

# Protection and Fulfillment of the Right to a Good and Healthy Environment in Wadas Communities

Sodikin

Faculty of Law, Universitas Muhammadiyah Jakarta, Indonesia

---

## Abstract

Development as one of the rights to a better life has forgotten environmental factors. The environment has been damaged by development activities. Environmental damage also results in human rights violations. The construction of the Bener dam using materials from andesite has damaged the environment, resulting in violations of human rights in the village of Wadas. The problem is how to protect and fulfill the right to a good and healthy environment due to the construction of the Bener Dam. The results of the study explain that the construction of the Bener dam has caused conflict and people's resistance to the government, because natural resources such as andesite stones have been exploited, thus destroying the environment where the Wadas people live which results in violations of human rights. The protection and fulfillment of the right to a good and healthy environment through existing laws and regulations has not been able to resolve community demands for rights. Likewise the demand for justice by filing a lawsuit to the court, both the Semarang State Administrative Court and the Supreme Court have also not received justice in accordance with their demands, namely obtaining the right to a good and healthy environment.

---

**Keywords:** Protection; Fulfillment; Human rights; Environment

## Introduction

A healthy environment is a human right, this statement is a provision contained in the 1945 Constitution. Legal protection of human rights is also one of the most effective ways to protect the environment. The 1945 Constitution as the constitution that applies in the country of Indonesia provides for environmental protection arrangements in order to simultaneously protect human rights, especially those related to the issue of the right to a good and healthy environment. The protection and management of the environment also aims to ensure the protection and fulfillment of the right to a good and healthy environment.

A healthy living environment means that everyone has the right to get a healthy life, and the intention to get a healthy life, of course, must be to protect the environment from damage and pollution. The existence of environmental pollution and destruction indicates that the state needs to anticipate the impact of development as stipulated in the 1945 Constitution. This is because environmental destruction and pollution are the result of human desires to develop and build a better life. Within the framework of human rights, this desire is based on the right to development. This is because many humans forget environmental factors, in carrying out development, especially those related to ecosystem problems (humans and their environment have a relationship with each other and are cyclical).

The impact that occurs from the desire for the right to development, which results in the right to a healthy life being violated or neglected (Sodikin, 2021). The desire of the right to development, so humans get a healthy life which is the right to a healthy environment, but basically these rights are violated or set aside. Therefore, development that is not controlled can lead to human rights being violated. Development as concrete evidence of the existence of human efforts to improve life by exploiting natural resources has an impact on environmental damage.

Article 28H paragraph (1) of the 1945 Constitution explains that, "everyone has the right to live in physical and spiritual prosperity, to have a home and to have a good and healthy environment and has the right to health". Therefore, the right to a healthy environment is part of human rights that need to be protected and fulfilled as stipulated in Article 28H paragraph (1) of the 1945 Constitution. Implementation of Article 28H

paragraph (1) of the 1945 Constitution is contained in several laws and regulations that regulate the right to a healthy environment, including Law Number 39 of 1999 concerning Human Rights and Law Number 32 of 2009 concerning Environmental Protection and Management.

The theoretical framework in protecting and fulfilling the right to a good and healthy environment as explained above is what should be in the protection and fulfillment of people's rights to a good and healthy environment. In fact, the people in Wadas village, Bener sub-district, Purworejo district, Central Java province, do not receive the protection and fulfillment of their right to a good and healthy environment as idealized in laws and regulations. Environmental damage due to excessive exploitation of the environment results in damage to the environment itself and violations of people's rights to a good and healthy environment. Akmal Pasludin (2022), said that damage to the ecosystem would cause local residents to leave the area, because they could no longer depend on their livelihoods. In fact, the government should protect its citizens and provide a sense of security and comfort in carrying out their lives. People who survive in this area will face a very bad life with a damaged ecosystem. The blessings of soil fertility are lost due to continuous exploitation of natural resources.

This damage resulted from the Bener dam construction activity using raw materials originating from environmental components around Wadas village, namely andesite stone. The Bener Dam is one of the National Strategic Projects (PSN) which will supply most of the water needs to the Yogyakarta International Airport (YIA) in Kulon Progo Regency, Yogyakarta (Kompas.com, 2022a). This dam project requires a supply of andesite rock as construction material. By the government, the need for andesite supplies is taken from the village of Wadas. However, some residents refuse to mine andesite rocks in their village (Kompas.com, 2022a).

Quoted from the official website of the Indonesian Forum for the Environment for 2021, the mining project in Wadas village is a quarry or open pit mining (dredged without residue) which is planned to run for 30 months (Indonesia, 2022). The mining of the rock was carried out by drilling, dredging and blasting using 5,300 tons of dynamite or 5,280,210 kilograms, to a depth of 40 meters. The andesite quarry mine in Wadas Village is targeting 15.53 million cubic meters of andesite rock material for the construction of the Bener dam. If that happened, it would destroy the landscape and would be no different from forcing people to live with ecosystem damage (Indonesia, 2022).

