Supply System Solutions

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### Abstract

*Management of water resources in Indonesia must actually be based on constitutional provisions which seek to guarantee the fulfillment of the right to water for the community in realizing prosperity. This research aims at the position of PT AB East Java (Perseroda) being given authority and responsibility in managing Probolajang Regional Water Supply System in accordance with applicable laws and regulations. This research is normative legal research with an analytical and statutory approach. The research results confirm that the management of water resources in Indonesia is constitutionally subject to the provisions of Article 33 of the 1945 Constitution of the Republic of Indonesia where the state has the authority to regulate, manage, implement policies, and supervise the management of water resources. This has implications for the management of water resources by Regional Companies (Perseroda) which must balance between a profit-based orientation and the provision of public services in the form of providing adequate and quality water resources for the community. PT AB East Java, which has the status of a Regional Company (Perseroda), is an entity owned by the Regional Government of East Java Province which is not only focused on public services but also on achieving profitability.*

**Keywords:** Fundamental Right, Legal Status, Regional Companies.

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### INTRODUCTION

The essence of national development as the implementation of Pancasila is the complete development of the Indonesian human and the entire Indonesian society, with Pancasila as the basis, goal, and guideline for national development.<sup>1</sup> Further elaborated in Law No. 17 of 2007 concerning the National Long-Term Development Plan for 2005-2025, it aims to create an independent, advanced, just, and prosperous Indonesian society through accelerated development in various fields, emphasizing the establishment of a robust economic structure based on regional competitive

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<sup>1</sup> Dimas Firdausy .H M. Addi Fauzani, Fandi Nur Rohman, "Pemberlakuan Peraturan Dasar Sebagai Wadah Haluan Negara (Gagasan Redesain Garis-Garis Besar Haluan Negara (GBHN) Prespektif Sistem Peraturan Perundang-Undangan Di Indonesia)," *Penegakan Hukum dan Keadilan* 2, no. 1 (2021): 58.

advantages and supported by quality resources.<sup>2</sup> Quality resource support also becomes key in this process, ensuring that every development step taken is not only effective but also sustainable, contributing to equitable and fair progress across Indonesia.

National development essentially cannot be separated from the equal distribution of development across all regions.<sup>3</sup> Regional development must continuously be enhanced so that the growth rate between regions and between urban and rural areas becomes more balanced and harmonious, thus making the implementation and results of national development more evenly distributed throughout Indonesia. Accelerated regional development has the potential to significantly contribute to the acceleration of national economic growth.<sup>4</sup> Accelerating development in regions plays an important role in driving national economic growth. Regions with untapped potential such as agriculture, tourism, and the creative industries are key to increasing their contribution to the national GDP.<sup>5</sup> Through appropriate investments in both infrastructure and human resource development, these regions can develop more rapidly, creating new jobs and increasing local income.<sup>6</sup> Additionally, regional development helps reduce economic disparities between regions, balancing economic growth, and ultimately providing a broad positive impact on national economic acceleration.<sup>7</sup> A holistic approach and synergy between the central and regional governments, the private sector, and the community are key to realizing this potential.<sup>8</sup>

East Java Province, as one of the provinces in Indonesia, is predicted to continue to increase its strategic role as a driver of national services and industry under the Master Plan for the Acceleration and Expansion of Indonesia's Economic

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<sup>2</sup> Bambang Irawan et al., "Development Planning to Accelerate Sustainable Development Goals (SDGs) in Mahakam Ulu Districts as a New Autonomous Region," *Masyarakat, Kebudayaan dan Politik* 34, no. 2 (2021): 184.

<sup>3</sup> Desy Hariyati, Defny Holidin, and Imas Cempaka Mulia, "Centralized Local Development versus Localized Central Arrangement in Village Autonomy Policy Implementation in Indonesia," *BISNIS & BIROKRASI: Jurnal Ilmu Administrasi dan Organisasi* 27, no. 2 (2021).

<sup>4</sup> Zaid Muhammad Al Ikhwan Bintarto, Sayang Bidul, "Analysis of Economic Analysis of Law Principle In Purchase Fuel By Application (Study of MyPertamina)," *Jurnal Hukum Bisnis Bonum Commune* 5, no. 2 (2022): 203–210.

