

Legal Analysis of Iron Sand Mining Conflict in Kulon Progo Regency, Yogyakarta

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ABSTRACT

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The facts on the ground show that most mining in Indonesia is carried out using an *open pit mining* so that it has an impact on environmental damage. This study aims to determine the factors that cause iron sand mining conflicts and develop a concept of iron sand mining conflict resolution in Kulonprogo Regency, Yogyakarta Special Region Province. The research method used is juridical-empirical law research, with a juridical and case approach, which is then analyzed qualitatively. The results in this study are broadly classified as mining conflicts that occurred in Kulon Progo Regency, Yogyakarta Special Region, which can be divided into two, namely nuanced or legal conflicts (legal conflicts) and social conflicts (social conflicts). Then, the conflict resolution was carried out and targeted two things, namely the harmonization of laws and regulations that were related and used directly in the context of iron sand mining in the area. As well as policy making by involving all *stake holders* (related parties).

Introduction

One of the goals of the state as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia (UUD 1945) is to promote public welfare. This means that the welfare of the people is part of the pillars of the formation of the Unitary State of the Republic of Indonesia and became one of the spirits of achieving independence in the past. The welfare paradigm in the Preamble is further elaborated in several provisions on the torso, one of which is Article 33 of the 1945 Constitution. The spirit of Article 33 of the 1945 Constitution is based on a social spirit, which places control of goods for the public interest in the state. This arrangement is based on the assumption that the government is the holder of the mandate to carry out state life in Indonesia. For this reason, the holder of this mandate must have legitimate legitimacy and have the basis and spirit of economic democracy.¹ According to Mubyarto, when the 1945 Constitution was ratified, the founding fathers of the state had no doubt that the good or bad of the National Economy would determine the level of Social Welfare.²

Terms such as social welfare/people's welfare and economic democracy are basically concepts of the Indonesian economy which are constitutionally confirmed through

¹ Arif Firmansyah, "Interpretation of Article 33 of the 1945 Constitution in Developing the Economy in Indonesia", *UNISBA Legal Syiar Journal*, Vol. XIII. No. 1, (2012), p. 268. See also, Jimly Asshiddiqie, *Introducing the Idea of an Economic Constitution*, Paper presented in a Seminar held by Trisaksi University, Jakarta, 12 July 2012; Sri Edi Swarsono, *Economic Democracy and Social Welfare*, Papers in the Seminar on the Implementation of Articles 33 and 34 of the 1945 Constitution, The Straight Path Movement, Jakarta, 6 August 2008.

² Drafting Team, *Comprehensive Manuscript of Amendments to the 1945 Constitution of the Republic of Indonesia: Background, Discussion Process and Results, 1999-2002*, Book VII, (Jakarta: Secretariat and Registrar Court, 2010), p. 39.

Article 33 paragraph (4) of the 1945 Constitution.³ This is also the ideal description and is intended to be realized in Indonesia. The problem then is how to further translate the ideal content in Article 33 of the 1945 Constitution into more technical regulations and how the field reality has been shown so far. The reality of natural resource management (SDA) can be referred to to show problems that have been continuously faced and have not been resolved until now.

Juridically, Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia has set the direction of natural resource management policies in Indonesia. The provision reads *"Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people"*. Sri Edi Swarsono stated that the phrase 'earth and water and the wealth contained therein is used for the greatest prosperity of the people' in this provision, affirming the sovereignty and substantial position of the people. Here, economic democracy finds its justification: that the interests of the community are more important than the interests of certain people⁴ or parties. As stated above, the problem that always arises is related to the further translation of the ideal values contained in Article 33 of the 1945 Constitution into lower hierarchical regulations and their implementation in the field. The emergence of various conflicts in the mining sector, for example, can be cited as a reflection of the chaotic problems of natural resource management in this country. Indonesia is a country with enormous potential for natural wealth, both in the form of renewable and non-renewable resources. Mining itself is one of the efforts to utilize natural resources by carrying out activities ranging from the search, excavation, processing to the marketing stage of mining products.⁵ The series of mining activities must intersect with the environment. The environment is a place for the interaction of living things that are in it to form a life network.⁶ In environmental management, sustainable principles are needed for environmental sustainability. Good environmental management is a form of long-term development effort for the welfare of life.⁷ In the preamble to the letter of Law Number 4 of 2009 concerning Mineral and Coal Mining it is stated that mineral and coal mining business activities which are mining business activities outside of geothermal, oil and gas and groundwater have an important role in providing real added value to sustainable national economic growth and regional development.⁸

Facts on the ground show that most mining in Indonesia is carried out using an *open pit mining* so that it has an impact on environmental damage. The impact of environmental damage includes the loss of forest vegetation, flora and fauna and soil

³ It reads: *"The national economy is organized based on economic democracy with the principles of togetherness, efficiency-justice, sustainability, environmental insight, independence, and by maintaining the balance of progress and national economic unity"*. This paragraph before the amendment is located in the explanation section of Article 33 paragraph (3) of the 1945 Constitution.

