

Reconstruction of Mining Policies on Justice in Lampung Province

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Abstract

The purpose of research is to examine the mining potentials and policies that have been implemented in Lampung Province and to reformulate mining policies in Lampung Province, which on the one hand can improve the regional economy, on the other hand while maintaining environmental sustainability. Mining resources are a source of prosperity for the region, but it requires commitment from local governments, public institutions, the private sector and the community to conduct sustainable mining management. Sustainable management is able to meet the needs of the present, in the future and improve the health, prosperity of the environment and surrounding communities. Policies that can be carried out starting from licensing, monitoring post-mining land management, managing mine waste and compiling regulations that can support the realization of green mining and environmental conservation activities. The results of this study indicate that mining management in Lampung Province provides economic value to increase local revenue. However, it must be supported by environment-based policies, because mining activities have the possibility of an environment that becomes uncontrollably damaged. Efforts that can be done by local governments are by paying attention to licensing for managers, providing guidance, supervision, so that mining activities can be controlled and not damage the environment

Keywords: Reformulation; Policy; Mining.

Abstrak

Tujuan penelitian ini adalah untuk menelaah potensi dan kebijakan pertambangan yang telah dilaksanakan di Provinsi Lampung dan mereformulasi kebijakan pertambangan di Provinsi Lampung, yang di satu sisi dapat meningkatkan perekonomian daerah, di sisi yang lain tetap menjaga keberlanjutan lingkungan. Sumber daya tambang merupakan sumber kemakmuran bagi daerah, namun perlu komitmen dari pemerintah daerah, institusi publik, sektor swasta dan masyarakat untuk melakukan pengelolaan pertambangan yang berkelanjutan. Pengelolaan yang berkelanjutan mampu memenuhi kebutuhan di masa sekarang, di masa depan serta meningkatkan kesehatan, kemakmuran lingkungan dan masyarakat sekitarnya. Kebijakan yang dapat dilakukan di mulai dari perijinan, pengawasan pengelolaan lahan pasca tambang, pengelolaan limbah tambang dan menyusun regulasi yang dapat mendukung terwujudnya green mining dan aktivitas-aktivitas konservasi lingkungan. Hasil penelitian ini menunjukkan Pengelolaan pertambangan di Propinsi Lampung memberikan nilai ekonomi untuk meningkatkan pendapatan asli daerah. Namun, harus didukung dengan kebijakan yang berbasis lingkungan, karena aktivitas pertambangan memiliki kemungkinan adanya lingkungan yang menjadi rusak tak terkendali. Upaya yang dapat dilakukan pemerintah daerah adalah dengan memperhatikan perizinan bagi pengelola, melakukan pembinaan, supervisi, sehingga aktivitas penambangan dapat terkontrol dan tidak merusak lingkungan

Kata Kunci: Reformulasi; Kebijakan; Pertambangan.

Introduction

The Constitution of the Republic of Indonesia Article 33 paragraph (3) stipulates that "The earth and water and the natural resources contained therein shall be controlled by the state and used for the greatest prosperity of the people". Constitutional norms indicate that state control over national natural resources is used for the prosperity of the people. The sentence "controlled by the state" in Article 33 of the 1945 Constitution implies "economic policies that enable the state (government) to participate in the business or determine in the production process." The two principles above are a unity that cannot be separated from each other, the separation of the two will actually be counterproductive to the concept of state control in question and can lead to the monopoly of natural resources by certain parties and enjoyed by a handful of people and not for the people and development of Indonesia (Lego Karjoko, et. All., 2019)

The state controls the natural resources contained in the earth (either on the surface or hidden in it), one of which is the result of mining or quarrying in the form of oil and gas, minerals and coal, as part of the natural wealth contained in the earth. Minerals and coal are non-renewable natural resources, so their management needs to be done as optimal as possible. In order to obtain the maximum benefit for the prosperity of the people in a sustainable manner, it is necessary to pay attention to the efficiency of management, transparent, sustainable, environmentally sound, and fair. Mahfud gave an argument, that "the right to control the state over natural resources should actually provide a way for other responsive actions because of these rights the government can take actions in favor of the interests of society". (Moh. Mahfud MD., 1998)

