

# The Problematic Mapping in Designing and Implementing Warehouse Receipt System: An Empirical Lesson from Indonesia

Siti Zulaekhah<sup>a\*</sup>, Suteki<sup>b</sup>, Paramita Prananingtyas<sup>c</sup>, <sup>a</sup>LPDP Awardee, A Law Student of The Doctoral Program at Faculty of Law Diponegoro University and Lecturer of Law Faculty Pekalongan University, <sup>b,c</sup>Law Faculty of Diponegoro University, Indonesia, Email: <sup>a\*</sup>[she\\_tea9875@yahoo.co.id](mailto:she_tea9875@yahoo.co.id)

The warehouse receipt system policy is intended to fulfill the constitutional rights of citizens (especially those based on agriculture in their livelihoods) for equal access to credit. The existence of this system provides an opportunity for residents who have limitations in providing collateral in the form of fixed assets that have been the basis of banking business confidence. This paper aims to identify and map problems, both at the design level and the implementation of the warehouse receipt system policy in Indonesia. This research uses the Socio-Legal Research method by critically analyzing all relevant regulations. The results showed, at the policy design stage, the pilot project that demonstrated its success was very different from the design at the statutory stage. The difference occurs both for commodity owners, commodity types, banks as creditors and warehouse managers involved in the project. Some obstacles were found at the policy implementation stage and the main obstacle was in warehouse management. This problem has a chain effect because the running of the WRS is largely determined by the management of the warehouse which directly influences the process of issuing warehouse receipts.

**Key words:** *Warehouse receipt system, economic analysis of law, warehouse management.*

## Introduction

The warehouse receipt system (WRS) is a focal point, both institutionally and individually (Miranda, *et all*, 2013). International institutions such as the United Nations Conference on Trade and Development (UNCTAD), the United States Agency for International Development (USAID), the Food and Agricultural Organization (FAO), the International Monetary Fund (IMF) and its subsidiary International Financing Corporation (IFC), The Asean Center of Energy (ACE), and other international organizations. As an individual scholar, the warehouse receipt system was also published at various scientific meetings (Miranda, *et all*, *ibid*). Both organizationally and personally, each has a different point of view. The IMF, through the IFC (FAO Investment Centre, 2009), became the facilitator in developing a warehouse receipt system in Indonesia through a technical assistance agreement as a basis for binding on both parties to embed the program. For this transplant, the pattern adopted in Indonesia follows what is applied by the IFC. IFC and UNCTAD pay attention to how warehouse receipt financing takes place in developing countries. ACE and FAO examine the existence of legal instruments and policy challenges that generate functional formation of warehouse receipt institutions in developing countries. The experience of implementing a warehouse receipt system in several developing countries is a separate note by FAO where the utilization of the warehouse receipt system is maximized if it is supported by a good design and legal framework that guarantees the integrity and transparency of all parties involved in the system.

Warehouse receipt systems in several other countries, both developed and developing countries, play a major role in driving economic development and revival. Even so, countries in the world apply different things about this policy. The difference can be seen from the status of the warehouse and its authorized issuance authority, the legal framework that frame it, whether it is solely contractual or public that is subject to administrative law. In Indonesia, the warehouse receipt system has a legal basis of Law Number 9 Year 2006 as amended by Law Number 9 Year 2011 which is effective since 2008. Regulations for the implementation of the law in the form of Government Regulation Number 36 of 2007 have been amended by Government Regulation Number 70 of 2013. As an agrarian country, where peasant communities have difficulty accessing collateral-based bank loans, the presence of this system is very helpful in overcoming these difficulties. The targets for the use of SRG loans are farmers and small and medium-based businesses based on agriculture (Generap Explanation of The Act No. 9 Year 2006).

