

Mining Conflict and Indigenous People

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Abstract: *The study is to analyze the mining conflicts that occur in indigenous people which focus on the mining activity. Participatory approach is used to collecting data through Participatory Rural Appraisal (PRA), Focus Group (FGD), as well as in-depth interview. Data qualitative is analyzed with descriptive analysis-eksplanatif. The results reveal that mining conflicts in indigenous people include of land problems and loss of agricultural resources, socio-economic problems, environmental degradation issues, culture and other social issues. The fundamental problems faced are the decrease of income for the farmers and fishermen as a result from the damage of environment and ecosystems in around of mining exploitations. It is recommended that the Government and Parliament and the parties concerned to conduct a comprehensive evaluation on mining activities.*

Keywords : Mining, Conflicts, Indigenous People, Indonesia

1. Introduction

The resurgence of mining activity in indigenous territories has led to considerable problems of social conflict and environmental degradation. Due to deficient legislation and weak institutional capacity of the government as well as lack of community participation in decision-making on mining projects, vulnerable indigenous communities, which continue to be discriminated against and marginalized by the dominant society, threaten to become victims of these fast-moving new developments. The natural resources on which they depend for their livelihoods (survival) are being taken away from them or damaged, and a model of development is being imposed on them without their consent.

The potential for social and environmental conflicts over large-scale mining projects is significant in developing countries. Contracts for, and the management of, the exploration and exploitation of natural resources are negotiated largely at a bilateral level, between governments and corporations. Weak public institutions often struggle to negotiate fair deals, and a lack of transparency nurtures corruption. Furthermore, once a mining project becomes licensed to explore and exploit mining concessions in remote areas, regional authorities and local communities are typically left with limited rights to negotiate their interests and preserve their livelihoods. As a result, local communities may resort to violence to express their discontent.

Indigenous communities in areas where mining occurs often find themselves being pressured by both sides of the political spectrum who feel that the communities' allegiance would bring greater legitimacy to the project. The main issues that are faced in mining areas is customary land and customary rights (Kasim, 1997; Lucas, 1997; Tjondronegoro, 1999; Cholchester, 1986; Nasikun, 1995; Julianto, 1995; Bacriadi, 1997). The government often neglects their custom, especially in developing for investment goal. They assumed that the existence of customary land and customary rights has already lost even though it has existed and respected by the local people (Ter

Haar, 1962; Kartohadikoesoemo, 1965; Ismanto, 1995; Suhendar and Kasim, 1996; Marzali, 2012).

This conflict has produced a social instability and civil unrest disturbing regional and national stability. In a few cases, the mining conflict has been marked by the collective violence action both in level of structural and among social groups. Data shows that the completion of mining cases has been going in courts within form of "zero sum game" (win-lose) that does not result a comprehensive solution (Suhendar and Winarni, 1997; Warsilah, 2001; Karsadi, 2002). Therefore, to solve this conflict is needed an alternative that can be able to negotiate from various stakeholder in form of non judiciary and may completed thoroughly and comprehensively. The involvement of indigenous society of Tolaki as an independent mediator will give a biggest meaning for conflict solution. Indigenous society have a spirit to resolve anything problem that faced in society through traditional discussion that still regarded by the all community. Orientation of this conflict resolution is in a form of "win-win solution" within context of humanizing the society (human being), especially on indigenous people.

This solution is possible to fix the problem in mining conflict which involvement of traditional society "Sarano Tolaki" as local society that can reduce a social upheaval and social unrest. Traditional institutions is still becoming a reference and recognized as a non formal society that capable to being a facilitator in solving of conflicts between indigenous people, companies and governments. Eventhought, in a certain cases, traditional society of Tolaki is regarded as a society than can fight for the aspirations of indigenous people (Tarimana, 1989; Su'ud, 2006).

2. Literature Review

Social Issue

Based on review for several studies and other literatures showed that the presence of mining companies in various regions in Indonesia has had an impact, both positive and negative impacts. One of the negative impacts as a result of

mining activities can be seen from the results of research conducted by Center for Rural and Regional Studies (CRRS), Gadjah Mada University (2004). The results showed that the mining activities has a potential social problems in society. The expropriation of communities land rights that their economic life depend on the results obtained from these area is always meaningful to the loss of their livelihoods that not easy to find a substitute. It is clear that this condition has become a potential source for conflict between the community's rights holders and the mining companies.