<sup>5</sup> April Laksana, Kenedi, and Basuki Rakhim Setya Permana, "Digital Tourism Development Strategy as A Promotion of Creative Economy Tourism In Banten Province," *Jurnal Ekonomi* 11, no. 01 (2022): 631–638.

<sup>6</sup> Tri Anggoro Putro, "Establishment of Omnibus Law in Solving Investment Issues in Indonesia," *Indonesian Comparative Law Review* 3, no. 2 (2021): 105–123.

<sup>7</sup> Franklin de Souza Meirelles, Janaina de Moura Engracia Giraldo, and Rodolfo Paião de Campos, "Transaction Costs Economics and Geographical Indications: A Systematic Analysis of the Literature," *Revista de Economia e Sociologia Rural* 61, no. 4 (2023): 1–22.

<sup>8</sup> Antony Stefanus Purba Matana and Iwan Setiawan, "Analisis Konsep Penta Helix Dalam Pengembangan Potensi Wisata Di Kampung Bekelir Tangerang," *Formosa Journal of Multidisciplinary Research* 1, no. 4 (2022): 920.

Development (MP3EI).<sup>9</sup> Moreover, East Java Province is the second-largest contributor to Indonesia's economy, with growth rates equivalent to national levels and other provinces in Java.<sup>10</sup> With its natural resource wealth and cultural diversity, East Java Province has numerous opportunities that can be leveraged for economic growth. Sectors such as agriculture, tourism, and manufacturing in East Java have capacities that have not been fully utilized. Developing infrastructure such as toll roads and ports, along with improving human resource quality through education and training, can drive efficiency and productivity in the region. Additionally, East Java's strategic position supports export-import activities, providing market expansion opportunities for local products. By maximizing this potential, East Java will not only experience accelerated development but also make a significant contribution to Indonesia's overall economy.

In the context of accelerating the development of East Java Province, the President of the Republic of Indonesia has provided a legal umbrella outlined in Presidential Regulation No. 80 of 2019 concerning the Acceleration of Economic Development in the Gresik - Bangkalan - Mojokerto - Surabaya - Sidoarjo - Lamongan Regions, the Bromo - Tengger - Semeru Region, as well as the Wilis and South Ring Regions (Perpres 80 of 2019). Referring to the annex of this regulation, one of the priority areas is the Bromo-Tengger-Semeru area with the program for the acceleration of the Regional Probolinggo - Lumajang (Probolajang Regional Water Supply System) utilizing the Ronggojalu Spring. The acceleration of this development program is in line with the implementation of the Sustainable Development Goals (SDGs) and the Master Plan for Drinking Water Supply System Development (RISPAM) in East Java Province, where the construction of the Probolajang Regional Water Supply System has been planned as part of the effort to meet the basic needs of the community and support sustainable development.<sup>11</sup>

The implementation of the acceleration of the Probolajang Regional Water Supply System requires special attention to various existing provisions. The legal aspects involved in the acceleration of the Probolajang Regional Water Supply System encompass several important elements. First, there is compliance with laws governing the management and utilization of water resources (Law No. 11 of 1974 concerning Irrigation and Law No. 17 of 2019 concerning Water Resources) which ensure that this

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<sup>9</sup> Wahyudi Putera et al., "Digital Business Development Strategy as a Determinant of Business Competitiveness Through E-Commerce of MSMEs Products in Indonesia," *European Journal of Theoretical and Applied Sciences* 1, no. 6 (2023): 804-829.

<sup>10</sup> Erna Setijaningrum and Ramaditya Rahardian, "The Power of Policy Entrepreneur in Disability Inclusive Policy Making," *Policy & Governance Review* 6, no. 2 (2022): 176.