## Methods

This research is interdisciplinary by using a socio-legal approach which is research in other sciences to explain the reaction of actors or legal subjects to related legislation. Other

scientific assistance, in this case Economics is very helpful in explaining the problems found, both at the level of design and implementation. Quoting Sulistyowati Irianto's opinion (Sulistyowati Irianto, 2012) the use of a socio-legal approach requires that researchers have an understanding of the laws and regulations, instruments and legal substance related to SRG and analyze it. This socio-legal study carries out textual studies, the articles in legislation and policy are critically analyzed and provide an explanation of the meaning and implications for the subject of law. The main legal subject or main actor in this research is the legal entity that manages the warehouse. Socio-legal research places the law from the highest level to the lowest level including the decision of the judge as the heart of the research and then analyzes it based on systems of thinking, knowledge systems and power relations among the formulator law, law enforcement, parties and the wider community where the law applies. This opinion is reinforced by the views of two scholars (Widodo Dwi Putro and Herlambang P. Wiratraman, 2019) which reinforces that the socio-legal approach does not only look at the regulated authority, the institutional implications of that authority, or the limitations of rules related to authority but also examines the operation of authority within a period of time and space gave birth to dynamics and diversity of views and ultimately opened up spaces for theoretical diversity and legal innovation. Relying on the exploration of Sulistiowati Irianto, research is carried out on the constitution and all legislation under it relating to the SRG and then contextualizing this series of juridical frameworks on problems that occur.

The problematic mapping both at the design stage and at the implementation stage The use of an interdisciplinary approach with the help of Economics is derived so that the possibilities of the problems found in the implementation of the warehouse receipt system can be answered properly with the help of economic analysis of law. The choice of using this analysis is based on the close relationship between people's reaction to prices (economic perspective) and people's reaction to sanctions (legal perspective) with a statement that people's reactions to prices are parallel to people's reactions to legal sanctions. Likewise, the interest in someone (the hope for profit) is a motivating factor for someone to do something. Primary data collection is carried out simultaneously with triangulation using the Focus Group Discussion (FGD) method.

## **Results and Discussion**

Historically, the embryo of warehouse receipt credit in Indonesia has been practiced since 2002 (Dean Novel dan Sriyanto, 2017) under the name Warehouse Receipt Financing with PT. Sucofindo is a Collateral Manager, a foreign bank as a creditor, and cocoa exporter. In 2003 the SRG pilot was launched in Makassar based on tripartite agreements involving several foreign banks and large scale companies. The initial design was a Collateral Management Agreement (CMA) which involved three Bank Niaga parties as creditors, cocoa exporters and PT. Bhandha Ghara Reksa (as collateral manager). By law, the CMA pattern is

actually not the same as the SRG because the CMA is merely contractual in nature, which is solely based on the custody agreement. The results of spawning secondary data from researchers show that the design of SRG in Indonesia was initiated by the IFC by conducting technical assistance cooperation (Technical Assistance Agreement) until the issuance of a law on SRG. The parties involved or the target are cocoa exporters. The tripartite agreement pattern was successful because it involved big-capital entrepreneurs. The issuance of the law on SRG as described above shows that there has been a shift in the target of the SRG policy design in Indonesia. This has the potential to create problems at the design level of the policy that should be referred to in the next design (pouring in the law).

Some of the problems or constraints found in the implementation of the Warehouse Receipt System include: aspects of the warehouse manager, aspects of the warehouse status, and factors of the main actors (farmers). The dominant problem in implementing this policy that is in the warehouse manager needs to be outlined the root of the problem first. Based on Commodity Future Trade and Regulatory Agency (CoFTRA) data, from 2016 to 2018, there are 9 legal entities that manage warehouses involved in WRS throughout Indonesia, 3 of which are state enterprises (PT. Bhandha Ghara Reksa, Persero, PT. Pos Indonesia, Persero, and PT. Pertani, Persero) and 6 private legal entities (KSU Gayo Mandiri, KUD. Budi Mulya, Kosperindo, PT. Food Tjipinang Jaya, Selaras Cooperative, and Lembu Nusantara Jaya Wijaya Cooperative). The root of this problem can be traced from the existence of warehouses established by CoFTRA then donated to each regency / city government which also organizes WRS. The status of warehouse assets brings problems including the unfinished grant process, additional cost burdens after the warehouse has been granted to local governments such as costs rent as well as tax / levy fees. From the management aspect, various problems also arose including termination of cooperation in the middle of the road (between the regional government and the legal entity of the existing warehouse manager) due to the lack of interest in the previous warehouse manager, as well as reluctance to take care of licensing as a warehouse manager to CoFTRA. Other problems include the lack of farmer's land ownership, which on average is only 1/3 Ha which causes the number of commodities not to meet the minimum requirements to get warehouse receipt credit, inability of personnel in managing the warehouse and the difficulty of the legal entity managing the warehouse to meet the capital requirements as determined by CoFTRA.