⁴ Arif Firmansyah, *Interpretation of Article 33 of the 1945 Constitution in Developing the Economy in Indonesia*, UNISBA Legal Syiar Journal, Vol. XIII. No. 1, March-August 2012, p. 268. See also, Jimly Asshiddiqie, *Introducing the Idea of an Economic Constitution*, Paper presented in a Seminar held by Trisaksi University, Jakarta, 12 July 2012; Sri Edi Swarsono, *Economic Democracy and Social Welfare*, Papers in the Seminar on the Implementation of Articles 33 and 34 of the 1945 Constitution, The Straight Path Movement, Jakarta, 6 August 2008, p. 281.

⁵ Willyam Buli, *Strategy for Controlling Environmental Damage through Institutional Improvement of Unlicensed Coal Mining Case Study in Muara Enim Regency*, (Lampung: Graduate Program, University of Lampung, 2018), p. 1.

⁶ Netty Dahlah Uar, Sigit Heru Murti and Suwarno Hadisusanto, "Environmental Damage Due to Human Activities in Coral Reef Ecosystems", *MGI Journal*, Vol. 30 No. 1, p. 89.

⁷ Yenni Widowaty and Dinda Riskanita, "Efforts of Local Governments to Overcome Environmental Damage Due to Land Use Changes Based on the Concept of the Welfare State, The Supremacy of Law", *Journal of Legal Research* Vol. 28 No. 2 (2019), p. 125.

⁸ Law Number 4 Year 2009 concerning Mineral and Coal Mining.

layers. This causes disruption of hydrological functions, species diversity (*biodiversity*), carbon absorption, oxygen supply and environmental temperature regulation. Changes in a watershed such as reduced river water discharge, damage to the landscape as a *recharge area*, high sedimentation, decreased river water quality and infiltration.⁹

The same thing also happened to iron sand mining in the Kulonprogo Regency, Yogyakarta Special Region (DIY), which not only had the potential to cause environmental damage, but also disrupted local social relations (between community members) and the community and the government. The conflict in iron sand mining along the coast of Kulonprogo Regency has not yet shown a bright spot even though it has been going on for quite a while and has caused considerable losses. Since 2008, PPLP farmers have demonstrated many times in various places, including the Kulon Progo District Government Office, Kulon Progo District Police, and UGM. During that time, PPLP farmers received intimidation from various parties, both formal and informal institutions. Meanwhile, on the other hand, the destruction of PT JMI's assets at the pilot project site and acts of violence against academics of one of the higher education institutions in Yogyakarta have been carried out by PPLP farmers. In fact, the conflict that was originally vertical has now gradually widened to become horizontal. Thus, it is certain that the longer the Kulon Progo iron sand mining conflict, the more losses it will cause.¹⁰

The land where iron sand mining will be carried out has actually been managed productively by the community. Hundreds or even thousands of people have depended on this land for generations, so you can imagine that if the company did exploration on the land, hundreds of families would be in danger of losing their main income. These conditions practically point to the importance of understanding ecosystems in environmental management efforts because social considerations are closely related to political processes and decision making in the development of environmental knowledge.¹¹ In further review, the legal/statutory aspects have actually demanded more attention for a long time to be reviewed, considering that all activities involving the environment are never separated from the underlying legal rules.

Research Methods

This research is descriptive, normative juridical research through legislation and conceptual approaches, using secondary data obtained through literature study and document study, then analyzed qualitatively.

Results and Discussion

A. An Overview of Iron Sand Mining Conflict in Kulon Progo Regency, Special Region of Yogyakarta (DIY)

Iron sand mining on the southern coast of Kulon Progo Regency, Special Region of Yogyakarta (Kulon Progo, DIY) is one of a series of project activities for the development of the Iron ore Processing Industry Integrated (*Integrated Iron Making Industry*). Consists of mining activities, separation or separation of iron minerals from sand, and

⁹ Willyam Buli, *Strategy for Controlling Environmental Damage through Institutional Improvement of Unlicensed Coal Mining Case Study in Muara Enim Regency*, p. 1.

¹⁰ <https://mapcorner.wg.ugm.ac.id/2017/02/mengurai-konflik-mine-pasir-besi-kulon-progo/WillyamBuli>

¹¹ , *Strategy for Environmental Damage Control Through Institutional Improvement of Coal Mining Without Permit Case Study In Muara Enim Regency*, p. 1.

processing or smelting of iron ore to become the final product in the form of *pig iron* with an initial production capacity of 1 million tons of *pig iron* per year. *Pig iron* is pig iron with a Fe content of more than 95% which is a raw material for the steelmaking industry. According to the government, iron sand mining will not only improve the economy of Kulon Progo Regency alone but can boost the economy of the Special Region of Yogyakarta and bring benefits to the country.¹²