<sup>11</sup> Santhana Krishnan Mohd Fadhil Md Din, Wahid Omar, Shazwin Taib, Shamsul Sarip, "Humanizing the Localizing Sustainable Development Goals (SDGs) in Education and Research at Higher Education Institutions (HEIs)," *Journal of Sustainability Perspectives*: 1, no. 1 (2021): 453-460.

project does not harm the water usage rights of the surrounding community. Second, environmental protection regulations (Law No. 32 of 2009 concerning Environmental Protection and Management), especially those related to Environmental Impact Analysis (AMDAL), must be followed to ensure that development does not cause ecological damage. Third, the legal aspects of contracts governing agreements between the government (Government Regulation No. 28 of 2018 concerning Regional Cooperation and Ministry of Home Affairs Regulation No. 22 of 2020 concerning Procedures for Regional Cooperation with Other Regions and Regional Cooperation with Third Parties). Fourth, land acquisition regulations (Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest) ensure fair compensation for affected communities. Fifth, regulations related to regional government (Law No. 23 of 2014 concerning Regional Government). Sixth, regulations related to regional state-owned enterprises (Government Regulation No. 54 of 2017 concerning Regional State-Owned Enterprises). Seventh, regulations related to the Drinking Water Supply System (Government Regulation No. 122 of 2015 concerning the Drinking Water Supply System). Several other regulations directly or indirectly related to the Regional Water Supply System must also be considered. By taking into account these legal aspects, the development of the Probolajang Regional Water Supply System can proceed effectively and responsibly, meeting the water needs of the community while protecting their rights.

In the context of managing the Probolajang Regional Water Supply System by Regional State-Owned Enterprises (BUMD), this is because Water Supply System between regencies/cities is within the jurisdiction of the Provincial Government to facilitate. This article aims to analyze the legal position of PT Air Bersih Jawa Timur (Perseroda) in organizing the Probolajang Regional Water Supply System, considering the importance of BUMD's role in the regional Water Supply System institution. Through a legal perspective, it will explain how the position of PT AB Jawa Timur (Perseroda) is given authority and responsibility in managing the Probolajang Regional Water Supply System in accordance with applicable laws and regulations. To achieve this goal, the research approach used is the statute approach and analytical approach with research specifications in the form of inventorying legislation and legal synchronization.

Previous research related to water resource management has been conducted by three researchers: first, research conducted by Arindita Pratiwi (2022), which analyzed water resource management from an investment and welfare perspective.<sup>12</sup>

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<sup>12</sup> Arindita Pratiwi, "Pemanfaatan Dan Perlindungan Hukum Terhadap Sumber Daya Air Dalam Perspektif Investasi Dan Kesejahteraan," *Program Magister Hukum Fakultas Hukum Universitas Indonesia* 2, no. 1 (2022): 1-12.

The novelty of Arindita Pratiwi's research (2022) is that water resource management in Indonesia has a welfare orientation, where the main focus of water resource management is carried out by the state or state institutions with legal entities. However, if water resource management has met the needs of the community, then water resource management can be carried out with an investment paradigm, involving the private sector.<sup>13</sup> The second study was conducted by Alamsyah and Angela (2023), which focused on analyzing civil society movements that oppose water resource management. The novelty of Alamsyah and Angela's research (2023) is that civil society movements are needed to oversee and ensure the implementation of water resource management aimed at realizing community welfare. The third study was conducted by Simamora et al. (2024), which discussed Water Supply System management in the Binjai community.<sup>14</sup> The novelty of Simamora et al.'s research (2024) is that one of the obstacles in managing Water Supply System in the Binjai community is related to communication and coordination between the government and the community. Therefore, the intensity and routine of communication need to be encouraged to establish a harmonious relationship between the government and the community in managing Water Supply System in the Binjai community.

From the three previous studies mentioned above, it can be observed that none of them specifically discussed addressed water rights specifically the position of Perseroda in Water Supply System management. This is what becomes the focus of this analysis and simultaneously shows that this research is original and different from the three previous studies.

## RESEARCH METHODS

This research is normative legal research<sup>15</sup> with a legal issue related to the legal position of PT AB Jawa Timur as Perseroda in the Management System of the Drinking Water Supply System (SPAM). The primary legal materials in this research are various laws and regulations related to regional government and Regional State-Owned Enterprises. Secondary legal materials include journal articles, research results, books, and various legal materials relevant to the legal issue. Non-legal materials include language dictionaries. The approach used is an analytical and legislative approach.