As mentioned above, the institutions that were initially held as collateral managers or warehouse managers are 3 State-Owned Enterprises PT. Bhandha Ghara Reksa (Persero) and then increased by PT. Pos Indonesia (Persero) and PT. Pertani (Persero). The list of warehouse managers nationally then grew with the presence of cooperatives and limited liability companies that were indeed allowed according to the law.

Through the FGD forum by CoFTRA it was revealed, the thought of the burden of warehouse rental costs including regional tax fees / levies for review, disconnection or unsustainability for licensing is proposed to be overcome by cross-sector synergizing all warehouse receipts system holders, the non-interest of the warehouse management service business is proposed to seek value added for the business by doing parallel business such as packaging, providing transportation services, renting agricultural equipment (Leonard, T., Pakpahan, 2020) and other related businesses, the inability / inability of warehouse management is overcome by mentoring and training by involving PT. BGR Persero facilitated by the Ministry of Cooperatives, difficulties in fulfilling capital requirements are overcome by the Joint Village Owned Enterprises (BUMDESMA), which is a combination of several BUMDES, the minimum requirement for the number of commodities to access the warehouse receipt credit is overcome by proposing the consolidation of land ownership.

Some things need to be discussed in this article which are aligned with the problem and divided into 2 central points of discussion consisting of issues of design and implementation of the Warehouse Receipt System. The pilot project and the issuance of laws and regulations are a form of design. In this aspect, it has shown 4 problems consisting of parties accessing credit, implementing warehouse managers, banks as warehouse receipt creditors, commodities that become useful, and legal entities managing warehouse that differ between the pilot project and the law. PT. Bhandara Ghara Reksa, Persero, a state-owned company with an established business form and a very adequate capital structure as a warehouse manager in a different pilot project with legal entities to occupy the same thing regulated in the law. Based on CoFTRA Regulation Number then a list of delegative legal entities is required along with the minimum capital requirements. The difference between warehouse managers in the pilot project and restrictions given by the law creates its own problems.

To react to those problematic spheres, AW Seidman and RB. Seidman argue, institutionalist legislative theory offers the idea that each legal stipulation has 2 objectives consisting of relevant social actors and all implementing institutions related to the law. The process of making law aims primarily at changing problem behavior into expected behavior (A.W. Seidman and R.B. Seidman, 2008) So, the social actors on one side and all implementing institutions related to this system became a basic point highlighted in this article.

At the implementation stage, as outlined in the results above, the main problem occurs in the warehouse receipt sub-issuance which in this paper is grouped into 2 consisting of human based problems and non human based problems. The first category of problems stems from the inability to manage the warehouse, reluctance to take care of licensing as a warehouse operator to CoFTRA, termination of cooperation because the warehouse manager no longer has an interest in the service business, and there are criminal acts committed by the warehouse manager in Blitar, East Java. The source of the problem in the second category is

the warehouse with several sub-sectors including the status of the warehouse as a government asset and its impact on additional costs (rent and levy / tax) as well as changes in warehouses for other functions such as futsal court and storage area for residents' agricultural equipment. To summarize, all problems stemming from human factors, except the inability to manage the warehouse, results in the warehouse managers being uninterested in continuing the business. The problem map is presented in the following table1:

