THE RESPONSIBILITY OF LOCAL WATER SUPPLY COMPANY (PDAM) OF TIRTA DHARMA OF BENGKULU CITY IN PROVIDING WATER SUPPLY

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ABSTRACT

Abundant cases of unsatisfactory regarding water supply in Bengkulu have been issued by the customers to Local Water Supply Company of Tirta Dharma of Bengkulu City. The total of 571 cases of complaint from January to May 2016 has been reported. As the response to the phenomenon, this study concerns on “The Responsibility Of Local Water Supply Company(Pdam) OfTirta Dharma Of Bengkulu City In Providing Water Supply”. The method used in this study was empirical Law Research. The results indicate (1) Local Water Supply Company of Tirta Dharma of Bengkulu City was irresponsible maximally in providing services of water supply in Bengkulu. It is claimed that Local Water Supply Company of Tirta Dharma as public company should be responsible in providing excellent service in distributing water and be able to maintain the water quality and service to the society. (2) Law protection on the victims of unsatisfactory service of Local Water Supply Company of Tirta Dharma has been done through the Consumer Protection Law, civil law, criminal law and administrative Law.

Key Words: Protection, Consumer, Services, Water, Local Water Supply Company (PDAM)
A. INTRODUCTION

1. Background

In the Law of The Republic of Indonesia number 8 of 1999 concerning consumer protection considering:

a. that the objective of national development in an economic democracy era based on Pancasila and the 1945 Constitution is to create a just and prosperous society for equal distribution of material and spiritual welfare;

b. that the national economic development in a global era must be able to support the growth of the business sector in order to produce all kinds of goods/or services with technological contents to improve the public welfare in general while at the same time obtaining security of the goods and/or services from trading transactions without causing any damages to the consumers;

c. that the increased opening of the national market as a result of the globalization process of the economy must be able to guarantee the improvement of public welfare and security of the quality, number and safety or the goods and/or services obtained from the market;

d. that in order to improve their dignities and values, the consumers need to enhance their awareness, knowledge, concern, ability and independence to protect themselves and to create and develop a responsible behavior on the part of the entrepreneurs;

e. that the legal provisions protecting the consumers interests in Indonesia are not yet adequate;

f. that based on the aforementioned considerations, the law must create a balance of protection between the consumers interests and entrepreneurs interests in order to create a healthy economy is needed;
Based on the considerate above, the consumer protection law was implemented to protect the consumers and as the legal protection for society in defense the rights. Thus, it strongly suggested to business owners in this case water supply company to improve their performance for service quality.

Public services tend to face lots of problem due to the large scope of service area both for profit sector and nonprofit sector. The difference between the two is on the missions or purposes of each institution including water supply as public service.

Some consumers’ expectation regarding the excellent services still cannot be fulfilled by PDAM, these unsatisfactory cases have been complaint through phone calls, text, or direct complaint in management office. The cases cover tap water clogged, turbid tap water, and leaking pipe. From January to May 2016, there were 571 complaints reported. Since the consumers suffer substantial some losses as it is stated on Consumers Protection Law, it is acceptable for consumers to sue PDAM to be responsible regarding to consumers’ loss on water supply.

Therefore, it is strongly suggested to investigate the responsibility of Local Water Supply Company of Tirta Dharma of Bengkulu City in solving its consumers’ complaints. As the result, this study proposes to find out “The responsibility of Local Water Supply Company (PDAM) Tirta Dharma Bengkulu in providing water Supply.

2. Research Problem

Based on the background of study above, the research problems in this research are as follow:

1. To what extent the responsibility of Local Water Supply Company (PDAM) Tirta Dharma Bengkulu in providing water Supply?
2. To what extent the consumer protection law could help the consumers suffering losses in water Supply?
B. RESEARCH METHODOLOGY

1. Type of Research

According to Abdulkadir Muhammad in his book of “Hukum dan Penelitian Hukum”, legal research is a scientific study that is based on a method, systematic procedures, and certain thought to investigate one or more legal acts through an analysis. The method used in this study was empirical Law Research.

2. The Nature of Research

This is a descriptive research that studies problems in society, regulations and norms prevailing in the society in certain situations, interconnection between acts, attitudes, visions, ongoing process, and the effect of one phenomenon.

3. The Scope of research

The scope of the research is an area where the study take place, which in this case is in LOCAL Water Supply Company (PDAM) Tirta Dharma Bengkulu, Bengkulu city.