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<sup>13</sup> Syauiid Alamsyah and Deni Angela, "Dinamika Politik Dalam Gerakan Masyarakat Sipil Menolak Privatisasi Pengelolaan Air Di Jakarta," *Jurnal Adhikari* 2, no. 4 (2023): 457-467.

<sup>14</sup> Saydina Maya Tanjung et al., "Pemanfaatan Pembangunan Sistem Pengelolaan Air Minum (SPAM) Regional Mebidang Pada Masyarakat Di Jalan Medan-Binjai Say," *El-Mal: Jurnal Kajian Ekonomi & Bisnis Islam* 5, no. 3 (2024): 523-529.

<sup>15</sup> I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum* (Jakarta: Kencana, 2017).



## RESULTS AND DISCUSSION

### A. Regulation and Management of Water Rights

Water is a basic human need that is essential and irreplaceable, playing a crucial role in every aspect of life.<sup>16</sup> The availability of clean and safe water is essential for health, hygiene, and survival, supporting various human body functions. Beyond biological needs, water is also vital for daily activities, from domestic uses such as cooking and washing to use in the industrial and agricultural sectors. In agriculture, water is a key element for irrigation, supporting crop productivity and food production sustainability. Meanwhile, in industry, water is used in various production processes, making it an inseparable resource from economic development.<sup>17</sup> Limited access to clean water can trigger various health and social problems, demonstrating how water is a fundamental component for quality of life and sustainable development.<sup>18</sup> Therefore, efficient and sustainable water resource management becomes a priority in supporting human life and development.

The importance of water as a fundamental source of life, many countries have recognized and regulated the right to water in their constitutions<sup>19</sup>. This understanding is based on the concept that access to clean water is an inalienable human right, essential to meet basic needs and uphold human dignity.<sup>20</sup> In the Indonesian constitution, this is stipulated in Article 33, paragraph (2), which states that "branches of production that are important to the state and affect the livelihood of many people are controlled by the state." Further emphasized in Article 33, paragraph (3), "The earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people".

Related to the provisions of Article 33 of the 1945 Constitution and the management of water rights, it can be concluded that the provisions of Article 33 of the 1945 Constitution are fundamental in the management of natural resources in

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<sup>16</sup> R. Shoviani, A., Rodiyah, "Water, Globalization And Liberalization: Impact Of The Decision Of Indonesian Constitutional Court Number 85/Puu-Xi/2013 Concerning Water Resources Perspective Of The Welfare State," *Journal of Indonesian Legal Studies* 5, no. 1 (2020): 57-100.

<sup>17</sup> Waskito, Nanda Harda Pratama Meiji, and Deny Wahyu Apriadi, "Water Conflict Prevention Model in Indonesia," in *The 3rd International Conference on Humanities Education, Law and Social Sciences*, vol. 2024, 2024, 385-396.

<sup>18</sup> Jacqueline Vel et al., "Law and Heritage for Protecting Water Resources and Access to Water in Indonesia," *Blue Papers* 1, no. 2 (2022): 12-23.

<sup>19</sup> Al Fatah Hidayat, "Water Privatization Discourse in Indonesia: Legal Issues and Lessons Learnt from the UK's Experience," *Indonesian Comparative Law Review* 5, no. 2 (2023): 103-115.

<sup>20</sup> Adi Gunawan, Adriana Pakendek, and Febrina Heryanti, "Criticism on Indonesia's Water Resource Management," *The International Journal of Politics and Sociology Research* 11, no. 3 (2023): 280-288.

Indonesia, including the management of water resources.<sup>21</sup> This indicates that the management of water rights that deviates from the provisions of Article 33 of the 1945 Constitution is contrary to law and the constitution, and not in line with the essence of water rights management as mandated by the constitution.<sup>22</sup> These provisions represent fundamental principles about the management of natural resources that are state assets. Therefore, the Government and various involved parties have an essential responsibility to protect and manage water resources as an effort to fulfill the mandate entrusted by the constitution.<sup>23</sup> This means that the government and stakeholders must actively strive to safeguard and manage water resources in a responsible and sustainable manner to ensure that this important resource can be enjoyed by all segments of society in accordance with the principles embedded in the country's constitution. This is to ensure that natural resources are managed by the state and utilized for the greatest prosperity of the people.<sup>24</sup> The management of water resources must consider social, environmental, and economic functions in harmony. The imbalance between availability and needs requires good management to achieve synergy and integration between regions and sectors.<sup>25</sup> The management of water resources must also take into account the needs of the people for water for future generations.