No	Design reasons and problem bases	Design	Implementation
1	Human Based Problem	<ol style="list-style-type: none"> <li>The designated warehouse manager is a state enterprises that has a very well established capital structure;</li> <li>Accessing credit in a pilot project is a big business that is not a party to difficulties in accessing credit. Its interests are capital development (the commodity owner).</li> </ol>	<ol style="list-style-type: none"> <li>The SRG Law accommodates farmers and UMKM for make it easy access credit warehouse manager must incorporated;</li> <li>The interestingless for some warehouse manager in continuing its business; and</li> <li>Low respon some actors in handling the lisence as warehouse manager to CoFTRA.</li> </ol>
2	Non Human Based Problem	<ol style="list-style-type: none"> <li>The Banking institution involved are foreign banks that have very strong capital:</li> <li>The Types of the commodities used as collateral include international commodities;</li> <li>Commodities used as collateral are export-leading commodities that are highly considered by banks as collateral;</li> <li>In all Indonesian WRS Laws agricultural commodities which has value can be economical in the warehouse receipt</li> </ol>	<ol style="list-style-type: none"> <li>Position and status of warehouse assets owned by local governments</li> <li>Changing the function of the warehouse to become a futsal field, a place for storing agricultural equipment belonging to residents, as well as other warehousing functions;</li> <li>Non-fulfillment of minimum requirements for warehouse management capital; and also</li> <li>Non-fulfillment of minimum requirements</li> </ol>

			for the number of commodities as collateral for bank loans due to limited land ownership.
--	--	--	---

Table 1 informs, in outline, the source of the problem, both at the design stage and at the implementation stage, is divided into 2 types, both those that originate on human factors and those that originate on factors outside of humans. The design stage consists of 2 stages, the pilot project stage and the pouring stage in the law.

As the manager of sikumis.com proposes, diversification of businesses that are relevant to the warehouse management services business which he calls the value added analysis writer with economic analysis of law. Referring to this theory, warehouse management problems that end in reluctance to continue its business get clear and clear explanations.

Researchers refer to A.W.'s opinions Seidman and R.B. Seidman who views that the inability / lack of ability to manage the warehouse, the reluctance of related parties to take care of licensing as a warehouse manager and the unwillingness to continue services as a warehouse manager is referred to as a disfunctional institution which according to him that a series of patterned social behaviors no longer function. The social behavior that is patterned in this study includes the proper management of permits (Jaelani A.K, Handayani I.G.A.K.R, Karjoko L, 2020: 765-774), carrying out warehouse management services as they should and warehouse management capabilities as set standards. The informal institution by the two authors is rated as 'problematic behavior'. For institutions to function again, action must be taken to change problematic behavior to be desired or expected behavior (Lego Karjoko, 2020).

Researchers argue as described above, problematic behavior occurs because there is no longer an economic interest so they are not compelled to do what they should. On the proposal that the warehouse management legal entities strive for added value by expanding service businesses related to the delivery of warehouse management services the authors also agree. A.W. Seidman and R.B. Seidman stated: "interest is a fact that the actors view as incentive to behave".

Any factors that encourage humans to do more precisely when attached to the opinion of Richard A. Postner who started the statement of the economic approach to the law: "... economics is the rational choice in the world in which resources in limited in relation to human wants. The task of economics is to explore the implications of assuming that man is rational maximizum of the ends in life, his satisfactions. Furthermore, Coater and Thomas

Ulen stated "... economic provided an asceticific theory to predict the effect of legal sanctions on behavior. To economists, look-like prices, and presumably, people respond to these sanctions much as they respond to prices. People respond to higher prices by consuming less of these expensive goods. So persumably people respond to heavier legal sanctions by doing less of the activity activity (Richard A. Postner, 1998). For further, A.W Seidman and R.B. Seidman said that the interest factors which act as viewers incentives for behaving as they do (A.W. Seidman dan R.B. Seidman, *ibid*). This theoretical touch is a form of justification that value added will encourage warehouse managers to improve their ability to provide warehouse management services, attempt to settle licenses as warehouse managers and ultimately arouse enthusiasm to continue this service business to achieve satisfaction and happiness for additional revenue from diversification in supply services that have a series with warehouse management services.