The decentralization system in regional autonomy requires the active role of regional governments in maximizing the potential of local resources, one of which is in the mining sector. Law No. 4 of 2009 (hereinafter referred to as the Mining Law), as a legal norm governing mineral and coal mining activities, also emphasizes the control and also the responsibility in the management of mineral and coal mining. The responsibility for managing mineral and coal mining rests with the central and regional governments. The central and regional governments have the authority to manage mineral and coal mining. (Najella Zubaidi., Et.all, 2020)

The potential of natural resources can be managed optimally. The results of the management can increase local government revenue. In the management of minerals and coal the government is not monopolized. Mining management has been carried out jointly between the regional government and business operators. As permits are regulated in regulations, business entities, cooperatives, or local communities are given the opportunity to conduct mining business,

although in practice there are often obstacles, such as lengthy licensing, to overlapping policies between related sectors. Mining management provides economic and social benefits, so that regional development can be accelerated. From an economic perspective, the existence of mining activities in a certain location will encourage the economic activities of the community / small and medium entrepreneurs and encourage the growth of the mining support industry. (Adrian Sutedi., 2012)

Through decentralization mining authority is given to the regions to manage their natural resources in order to contribute to regional development. Mining management must be carried out with due regard to environmental principles, transparency, and community participation. Efforts to utilize natural resources must be accompanied by minimizing damage to environmental functions, so that sustainable development can be realized. As with environmental cases, whether given permission from the local government or mining without permits, excavation of mining goods at the same time water and air pollution, deforestation, landslides, destruction of land functions, to conflicts in the community.

In Lampung Province, economic growth can be enhanced by a series of economic policies to develop a more profitable sectoral and inter-sectoral economy. The success of development in an area is always associated with economic growth as its support. The Regional Government of Lampung Province is trying to develop its territory to encourage high economic growth. In an effort to increase economic growth, managed natural resources and assess the economic potential that can be developed, especially development in sectors that can be superior in performance and competitiveness that have the potential to increase economic growth. Mining and quarrying is one sector that can contribute to economic growth in the province.

The mineral and coal mining management policy began in 2009, with the legal basis of Law Number 4 of 2009. The mining governance policy adheres to the principle of decentralization to the district / city level, meaning that the regent / mayor has the authority to issue permits, including supervision for certain types of permits and certain territorial boundaries, both on land and at sea. After the issuance of Law Number 23 of 2014 concerning Regional Government, there has been a change in mining governance, particularly regarding authority in the district / city, all of which have been withdrawn to the provinces. This mining policy reformulation has an impact on mining licensing patterns in the regions, because the issuance of mining permits that originally became the authority of districts / cities is now a province. Initially the regent / mayor had the authority to regulate, issue permits and supervise mining in his area, now no longer and turn to the governor.

Limited decentralization is used in mining governance. Local governments can receive their share of mining management. Therefore regions that have the potential of mineral and coal resources are encouraged to actively manage the mining located in their area. Mine management still leaves unresolved issues. In some online media, problems in the mining sector were noted. Based on data and monitoring of the Indonesian Forum for the Environment (Walhi) Lampung in 2019 there were 16 cases related to problem mining in Lampung Province, including 5 types of mining, namely, sea sand mining, river sand mining, gold mining, coal mining, and stone quarries. The mining location is in the areas of South Lampung Regency, East Lampung, Pesawaran, Pringsewu, West Lampung, and Bandar Lampung City (Adi Sunaryo, 2020).

Damage to environmental functions caused by mining should not need to occur. Every permit issued by the regional government should have taken into account the environmental impact that will occur. If referring to the Environmental Management Law, it is regulated that "because mining activities are included as activities that are likely to have a large and significant impact on the environment, the activity plan needs to also be attached with an analysis of environmental impacts. In addition, national standards have also been established, which should guide all mining activities. " The purpose of writing this article is to examine the mining potentials and policies that have been implemented in Lampung Province and to reformulate mining policies in Lampung Province, which on the one hand can improve the regional economy, on the other hand while maintaining environmental sustainability.