Conceptually, water resource management in Indonesia, apart from referring to constitutional provisions, must also refer to four general theories of water resource management. As emphasized by Suteki, these four theories include<sup>26</sup>: First, the Global Water Partnership (GWP) theory, which emphasizes the need for a renewed paradigm in water resource management to ensure sustainability. Second, Grigg's theory of water resource management, which emphasizes structural and non-structural aspects to meet human needs based on environmental sustainability. Third, Agenda 21's management of water resources, where the UN through the United Nations Conference on Environment and Development (UNCED) generally emphasizes water resource management paradigms, practices, and strategies, as well as future

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<sup>21</sup> Setia Untung Arimuladi, "The Ecocracy Of Water Resources On Water Cultivation Rights In Realizing Soil And Water Conservation," *Pembaruan Hukum* 9, no. 2 (2022): 175.

<sup>22</sup> Dicky Eko Prasetyo, "Perlindungan Dan Pengakuan Hak Ulayat Masyarakat Adat Biak Papua," *Realism: Law Review* 2, no. 1 (2024): 54-82.

<sup>23</sup> I D.G. Palguna, *Welfare State vs Globalisasi: Gagasan Negara Kesejahteraan Indonesia*, 1st ed. (Jakarta: RajaGrafindo Persada, 2019).

<sup>24</sup> Lalu Muhammad Azwar Joice Soraya, Fathul Hamdani, Eduard Awang Maha Putra, "Perizinan Dalam Pengelolaan SDA Pasca Pengesahan Revisi UU Minerba: Perspektif Hukum Administrasi Dalam Konteks Welfare State," *Rio Law Jurnal* 5, no. 1 (2024): 53-59.

<sup>25</sup> Antonius Mahendra Dewantara, "Implementation of Progressive Law in Enforcement of Environmental Law in Indonesia: The Current Problems and Future Challenges," *Indonesian Journal of Environmental Law and Sustainable Development* 1, no. 2 (2022): 237-264.

<sup>26</sup> Suteki, *Politik Hukum Hak Atas Air* (Yogyakarta: Thafa Media, 2021).

orientations regarding water resources.<sup>27</sup> Fourth, post-Constitutional Court Decision water resource management theory, where various Constitutional Court decisions related to natural resource management in Indonesia have provided constitutional interpretations that serve as social engineering related to natural resource management.<sup>28</sup> Regarding water resource management, the Constitutional Court provides fundamental guidelines for the management of water resources related to the state's function to regulate, administer, make policies, manage, and control.<sup>29</sup>

From the four theories of water resource management above, it can be concluded that water resource management must refer to three main objectives: environmentally and sustainably oriented, socially beneficial, and profit-oriented.<sup>30</sup> Environmental and sustainable orientation is the main aspect of water resource management because the essence of water resource management is to ensure the sustainability of water resources for future generations. The social benefit aspect is also one of the focuses of water resource management because, as a natural resource, water must provide social benefits to society. Profit orientation is the last aspect of water resource management because profit-related orientation must first ensure that environmental and social aspects are fulfilled.

Further regulation of water has been specifically stipulated in the Water Resources Law (UU SDA), which is a derivative of constitutional provisions that view water as an essential source of life aimed at regulating integrated and sustainable water resource management. The Water Resources Law also emphasizes the importance of efficient and fair water resource management to support various needs, from household consumption to industrial and agricultural use. Article 1, Number 21 of the Water Resources Law defines water resource managers as institutions assigned and responsible by the central or regional government in managing water resources based on the provisions of laws and regulations. The definition of the Drinking Water Supply System (SPAM) is an integrated unit of facilities and infrastructure for providing drinking water.

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<sup>27</sup> Siti Sundari Rangkuti, *Hukum Lingkungan Dan Kebijakan Lingkungan Nasional* (Surabaya: Airlangga University Press, 2015).