4. Respondent

Respondents are the parties that are involved actively as the object of the research. The respondents of the research were:

a. Director of Local Water Supply Company of Bengkulu City;

b. 2 customer service officer of Local Water Supply Company of Tirta Dharma of Bengkulu City;

c. One member of Regional People’s Representative Council, Secretary of Commission III of Regional People’s Representative Council of Bengkulu City;

d. 6 customers of Local Water Supply Company of Tirta Dharma of Bengkulu City.

5. Method of Collecting The Data

In this study, the technique of gathering the data was used:

a. Interview

Interview is a mean used to obtain the spoken data to get certain purposes. 

b. Questionnaire

1Ibid, Hal. 170
c. The type of questionnaire applied was using open-end questionnaire.

6. Method of Processing The Data

The data processing is generally done through some phases, they are checking the data (editing), coding, and constructing/systematizing\(^2\).

7. Method of Analyzing The Data

The method conducted to analyze empirical research in this study was by using qualitative analyzing which shortens the data in good quality in the form of order, coherent, logical, non-overlapping and effective sentence so as to facilitate the understanding and interpretation of data\(^3\).

C. RESEARCH RESULT AND DISCUSSION

1. The Responsibilities of Local Water Supply Company of Tirta Dharma of Bengkulu City in Supplying Clean Water Services

The definition of the agreement provided for in article 1313 of the Civil Code, which reads:

“The agreement is an act by which one or more persons bind himself to another person or more”.

A party is bound by the law if the agreement made is causing liability law. Legal bond is also caused by the obligation to pay compensation of the other party if it violates of the agreement\(^4\). Agreement between the consumer and Local Water Supply Company follows the form of standard and basics agreements, it is normative because the treaty has been standardized and contained in a form.

The services provided by Local Water Supply Company of Tirta Dharma of Bengkulu City is not fully satisfying the customers which is willing to inflict disputes

\(^2\)Ibid,
\(^3\)Ibid; Hal. 172
among both sides. From the data of Local Water Supply Company of Tirta Dharma of Bengkulu City, the number of customer complaining to Local Water Supply Company starts from January to May 2016 is 571 complains with various reasons.

Based on the data above, it could be taken the samples for each complain, they are:

a. Technique complaining
   1) Leaking Pipes
      “Almost these 8 days, the supplying water to customers in Betungan Village of Selebar District is jammed. The residents have reported to Local Water Supply Company of Tirta Dharma of Bengkulu City, but the answer is no interference with the engine driving the water to the customer, so the thrust is reduced. Oddly enough, they said, such that event is often happened before Eid, Christmas and New Year, and there are only two answers to the clerk, because of the leak, the water driving engine has crashed or damaged. Local Water Supply Company of Tirta Dharma of Bengkulu City should begin replacing old pipes and when the water driving engine to the customer is frequent crashed, replaced with new ones. If they do so, the customers are obviously severely impaired”\(^5\)

\(^5\) Based on the interview with Novi as the customer of Local Water Supply Company of Tirta Dharma of Bengkulu City in Zone I area of Selebar District, on June 21, 2016 at 15.00
2) The Water of Local Water Supply Company is Murky

“After these current weeks, the clean water from Local Water Supply Company of Tirta Dharma of Bengkulu City is brownie and smelling mud. Before, we were also disappointed with the hampered drains in our area because it often does not flow. Even, it ever happened 3 (three) days we got no water supply. As a good resident, we always pay the bill on time. But, why the services we got is not good? To Local Water Supply Company of Tirta Dharma, please improve the services to customers”

3) The Water Smells Chlorine and Murky

“It has been 8 days; the flowing water to my house smells like chlorine, the water is murky. I have reported to the Water Utilities but the water is still murky, the Local Water Supply Company is really very disappointing for customers. Such as the water is not feasible as it is used for cooking”

b. Non-Technical Complaints

1) Objected to the bill on May 2016

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6 Based on the interview with Yossy Pusantra as the customer of Local Water Supply Company of Tirta Dharma of Bengkulu City in Zone II area of Singaran Pati District, on June 22, 2016 at 15.00

7 Based on the interview with Hamdan Yazid as the customer of Local Water Supply Company of Tirta Dharma of Bengkulu City in Zone II area of Singaran Pati District, on June 22, 2016 at 15.30

8 Based on the interview with Edy Hermansyah as the customer of Local Water Supply Company of Tirta Dharma of Bengkulu City in Zone II area of Singaran Pati District, on June 22, 2016 at 15.30
2) Objected to the bill on May 2016. 
3) Objected to the incorrect meter reading which is bringing the surge of the bill.

