

NON-PENAL POLICY PRACTICES IN WATER THEFT CRIMES: A CASE STUDY OF THE REGIONAL PUBLIC WATER COMPANY TIRTA KAMUNING IN KUNINGAN REGENCY

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Abstract: *The crime of water theft in the Perumda Air Minum Tirta Kamuning area of Kuningan Regency continues to increase and is mostly committed by people from economically disadvantaged groups. The existing regulations, particularly Regional Regulation Number 2 of 2021, only emphasize a penal approach through the threat of criminal charges or fines, without considering the socio-economic conditions of the perpetrators and providing no room for non-penal solutions. This study aims to examine the underlying considerations for the implementation of non-penal policies and to analyze their practical application in handling water theft offenses in the jurisdiction of Perumda Air Minum Tirta Kamuning. This research uses a normative juridical method supported by empirical data obtained through interviews with the Branch Service Head of Perumda Air Minum Tirta Kamuning. Secondary data were obtained from laws and regulations, literature, and internal company documents. The analysis was conducted qualitatively by comparing the normative framework with field practices. The research results indicate that economic factors, low legal awareness, and weak supervision are the main drivers of water theft. Penal approaches are considered ineffective because they have the potential to worsen social conditions and do not address the root of the problem. In contrast, non-penal practices such as mediation, empowerment, payment relief schemes, and legal counseling have been proven to be more humane, adaptive, and provide greater benefits to both the community and companies. This study emphasizes the need for formal regulation regarding the scope of non-penal policies in Regional Regulations so that their implementation has a strong legal basis and can be optimally applied.*

Keywords: *Non-Penal Policy, Water Theft Crime.*

I. INTRODUCTION

Water is a basic human need whose existence plays a vital role in human survival. Fulfilling the right to clean water is not merely a physical necessity but also part of socio-economic rights guaranteed by the state, as stated in Article 33 paragraph (3) of the 1945 Constitution, which declares that the earth, water, and natural resources contained therein are controlled by the state and used to the greatest extent for the prosperity of the people. Based on this constitutional mandate, the government has an obligation to provide safe, sustainable, and affordable access to drinking water for all layers of society.

As the executor of this authority, the Kuningan Regency Government established the Regional Drinking Water Company (Perumda) Tirta Kamuning as the provider of clean water

services. In carrying out its functions, Perumda Tirta Kamuning is not only responsible for providing drinking water distribution services to customers, but also for ensuring the sustainability of the service system through operational efficiency, control of water losses, and enforcement of laws against violations that disrupt company performance. However, in practice, one of the issues that often arises is the high rate of water loss (non-revenue water/NRW), whether due to technical damage, system inefficiencies, or illegal practices such as water theft.

The phenomenon of water theft has become a serious problem because it not only reduces company revenue but also disrupts the balance of water distribution to the public, especially to those who are registered customers of Perumda Air Minum Tirta Kamuning. Many cases of water theft are carried out through illegal connections, meter manipulation, and even clandestine modifications of the distribution network by the community. In reality, most perpetrators come from economically disadvantaged groups who struggle to meet basic needs, leading them to choose illegal means to access water. The complexity of this issue indicates the interaction between social, economic, and legal factors that need to be understood comprehensively.

The current regulation, namely the Regional Regulation of Kuningan Regency Number 2 of 2021, explicitly stipulates criminal sanctions for perpetrators of water theft. This regulation prioritizes a repressive penal approach as the main instrument for addressing violations. However, the application of criminal law in cases of water theft often causes hardship for the community. In the context of low-income communities, imposing criminal sanctions often fails to address the root of the problem and may even add social and economic burdens to the perpetrators. A repressive approach that does not consider the social background of offenders can create substantive injustice, as the law should not only punish but also provide benefits and reflect a sense of justice that lives within the community.