Citing from the research LIPI, PRSP UGM (2004) showed that the case of Pongkor and Cikotok is a concrete example that the area has been controlled and cultivated by the rights holders as a source of income, so that the expropriation of area will always be faced with the rejection from the citizens or the demand of compensation with the high value and eventhough may be finally to the conflict. It occurs in areas which the population density is very high. Conversely, in areas which the population density is low, is not yet fully occupied and cultivated by citizens and according of UGM PSPK (2004), the acquisition of land rights will take place more easily. For such areas which need to be observed is the existence of customary rights of indigenous peoples. If the customary rights are still running, while the perception of mining company on its existence is not recognized, the conflicts will be in increasing.

Studies conducted by PSPK UGM (2004) in South Kalimantan shows that within working area, as a mining company, PT. Arutmin has mining areas that in totally has been claimed as the rights of citizens from Dayak ethnic, such as Dayak Bukit in Satui, has been already granted the compensation for loss of 1 million rupiahs per hectare and they has been accepted. Contrary, conflicts in mining area of PT Freeport in Papua, PT Antam in Pongkor and Cikotok of Banten are not caused by the process of expropriation of land, but rather than to the loss of livelihood citizens or customary law communities for area from very spacious land that serves them as an alternative or substitute of their lives needs which is controlled by the mining company. Meanwhile, the company can not provide a substitute for it lost.

Land issues in the context of mining industry is a very complex problem which is not rarely lead to the mining conflicts. Mining conflicts in outside of Java, are often involving communal community or indigenous peoples. It has a difference conflicts in java which land ownership is more individualistic. Conflicts over land in mining areas outside Java, involving the community in large quantities than in the mining areas in Java because land ownership is the ownership of an individual base.

Land under collective ownership, as occurs in rural communities outside Java, the land conflict came when they feel that the status and dignity are not respected, and when the land was used by the owners of capital as the mining business. They are not invited to speak in the decision. Government make a bargain with the owner of the actual capital unilaterally without regard the needs of local communities involvement. If community protests began sticking to the surface, firms and governments will need to

approach them. Resistance of community often arises because they feel that are unjustice in relation on the land where their lands are used by mining firms or the interests of other business ventures including HPH (Susetawan, 2001; Effendi, 1986).

In addition, the factors that are related to the land issues as the cause of mining conflicts has give several opinion that comes from discrepancy, both gaps of socio-cultural and gaps of socio-economic between local communities and immigrant communities, including the presence of employees in the mining company (Saleng, 2007; Risal et.al., 2013). According to the analysis of the PSPK UGM (2004) shows that by the linking to the history of the presence of mines in the world, including in developing countries, a source of prosperity for the various parties is not uncommon presence of mines and also give a problem. Problems can arise because mining firms do not understand the social and cultural conditions of local communities. The emergence of economic inequality can further raise vulnerability to conflicts within the existing political and social conditions. Improvement of prosperity which is expected to grow with the emergence of economic opportunities because of the presence of the mining company could not be optimal for a wide range of relationship issues that are not in harmony again.

Conflict Resolution Model

Theoretically, the idea and concept of mining resolution has explained by experts and NGO activists, it is difficult to be implemented in resolving the conflict in mining. Various studies conducted by several activists and colleges such as by PSPK UGM (2004) showed that the efforts to resolve or to prevent conflict sourced from the lack of livelihood. That is a responsibility for the mining firm to develop a social responsibility for community in working area in term of "*community development*". The program includes the development of economy, education, health, social, cultural, and infrastructure. Implementation depends on socio-economic conditions and firm ability.

One of the ideas from academics is related to the establishment of an arbitration institution for resolve the agrarian conflict (including conflict over land). Maria S.W Sumardjono (1995) stated that the resolution of land conflicts need to be established an institution of arbitral land. The idea appears as a reaction for conflict resolution because the completion through the courts is slow, expensive, and sometimes can not be executed. Arbitration that nature informal, closed, cheap, and efficient is expected to resolve the conflict. Intan (2011) stated that the resolution of land conflict in out of the court is a frame of resolution to end the conflict agreed by the all stakeholder.