Almost every year, these problems are complained by the customers, but there is no satisfying responds from the Local Water Supply Company. It signs that the Local Water Supply Company is not ready to face the customers’ responds. There is less good will of the company to significantly improve its services.

Based on the explanation above, it shows that the consumer complaint media through the media provided by the Consumer Protection Laws and media of the Public Services Law are not fully implemented to the maximum, because consumers tend to just make a complaint to Local Water Supply Company only. If the complaint is not immediately responded and followed, the consumer is merely given up to it. So it shows that the implementation of consumer protection and public services is still weak.

a. The Local Water Supply Company responsibilities in giving the public and the clean water services

According to BAB III of Services stated in Article 50 in Regulation No. 4 of 2003 concerning the Processing of Local Water Supply Company of Bengkulu City which reads”

1) The company is responsible to meet the drinking water needs to Bengkulu people
2) The custumers have rights to get the drinking water with the standard

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9 Based on the interview with Nurlela as the customer of Local Water Supply Company of Tirta Dharma of Bengkulu City in Zone I area of Selebar District, on June 21, 2016 at 15.30
10 Based on the interview with Novi as the customer of Local Water Supply Company of Tirta Dharma of Bengkulu City in Zone I area of Selebar District, on June 21, 2016 at 15.30
quality assigned by the authorized instance

3) Water flow shortages caused by certain conditions must be notified to the customer no later than 1 (one) day after the water flow shortage and should be announced through mass media.

4) The violation of paragraph 1, 2, and 3 of this article, customers can make complaints toward the Local Water Supply Company arranged in the Company Regulations.

5) Drinking water services to customers conducted through a pipeline distribution / sub distribution or in certain circumstances in consideration of the Local Water Supply Company can use a pipeline with the provisions and technical requirements.

6) The drinking water services can be supplied:
   a. Through Water Terminal / public Hydrant / public Taps
   b. Through Tanker
   c. Through others means with the Local Water Supply Company approval.
As well as in providing public services in the areas of clean water services, Local Water Supply Company has a legal liability to the efforts made in terms of public service in the field of water services. This is confirmed in the Preamble of Articles of the Regulation No. 4 of 2003 on the Management of Local Water Supply Company of Bengkulu City.

Under the provisions of article 8, paragraph 1 of Law No. 25 of 2009 on public service which reads:

“The Hosting Organization has a duty to implement the organization of public services in accordance with the purpose of the establishment”

If it is connected with Article 50 regulations No. 4 of 2003 on the Management of Local Water Supply Company of Bengkulu City, then Local Water Supply Company is as an institution that provides the care services of clean water to communities and individuals. The provisions of Article 8, paragraph 2 of Law No. 25 of 2009 on Public Services, determine that the hosting organization is obliged to organize public services at least the following:

a. Implementation services
b. Management of public complaints
c. Management information
d. Internal oversight
e. Outreach to the community, and
f. Consulting services

Article 8, paragraph 3 of Law No. 25 of 2009 of public services determine that:

“The administrator and all parts of the
Administrator Organization are responsible for the inability, violations and failures of the service delivery”

Based the provisions of Article 8 above, it is known that Local Water Supply Company as providers of services in the areas of clean water services, organizationally has overall responsibility and incompetence, violation and failure of the implementation of water services.

In providing public service, providers have the right as stipulated in Article 14 of Law No.25 of 2009 on Public Service. As a public service provider, in addition to having the right, the provider also has obligations as stipulated in Article 15 of Law No.25 of 2009 on Public Service.

If the public organizers, in this case the Local Water Supply Company of Tirta Dharma of Bengkulu City, in its implementation there are indications of violating the terms of public service, the public or the users of public services in this case the consumers (customers) of Local Water Supply Company of Tirta Dharma of Bengkulu City may file legal action in the form of:

a. Complaint

Stated in Article 40 of Law No. 25 of 2009 on Public Service, which reads:

1) Citizens have the right to sue the organizers of public service to the organizers, ombudsman, and/or the House of Representatives, Regional Representatives Council of the Province, Regional House of Representatives forRegency/City;

2) Citizens who make a complaint referred to paragraph (1) are secured his rights by legislation;

3) Complaints referred to paragraph (1) shall apply to:

   a) The organizers who do not observe the obligations and/or violate the prohibitions;
   b) The implementers who provide services not in accordance with the standards of service.

b. Lawsuit to the Court
Stated in Article 51 Jo Article 52 of Law No. 25 of 2009 on Public Service.