Greenpeace Indonesia Forest Campaigner Asep Komaruddin (2022) stated that andesite stone mining in Wadas village has the potential to cause landslides and drought. In fact, the land in the village is a source of livelihood for the residents thanks to plantation and agricultural products. Furthermore, Bener sub-district is a drought-prone area, meaning that when rock mining occurs in Wadas village which is a hilly area, there will be a potential for drought, so that the Wadas villagers refuse to plan mining in their area. This is because the Wadas area is a water catchment area which stores abundant water reserves for residents (Komaruddin, 2022). Residents reject the mining plan because it has the potential to damage 28 points of water sources. Damage to springs will result in damage to agricultural land, and further loss of livelihood for residents (Komaruddin, 2022). Thus, the problem is how to protect and fulfill the right to a good and healthy environment and is examined in the analysis below. The research method uses a qualitative-normative analysis.

### **The Condition of the Right to a Good and Healthy Environment in Wadas Communities**

Wadas is a village that has abundant natural wealth which is the source of life for the people of Wadas village. Wadas Village has an area of 405,820 hectares located in Bener sub-district, Purworejo district, Central Java Province. Wadas Village is an area of plains, hills and valleys, with an altitude of 213 to 258 meters above sea level (Rosa, 2022). Due to its fertile soil, the villagers have been practicing multicultural farming with various types of plants for generations. Wadas village has a very abundant natural potential because the soil is fertile and can be planted with various types of plants, ranging from durian, teak, mahogany, cubeb, sugar palm, cloves, acacia which can be cultivated very well (Rosa, 2022). According to Purworejo Regional Regulation Number 10 of 2021 concerning the Spatial Plan for the Purworeja Regency for 2021-2041, this village has been designated as a plantation area to meet the needs and welfare of its residents. Therefore, the Decree of the Governor of Central Java (governor Ganjar Pranowo) which designates the area as an andesite mining location, certainly contradicts Purworejo Regional Regulation Number 10 of 2021 concerning the 2021-2041 Purworeja Regency Spatial Plan. The andesite stone which is abundant in Wadas village is one of the volcanic rocks and andesite stone is rich in plagioclase feldspar and amphibole minerals, and also andesite stone has small amounts of quartz and pyroxene minerals. Andesite stone is a type of natural rock found in most volcanic

areas in the world which are usually found in volcanoes above convergent plate boundaries between continental and oceanic plates (Aprillya, 2022).

Wadas Village which has an area of 405,820 hectares with details of 381,820 hectares is dry land and the remaining 24,000 hectares is rice fields (Muhammadiyah, 2022). The Wadas village area is divided by a river called the Juweh river, where the residential areas are scattered along the river. This plantation commodity has fulfilled the needs of life and welfare of the Wadas village community, and is the highest income for the local community from the sugar palm plantations, which are harvested every morning and evening which can be the community's daily income. The high value of plantation products and good environmental management has a diversity of plants for environmental sustainability (Muhammadiyah, 2022).

The results of a survey conducted by GEMPADEWA (Gerakan Masyarakat Peduli Alam Desa Wadas/Community Movement Cares for the Nature of Wadas Village), Walhi Yogyakarta, LBH Yogyakarta and the Street Library in 2018-2019 stated that plantation commodities in Dewa Wadas reached 8.5 billion per year and hardwood commodities could reach 5 billion every five years (Muhammadiyah, 2022). The Indonesian Forum for the Environment noted that Wadas village is a productive land that has biodiversity (Kompas.com, 2022b). The economy and development of the Wadas people have contributed to various fields, especially in their daily needs. The truth of this economic mathematics has been confirmed by Wadas residents, meaning that Wadas already has welfare guarantees with local economic morals so far and in a sustainable future. The dimension of "wealth" of natural resources in the form of unlimited amounts of andesite rocks will be mined for the needs of the dam, which actually resulted in the destruction of the Wadas village ecosystem (Muhammadiyah, 2022).

This problem arose, and an agrarian conflict occurred when the construction of the Bener dam and andesite stone mining in the village of Wadas, where andesite stone was one of the materials for the realization of the Bener dam. Furthermore, the mining of andesite stone was rejected by the residents because the majority of the community are farmers, if mining occurs it will damage and disrupt the livelihoods of these residents. The presence of andesite stone mining for the construction of the Bener dam will have an impact on land conversion, especially agriculture. This land conversion causes the majority of farmers to lose land which is their source of livelihood (Muhammadiyah, 2022)

According to the Regulation of the President of the Republic of Indonesia No. 109 of 2020, the Bener Dam was included as one of the National Strategic Projects (PSN) under the administration of President Joko Widodo. In total there are 201 National Strategic Projects (PSN) and 48 of them are in the dam infrastructure development sector (Nurhadi, 2022). If this National Strategic Project is not studied in more depth from the environmental aspect, it will exacerbate the socio-ecological crisis which will result in widespread human rights violations and delegitimization of public participation, meaning that the environmental crisis will strengthen various crises such as moral, social, cultural, ecological and economic.