**Figure 1.** How to change problematic behavior become desire / expected behavior

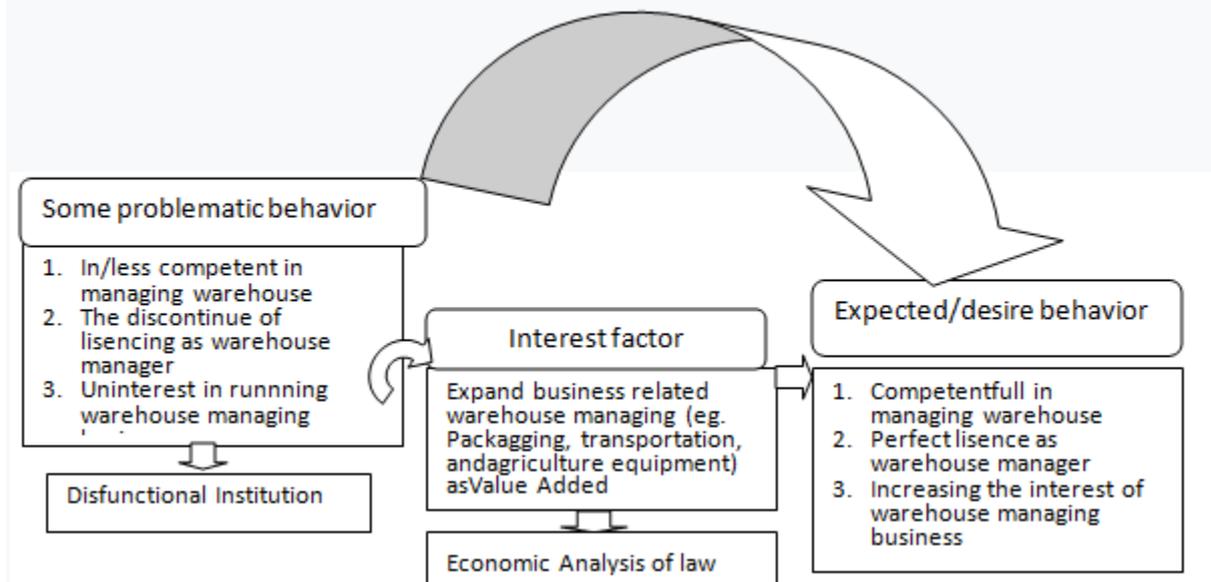


Figure 1 informs, several probematic behaviors found in the study are dominated by warehouse management problems which consist of the inability of the warehouse manager to manage the warehouse, the reluctance of related parties to take care of licensing as a warehouse manager and the warehouse manager's disinterest in continuing the warehouse management services business. These three factors refer to A.B. Seidman and R.B. Seidman is called the severance of the function of legal institutions. In order for the function of the institution to come back to life, it is necessary to focus on this research in the form of expansion of business units that are directly related to the warehouse management services business so that it is able to encourage all parties related to WRS to conduct expected behavior in this case competence in managing the warehouse, adequate licensing as warehouse management and increasing attractiveness for running a warehouse management



services business. The problem of limited farmers' land ownership causes the minimum requirement for the quantity of commodities as collateral for obtaining credit as well as problems related to physical warehouse, researchers do not classify it as problematic behavior. The researcher argues that the physical problems of the warehouse are merely the excesses of the human factors involved in managing the warehouse.

### **Conclusion**

Among the force into the Act No. 9 Year 2006 that has been amended by the Act No. 9 Year 2011, there are several problems faced, both in the design stage and in the stipulated stage, that also can be called the problematic mapping. As the result of this research, the problem is grouped into two, man-based and non-man-based problem. The problem found tends to be human-based that ends in the neglect to continue in warehouse management business.

### **Acknowledgement**

We are grateful to the Indonesia Endowment Fund for Education (LPDP) of the Ministry of Finance of the Republic of Indonesia for providing financial support for supporting my doctoral studies to produce a dissertation work which is a nursery for this paper.

The author also does not forget to express his sincere gratitude to the Commodity Futures Trading Regulatory Agency (CoFTRA) which has provided the opportunity for researchers to take part in the FDG held on November 6-8, 2019 in Solo, Central Java with the theme "Auction Market Integration Commodities (PLK) with a Warehouse Receipt System".