Article 51 of Law No. 25 of 2009 on Public Service, which reads:
“Citizens can sue the organizer or executor through the State Administrative Court if the service provided is causing losses in state administration.”

1) In the case that the organizer committed an unlawful act in the administration of public service as stipulated in this law, the public can file a lawsuit against the organizers to the court.

2) Submission of a lawsuit against the organizers as referred in paragraph (1) does not remove the obligation of the organizer to implement the decisions of the ombudsman and/or organizers.

3) Submission of a lawsuit as referred in paragraph (1) shall be conducted in accordance with the legislation.

c. Reported to the Authorities

Stated in Article 53 of Law No. 25 of 2009 on Public Service, which reads:

1) In the case that the organizer was suspected of criminal act in the implementation of public service as stipulated in this law, the public can report the organizers to the authorities.

2) The report as referred to in paragraph (1) does not remove the obligation of the organizer to implement the decisions of the ombudsman and/or organizers.

Since during this time, the customers who have problems with Local Water Supply Company of Tirta Dharma of Bengkulu City did not get the maximum service in the distribution of clean water, therefore the customers are entitled to the compensation.

The above description shows that the responsibility of Local Water Supply Company in providing clean water supply services to the customer was still very weak, it was very detrimental to the consumers (customers).
2. Efforts Legal Protection Against Customers Who Have Losses Clean Water Services

Law No. 8 of 1999 on Consumers Protection regulates the right of consumers who are harmed by the businesses, and further in the Consumers Protection Act determines that the businesses, in this case the Local Water Supply Company, is responsible for providing compensation for the consumer loss from consuming drinking water produced. Compensation was carried out within a period of 7 days after the transaction date. In addition, the Consumers Protection Act regulates the Consumers Dispute Settlement Board so that the consumers (customers) of Local Water Supply Company can pursue a lawsuit not only in the court but also out of court through the board.

Viewed from the perspective of the law of public services in the field of clean water services can be studied from various aspects, namely:

1. Civil Law Aspect

   In the aspect of civil law, it is a consequence of an agreement between the consumers (customers of Local Water Supply Company) with the Local Water Supply Company. Under the agreement that has been agreed upon, there is the possibility of the agreement executed by the parties properly or there is a possibility there are some parties who do not implement the agreement (defaults) that could result in a lawsuit of default of one party to the other party.

2. Administrative Legal Aspect

   In the aspect of administrative law, the responsibility of this Local Water Supply Company relates to public services provided to citizens.

   If businesses in the operations committed acts which violate the provisions of the above clause regarding the obligation of businesses, the businesses administratively should give compensation.

3. Criminal Law Aspect

   Aspects of criminal law can be done when there is a violation against the law or
violation of the criminal law provisions by the clean water service which is Local Water Supply Company.

D. CLOSING

1. Conclusion

The responsibility of Local Water Supply Company of Tirta Dharma of Bengkulu City in providing clean water services showed that the Local Water Supply Company have not implemented the responsibility maximally in providing services to consumers/customers, in this case also the rights of consumers have not been fulfilled proven from the number of consumers/customers who are harmed, it is so contrary to the Consumers Protection Act and the Public Service Act which contains about consumerism rights to be supplied by the businesses, in this case the Local Water Supply Company. The legal protection to the public services, especially in the field of clean water services by the Local Water Supply Company of Tirta Dharma of Bengkulu City showed that the consumers protection in the agreement between the Local Water Supply Company of Tirta Dharma and the customers was not well protected, because there was still no transparency in terms of rights and obligations between the customers and the Local Water Supply Company, and the slow responses by the Local Water Supply Company in responding the complaints from the consumers/customer Local Water Supply Company.

2. Suggestion

Professionalism of Local Water Supply Company of Tirta Dharma should be done well since Local Water Supply Company as a public institution does civil act by a contract agreement between Local Water Supply Company and consumers/customers. The government conducts continuous supervision in Local Water Supply Company,
moreover the determination of rights and obligations of consumers and Local Water Supply Company should be clearly defined by conducting renewal Regulation No.4 of 2013.

REFERENCES