Maria S.W Sumardjono (2001) had another idea and concept that is needed to form the Land Court within the scope of general courts in resolving mining conflicts. Nevertheless, it is still hold a fundamental weakness which allows for intervention by the other parties that are non-judicial. Therefore, both the idea and the concept still has a variety of fundamental weakness, so that she propose an idea to use another concept to resolve this conflict outside the court through an institution of mediation. In addition, she explains

that the mining conflict resolution as a mediation has advantages with characteristics: time is short, structured, task-oriented, and an intervention involving the participation of the parties actively. In other words, the solution requires a short time, the cost is lightweight and simple procedure.

Slamet Marta Wardaya (2004) offer some alternative concepts to solve the agrarian conflicts, including through the Indigenous Peoples Court. According to him, Indigenous Justice has an authority to examine and investigate civil conflicts between citizens and other society. Another concept that he offers is a mediation agency (mediation board). Agency has many advantages including have a little risk, the agreement obtained is a fair deal and satisfactory, the agreement is made by the parties involved in the conflict, and the time takes a relatively short time.

Suhendar and Kasim (1997), ADR (*Alternative Disputes Resolution*) approach is the development of alternative forms of resolution outside of the court. The substance of this concept of ADR is the completion conflict with mediating form the parties conflicting. Conflict resolution is done by negotiating or peace. According to him, the advantage of this conflict resolution is the time completion that is shorter, flexibility, and savings and conflict issues can be discussed widely and thoroughly.

Since the beginning of 2004 has developed ideas and other concepts that many people considered better and are expected to resolve the agrarian conflict in a peaceful, fair, and thorough. In connection with the idea, Human Right Commission (2004) established a commission of agrarian conflict resolution named the National Commission for Agrarian Conflict Resolution (CACR). Formation of the Commission is motivated by various reasons. First, philosophically, soil, water, and sources other agrarian utilized for the welfare of society. Second, the sociological aspect, agrarian society experienced injustice and to this dimension of agrarian conflicts are still ongoing human rights violations in Indonesia. Third, the political aspect, institutions of state/government that there is now insufficient to resolve the conflict and conflict resolution mechanisms existing agrarian deadlock in answering justice among the people who are victims.

Karsadi (2002) showed that the solving outside of the court for the mining conflict in resettlement area mediated by the local leader has not succeed yet. Even thought, the regent of Kendari himself has modified the completion using indigenous symbols such as "*mosehe*". The traditional ceremony "*mosehe*" led by the Regent Kendari as a mediator and was attended by the parties to the conflict, namely the local communities (indigenous people) and transmigrants. Model resolution of the conflict still has many weaknesses, among others; Regent Kendari as a mediator is not independent, traditional ceremony "*mosehe*" has been politicized to the political interests of certain parties, and the meaning of "*mosehe*" itself is more customary resolution for violations in general. Karsadi (2002) concludes that within solving various cases of mining conflicts can not be oriented only one model, but also modify various alternative models, both put forward by academics and NGO activists. Modification of alternative models in the mining resolution

of various cases of conflict, especially in North Konawe should also pay attention to the socio-cultural aspects of local communities.

Suhendar and Winarni (1997) showed that various agrarian conflict, both structural and horizontal in various regions in Indonesia can not be solved thoroughly and completely. Fundamental weaknesses were the resolution taken by the government are still stressed the solving of a case by case based and there is no effort structurally. On the contrary, it is precisely that the resolution brings a new problems because of the popular discontent of the resolution later lead to anarchy and the way like that it raises the potential for serious violations of human rights (e.g the case of Bulukumba).