<sup>28</sup> Idah Puji Lestari, Ahmad Yunani, and Yusuf Hidayat, "Implementation of the Agrarian Reform Program Through Land Redistribution in the Effort to Increase the Welfare of the Community of the Village of Tinggiran Darat, Mekarsari District, Barito Kuala," *Journal of Development Studies* 1, no. 1 (2022): 13-26.

<sup>29</sup> Athari Farhani and Ibnu Sina Chandranegara, "Penguasaan Negara Terhadap Pemanfaatan Sumber Daya Alam Ruang Angkasa Menurut Undang-Undang Dasar Negara Republik Indonesia Tahun 1945," *Jurnal Konstitusi* 16, no. 2 (2019): 235.

<sup>30</sup> Nadia Astriani, "Pengaturan Air Dalam Sistem Hukum Indonesia," *Bina Hukum Lingkungan* 5, no. 2 (2021): 374.



In the general explanation of the Water Resources Law, it is emphasized that based on state control over water resources, the central and/or regional governments are given the duty and authority to regulate and manage water resources, including the task of fulfilling the minimum daily basic water needs for the community. In seeking the direction of water and water source management in the era of regional autonomy, the stages to achieve an optimal water and water source management system require tools that can ensure a process that encourages closer proximity of water and water source management to the correct conditions in the sense of fair, optimal, and sustainable.<sup>31</sup>

In addition to the Water Resources Law, regulations on water, especially in the context of the Drinking Water Supply System (SPAM), are also regulated in other legal instruments, namely Government Regulation No. 122 of 2015 concerning the Drinking Water Supply System (PP Water Supply System). This PP Water Supply System provides a more specific and detailed legal framework for Water Supply System management, which is a crucial aspect in ensuring access to clean and safe water for the community. This regulation covers various aspects of Water Supply System implementation, from planning, development, to operation and maintenance of the system. The regulation includes guidelines on Water Supply System infrastructure development, tariff regulation, water quality standards, and partnerships between the government and the private sector or BUMD in providing drinking water services.

Furthermore, Article 36, paragraph (5) of the PP Water Supply System stipulates that for the sake of efficiency and effectiveness of Water Supply System implementation, the central and regional governments can cooperate. The efficiency and effectiveness of Water Supply System implementation mentioned above is the Water Supply System implementation carried out with inter-regional cooperation, for example, utilizing raw water through the implementation of Regional Water Supply System for cross-regional drinking water services, becoming more effective and efficient. The rationalization of Regional Water Supply System formation is due to conditions in the field that raw water availability for drinking water is geographically uneven, administrative region expansion as the implementation of the regional autonomy framework, resulting in uneven raw water availability for drinking water across administrative regions (regencies/cities), leading to the need for regional cooperation (regencies/cities/provinces) to establish a Regional Water Supply System system to jointly utilize raw water sources.

## **B. Legal Position of PT AB Jawa Timur as Perseroda in Managing the Probolajang Regional Water Supply System**

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<sup>31</sup> Aris Yulia, "Pembaharuan Hukum Agraria Nasional Yang Berkeadilan Sosial," *Supremasi: Jurnal Hukum* 1, no. 1 (2018): 1-7.

Regional Water Supply System, which crosses more than one administrative area, is under the authority and responsibility of the provincial government according to Article 29 of the PP Water Supply System. This Regional Water Supply System is designed to address the issue of clean water supply in a wider area, often covering several regencies or cities. Because of its cross-regional nature, its management requires coordination and cooperation between various involved regional governments, with the provincial government playing a major role in policy alignment and operational management.<sup>32</sup> The main goal is to create an efficient and effective water supply system, overcoming distribution and water resource management challenges that are often more complex in larger areas.

The implications of the authority and responsibility borne by the provincial government in the context of Regional Water Supply System are significant, including the establishment of Regional State-Owned Enterprises (BUMD) as the institution that will manage Regional Water Supply System. The forms and types of BUMD are divided into two: Regional Public Companies (Perumda) and Regional Limited Companies (Perseroda).<sup>33</sup> Perumda is characterized as an entity that focuses more on public service with management principles that are not entirely profit-oriented but more on meeting public needs.<sup>34</sup> Conversely, Perseroda operates similarly to private companies, where the main goal is to generate profit, although still within the framework of the tasks and functions of the regional government. The regional government chooses the form of BUMD that best suits the needs and strategic goals of the region, whether to improve public services or to increase regional income. The existence of Perumda and Perseroda is an important element in the development and resource management strategies implemented by provincial and regency/city governments in Indonesia.