Mining accompanied by the establishment of a processing plant in Kulon Progo Regency is one of the important reasons for the Kulon Progo Regency Government to realize it. This is because in addition to the processing plant established in Kulon Progo Regency that can absorb labor, the remaining processed material is not taken outside the Kulon Progo Regency area so that it can be used for reclamation of ex-mining land. Thus land reclamation is guaranteed. Another advantage is the provision of fresh water for residents as well as electricity generation. PT Jogja Magasa Iron (PT JIM), a company projected to play a major role in the management of iron sand in the area, has obtained an exploration permit in the form of an exploration mining authorization based on the Kulon Progo Regency Regent's Certificate No. 008/KPTS/KP/EKPL/2005. As an initial stage, PT JIM has conducted an on-site survey by conducting exploration in a number of 929 points in 2006.¹³ However, although it had been going on for some time, the exploration carried out by PT JIM for the initial stage drew reactions from the public who affirmed their disapproval of the Kulon Government's plan. Progo for the mining project. The difference in interests between the Kulon Progo Regency Government and coastal land farmers in the use of coastal land has led to tensions between the two. The resistance of coastal land farmers to government policies in the form of iron sand mining plans is an unavoidable and creative fact of life that occurs because of incompatible relationships, this is a conflict. Conflict moves in ebb and flow for quite a long time. Sometimes conflicts come to the surface in the form of farmer resistance actions against government activities related to iron sand mining plans. However, within a certain period of time there is no visible ripple of conflict at all. Conflicts of iron sand are like embers in the husk, sometimes burning with big fires, sometimes dim but still burning inside.¹⁴

In short, the iron sand conflict in Kulon Progo, DIY actually emerged in 2006 which was marked by the local community's rejection of the iron sand mining plan. However, because the Kulon Progo Regency government has given the Iron Sand Mining Authorization to PT. JMI, the emergence of conflict then cannot be avoided. The main actors in the conflict at that time, initially involved the main actors, namely the coastal community, the government, and PT JMI.

Vertical conflict at that stage encourages the next variety of conflicts. Therefore, in 2007 the conflict escalated in the form of systematic progressive resistance actions under the umbrella of the Coastal Land Farmers Association (PPLP) through demonstrations and the establishment of the PPLP Command Post. The discussion of the contract of work script and the socialization of the iron sand mining plan among the government

¹²Eka Zuni Lusi Astuti, "Iron Sand Conflict: Pros and Cons of Iron Sand Mining Plans in Kulon Progo Regency, *Journal of Social and Political Sciences*, Vol. 16 No. 1, p. 66.

¹³Eka Zuni Lusi Astuti, "The Iron Sand Conflict: Pros and Cons of the Iron Sand Mining Plan in Kulon Progo Regency, *Journal of Social and Political Sciences*, p. 66.

¹⁴Eka Zuni Lusi Astuti, "The Iron Sand Conflict: Pros and Cons of the Iron Sand Mining Plan in Kulon Progo Regency, *Journal of Social and Political Sciences*, p. 66-68.

also triggered the escalation of the conflict. The unification of coastal communities in the PPLP forum, which is supported by external parties from NGOs, exacerbates the conflict. However, the conflict is still in the form of a perceived vertical conflict (*perceived conflict*). The parties involved in the iron sand conflict are *aware* that they are involved in a conflict vortex, so that each opposing party tries to dominate each other. In 2009, the process of making an AMDAL for the Iron Sand Mining in the area sparked more violent protests from the community. In a column, Lilik Prasaja writes that there are at least three problems so that the conflict regarding mining in the period 2009 to 2010 feels even more intense. *First*, because the project threatens the sustainability of the coastal environment as an ecosystem and as a barrier to ocean waves. *Second*, because the project will displace the livelihoods of coastal land farmers who have been depending on agriculture in mining areas for a long time. *Third*, because it is not clear whether the mine will benefit the people of Kulon Progo at large.¹⁵

Lilik Prasaja's writing seems to be similar to the data that the author got when confirming directly to sources in the field. Secretary of the Coastal Land Farmers Association (PPLP), Sukarman said that when the issue of iron sand mining arose, the condition of the local community was very well established with agricultural life. Establishment itself is the fruit of the hard efforts of the local community in pioneering and developing agriculture for decades. "Before farming, the people here were very poor. Didn't have a job because the land at that time was very dry, only sand dunes while wanting to do rice fields were constrained because there was no water. In 1985, I began to think about pioneering agriculture with various endeavors, such as providing water. I tried to make a well and found water, and other community members were then interested in trying farming and growing various crops. Some failed, but most succeeded. That's how it has continued until now." "In the midst of us being able to live in prosperity, in 2006 there was an issue of mining development. We feel very bad because the conditions are already prosperous, suddenly the issue appears. Initially the rejection was individual, not yet organized. I invited the leaders from the west to the east and asked how to respond to it: accept or reject. Since then society has had a resistant attitude: rejecting it as a fixed price. The people then carried out a resistance struggle against the government and the sultanate".¹⁶

As for the environment, the local community seems to have had an in-depth study to look at mining experiences in other areas. According to Sukarman, the condition of the coastal area where mining is planned is naturally a tsunami-prone area, so that if mining continues, the potential will be even greater. On the other hand, areas that have been mined before, eventually become mined land, there is no maximum effort to restore them to their original condition.¹⁷ Likewise, the explanation expressed by Murianto as a youth leader in Kulon Progo, an observer of the iron sand conflict in Kulon Progo Regency. According to him, from several aspects that became the basis for the community's rejection of the iron sand mining plan, the economic aspect is the most basic. That, the people of the peasants in the area have their economic interests so that

¹⁵Lilik Prasaja, *Mine Conflict Series: Iron Sands in Kulon Progo*, <https://www.kompasiana.com/lilikprasaja/550e194781331c22cbc6197/serial-konflik-tambang-pasir-besi-di-kulon-progo>. Accessed on July 10, 2020.