On the other hand, Perumda Air Minum Tirta Kamuning has, in practice, implemented various non-penal mechanisms as alternative resolutions, such as persuasive approaches, mediation, payment negotiations, administrative settlements, and even restorative resolution (recovery). These non-penal approaches are considered more humane and capable of reducing violation rates because they provide offenders with the opportunity to correct their mistakes without adding heavy legal burdens. Moreover, this approach aligns better with the principles of restorative justice, which emphasize repairing relationships, compensating for losses, and balancing the interests of the company with the social conditions of the community. However, these alternative mechanisms do not yet have a strong legal basis within regional regulations, so their implementation relies heavily on internal policies and the discretion of Perumda Air Minum Tirta Kamuning officials.

This condition indicates a gap between the applicable legal norms and the social needs and field dynamics. Regulations that tend to be rigid and focus on criminal sanctions are not always compatible with the reality of society, especially when violations occur not due to malicious intent (*mens rea*) but because of economic compulsion and limited access. Therefore, reformulating policies for addressing water theft crimes becomes important to ensure that the law applied can provide substantive justice and benefits to society, without neglecting the regulatory function in maintaining order and the sustainability of services.

With this background, this research has a high urgency to examine the fundamental considerations for implementing non-penal policies in addressing water theft crimes in Kuningan Regency. This study aims not only to identify the legal, social, and philosophical foundations that necessitate a non-penal approach but also to conduct an in-depth analysis of its implementation practices at Perumda Air Minum Tirta Kamuning. Through this study, it is

expected to obtain an overview of the effectiveness of non-penal mechanisms (outside of criminal sanctions) and their implications for reducing violations and improving the quality of public services. In addition, the results of this research are expected to provide policy recommendations for the Kuningan Regency local government in formulating regulations that are more adaptive, humane, and aligned with social justice values, thereby contributing meaningfully to the sustainable development of the drinking water sector.

II. RESEARCH METHOD

This study uses a normative juridical method supported by empirical data. The normative juridical approach is used to examine legal norms governing the handling of water theft, particularly in Regional Regulation of Kuningan Regency Number 2 of 2021, the Criminal Code, and other relevant regulations. This approach is carried out through the study of primary, secondary, and tertiary legal materials.

Empirical data were obtained through interviews with the Head of the Service Branch of Perumda Air Minum Tirta Kamuning to understand the practice of water theft and the resolution mechanisms applied in the field. Meanwhile, secondary data consisted of literature, official documents, company reports, scientific journals, and relevant legislation.

The analytical technique used is descriptive-qualitative analysis, which involves explaining the research findings based on a comparison between the applicable legal norms and the empirical practices in place. This analysis aims to assess the appropriateness, sufficiency, and effectiveness of the application of non-penal (outside criminal) policies in addressing water theft offenses in the area of the Regional Drinking Water Company Tirta Kamuning.

III. RESEARCH RESULTS

1. General Overview of Field Findings

In this study, field evidence shows that water theft crimes in the Perumda Air Minum Tirta Kamuning area are basically influenced by economic, social, and supervisory weaknesses. Poverty is the main determining factor that drives people to make illegal connections, while a social environment that is permissive toward violations reinforces the normalization of such behavior. On the other hand, the limited number of officers and weak technical supervision result in many instances of water theft going undetected effectively.

As a public service provider, Perumda Air Minum Tirta Kamuning faces a dilemma between enforcing strict rules based on Regional Regulation Number 2 of 2021 and providing a more humane resolution, considering that most of the violators come from economically vulnerable groups.

2. Cases of Water Theft Crimes at the Regional Public Drinking Water Company Tirta Kamuning

Based on field supervision results, several cases were found that serve as empirical data for this study, including:

- 1) Customer Dede Darlina, Customer Number 0201026107, carried out an illegal reconnection after disconnection due to arrears. The customer reconnected the water pipes without an official meter.
- 2) Customer Eni Nuraeni, Customer Number 0202033038, was proven to have tampered with the water meter seal to slow down the calculation of actual consumption, resulting in bills that did not match real usage.
3. Customer Taufik Marlianto, Customer Number 0204058183, carried out a similar illegal reconnection in the Gang Bakti Pemuda/JAD area.