Most of the projects listed as National Strategic Projects rely on the dredging/exploitation of natural resources sector, because infrastructure development for these National Strategic Projects requires a very large amount of land. The impact of dredging/exploitation of natural resources has resulted in a series of problems of deprivation of people's living space and the rise of agrarian conflicts in Indonesia. The project did not pay attention to the carrying capacity and capacity of the environment and the government should review the strategic environmental assessment to see the impact of the project on the environment. This is important considering that ecological disasters often occur in Indonesia.

An ecological disaster could occur if the construction of the Bener dam as a National Strategy Project continues, because the construction of the Bener dam requires a large area of land and uses andesite stone materials originating from Wadas village. The existence of andesite stone mining has triggered human rights violations. Due to violations of human rights, the andesite stone mining in Wadas village is not part of the National Strategic Project (PSN). This is indicated conclusively based on expert analysis in related fields of having legal problems and violations of human rights from the planning stage to land acquisition. The determination of the mining location did not involve the aspirations of the Wadas villagers in the framework of maintaining the quality of living space, water sources, local biodiversity and food. Likewise, it is also indicated that there is a problem of incorrectness in the administration regarding the merger of permits for the construction of the Bener dam and mining of andesite stones in the village of Wadas. The problem of incorrectness in the position of andesite mining in Wadas village which is included in the land acquisition

scheme for public use as included in the dam construction project, even though the extraction activity (dam) is a business or commercial interest (Wibowo, 2022).

The Bener dam project as a National Strategy Project is detrimental to Wadas villagers because residents are forced to sell land containing andesite rocks. Even though the Wadas area is outside the Bener Dam National Strategy Project. The results of the construction of the Bener dam are unclear, but this project has sacrificed the interests of the people, and the people have not benefited from the project being built, and the environment around it has already been damaged. This is because the Bener dam project and andesite mining did not pay attention to the impact on the surrounding environment. The construction of the Bener dam occurred because human ambition and greed for development were not in line with adequate capabilities. Often this ambition is not followed by the capacity to prepare more humane, measurable designs and adequate socio-ecological disaster mitigation (Al-Hamdi, 2022).

The problem of andesite mining in the village of Wadas Purworejo has legal problems and human rights violations that started from planning to land acquisition, so the project is not included in the category of National Strategic Projects. This should protect and fulfill the right to a good and healthy environment obtained from the government, not destroying the environment as a place of life for the Wadas villagers, even in such development as determining the mining location which does not involve the aspirations of the Wadas villagers. In addition to the need for the protection and fulfillment of the right to a good and healthy environment, the people of Wadas village also need the construction of the dam to get the right to development. Apart from that, the people of Wadas village also want to maintain the quality of their living space, springs, local biodiversity and food which are the living space for the environment (ecosystem) of Wadas village.

There are indeed indications of administrative problems related to the merger of dam construction permits in Bener village and andesite stone mining in Wadas. The problem is that the position of andesite stone mining in Wadas village is included in the land acquisition scheme for 'public interest' as included in the dam construction project, even though the Bener dam project is an activity for 'business interests' or commercial, not for the benefit of the people's welfare as the aim of national strategy project itself. As a result of the project resulted in a socio-ecological crisis, namely poor environmental security which resulted in an ecological disaster. The Bener dam project has further expanded violence and deprivation of people's living space and the rise of various agrarian conflicts in Indonesia. The Bener dam which is a National Strategic Project only promotes the 'prosperity myth' rather than the real results of the national development movement, even violence becomes an integral part which results in community terror (Muqaddas, 2022).

It is also necessary to explain to the attention of various parties that the Bener dam construction project, which is the source of violations of the rights to the environment of the Wadas village community, is a Bener dam construction project with a total investment of up to 2.06 trillion which is funded by the State Revenue and Expenditure Budget and the Regional Expenditure Budget. , and the person in charge of the project is held by the Ministry of Public Works and Public Housing. The planned Bener Dam will have a water capacity of 100.94 cubic meters and an area of 15,069 hectares (Tirto.id., 2022). The Bener dam project, which is being carried out by the State-Owned Enterprise (BUMN) PT Bratas Abipraya (Persero), will become the tallest dam in Indonesia with a height of 159 meters, an embankment length of 543 meters and a bottom width of around 290 meters (Tirto.id., 2022) . The construction plan for the dam project has started since 2018 and is planned to be completed in 2023 (CNN Indonesia, 2022). The legal basis for the construction of the Bener dam is Law Number 32 of 2009 concerning Environmental Protection and Management and Law Number 11 of 2020 concerning Job Creation. However, in Law Number 11 of 2020, the community is made the party directly affected by project activities, and this law limits the role of the community in preparing the AMDAL (2022).