Article 331, paragraph (4) of the Regional Government Law, as regulated in Article 7 of Government Regulation No. 54 of 2017 concerning Regional State-Owned Enterprises (BUMD), states that the purpose of establishing BUMD is:<sup>35</sup>

1. To provide benefits for regional economic development in general.
2. To provide public benefits in the form of the provision of quality goods and/or services to meet the basic needs of the community

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<sup>32</sup> Ahmad Surkati, "Otonomi Daerah Sebagai Instrumen Pertumbuhan Kesejahteraan Dan Peningkatan Kerjasama Antardaerah," *Mimbar XXVIII*, no. 1 (2012).

<sup>33</sup> Bintang Ulya Kharisma et al., "Agrarian Land Policy on Land in Indonesia Post Regional Autonomy," *Media Keadilan: Jurnal Ilmu Hukum* 11, no. 2 (2020): 129.

<sup>34</sup> Gamalel Rifqi Samhudi Puja Lestari Nawang Sasi, "Diferensiasi Pengaturan Badan Usaha Milik Daerah Yang Berbentuk Perusahaan Umum Daerah Dan Perseroan Daerah Sebagai Sarana Perwujudan Kesejahteraan Di Kabupaten Banjarnegara," *Sasi* 15, no. 1 (2024): 200-206.

<sup>35</sup> Adianto Rusli, Zaili and Dadang Mashur, *Pembangunan Berkelanjutan Dalam Bingkai Otonomi Daerah*, 1st ed. (Pekanbaru: Taman Karya, 2020).

according to the characteristics and potential of the region concerned, based on good corporate governance.

3. To obtain profits and/or gains.

The existence of BUMD as regional companies that are required to meet public needs while generating regional profits has historically shown mixed results. Some have succeeded in meeting public needs but have not operated efficiently, resulting in continuous losses. Others have managed to generate profits for the region but the public finds it very difficult to access their products.<sup>36</sup>

The Provincial Government of East Java has taken strategic steps by having BUMD in line with the provisions set out in Article 331 of Law No. 23 of 2014 concerning Regional Government. This step represents the realization of the authority and responsibility given to the provincial government in managing various aspects of development and public services, including vital sectors such as Regional Water Supply System. The establishment of BUMD demonstrates the commitment of the East Java Provincial Government in improving public service efficiency and quality, as well as optimizing regional economic potential. The East Java Provincial BUMD operates with the primary aim of providing better services to the community while generating revenue for the province.

In the implementation of the Regional Water Supply System, the East Java Provincial Government has established PT Air Bersih Jawa Timur (PT AB Jawa Timur Perseroda), which was founded based on East Java Provincial Regulation No. 10 of 2019 concerning the Change in Legal Form of the East Java Clean Water Regional Company to East Java Clean Water Regional Limited Company. The change in legal form of PT AB Jawa Timur (Perseroda) is a strategic step in water resource management in the region. This reflects an effort to increase efficiency and professionalism in providing clean water services to the community. This transformation not only changes the structure and governance of the company but also aims to improve service and ensure the sustainability of water resources. This change is expected to strengthen the company's financial performance while still prioritizing the public's interest in access to quality and affordable clean water.

The legal position implications of the Regional State-Owned Enterprises (BUMD) PT AB Jawa Timur (Perseroda) in the implementation of the Regional Drinking Water Supply System Probolajang are not only as public service providers to the community but also for profit-oriented purposes. This situation places PT AB Jawa Timur in a position where it must balance its role as a public service provider with its

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<sup>36</sup> Puja Lestari Nawang Sasi, "Diferensiasi Pengaturan Badan Usaha Milik Daerah Yang Berbentuk Perusahaan Umum Daerah Dan Perseroan Daerah Sebagai Sarana Perwujudan Kesejahteraan Di Kabupaten Banjarnegara."

responsibility as a profit-oriented entity. This means that in managing the Probolajang Regional Water Supply System, PT AB Jawa Timur faces the challenge of maintaining the quality and availability of drinking water while ensuring that its operations and business strategies can generate sustainable revenue. This position brings important implications related to how regulations, tariff policies, infrastructure investment, and good governance practices can be integrated to meet these two objectives in a balanced manner.