¹⁶Interview with Sukarman as Secretary of the Coastal Land Farmers Association (PPLP) on August 19 in Kulon Progo.

¹⁷Interview with Sukarman as Secretary of the Coastal Land Farmers Association (PPLP) on August 19, 2020 in Ulonprogo.

when agricultural land is removed, the local community no longer has other ideas to serve as a source of livelihood. In addition, environmental issues become the *core* consideration of the community in their rejection of the mining plan.¹⁸

“The steps we take in community advocacy are primarily educating the public about the consequences of mining activities. The community knows about the large negative impact on the environment if the land is used as mining land. Meanwhile, the public also knows that although the law stipulates that mining must be followed by reclamation, in practice this is not the case. In the history of mining in Indonesia, in practice, no one has reclaimed ex-mining lands.” The dynamics of the iron sand conflict from 2006 to 2010 show a linear relationship between action and reaction. PPLP resistance arose due to government policies related to iron sand mining plans. The more actors involved, the more the conflict sharpens. Broadly speaking, the resistance of coastal communities has escalated from latent conflict to manifest conflict which at its peak occurred violent actions. The year 2006 was the emergence of conflict which was followed by an increase in conflict in 2007 because the conflict had begun to become more pronounced. The peak of the conflict occurred in 2008 and 2009 which were *outbreaks of conflict* in which open conflict occurred. Meanwhile, in 2010, the intensity of conflict began to decline. However, this situation cannot be called a *conflict escalation* but rather as an aftermath conflict or the temporary end of a conflict. Because there is still a wide possibility for conflict to occur in the following years.

B. Factors Causing the Emergence of Iron Sand Mining Conflicts in Kulon Progo Regency, Yogyakarta Special Region (DIY)

Mining conflicts in Kulon Progo Regency, Yogyakarta Special Region (Kulon Progo, DIY) are still existing or at least not completely resolved. The rejection of mining activities in the area is still quite loudly voiced by local community groups. In fact, the conflict that was originally more vertical (citizens and government) in its journey actually widened by causing horizontal conflicts where fellow communities faced each other in conflict. As explained in the previous chapter, the mining conflict has been going on for more than 13 years, starting in 2006. With this condition, from a general point of view, it can be ascertained that there are serious and entrenched problems surrounding the mining.

Through the data that the author collects, the causes of the conflict and the protracted resolution of the conflict can be divided into two major groups according to the type or scope of each conflict. *First*, there is a problem in the realm of law (legal conflict). Within this group, the conflicts that occur around mining in Kulon Progo, DIY are more about issues in the realm of laws and regulations and state administration policy making in mining procurement. Specifically, the researcher found three details of the problems in this group that had not been completely resolved and in the end contributed significantly to the emergence of legal conflicts in the future. The three problems are as follows:

1. Regulatory problems in mining in Indonesia. The issue of regulation around mining or in a broader realm, namely environmental management, has actually been realized

¹⁸Interview with Muriyanto as a Kulon Progo youth leader who observes the Kulon Progo iron sand mining conflict on August 19, 2020 in Kulonprogo.

and voiced by various parties for a long time. Strictly speaking, there are several regulations at the legal level that are out of sync (not in line), some of which even seem contradictory. In this group, the regulations referred to in addition to those specifically directly related to mining, are also regulations that are not specific to mining but are closely related. In addition to the problem of regulation in terms of norms contained in several articles of the law in question, included in this context is the incompatibility of spirit or spirit that underlies the formation of the law. In that context, the spirit that is ideally referred to is as contained in Article 33 of the 1945 Constitution of the Republic of Indonesia. Based on the opinion of experts, the spirit contained in the article has basically been summarized in the provisions of the UUPA, although it was later identified that there were deficiencies in the law. because of the limitations of the material contained in it.

2. Problems with cross-statutory regulations. This second problem is actually still in the realm of the problem of legislation as above. However, this section needs to be separated because of the different contexts and provisions for enacting regulations. To be precise, there are regulations that are not synchronized between one law-level regulation which are actually in different material realms but there are provisions in them that directly touch on mining, especially in the technical field of mining operations. In this context, the debates that later surfaced in the public sphere, among others, relate to the laws that are used as references: which regulations are *lex specialist* to be referred to and which regulations are *lex generalis* which will then be set aside (*lex specialist derogat legi generalis*). With that in mind, this second issue can be called a continuation or a fraction of the first legal issue above. The problem of understanding this principle, according to the researcher, is very important to be clarified because in the field it will be closely related to the application of regulations, which in fact have problems of disharmony. Therefore, not completing the level of understanding of the principle will have an impact on the level of implementation of the regulations, where each party will use an understanding that is beneficial to him, instead of honestly using the true meaning.
3. Mining management authority conflicts. In the details of this third issue, there are legal issues that are more practical in nature than the two legal issues above. Legal issues in this section include, among others, aspects of authority, both in making policies and in issuing state administrative decisions. Apart from that, it also includes the authority for guidance and supervision to the resolution of disputes/conflicts if opposition is found in its implementation. As an illustration, in the case of the mining conflict in Kulon Progo, DIY, there was the impression of a shift in responsibility from the district government to the provincial government, and furthermore, it was also found that there was a significant role for the central government.