The establishment of the Bener Dam, which is a National Strategic Project, is considered to have been carried out unilaterally by the government and does not allow for community participation. This is as stated by the Indonesia Center for Environmental Law (ICEL) that the majority of regulations related to National Strategic Projects such as Law Number 11 of 2020 concerning Job Creation and Government Regulation Number 22 of 2021 concerning Implementation of Environmental Protection and Management do not provide space for participation in planning and determination, as well as the process of community involvement starting from the licensing process to the completion of the project, so that such actions are considered not to provide public space in the regulation (Muqaddas, 2022).

The complexity of the problems in Wadas village due to the construction process of the Bener dam, among others, triggered conflicts between local residents and the government with various kinds of problems that occurred at once. Mining of andesite stones threatens environmental damage which has always haunted the people of Wadas village because Dewa Wadas is included in the category of areas prone to landslides. The people are afraid because the village of Wadas experienced a large landslide in 1988, killing 7 people (Ganta, 2021). The position of Wadas village which is in the Menorah hill area causes Wadas to have a high level of disaster vulnerability. Based on this, Wadas village as an upstream area has a strategic role in maintaining the balance of nature, becoming a catchment area that protects the Purworejo area from the threat of floods and droughts (Muhammadiyah, 2022).

According to Zuhhad (2022), the construction of dams will endanger the long-term viability of the environment. The disadvantages may outweigh the advantages. Climate Crisis, dammed river water will drown many plants that might help absorb carbon emissions. Methane gas will be released into the air when this plant decomposes in the water. One of the greenhouse gases is methane. Methane traps the sun's heat 80 times better than carbon dioxide, potentially exacerbating climate problems. This climate issue will have a tremendous impact on people in Indonesia and around the world. Climate issues will cost Indonesia Rp 544 trillion in the maritime, agriculture, health and water supply sectors (Zuhhad, 2022). The climate crisis will also lead to more natural disasters, such as floods, tidal waves, landslides, hurricanes and extreme weather. Wetlands and beaches are degraded, river sediments are necessary for the long term viability of wetlands such as peat and coastal swamps. Additional nutrients found in sediments are also necessary for agricultural land. However, the dam can hold back sediment which can damage wetlands and disrupt agriculture (Muhammadiyah, 2022).

Furthermore, the environmental crisis will continue, with the ecosystem damaged by reduced fish populations. Due to the construction of several dams, the animal population in the river has fallen by around 81 percent since 1970. During the dry/hot season, the reservoir can heat up the river water surface (Muhammadiyah, 2022). Dams can also cause certain river basins to dry up. This will harm the ecosystem, especially the survival of trees and animals that supply cold water. In addition, hotter temperatures can cause water quality to deteriorate. Household waste that is not managed in large quantities will enter river water and accumulate in dams, causing poor water quality. Clean water is wasted, people may actually use dam water because only dam water can be utilized. Inside the dam, the water will contain invasive plant species such as water hyacinth, allowing more of the dam's water to evaporate into the air. This is if the climate worsens, such as drought, then the amount of water in the dam will drop drastically, so that the water used as a Hydroelectric Power Plant (PLTA) in the dam may produce less electricity, and also the dam water is also undrinkable (Muhammadiyah, 2022). In the end the Bener dam project has an impact on the expansion of the social and ecological crisis. The problems of land grabbing and environmental destruction are even more serious (Yanuardy, 2022); (Muhammadiyah, 2022).

The next problem due to the construction of the Bener dam was conflict and violence occurred, because the community rejected the construction of the Bener dam and the mining of andesite stones in Wadas village (Suara.com, 2022). The initial upheaval was on Monday, 7 February 2022 when thousands of police officers entered Wadas village, lined up and set up tents in the Kaliboto field until a power cut occurred in Wadas village, until on Tuesday, 8 February 2022, police officers entered Wadas village fully armed and arrested residents Wadas who are considered against (Suara.com, 2022). The actions of the police officers which are indicated to be intimidating, repressive and confrontational in nature which can cause fear, disturb security and order for residents in the village of Wadas (Muhammadiyah, 2022). Thus, there emerged allegations of human rights violations against the residents of Wadas village committed by security forces.

There are three aspects that are in the spotlight in this agrarian conflict including aspects of human rights violations, environmental destruction, and conflicts over land use. The National Commission on Human Rights (komnas.ham, 2022) revealed that there were allegations of violations due to excessive use of force by the police, which resulted in the arrest of a number of citizens by acts of violence. In terms of the environment, the construction of the Bener dam, which is about 10 km from Wadas village, is included in one of the National Strategic Projects (PSN) with Wadas village designated as an andesite mining location to supply construction materials. The public not only questioned the arrest of tens of residents by the authorities, but also criticized the dam project which threatened environmental damage (Kompas.com, 2022b).