In the institutional context of managing (production and distribution) the Probolajang Regional Water Supply System, it is managed by PT AB Jawa Timur. This is in line with the governor's assignment outlined in East Java Governor Regulation No. 41 of 2021 concerning the Assignment of East Java Clean Water Regional Limited Company in the Acceleration of Bulk and Clean Drinking Water Distribution in East Java. The Production Unit is part of the Water Supply System responsible for the production process of drinking water. In this context, production includes the extraction of raw water from its source, the water treatment process to meet set quality standards, and the preparation of the water for distribution to consumers. These facilities usually include water treatment installations equipped with various technologies for filtration, disinfection, and sometimes pH adjustment, ensuring that the water produced is safe to drink.

The transmission unit is part of the Water Supply System responsible for sending drinking water from the production unit to the distribution system or directly to end users. After water is treated into drinking water in the production unit, it must then be distributed to customers. This typically involves large pipelines known as "transmission pipes" or "transmission networks" that convey water to various locations, including storage facilities such as reservoirs or directly to the distribution system in various service areas. In this context, PT AB Jawa Timur will send water to three regions, namely Probolinggo Regency, Probolinggo City, and Lumajang Regency.

In the context of distribution and drinking water services, it will be the authority and responsibility of the Regional Drinking Water Company (PDAM) of Probolinggo Regency, PDAM of Probolinggo City, and PDAM of Lumajang Regency according to their respective regions. The Distribution Unit is responsible for regulating and managing the distribution of drinking water from storage facilities or from the transmission unit to end users. This involves smaller distribution networks that convey water directly to homes, businesses, and other public facilities. The Distribution Unit must ensure that water pressure is sufficient, distribution is even, and infrastructure is maintained so that drinking water reaching consumers continues to meet the set quality and safety standards. Meanwhile, the Service Unit relates to

customer service aspects within Water Supply System. This includes new customer registration, billing, complaint management, as well as maintenance and repair of pipeline networks at customer homes. The Service Unit is also responsible for informing customers about any changes or updates in services and educating the public on efficient and sustainable water use.

This structure ensures that the distribution of clean water to residents in these areas is managed by entities with expertise and direct experience in local water services. The PDAMs in each area are responsible for ensuring that clean, safe, and quality water is accessible to the community. This includes managing distribution infrastructure, maintaining pipeline networks, regulating tariffs, and customer service. Cooperation between the BUMD PT AB Jawa Timur (Perseroda) and PDAM, which handles local distribution, is key to providing efficient and effective water, ensuring that basic community needs are well met.

## CONCLUSION

The management of water resources in Indonesia constitutionally adheres to the provisions of Article 33 of the 1945 Constitution, where the state has the authority to regulate, manage, implement policies, and supervise the management of water resources. This has implications for the management of water resources by Regional Limited Companies (Perseroda), which must balance between profit-based orientation and the provision of public services in the form of providing adequate and quality water resources for the community.

The legal position of PT AB Jawa Timur as a Regional Limited Company (Perseroda) in the institutional framework of the Regional Drinking Water Supply System Probolajang extends beyond merely providing public services to the community. According to the mandate outlined in East Java Governor Regulation No. 41 of 2021 concerning the Assignment of East Java Clean Water Regional Limited Company in the Acceleration of Bulk and Clean Drinking Water Distribution in East Java, the company also aims to generate profits, showing an orientation that not only focuses on public service but also on achieving profitability. This task includes an active role in accelerating the distribution of bulk and clean drinking water in East Java, illustrating the dual role that PT AB Jawa Timur as Perseroda must play in managing the Probolajang Regional Water Supply System. Thus, PT AB Jawa Timur (Perseroda) not only succeeds financially but also contributes positively to the welfare of the people of East Java.

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