The researcher's observation of the research materials as a whole results in the conclusion that the problems in the legal realm, as above, are basically the initial and most basic problems causing conflicts and difficulties in overcoming iron sand mining conflicts in Kulon Progo Regency, DIY. In other words, the legal issue is in a downstream position which if not resolved will have the potential to cause various problems later (downstream). On the other hand, solving legal issues will not only

play a role in resolving conflicts that are currently occurring (repressive) but will also play a role in preventing similar problems from arising in the future (preventive).

The discussion of conflict factors in the legal realm will be explained further in the next discussion of the results of this study. *Second*, conflict in the social realm (social conflict). In simple terms, the social conflict in question is a conflict that is not related to the law even though its emergence stems from the existence of legal issues (laws and regulations) as described above. In the context of the iron sand mining conflict in Kulon Progo, Yogyakarta, the cause of this social conflict can be described through various important issues that emerged in the midst of the ongoing conflict. These issues can then be broken down in more detail into sections. Based on the information and field data that the author did, there are at least three important issues that have repeatedly surfaced in the public sphere, namely: (1) Economy; (2) Natural Resources; and (3) Environment. Of the three, economic issues are the most dominant that are expressed directly from the local community. The issue is the most important thing in the minds and considerations of the community so that it produces a common conclusion and attitude. Meanwhile, the emergence of the other two issues was caused by further "intervention" from outside the local community, both in the form of education (providing understanding) and also assistance.

Economic issues have emerged and are rapidly spreading among the community around the mining site since the iron sand mining in Kulon Progo is still in the form of discourse (plans). It seems that this is something that is logical and understandable because of the condition of the people who are already established with their agriculture in the vicinity of the planned mining location. As explained in the previous discussion, the proposed mining area is located on or around the agricultural site that has been managed so far and the community fully depends on this agricultural land for their livelihood. Therefore, if the location that they have been using for a long time is used as a mining location, then no solution will be found for the sustainability of the life that they have been enjoying. On the other hand, the central government and local governments (DIY and Kulon Progo) do not have equal alternatives for the community to replace these conditions. In fact, to arrive at a steady state as perceived by the local community so far, it was not an easy matter from the start. It took them hard work over a very long period of time, as explained by Sukarman, who was the 'early generation' of pioneering agriculture in the coastal area since 1985.¹⁹

Iron sand conflict is a natural resource management conflict which is characterized by the absence of agreement between the parties involved and disputes regarding access, control, and use of coastal land between the government and coastal land farmers. Coastal land has two different potentials as productive agricultural land and contains high quality iron sand. First, as agricultural land, it is in the interest of farmers to maintain coastal land in order to survive. Second, the iron sand content is mined in the government's interest to improve the regional economy and reduce unemployment. The government as the party that has the power to use the power and legal legality that supports it as the driving authority for the iron sand mining plan.²⁰

¹⁹ Refer back to the excerpt of the researcher's interview with Sukarman as the Secretary of the PPLP Coastal Farmers' Association) on August 19 in Kulon Progo in the previous section.

²⁰Eka Zuni Lusi Astuti, "The Iron Sand Conflict: Pros and Cons of Iron Sand Mining Plans in Kulon Progo Regency", *Journal of Social and Political Sciences*, Vol. 16, No. 1, p. 71-72.

Coastal land farmers who are members of the PPLP unite to fight the iron sand mining plan. Coastal land is *Pakualam Ground* which has been managed by coastal communities as agricultural land to improve the welfare of coastal communities. The hard work of tripe alas to turn barren coastal land into fertile agricultural land for decades is also the reason for coastal land farmers to fight. In addition, the strong resistance of coastal land farmers is also due to the support of external parties who also support the rejection of the iron sand mining plan. The forms of individual or group action in making decisions to regulate *communal property tenure* on the use of resources are in turn influenced by internal and external factors, through customary ways, or controlled by political forces (external) and external forces.²¹

C. The Concept of Conflict Resolution in the Iron Sand Mining in Kulon Progo DIY Perspective of Future Environmental Laws

a. Harmonization of Laws and Regulations

The incompatibility of laws and regulations in Indonesia has actually been voiced by experts for a long time. The production of "blind" regulations was identified as starting in the era of the New Order government, in line with the policy (politics and law) of the Suharto government at that time that law was an instrument of development (*a tool of social control*) and development engineering (*a tool of social engineering*).²²

The existence of regulations at that time was considered a powerful solution, at least to show that any steps and policies to be taken and implemented by the government had a (*legal*) basis, although in the next period it was realized that the accumulation of regulations would become a separate problem in its implementation, partly because of the existence of regulations that too much actually does not make the condition more regular. This condition can also be used as an illustration of the condition of laws and regulations relating to the management of natural resources in Indonesia. To be precise, experts have long conveyed the urgent need to harmonize laws and regulations related to natural resource management in Indonesia as a result of the discovery of a fundamental problem of inconsistency (collision/inconsistency) between one regulation and another.