Studies related to development relations and human rights threats can be found in various literatures. Some literature finds the fact that upholding human rights is a problem for which there is no effective solution and instead creates many new problems. Economic development in Indonesia which is carried out massively is indeed considered to have succeeded in reducing the poverty rate and increasing the standard of living of the community in general (Hasyim, 2018). However, the increase in welfare on the other hand has threatened and sacrificed human freedom. In addition, in order to accelerate economic development, it is not uncommon for military support to take away democratic rights, the right to speak, and the right to participate in government. Such deprivation is also not infrequently carried out by repressive measures. In addition, development that is not based on a human rights perspective is based on not having deliberations, legal procedures that are only formal in nature and not substantial, to corrupt practices that are often carried out (Rasdi & Alkadri, 2018). The government's action against coercing the construction of the Bener dam is clear evidence of a violation of the right to a good and healthy environment, which so far they have inherited from the surrounding environment.

### **Legal Justice According to Court Decisions**

Government power is needed in running a democratic government. Juridically, the concept of authority is always related to power based on law, both how to obtain it and how to use it (Livermore, 2006), and by adhering to the principle of legality, the authority based on law is intended to fulfill the demands of the rights of the community. As a form of authority possessed by the Central Java regional government, in this case the Governor as the head of the regional government has authority in order to fulfill the demands of the community's rights in the field of welfare, namely the right to development. The governor as the head of the regional administration of the province of Central Java has authority over all development activities in his territory including the construction of the Bener dam. One of the authorities possessed by the governor as the head of the Central Java regional government is to issue regulations as the basis for the Bener dam project. The regulation referred to as the latest regulation is the Decree of the Governor of Central Java Number 590/20 of 2021 concerning Renewal of Determination of Land Acquisition Locations for the Construction of the Bener Dam in Purworejo Regency and Wonosobo Regency, Central Java Province dated June 7, 2021.

Governor of Central Java Decree No. 590/20 of 2021 ultimately caused problems, because the community refused and objected to the determination of the location of the land acquisition area for the public interest which exploited andesite stones in Wadas village for the construction of the Bener Dam. As a result of the dredging of the andesite stones, it has resulted in damage to the environment in Wadas village. The ecosystem and the continuation of the ecology of the Wadas people will be damaged and extinct as a result of dredging the andesite rocks for the dam. Governor of Central Java Decree No. 590/20 of 2021 is not in line with the concept of sustainable development as mandated in the 1945 Constitution. Article 33 paragraph (4) of the 1945 Constitution stipulates that "the national economy is organized based on economic democracy, sustainability, environmental insight, independence and by maintaining a balance of progress and unity national economy". Thus, the economic development that must be implemented is development that is environmentally sound in the sense that it does not deplete natural resources and damage the environment (Sodikin, 2021).

This means that the root of the problem in Wadas village stems from the Decree of the Governor of Central Java Number 590/20 of 2021 concerning Renewal of Determining the Location of Land Acquisition for the Construction of the Bener Dam (Harjanto, 2022). The people who object are those who are the legal rights holders of land, owners of buildings, plants or other objects and who are also affected by the mining plan for the construction of the Bener Dam whose rights are protected and recognized in the laws and regulations that apply in Indonesia.

Residents have asked the Governor to revoke the Decree of the Governor of Central Java No. 590/20 of 2021 concerning Renewal of Determination of Land Acquisition Locations for the Construction of the Bener Dam in Purworejo Regency and Wonosobo Regency, Central Java Province, dated June 7, 2021. The request for the revocation of the governor's decision was through a lawsuit to state administrative court in Semarang. The community's lawsuit against the Central Java regional government through the courts is an effort made by residents to obtain justice. This is because what the government is doing through its decisions is a one-sided action that is not through deliberations with the people who will be affected by the construction of the Bener Dam.

As administrators of the state in administering government, of course, must pay attention to the principles of governance, one of which is the principle of protecting human rights. Thus, despite the growth of legal instruments for the protection of human rights, there is still a continuing gap between official statements and actual implementation of human rights protection (Rokhim, 2013). Thus, human rights become a measure in administering government, so Landman (2004) states, measuring human rights has the following four functions: (1) contextual description, monitoring, and documentation of violations; (2) classification of various types of violations; (3) mapping and recognition of patterns of violations against space and time; and (4) secondary analysis that provides an explanation of violations and policy solutions to reduce them in the future.

Every act/action of the government should pay attention to the protection of human rights and the government must understand that the holder of obligations in the concept of human rights is the state which in this case is the regional government of Central Java province which is headed by a governor. The government's actions in protecting human rights are based on Article 28A of the 1945 Constitution of the Republic of Indonesia which states "Every person has the right to live and has the right to defend his life and existence". Article 28H Paragraph (1) of the 1945 Constitution of the Republic of Indonesia states "Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to get a good and healthy environment and has the right to receive health services". Article 28H Paragraph (4) of the 1945 Constitution of the Republic of Indonesia states "Every person has the right to own personal property rights and these property rights may not be taken over arbitrarily by anyone". Furthermore, there are statutory provisions under laws, for example Article 9 of Law Number 39 of 1999 concerning Human Rights which states: (1) Everyone has the right to live, maintain life and improve their standard of living, (2) Everyone has the right to peace, security, peace, happiness, physical and spiritual prosperity, (3) Everyone has the right to a good and healthy living environment, and also the provisions of Article 29 paragraph (1) of Law Number 39 of 1999 concerning Human Rights states " Everyone has the right to protection of self, family, honor, dignity and property rights. Likewise Article 65 paragraph (1) of Law Number 32 of 2009 which states, "everyone has the right to a good and healthy environment as part of human rights".