Research Methods

This research uses a normative juridical approach. The data used in this study are secondary data. Secondary data is data that has been processed by other parties, which are usually in the form of publications. Secondary data used in the form of (a) primary legal materials (legislation relating to mining, (b) secondary legal materials (literature, and journals) and tertiary legal materials (Language dictionaries, online media), and then the data are analyzed by using descriptive-qualitative analysis This analytical method is used to understand the phenomenon of the object of research holistically, trying to explain the existing problems based on qualitative data by means of descriptions in the form of words and languages, and by utilizing various scientific methods. (I Gusti Ayu Ketut Rachmi Handayani, Lego Karjoko, Abdul Kadir Jaelani, 2019)

Discussion

1. Mining Potential in Lampung Province

Administratively, the province of Lampung consists of 15 (fifteen) districts with a range of mining potential. The diverse mining potential and spread in

many Lampung Province regenerations / cities opens up opportunities for conventional mining by local communities or businesses. In the Lampung Province the group uses many points as illegal mining sites. One example is sand mining in Central Lampung along the Seputih River which damages the Central Lampung Way Seputih Watershed (DAS). The Seputih Watershed, is 245 km deep. The energy and mineral resources department collected data on 95 active illegal sand mining points in February 2020 (Siti Khoiriah, 2020).

In West Lampung some C excavated sand mining activities have an impact on river erosion as well as damage to river ecosystems. Although the mining site is within the Bukit Barisan Selatan National Park (TNBBS), which is a mouth of the river that flows into other regions. Where in West Lampung there are 62 excavated C mining companies that do not have permits, due to the expiry of the previous company permit (Buddy, 2019). In 2019, Walhi evaluated the company's attempts to harm the ecosystem in Sunda Strait waters through PT Lautan Indah Persada (LIP). PT.LIP operates suction vessels for black sand in the Gunung Anak Krakatau region. Residents of Sebesi Island expelled the ship in the middle of 2019 but resumed mining activities at the end of 2019 on the pretext of pocketing a sand mining permit. (Republika.co.id., Europe 2020)

Residents made prevention efforts related to environmental degradation in the waters of the Sunda Strait and urged the Lampung Provincial Government to review the permits issued to PT LIP. Some of the above examples show how mining activities, approved or not, caused environmental problems. The mine managers hope to benefit from mining activities in the region. The local government, on the other hand, has an interest in collecting revenue from mining goods in the form of taxes, royalties, fixed fees / production fees as well as taxes from associated general mining service companies.

According to the above, the work done shows how each mining activity has seriously affected land degradation. (Narula et al, 2017) The affected location will remain for years after the mining has been completed (Dontala et al . , 2015). One study shows that "illegal (without permission) mining provides numerous opportunities in terms of jobs, profits and increased retail activity, but the negative impacts far outweigh the benefits such as: degradation of agricultural land and water contamination, high living costs and increased organized crime" (Boadi et al, 2016). In line with this, Nicoleite et al (2017) explained that "most people who live around mining sites are familiar with this situation and coal mining activities are very important economic activities by ignoring environmental damage and health problems." Mining potential in Lampung Province is spread in several regencies / cities in Lampung Province, as follows:

- a. Mesuji Regency, has a large enough potential for mining materials such as sand, coal, oil and natural gas that have not been fully exploited. Other existing mineral resources and reserves which have considerable potential, namely building sand. The greatest potential and has been surveyed is located in Labuhan Batin Village, Wayserdang District and on the Badak River, Tebingtinggi and North Rawa Jitu which are estimated to have an area of 3,500 hectares. The coal potential is quite large, this can be seen

from the many traditional mining excavations that almost spread to sub-districts within the Mesuji region such as those in Muaraterang, Brabasan, Sinarlaga, Bangunjaya in Tanjungraya District and in Fajarbaru village, Adi Luhur, Panca Jaya District. In Mesuji there are 23 coal exploration IUP blocks that have been registered with the Director General of Mineral and Coal of the Ministry of Energy and Mineral Resources with a total area of 102,638 hectares. Mesuji Regency also has natural gas potential found in Tanjungmas Makmur Village, Tanjungmas Mulya, Pangkalmas Mulya, Pangkalmas Jaya, and Muaramas. (lampungtengahkab.go.id., 2020)