## REFERENCES

- A.W. Seidman dan R.B. Seidman. (2008). *Lawmaking, Development, and Rule of Law..Legal Symposium “Ekploration into The Theory on Practice of International Legislation Project”*. Edited by J. Arnsheidtd. Holland: Leiden University Press.
- Dean Novel dan Sriyanto, <http://nustaffsite.gunadarma.ac.id/blog/ahim/2009/07/03/system-resi-gudang-sebagai-system>-perdagangan, diakses pada tanggal 10 Agustus 2017.
- FAO Investment Centre. 2015. *Designing Warehouse Receipt Legislation:Regulatory Options and Recent Trends*. Rome, Italy.
- Focus Group Discussion yang diselenggarakan oleh Bappebti pada tanggal 06-08 Nopember 2019.
- Irianto, Sulistyowati. (2012). *Memperkenalkan Studi Sosio-Legal dan Implikasi Metodologisnya.*, dalam kumpulan tulisan “Metode Penelitian Hukum Konstelasi dan Refleksi., Jakarta: Buku Obor
- M. Friedman, Lawrence. (1975). *The Legal System: A Social Science Perspective*. New York: Russell Sage Foundation.
- Nurhayati, R., Gumbira, S.W., Tejomurti, K., “[Rights of freedom of expressing community organizations in Indonesia after law number 16 of 2017 concerning community organizations](#)”, *International Journal of Advanced Science and Technology*, Volume 28(20), (2020) pp. 510-518
- Miranda, Mario J., *et all*, *Warehouse Receipt Financing for Smallholders in Developing Countries: Short on Logic Long on Imagination*, International Confrence, Accera, Ghana, 21 Nopember 2017.
- Peraturan Pemerintah Nomor 36 Tahun 2007 sebagaimana telah diubah dengan Peraturan Pemerintah Nomor 70 Tahun 2013 tentang Peraturan Pelaksana UU SRG.
- Nurhayati, R., Gumbira, S.W., Tejomurti, K., “[Rights of freedom of expressing community organizations in Indonesia after law number 16 of 2017 concerning community organizations](#)”, *International Journal of Advanced Science and Technology*, Volume 28(20), (2020) pp. 510-518
- Postner, Richard A.(1998).*Economic Analysis of Law*.Fifth Edition. Newyork: Aspen Publisher.
- Undang-Undang Nomor 9 Tahun 2006 tentang Sistem Resi Gudang sebagaimana dirubah dengan Undang-Undang Nomor 9 Tahun 2011.
- Vassil D. Zhivkov. *Warehouse Receipts: A Roadmap for The Harmonization of Trans-Pacific Law and Practice*. Arizona Journal of International and Comparative Law. Vol. 33, No.1. Tahun 2016.



- Jaelani A.K, Handayani I.G.A.K.R, Karjoko L, “[Executability of the Constitutional Court Decision Regarding Grace Period In The Formulation Of Legislation](#)”, *International Journal of Advanced Science and Technology* Vol. 28, No. 15, (2019). Page. 816-823
- Jaelani A.K, Handayani I.G.A.K.R, Karjoko L, “Development of Tourism Based on Geographic Indication Towards To Welfare State”, *International Journal of Advanced Science and Technology* Vol. 29, No. 3s, (2020). Page. 1227-1234.
- Jaelani A.K, Handayani I.G.A.K.R, Karjoko L, “Development of Halal Tourism Destinations in the Era of Regional Autonomy in West Nusa Tenggara Province”, *International Journal of Innovation, Creativity and Change*, Volume 12, Issue 12, (2020), Page. 765-774
- Widodo Dwi Putro dan Herlambang P. Wiratraman, *Tantangan Penggunaan Metode Interdisipliner dalam Penelitian Hukum*, Jurnal Mimbar Hukum Fakultas Hukum Universitas Gadjah Mada, Volume 31, Nomor1, Bulan Februari, 2019
- Nurhayati, R., Gumbira, S.W., Tejomurti, K., “[Rights of freedom of expressing community organizations in Indonesia after law number 16 of 2017 concerning community organizations](#)”, *International Journal of Advanced Science and Technology*, Volume 28(20), (2020) pp. 510-518