Based on these provisions, the community is suing the government for arbitrary actions, because everyone has the right to develop themselves and their economy in order to sustain their lives. Wadas village residents object to andesite mining because andesite mining threatens the residence and economy of the residents as Wadas village farmers. The residents of Wadas village are trying to maintain their lives and lives as farmers so they are not taken arbitrarily (PTUN, 2021) by the government.

The next demand of the Wadas community is in a court decision demanding that the andesite rock mining plan will relocate the Wadas village residents which, if measured based on the impact that will occur, the andesite rock mining plan in Wadas village will have an impact on the lives of many people such as loss of property rights, residence and agricultural land that has provided welfare. The loss of work as a farmer that has been carried out for generations is due to the plan to mine andesite rock which will damage the landscape so that it can no longer be used for farming. Adaptation to the new environment and forcing Wadas villagers to change jobs (PTUN, 2021).

In the demands at court, the Wadas community also stated that Indonesia had ratified the International Covenant on Economic, Social and Cultural Rights through Law Number 11 of 2005, so that all provisions or policies that the government wanted to adopt should be carried out in the framework of fulfilling, respecting and protecting economic, social and cultural rights covered by the Covenant. The government's actions have caused the lives of Wadas residents who have been physically and mentally prosperous so far to experience conditions that have made them poor and difficult to live life. The mining of Andesite rocks in Wadas village has caused loss of jobs, homes, and the loss of proper living conditions for Wadas residents. As a result of long mining work, it will certainly cause environmental damage. The government is deemed to have violated the provisions of Article 11 paragraph 1 of Law Number 11 of 2005 concerning Ratification of the International Covenant on Economic, Social and Cultural Rights, that Article 11 paragraph (1) "States Parties to this Covenant recognize the right of every person to a standard of living that is adequate for him and his family, including sufficient food, clothing and shelter, and for the continuous improvement of his living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing the essential importance of the present Covenant on the basis of freedoms" (PTUN, 2021).

The community's next demand in the court decision is regarding the plan to mine andesite rock in the village of Wadas for the purposes of building the Bener dam without regard to gender. The government in planning to mine andesite rock in Wadas village does not consider the management of natural resources by the women of Wadas village. This will also have an impact on Wadas village women who depend on nature for farming. If the andesite rock mining plan in Wadas village is implemented, this will threaten the survival of the Wadas village women because the Wadas village women will lose access to the natural resources in their village. This is to fulfill a sense of justice for women in Wadas village, the government must return this desire to the wishes of women in Wadas village. Women in Wadas village who work as farmers will definitely be affected by the andesite mining plan, but the government ignores this and this is a form of impoverishment carried out by the government for women in Wadas village (PTUN, 2021).

Claims as objects of dispute submitted by the community in terms of the community obtaining the right to a good and healthy environment are not used as a reason for the judge's consideration in deciding the dispute. The judge only decided that the issuance of a decision letter on the object of dispute by the Governor of Central Java province according to the procedure/procedure of issuance as well as in terms of content/substance did not conflict with the applicable laws and regulations nor did it conflict with the general principles of good governance. Therefore, the right to a good and healthy environment that is demanded by the community is not considered by the judge in deciding the case, so that the claim is rejected by the court/judge. Thus the community does not obtain legal justice through the decision of the state administrative court in Semarang.

The demands of the Wadas villagers for the right to a good and healthy environment were rejected by the judge at the state administrative court in Semarang, so they then filed a follow-up lawsuit by filing an appeal to the Supreme Court. Likewise, the Supreme Court in its decision number 482 K/TUN/2021 decided that it rejected what was demanded by the residents of the Wadas village with the object of the dispute over the right to a good and healthy environment. The Supreme Court's decision upheld the decision of the Semarang state administrative court (Mahkamah Agung, 2021). The decision of the Supreme Court which rejected the cassation of the demands of the Wadas residents for the right to a good and healthy environment for the Wadas village community shows that legal justice through the courts was not obtained, so that the protection and fulfillment of human rights to a good and healthy environment were also not obtained from the state. Thus, the government should as an institution that should have government authority in order to fulfill the right to a good and healthy environment which is strengthened by the judiciary to fulfill legal justice to obtain the community's rights that should be obtained. This is where the Wadas villagers want justice for society and also justice for the environment as exemplified by Christin Winter (2022), that ecological and social linkages, can reassess, reorganize and revitalize justice to make it more relevant to the realities of climate change impacts, ecosystem collapse, land degradation, and so on, and water landscape degradation, human-ecological dependency, and social dislocation. Thus, what the Wadas people want is justice for the right to a good and healthy environment, what is their right on the one hand and on the other hand the law ensures what is the right of everyone.