- b. esisir Barat Regency, mining potential in starting from gold mine, iron ore, and stone. (lampungtengahkab.go.id., 2020)
- c. Central Lampung Regency, the potential of the mine is in the Districts of Kalirejo and Bangunrejo, namely there are tasobosan rocks, captive granite and metamorphic rocks (pratersier), sources of limestone minerals and there are rock deposits dominated by tuffs with purniceous and coarse grained clastic tuffaceous. (lampungtengahkab.go.id., 2020)
- d. Bandar Lampung City andesite stone mining area was determined in Way Laga Subdistrict, Panjang Subdistrict with an area of approximately 78 hectares, urug land mining, black and white stone in Campang Raya Subdistrict, Tanjung Karang Timur Subdistrict, and andesite stone mining in Way Laga Subdistrict, Panjang Subdistrict. (lampungtengahkab.go.id., 2020)
- e. South Lampung Regency, the potential for mines is in Tanjung Bintang Subdistrict there are iron ore mines, sand mines (Srikaton Village, Trimulyo Village), granite. (lampungtengahkab.go.id., 2020)
- f. Pesawaran Regency, there are abundant potential of mining minerals. Potential of the excavated materials consist of: andesite (Tataan Building District, Tegineneng. Padang Cermin, Way Ratai, Puding Pedada, Way Khilau, Pandan Bay), marble (Katon District), granite (Tegineneng District, Kedondong), river sand (Padang Cermin District, Marga Punduh), limestone / limestone (Negeri Katon District, Tegineneng, Padang Cermin, Teluk Pandan), iron ore (Negeri Katon District, Tegineneng, Padang Cermin), gold (Kedondong District, Padang Cermin, Way Ratai, Punduh Pedada, Marga Punduh) and manganese (Negeri Katon District, Way Lima). (lampungtengahkab.go.id., 2020)

Such a large potential requires a policy that can balance between the use of mining materials to increase local revenue, while protecting the environment against damage caused by mining activities.

2. Reconstruction of Mining Policies on Justice in Lampung Province

Article 1 number (1) of the Mining Law, describes that mining is "part or all of the stages of activities in the framework of research, management and exploitation of minerals or coal which includes general investigation, exploration, feasibility studies, construction, mining, processing and refining, transportation and sales, and post-mining activities ". This understanding

provides an understanding of mining activities in a broad sense, namely the entire activity, from pre-mining to the process and post-mining.

Mining is not only minerals and coal, but there are also oil and gas mining. Determined 5 categories of mining commodities, including: a. radioactive minerals, b. metal minerals, c. nonmetal minerals, d. rock and e. coal. (Article 2 PP No. 23 of 2010) The five classifications are divided into several groups. Some of them are uranium which is included in the group of radioactive minerals. Gold, copper, silver, zinc, lead, iron and aluminum as metal minerals. Then diamond, asbestos, sulfur, kaolin, zircon and alum as non-metallic minerals. Marble, granite, clay, pumice and jade as rocks. Finally, coal is divided into 4 (four) types, namely solid bitumen, asphalt, coal and peat. The classification and distribution above may one day change, in accordance with the development of science and technology. Did not rule out the possibility of research that found new types of metals or because of geological activity that led to the emergence of new minerals that are useful and can be exploited.

Mining business is an "activity within the framework of exploiting minerals or coal which includes the stages of general investigation, exploration, feasibility study, construction, mining, processing and refining, transportation and sales, and post-mining activities". mining from the beginning to the post mining. An important aspect of the above description is that mining activities include several stages that must be carried out in an integrated manner. Each stage has objectives and functions to ensure good mining, protecting the environment and being sustainable. General investigations, for example, are conducted to look at geological conditions and ascertain the potential of existing minerals. Neither are post-mining activities that are useful for restoring environmental functions and social functions according to local conditions in the mine area.