Juridically, the need to harmonize regulations on natural resource management in Indonesia has emerged along with the issuance of MPR RI Decree Number IX/MPR/2001 concerning Agrarian Reform and Natural Resource Management. By using the 12 principles contained in the MPR TAP,²³ the study of Mumu Muhajir, et al., among others, concluded that all the existing laws on the mining and energy groups, none of them met the principles and indicators of social justice (all laws in this group are also weak in terms of fulfillment of the principles and indicators of sustainability, democracy, and legal certainty). Meanwhile, several laws

²¹Ade Saptomo, "Management of Natural Resource Conflicts between Local Governments and Its Legal Implications (Case Study of Water Resources Conflict of Sungai Tanang), West Sumatra", *Journal of Law Sciences, Andalas University*, Vol. 9 No. 2, p. 137.

²²Suparman Marzuki, "State of Regulation", SKH Kompas, 29 May 2018, p. 3

²³See Article 5 of MPR RI Decree Number IX/MPR/2001 concerning Agrarian Reform and Natural Resource Management. The 12 principles contained in Article 5 were simplified by the BPHN research team into 5 principles, namely: the Principle of the Integrity of the Unitary State of the Republic of Indonesia; Sustainability Principles; Principles of Social Justice; Principles of Social Justice; Principles of Democracy; and the Principle of Legal Certainty. See Mumu Muhajir, et al., "Harmonization of Regulations and Improvement of Natural Resources Governance in Indonesia", *Journal of Anti-Corruption INTEGRITY*, Vol. 5 No. 2, p. 5.

that fulfill the principles of social justice are the Basic Agrarian Law (UUPA), the Law on Sustainable Agricultural Land and the Law on Management of Coastal Areas and Small Islands.²⁴

Another interesting finding from the research is the dominance of regulations concerning the integrity of the Unitary State of the Republic of Indonesia and legal certainty compared to regulations on sustainability, democracy, and social justice. Findings on the material in the Law on the object of research confirm the bad news of natural resource management which on the one hand does contribute to state revenues (which also shows the strength of the state in managing natural resources), but causes many conflicts, environmental damage, and inequality in land tenure/management between communities. and the state (plus corporations). The nature of regulations related to natural resources does strengthen the State's Right to Control (with almost all of them referring to Article 33 paragraph (3) of the 1945 Constitution) but the underlying spirit is growth and neglect of equity. The reference to Article 33 (3) of the 1945 Constitution stops at the sentence *"Earth and water and the natural resources contained therein are controlled by the state..."* but forgets the continuation of the paragraph: *"...and used for the greatest prosperity of the people..."*.

The problem of harmonization of regulations relating to natural resource management in Indonesia, thus not only relates to the sounds of norms contained in the related regulatory articles, but is much more profound, namely related to the philosophical values contained therein, among others related to its suitability with the meaning and purpose of natural resource management as outlined in the 1945 Constitution. In the context of the mining conflict in Kulonprogo Regency, Special Region of Yogyakarta, the issue of injustice for the community includes the lack of value for participation from community elements (democracy) and the principle of sustainability in the mining area. is a major factor in the emergence of widespread resistance.

From the reviews in the previous discussion, it was also found that several regulations at the law level were not in synchrony, which then resulted in the difficulty of overcoming the conflict. In the mining sector or those directly related to the management of natural resources, namely: 1. Law no. 5 of 1960 concerning Basic Agrarian Provisions (UUPA); 2. Law no. 4 of 2009 concerning Minerals and Coal; and 3. Law Number 32 of 2009 concerning Environmental Protection and Management. A number of these laws have become more complicated due to the existence of other regulations outside of mining and the environment, but which explicitly regulates natural resources but are closely related to natural resources, especially the technical aspects of management. There are two laws that have contributed to the protracted conflict and demand to be harmonized, namely Law no. 23 of 2014 concerning Regional Government and its amendments and Law no. 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta.

²⁴See Article 5 of MPR RI Decree Number IX/MPR/2001 concerning Agrarian Reform and Natural Resource Management. The 12 principles contained in Article 5 were simplified by the BPHN research team into 5 principles, namely: the Principle of the Integrity of the Unitary State of the Republic of Indonesia; Sustainability Principles; Principles of Social Justice; Principles of Social Justice; Principles of Democracy; and the Principle of Legal Certainty. See Mumu Muhajir, et al., "Harmonization of Regulations and Improvement of Natural Resources Governance in Indonesia", *Journal of Anti-Corruption INTEGRITY*, Vol. 5 No. 2, p. 8.

b. Involvement of the Central Authority and DIY Government and Local Communities

The iron sand mining conflict in Kulon Progo Regency, Yogyakarta Special Region is basically an open conflict and is dynamic. It is open in the sense that it is clear and clear which parties are directly involved in the vortex of conflict and those who are not directly involved but have a role in “muddying” the conditions. In addition, the open nature of this conflict can also be seen from what issues have surfaced since the first conflict arose and continues to this day. Meanwhile, it is dynamic in the sense of fluctuating conflict escalation (up and down). Lately, apart from the seeming much reduced clashes, the parties in the vortex of the conflict seem to have started to shrink or in other words the conflicting parties have begun to decrease, or at least the focus of the parties who are the main targets in an effort to find new solutions in resolving the conflict has been reduced. conflict is no longer like before in terms of quantity (quantity). Therefore, for researchers now is the time for these parties to reset the paradigm which has been a serious problem to find a solution to the starting point of conflict resolution.