## **Conclusion**

The Wadas village community is a group of people who live together with the natural environment with the natural wealth contained in the Wadas earth. All the natural wealth contained in the Wadas earth is for the continuity of the life of the Wadas village community. The construction of the Bener dam as a National Strategy Project has caused conflict and resistance from the Wadas community. The conflict and resistance was due to the construction of the Bener dam using materials from Wadas village. Wadas Village's natural wealth in the form of andesite rocks is exploited for the construction of dams which results in environmental damage. Environmental damage also results in the violation of the rights to a good and healthy environment. The protection and fulfillment of the right to a good and healthy environment through existing laws and regulations has not been able to resolve community demands for rights. Likewise, demands for justice by filing lawsuits in court, both the state administrative court in Semarang and the Supreme Court have also not received justice in accordance with demands for the right to a good and healthy environment. This is because the two justice enforcement institutions rejected the demands of the Wadas villagers in order to obtain legal justice. The demands of the Wadas village community to obtain protection and fulfillment of the right to a good and healthy environment were not met. In the end, the construction of the Bener dam as a national



strategic project has resulted in violations of the right to a good and healthy environment and the state is unable to provide protection for the right to a good and healthy environment for the people of Wadas village.

### Recommendation

The government in carrying out development should pay attention to human rights inherent in a group of people. The right that is attached to the community is the right to a good and healthy environment. The right to a good and healthy environment is guaranteed constitutionally.

### References

1. Agung, Mahkamah. (2021). *Putusan Nomor 482 K/TUN/2021 perihal Perkara Tata Usaha Negara Pada Tingkat Kasasi*.
2. Al-Hamdi, R. (2022). *Pelanggaran HAM yang Jelas dan Kekuatan Buzzer di Kisruh Desa Wadas*. <https://Republika.Co.Id/Berita/Raw9ya328/Pelanggaran-Ham-Yang-Jelas-Dan-Kekuatan-Buzzer-Di-Kisruh-Desa-Wadas>.
3. AMDAL. (2022). *(Analisis Mengenai Dampak Lingkungan Hidup/Environmental Impact Analysis) is a study of a business or activity that will have a major and important impact on the environment*.
4. Aprillya, Salma Rafifa (2022). *Apa Itu Batu Andesit? Mengenal Batu Andesit, Kandungan hingga Kegunaan*. Detiknews.Com. detiknews.com
5. Arifin, R., Rasdi, & Alkadri, R. (2018). Tinjauan Atas Permasalahan Penegakan Hukum dan Pemenuhan Hak Dalam Konteks Universalisme dan Relativisme Hak Asasi Manusia di Indonesia. *Legality*, 26(1), 17.
6. Ganta, R. (2021). *Tambang Datang Longsor di Wadas Terancam Berulang*.
7. Harjanto, Setyo Ali (2022). *Bisnis.com dengan judul "Keputusan Ganjar Jadi Pemicu Warga Wadas Tolak Bendungan Bener*. Dalam <https://Kabar24.Bisnis.Com/Read/20220209/15/1498487/Keputusan-Ganjar-Jadi-Pemicu-Warga-Wadas-Tolak-Bendungan-Bener>.
8. Hasyim, D. (2018). Perencanaan Pembangunan Berwawasan HAM Menuju Pembangunan Berpusat Pada Rakyat. *Unisia: Jurnal Ilmu-Ilmu Sosial*, 31(68).
9. CNN Indonesia (2022). *Wadas Melawan Kena Suspend*. Wadas\_Melawan Kena Suspend”, <https://Www.Cnnindonesia.Com/Nasional/20220216121349-20-759868/Akuntwitter-Wadasmelawan-Kena-Suspend>.
10. Indonesia, Wahana Lingkungan Hidup. (2022). *No Title*. <https://Www.Walhi.or.Id>. Retrieved February 8, 2022, from <https://www.walhi.or.id>.
11. Komaruddin, Asep (2022). *Ancaman Kerusakan Lingkungan hingga Hilangnya Mata Pencarian Warga Wadas karena Proyek Bendungan*. <https://Www.Kompas.Com>.
12. Kompas.com. (2022a). *Ancaman Kerusakan Lingkungan hingga Hilangnya Mata Pencarian Warga Wadas karena Proyek Bendungan*. <https://Nasional.Kompas.Com/Read/2022/02/10/05400031/Ancaman-Kerusakan-Lingkungan-Hingga-Hilangnya-Mata-Pencarian-Warga-Wadas?Page=all>. <https://nasional.kompas.com/read/2022/02/10/05400031/ancaman-kerusakan-lingkungan-hingga-hilangnya-mata-pencarian-warga-wadas?page=all>
13. Kompas.com. (2022b). *Bendungan Bener, PSN yang Ditolak Warga Wadas*.
14. Komnasham.com 2022).
15. Landman, Todd (2004). Measuring Human Rights: Principle, Practice, and Policy. *Human Rights Quarterly*, 26(4).
16. Livermore, Michael (2006). *Authority and legitimacy in global governance: Deliberation, institutional differentiation, and the codex alimentarius*. Authority and Legitimacy in Global Governance: Deliberation, Institutional Differentiation, and the Codex Alimentarius, \\server05\productn\N\NYU\81-2\NYU205.Txt Unknown Seq: 2 1-MAY-3.
17. Mahkamah Agung. Putusan Nomor 482 K/TUN/2021 perihal Perkara Tata Usaha Negara Pada Tingkat Kasasi.
18. Muhammadiyah, M. H. dan H. P. (2022). *Wadas Pelanggaran dan HAM dan Krisis Sosio-Ekologi Atas Nama Proyek Strtaegi Nasional (Policy Brief)*.
19. Muqaddas, Busyro. (2022). *PP Muhammadiyah: Tambang Batu Andesit di Wadas Bermasalah Sejak*