Environmental based mining management needs to pay attention to the principle of sustainable development. Natural resource management is carried out continuously, in addition to the prosperity of the people today as well as for the prosperity of the people in the future (sustainable development). According to Article 1 number (3) of the Environmental Protection and Management Act (UUPPLH) Number 32 of 2009, sustainable development is a "conscious and planned effort that integrates environmental, social and economic aspects into a development strategy to ensure environmental integrity. and the safety, ability, well-being and quality of life of present and future generations. " According to Sonny Keraf (2010) there are 3 (three) main principles of sustainable development, (A. Sonny Keraf, 2020) namely:

First, the principle of democracy. "This principle ensures that development is carried out as a manifestation of the common will of all people for the common interest of all people. In other words, development is not carried out based on the will of the government or political parties in the interests of the ruling regime or party. This is the most basic moral principle, especially to ensure that what is idealized as a sustainable development paradigm can have an opportunity to be realized. Without this political principle, it is difficult to expect much that sustainable development can be realized. There are several

important aspects in the principle of democracy, including: (a) the main agenda of development is the agenda of the people in the interest of the people; (b) community participation; (c) honest and open access to information; and (d) public accountability. "

Second, the principle of justice. "This principle requires that losses resulting from the development process experienced by certain groups of people must be redeemed or compensated in a balanced or proportional manner either by the state or by the group that caused the loss. Environmental tax is a form of justice for people affected by the environment from adverse development activities. Third, the principle of sustainability. "This principle requires to design a development agenda in the long-term visionary dimension, to see the effects of development both positive and negative in all aspects not only in the short-term dimension. This principle is in line with the fact that economic resources are limited, socio-cultural and environmental aspects are long-term dimensions, and that development takes place in an ecosystem space that has complex interactions. This principle also requires to choose development alternatives that are more resource-efficient and able to synchronize aspects of conservation with aspects of wise use. Development patterns and consumption that are energy saving, saving raw materials and saving natural resources. "While (Sudharto P. Hadi., 2005) also stated 4 (four) principles of sustainable development, namely:

a. Meeting basic needs both material and non-material

Society needs non-material reflected in an atmosphere of openness, free from pressure, democratic. This is an important requirement for the community to be a part of decision making that affects their lives and is part of a process. Communities are local experts who understand the conditions and character of the environment around their homes, so that community participation will be able to improve the quality of decisions. If the community becomes poor, does not meet material needs, then what will be considered is just meeting their basic needs. Society does not think about non-material needs. The quality of decisions produced is also incorrect, while the decision affects his life. Poverty is seen as one of the causes of environmental degradation, and vice versa environmental damage causes poverty and decreases the quality of life, because people no longer have natural resources that can be used as assets to sustain life.

b. Environmental preservation

Environmental preservation is actually closely related to the principle of meeting human needs. There are two principles in environmental preservation, namely the principle of conservation and reducing consumption. Conservation is intended for environmental protection. Reducing consumption means reducing consumption aimed at developed countries due to the large energy consumption patterns that cause pollution and environmental degradation. While changes in consumption

patterns are a call addressed to anyone (as individuals) both in developed and developing countries in order to reduce the burden on the earth.

c. Social justice

The principle of justice today has broad dimensions that indicate the need for equity in the principle of development. This includes allocating natural resources between regions and the center. Future justice means the need for intergenerational solidarity, which shows the need for recognition of the limitations of natural resources that must be regulated for use so as not to sacrifice the interests of future generations.

d. Self-determination

Independent community is "a society that is able to make its own decisions on matters relating to its destiny and future, and is able to determine the allocation of natural resources. Self-determination includes the principle of the realization of an independent society and participatory democracy. " The principle of participatory democracy is "openness and transparency. By providing an opportunity for the community to take part in every decision making process that concerns their destiny, the community will feel part of the process so that it grows a sense of ownership and in turn can benefit from the changes that occur around them. "

The principles above contain strategies as well as warnings, how dangerous development that ignores the environment, both for present and future generations. The principle of sustainable development can be implemented well if supported by good governance (good governance), active participation and awareness of environmental law by the community and business people, as well as strict and fair law enforcement. The existence of environmental legal awareness is very important in realizing sustainable development. Dwi Haryadi analyzed that "environmental law awareness, both preservation and management, is essentially a human being must have high legal awareness, because humans have a direct sociological and biological relationship with the environment in which they are, from birth to death." (Dwi Haryadi, 2009) The paradigm of sustainable development according to Sonny Keraf (2010) is "a criticism of development on the one hand, but on the other hand is a normative theory that offers new practical development as a way out of the failure of developmentalism so far". (Dwi Haryadi., 2009)