- 3) Customer Taufik Marlianto, Customer Number 0204058183, carried out a similar illegal connection in the Gang Bakti Pemuda/JAD area.
- 4) An internal official, who is a contract employee named Andriansyah, a field officer installing water meters not according to technical standards, thus providing opportunities for water distribution irregularities.

These cases demonstrate various *modus operandi*, ranging from unauthorized connections, meter manipulation, to the involvement of internal officials.

3. Factors Causing Water Theft Crimes at the Regional Drinking Water Company Tirta Kamuning

a) Economic Factors

The majority of perpetrators of water theft crimes come from low-income communities who face financial limitations, both in paying for the installation of official connections and in fulfilling their monthly bill obligations. This situation drives them to choose illegal connections as a survival strategy to meet basic clean water needs. This condition indicates that economic issues are the main trigger, which cannot be separated from the structural inability of the community to access water services legally. Therefore, the violations that occur are not solely driven by malicious intent, but are more due to ongoing economic pressures.

b) Social Environmental Factors

A permissive social environment, where the practice of water theft through illegal connections is considered normal and is not accompanied by oversight or enforcement of sanctions, indirectly shapes the community's perception that such violations are not a serious issue. The lack of a firm response from Perumda Air Minum Tirta Kamuning has led to a culture of tolerance, which ultimately provides social legitimacy to behavior that violates the law.

This condition encourages the normalization of water theft, so the practice continues to grow and spread through habits and social interactions in the surrounding environment. Furthermore, this pattern shows that deviant behavior can be socially inherited, especially in areas with minimal control and legal education. As a result, communities tend to imitate and perpetuate these illegal practices, as they see that such actions carry no real consequences. This phenomenon underscores the importance of structural interventions, whether through education, supervision, or stricter policies, to break the chain of normalized violations.

c) Supervisory Factors

The limited number of supervisory officers in the field compared to the large number of customers results in not all violations being optimally detected. As a result, many cases of illegal connections are only discovered after a long time, or in some cases, not identified at all. This capacity gap weakens the effectiveness of internal controls at the Regional Drinking Water Company Tirta Kamuning and creates opportunities for offenders to exploit oversight loopholes. This situation highlights the need for an improved monitoring system that is more modern, fast, and integrated.

4. Basis for Non-Penal Policy Considerations at the Regional Public Drinking Water Company Tirta Kamuning

a. Legal Considerations

The implementation of non-penal policies in handling cases of water theft in the jurisdiction of Perumda Air Minum Tirta Kamuning is considered to have a strong legal

basis because it falls within the scope of administrative discretion (authority) that does not conflict with the provisions of Law No. 17 of 2019 concerning Water Resources or Law No. 25 of 2009 concerning Public Services. In addition, Kuningan Regency Regulation Number 2 of 2021 mandates Perumda Air Minum Tirta Kamuning to establish the necessary administrative measures to improve the effectiveness of public service delivery. Thus, normatively, non-penal policies have clear legal legitimacy.

b. Sociological Considerations

Perpetrators of water theft are generally not criminals, but individuals affected by difficult socio-economic conditions and the imperfections of public service systems. Many violations occur not due to malicious intent (*mens rea*), but because of pressing life needs. Therefore, the application of repressive sanctions may actually worsen the social situation of these vulnerable groups and does not solve the root of the problem.

c. Economic Considerations and Institutional Efficiency

From an economic perspective, non-penal policies offer efficiency in terms of both cost and time. Criminal handling processes usually require a large budget, including operational costs, administration, and labor needs. Through internal administrative mechanisms, Perumda Air Minum Tirta Kamuning can immediately recover losses due to water loss (non-revenue water) through fines, billing arrears, or compensation for losses without having to go through a lengthy court process. This approach not only enhances financial and operational management effectiveness but also maintains good relationships with customers and strengthens the image of Perumda Air Minum Tirta Kamuning, as a public service institution, prioritizes resolution in a constructive manner.