- Perencanaan*. <https://www.Republika.Co.Id/Berita/Raw7y7409/Pp-Muhammadiyah-Tambang-Batu-Andesit-Di-Wadas-Bermasalah-Sejak-Perencanaan>.
20. Nurhadi. (2022). *Bendungan Bener, Proyek Strategis Jokowi Pemicu Konflik di Desa Wadas*. <https://Nasional.Tempo.Co/Read/1559978/Bendungan-Bener-Proyek-Strategis-Jokowi-Pemicu-Konflik-Di-Desa-Wadas/Full&view=ok>,. <https://nasional.tempo.co/read/1559978/bendungan-bener-proyek-strategis-jokowi-pemicu-konflik-di-desa-wadas/full&view=ok>,
  21. Pengadilan Tata Usaha Negara Semarang. Putusan Nomor: 68/G/PU/2021/PTUN.SMG perihal Sengketa Penetapan Lokasi Pembangunan Untuk Kepentingan Umum.
  22. Pasludin, Andi Akmal (2022). *Polemik Desa Wadas, DPR Ingatkan Rusaknya Keseimbangan Alam Akibat Eksploitasi*. <https://Nasional.Tempo.Co/Read/1560682/Polemik-Desa-Wadas-Dpr-Ingatkan-Rusaknya-Keseimbangan-Alam-Akibat-Eksploitasi/Full&view=ok>.
  23. Rokhim, Abdul (2013). Kewenangan Pemerintah Dalam Konteks Negara Kesejahteraan (Welfare State). *Jurnal Dinamika Hukum Fakultas Hukum Unisma Malang*, XIX(36), 137.
  24. Rosa, Camelia (2022). *Ramai Diperbincangkan Yuk Intip Potensi Alam Desa Wadas*. <https://Akurat.Co/Ramai-Diperbincangkan-Yuk-Intip-Potensi-Alam-Desa-Wadas>.
  25. Semarang, P. T. U. N. (2021). *Putusan Nomor: 68/G/PU/2021/PTUN.SMG perihal Sengketa Penetapan Lokasi Pembangunan Untuk Kepentingan Umum*.
  26. Sodikin (2021). Kontruksi Hukum Dalam Pemulihan Ekonomi Berbasiskan Lingkungan Pasca Pandemi Covid-19. *Rechtsvinding*, 10(3), 413–430.  
<https://doi.org/http://dx.doi.org/10.33331/rechtsvinding.v10i3.769>
  27. Suara.com, 21/2/2022.
  28. Tirto.id. 6/2/2022.
  29. Wibowo, Eko Ari (2022). *Muhammadiyah Sebut Tambang di Desa Wadas Punya Problem Hukum dan HAM*. <https://Nasional.Tempo.Co/Read/1585955/Muhammadiyah-Sebut-Tambang-Di-Desa-Wadas-Punya-Problem-Hukum-Dan-Ham>.
  30. Winter, J. Christen (2022). Introduction: What's the value of multispecies justice? *Environmental Politics*, 31(2), 251.
  31. Yanuardy, D. dkk (2022). *Master Plan Percepatan Dan Perluasan Krisis Sosial-Ekologis Indonesia*. In *MP3EI - Master Plan Percepatan dan Perluasan Krisis Sosial- Ekologis Indonesia*.
  32. Zuhhad, A. (2022). *Ada Apa dengan Desa Wadas: Tambang dan Bendungan Bener Rugikan Indonesia*. <https://www.Greenpeace.Org/Indonesia/Cerita/45996/Ada-Apa-Dengandes-Wadastambang-Dan-Bendungan-Benerrugikan-Indonesia/>.