In its development, the concept of sustainable development is not able to manage natural resources wisely. Therefore, Sonny Keraf proposes "ecological sustainability" According to him there are 2 (two) reasons for the failure of sustainable development, (Dwi Haryadi., 2009) namely "first, the paradigm is less understood as containing work principles that determine and animate the entire development process . This paradigm is not understood as a basic principle of development politics itself. At the end of the goals to be realized and to be realized behind the paradigm is not achieved. Second, in particular why

the ecological crisis continues to occur, because the paradigm reiterates the ideology of developmentalism. "

It is an impossibility if sustainable development is carried out by ignoring the environment, because both of them contain principle attachments. According to Meinhard Schroder, sustainable development is not only about the interests of environmental protection, but also how to make the best possible environmental policies as an integral part of the national development process. (Meinhard Schroder, 1996) Based on the above environmental preservation principles and Meinhard Schroder's opinion, it has been emphasized that sustainable development policies must be environmentally sound and become an integral part of various national development policies. This means that whatever development policies are taken, they must remain oriented towards environmental protection. Sonny Keraf even lastly emphasized ecological sustainability, when he saw the concept of sustainable development that had been carried out so far was considered a failure in protecting the environment.

Regarding environmentally sound development, Jimly Asshiddiqie (2009) offers the idea of "the importance of a green constitution, environmental sovereignty and even the conception of a new model of democracy which is termed an ecocracy". (Jimly Ashidiqi, 2009) The concept of ecocracy can be seen as the most recent stage in the development of legal and political philosophy regarding state power. It is demanded to lay the conceptual foundations regarding environmental issues and sustainable development which are contained in the concepts of democracy, theocracy, nomocracy. (Jimly Ashidiqi, 2009) Arief Hidayat (2010), argues that the principle of ecocracy should be elaborated in a green constitution, and further elaborated in green legislation and green budgeting. (Arief Hidayat., 2010) Green constitution has been contained in the 1945 Constitution Article 28H paragraph (1) and Article 33 paragraph (4). While green legislation, seen among others in Law No. 41 of 1999 concerning Forestry, Law No. 32 of 2009 concerning Environmental Protection and Management, Law No. 4 of 2009 concerning Minerals and Coal. Green legislation may also go down to the technical level of regulations such as government regulations, ministerial decrees and others.

Likewise, policies at the local level, such as regional regulations, regulations of governors regents and others, must be oriented towards efforts to protect and preserve the environment. All this time, the loosening of development policies does not favor the environment. The issuance of development permits in catchment areas, deforestation and mining in coral reefs and mangroves is a clear example of the environment being nominated in the name of development and benefits that only benefit certain people. It is important not to be tempted by promises of investments that come at the expense of the environment. What is clear, the environment itself is an investment of present and future life.

Logical consequences for implementing environment-based investment, a green budgeting is prepared. The realization of environmentally friendly development is not easy to realize if green legislation is not supported by green

budgeting. During this time, in the preparation of the State Budget (APBN) and the Regional Budget (APBD), green budgeting has not been a priority. Development budgets are often oriented towards physical development, which sometimes ignores the environment. Green constitution, green legislation and green budgeting are important to be synergized and implemented.

Environmentally sound development is realized by green culture. Green culture includes "attitudes, behaviors, values, norms and awareness to always protect, protect and preserve the environment." Society's insight as an individual and as part of an institution must be the same in seeing the environment. Behavior and perspective are oriented that the environment must be sustainable, not pollute or damage the environment. Humans, from birth to end their lives need the environment. If the community or institution already has the same insight to the environment, then each party will jointly protect the environment and not cause environmental damage.

Conclusion

Based on the discussion above, it can be concluded that mining management in Lampung Province provides economic value to increase local revenue. This must be supported by an environment-based policy, because mining activities have the possibility of an environment that becomes unchecked. Efforts that can be done by local governments are by paying attention to licensing for managers, providing guidance, supervision, so that mining activities can be controlled and not damage the environment.

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