As explained in the previous discussion, the first mining conflict in Kulon Progo, DIY involved a fairly large number of parties and at the same time it basically complicates finding the right resolution. In the early years of the idea of iron sand mining in the area until it increased sharply in 2008 and 2009, it was clear that the parties were very eager to realize the mining project, namely: the Central Government, the DIY Provincial Government and the Kulon Progo Regency Government and of course the PT Jogja Magasa Iron (JMI). In the field, these parties indirectly receive “support” from the Provincial DPRD and the Kulon Progo DPRD, although this issue needs further sorting.

On the other hand, the people who live around the project development are on the opposing side or reject the presence of the iron ore sand mining project. At first, the local community had the same thought of rejecting it, but along the way, they became a group that consistently refused (cons), some later turned to accept (pro) and some were moderate. People who rejected this mining project along the way received support from several elements of civil society and also Komnas HAM. In addition to the parties involved in the conflict, issues that arose and developed along the course of the iron sand mining conflict in Kulon Progo, DIY are a necessity to also be reviewed in order to produce relevant and realistic resolutions to be implemented. AB Widyanta summarizes 5 (five) important issues surrounding this, namely: 1. Land ownership status; 2. Loss of livelihood as a farmer; 3. The problem of unemployment; 4. Environmental damage issues; and 5. Policy manipulation.²⁵

In fact, all these problems have actually been made by the local communities who are most affected by being represented by PPLP to carry out various advocacy to various parties and related institutions. “Efforts for that have been done frequently. Among other things, the community has come to the DPRD for hearings/complaints. Even to spend the night there. It has also been done to the district government. But

²⁵AB Widyanto,p. 9-10

there was never a meeting point. Because there are extreme differences of opinion: the community does not want mining, while the government tries hard to keep mining.”²⁶

Therefore, by analyzing the data and information collected by the author, the paradigm of social justice as the original identity of the Indonesian nation must be the basis for resolving this long-existing conflict. In finding a solution, the conflicting parties, especially those at the axis of the conflict, need to start from the beginning by first being built and equipped with the spirit of justice. As stated in the previous chapter, social justice in the Indonesian context (the fifth principle of Pancasila) presupposes individual justice. That is, the attitude or behavior of the individual Pancasila is an attitude and behavior that has the virtue or virtue of that form of justice. Besides, the individual is also the goal of justice. The point is that justice is not only addressed to society in general, but also to individuals. However, this individual is not just an atomistic entity that is completely separated from its socio-cultural context, but an individual in his relationship with other individuals and with his society. Here social justice is not the same as socialism which is not too concerned with individual interests.²⁷

Thus, social justice is structural justice. This justice is achieved when structures such as economic, political, social, cultural and ideological processes in society result in a fair distribution of society's wealth and ensure that every citizen gets what he is entitled to. Social justice is more easily obtained by dismantling unjust structures.²⁸ That is why social justice has an intimate relationship with human rights. The existence of various theories about justice in the world, its relation to social justice based on Pancasila is that the conception and perception of justice must be in accordance with the feelings of a nation. Accordingly, when we talk about law, we are also talking about justice. Law is something that binds and if the bond is associated with humans, then the bond must reflect a sense of justice. Within the framework of finding a conflict resolution to the iron sand mining issue in Kulon Progo, DIY itself is to open the widest possible space for dialogue/communication for all parties, both parties who are directly or indirectly related to the issue. However, taking this step is very vulnerable to deadlock *deadlock* as has been done before. Therefore, the dialogue (deliberation) referred to here needs to be carried out in stages/tiers with the material to be discussed and resolved according to the issues that arise in the conflict.

According to the author, the dialogue can be divided into three stages. *First*, the dialogue phase with the involvement of the parties most related to the project, namely the local community, the DIY Government authorities and the Kulon Progo Regency Government. For the record, considering that the community in question has also been divided into pro, con and moderate groups, the involvement of the community should also be presented in accordance with the representatives of each group. At this stage, 3 main issues that developed during the conflict were used as material for dialogue, namely related to land ownership status, the issue of the loss of farmers' livelihoods *plus* the potential for unemployment, and policy manipulation,

²⁶Interview with Muriyanto as a youth leader in Kulonprogo who observes the iron sand mining conflict on August 19, 2020 in Kulon Progo

²⁷Hyronimus Rhiti, *Complete Edition of Legal Philosophy (From Classical to Postmodernism)*, (Yogyakarta: Atma Jaya University, 2015), p. 43.