d. Ethical Considerations and Public Service

As an institution tasked with providing services to the public, Perumda Air Minum Tirta Kamuning has an ethical responsibility to prioritize the values of welfare, justice, and humanity in every policy. Law enforcement that focuses solely on punishment can contradict the basic principles of public service, which emphasize protection and community empowerment. By implementing non-penal policies, Perumda Air Minum Tirta Kamuning can maintain order and legal compliance, but in an educational, persuasive, and proportional manner. This policy aligns with the principles of good corporate governance (GCG) and the concept of restorative justice, which aims to resolve issues not only to create a deterrent effect but also to foster legal awareness and social responsibility within the community.

5. Non-Penal Policy Practices in Handling Cases of Water Theft at Perumda Air Minum Tirta Kamuning

The research results show that Perumda Air Minum Tirta Kamuning implements non-penal measures that are preventive, administrative, and restorative, namely:

a) Written Warning

An official warning letter is issued by Perumda Air Minum Tirta Kamuning to customers who are found to have illegally connected or tampered with water meters. This warning is an initial step in guidance and aims to emphasize that such actions are violations that must be stopped immediately.

b) Dialogue and Guidance

The officers then engage in a communicative approach by explaining the legal consequences, company losses, and social risks of the act. Through this persuasive method, the violator is given the opportunity to understand their mistake and correct it without any repressive pressure.

- c) Creation of a Written Agreement Letter Individuals who steal water are required to sign a document containing:
- Acknowledgment of the theft committed
 - Commitment not to repeat the act
 - Willingness to pay fines or compensation
 - Further sanctions if the violation is repeated This document serves as a form of control both legally and morally, thus becoming a basis for supervision in the next stage.
- d) Restitution
As part of the resolution process, the offender is required to repair the installation or bear the losses incurred. Through this mechanism, restitution can be carried out without having to go through the criminal route, thereby maintaining the relationship between the company and the community.
- e) Strengthening Supervision and Monitoring
After the administrative resolution, the company conducts follow-up supervision of customers who have previously committed violations to prevent similar cases from recurring.

6. Analysis of the Implementation of Non-Penal

Policies The implementation of non-penal policies at Perumda Air Minum Tirta Kamuning has proven to:

- a) Be better able to adapt to the conditions of low-income communities.
- b) Provide more effective results in preventing violations from recurring.
- c) Align with the principles of restorative justice, which emphasize recovery and humane resolution.
- d) Support increased efficiency in the provision of public services.
- e) Foster more positive and constructive interactions between Perumda Air Minum Tirta Kamuning and its customers.

Descriptive analytical analysis shows that non-penal policies are in line with public policy theory, particularly comprehensive rational theory and incremental theory, because the policies are developed through a gradual process and based on real issues in the field.

IV. CONCLUSION

Based on the research findings, the Non-Penal Policy Practices in Water Theft Crimes can be concluded as follows:

1. Water theft in the Perumda Air Minum Tirta Kamuning area is a structural problem triggered by the economic and social conditions of the community. Therefore, the penal approach regulated under Kuningan Regency Regional Regulation Number 2 of 2021 cannot provide optimal results because it does not address the root of the problem. Hence, a more effective policy approach than mere criminalization is needed, namely a non-penal policy approach (outside of criminal law) such as socialization, mediation, and the creation of written agreements, which have been proven to be more humane, adaptive, and provide positive impacts both for Perumda Air Minum Tirta Kamuning and the community.
2. The recommendation is for the local government of Kuningan Regency to provide a new space for formal legal foundations outside of binding and comprehensive criminal sanctions, which obliges Perumda Air Minum Tirta Kamuning to develop

internal SOPs for handling cases of criminal theft, particularly those driven by economic pressures, conduct legal education for the community, and implement a periodic monitoring and evaluation system to ensure that all non-penal policies can be carried out consistently, proportionally, accountably, and fairly.

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