²⁸Hyronimus Rhiti, *Philosophy of Law Complete Edition (From Classics to Postmodernism)*, p. 44.

especially related to the issuance of AMDAL which has been sticking out so far. By looking at the materials that are the focus of the dialogue, the purpose of this first step is to redesign and produce policies related to the dialogue materials. In this context, the dialogue carried out ideally takes the format of restoring conditions like *the status quo*, where any policy taken is still relative, between continuing mining projects that have already been running or stopping the project with all the consequences.

The initial stage of this dialogue is basically the stage that will determine whether the problems that have existed so far survive or can find a bright spot to solve them as a solution. Therefore, dialogue needs to be carried out by presenting an equivalent format and providing the widest opportunity for all parties to express the problems that have been felt so far. On the other hand, the parties involved in this dialogue should ideally have *reset their main set* or paradigm since the beginning of the dialogue to become more flexible in accepting complaints and input from other parties/groups. *Second*, a dialogue with the involvement of the Central Government and the DIY DPRD as well as the Kulon Progo DPRD in addition to the parties who have been involved as well as the results of the first dialogue that has been carried out. The main objective of this second stage is to produce policies which are then followed up with legalization through related regulations and decisions, such as the issue of environmental damage which has also been very aggressively sticking out and affecting conditions. As part of the end of this stage, the involvement of the company (PT JMI) needs to be done, especially in terms of the policies taken in the dialogue at the initial stage mentioned above, namely so that the mining project will continue. *Third*, dialogue by opening access to all parties, including "third parties" such as non-governmental organizations (NGOs), LBH and even Komnas HAM which so far have been very intense in monitoring, monitoring and assisting all policies that have been achieved and agreed upon in the dialogue. in the first and second stages above.

The design of the steps in the form of dialogue stages as described above are basically guided by the philosophical values of the MPR Decree No. IX/MPR/2001 concerning Agrarian Reform and Natural Resources Management, which, among other things, emphasizes community participation and the value of justice in natural resource management. What is noteworthy is that the *regulation* is the result of corrections to the experience of natural resource management carried out during the New Order government which is considered very far from the national values of this country. The 'Considering' of the TAP MPR stated, among other things, "*the ongoing management of agrarian and natural resources has resulted in a decline in environmental quality, inequality in the structure of control, ownership, use and utilization and has led to various conflicts*".

This philosophical basis is further elaborated in the provisions in the body of the Article 5 TAP MPR, among others that agrarian reform and natural resource management must be carried out in accordance with the principles: developing democracy, compliance with the law, transparency and optimizing people's participation; realizing justice in the control, ownership, use, utilization, and maintenance of agrarian resources and natural resources; and maintain sustainability that can provide optimal benefits, both for current and future generations, while still paying attention to the capacity and carrying capacity of the environment. Article 6 TAP MPR In addition, it is also determined that the policy direction

in the management of natural resources in Indonesia is to realize the optimization of the utilization of various natural resources through the identification and inventory of the quality and quantity of natural resources as potential in national development, and to expand the provision of access to information to the public regarding the potential of natural resources in their regions and encourage the realization of social responsibility to use environmentally friendly technology including traditional technology.

Conclusion

Based on the discussion that the author has done above, the writer can conclude several things, namely in general, the classification of mining conflicts that occurred in Kulon Progo Regency, Special Region of Yogyakarta can be divided into two, namely conflicts with nuances or in the realm of law (conflicts) law) and conflicts in the social sphere (social conflicts). In particular, there are three factors that cause legal conflicts in the context of iron sand mining in Kulon Progo, DIY, namely: (1) conflicts over mining regulations in Indonesia, both regulations that specifically regulate mining and the environment as well as regulations that do not directly regulate mining activities. regarding mining and the environment, but has a very close relationship, especially in the technical aspects of implementing regulations. (2) understanding and application of legal principles, especially the *lex specialis derogat legi generalis*, which is incomplete and in the end each party concerned applies an understanding that benefits each party. (3) Mining management authority conflicts. The problem in the legal realm is the initial and most basic problem in the iron sand mining conflict in Kulon Progo Regency, DIY. In other words, the legal problem is in the upstream position which in the future has an impact on the emergence of social conflicts (downstream). *Second*, the conflict resolution was carried out and targeted two things. (1) harmonization of laws and regulations that are related and used directly in the context of iron sand mining in the area. (2) Policy making by involving all *stake holders* (related parties), namely: the central government authorities and the DIY provincial government, the Kulon Progo Regency government, PT JIM and the local community with all the groups in it (pro and contra group).

Suggestion

Legislative authorities in accordance with their hierarchy, need to fully review the laws and regulations relating to mining and environmental management and are currently being used as the basis for making policies/decisions in the case of iron sand mining in Kulon Progo, Special Region of Yogyakarta. , to then immediately make changes or adjustments (harmonization) to it. Then, the iron sand mining project in Kulon Progo Regency, Yogyakarta Special Region needs to be temporarily suspended (*pending*) while all parties who are currently directly involved in the iron sand mining conflict (DIY Government, PT JIM and the public both pros and cons) to sit together in order to produce a mutual agreement by considering all the interests of the parties concerned.

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