Thus, it can be identified that are already many models of conflict resolution in mining or agrarian, In factual, it can not solve the case of mining conflicts, both at local and national levels. Meanwhile, the establishment of the National Commission for Agrarian Conflict Resolution (NCRA) can not work optimally. However, based on the results of the workshop preparation for the establishment of the National Commission for Agrarian Conflict Resolution (NCRA) has produced basic thoughts on the resolution of agrarian conflicts. In addition to generating basic thoughts which are essential as a foundation of conflict resolution agrarian philosophical, sociological, political and juridical. Meanwhile, The establishing of National Commission for Conflict Resolution Agrarian (NCRA) arranged by Human Rights Commission -KPA-HUMA-WALHI-BINA DESA (2004). The basic thoughts are as follows: 1) Completion of the agrarian conflict aimed at realizing social justice and economic equality; 2) Completion of the agrarian conflict must be within the framework of human rights as a whole; 3) Completion of the agrarian conflict must touch the basic problem, namely fairness distribution of wealth; 4) Completion of the agrarian conflict developed through a variety of approaches within the framework of agrarian reform.

Although, there has been some alternative model of agrarian conflict resolution (especially mining conflict) as described previously, is still required the modification of alternative models that can be applied for resolution in mining conflict local. This is important because each alternative model has weaknesses / deficiencies, then the ideal would be to modify the model based on the local conditions. It is expected to resolve agrarian conflicts (mining conflict) in a peaceful, fair, and thorough.

One of the modified form of alternative models of conflict resolution for mining activity in North Konawe is through the mediation of traditional society. Model solution by utilizing mediation customs agency has its own advantages, since the main element is the values of deliberation. Besides being a partner of government in providing input related to social problems, traditional institutions are also the local institutions that can fight for the aspirations of local communities (indigenous people).

3. Research Methods

Sample

This research conducted in North Konawe Southeast Sulawesi Province Indonesia with a focus in area of mining activities in district Molawe and Lasolo. Selection of these two locations with academic consideration that in both cases the sub-district mining activities carried out by mining companies already have a negative impact and that it can trigger a conflict mainly between the community and the mining company and intercompany mine itself.

Approach

To achieve the objectives and consider the scope of research that will be done, this study used is participatory approach. This participatory approach laid a native (indigenous peoples) not as an object of study, but actively influence the participatory research process. To obtain the desired results, this study uses the method of "field research" by focusing on participatory resolution approach. Data collected through assessments Participatory Rural Condition Participatory Rural Appraisal, PRA), Focus Group (FGD), as well as in-depth interview.

In assessment of Participatory Rural Appraisal (PRA), the indigenous people, community leaders, traditional leaders, and researchers work together to identify and inventory the various problems of social conflicts in the region Mining. Researchers and local communities, community leaders and traditional leaders also developed the problem solving frame in the perspective of peaceful conflict resolution, fair and thorough in the context of humanizing (human being), to find alternative conflict resolution models according to the local conditions.

Data

The collection of data through focus groups discussions (FGD) made to the stake-holders at the district, sub-district and village level. In this focus group discussions elements involved include: community, Tolaki traditional institutions, local government representatives, and NGOs. The collection of data through in-depth interviews will be conducted on traditional leaders, community leaders, elements of government bureaucracy, and some board Tolaki traditional institutions. The secondary data collected includes two basic types of data, namely: 1) the dynamics of the mining conflict cases at the provincial and district /city; 2) the dynamics of the mining settlement of the conflict through the courts and outside the courts ever is undertaken by the conflicting parties, especially those listed in the District Court.

Analysis

In accordance with the approach used, analysis of data is using descriptive analysis-eksplanatif. The analysis of qualitative data is consists of three flow of activities that occur simultaneously and intertwined with each other, namely data reduction, data presentation, and conclusion. This analysis does not necessarily consecutive, but depending on the needs of the research.

4. Discussion

Land Problems and Loss of Agricultural Resources

Based on the various references and the results of the study, the problem of land in the mining area was dominated by the issue of the existence of a land called by the local community is *anahoma*, *homa*, and *waworaha* in traditional terms. There are a few locations of mining concessions owned by mining firm which it located in area *anahoma*, *homa*, and *waworaha*. In general, the mining area is part of *anahoma*, *homa*, and *waworaha* located in the hill contain high levels of nickel.

According to several informants said that the land which is partly an *anahoma*, *homa*, and *waworaha* is already sold to the mining companies for approximately 25-30 million per hectare. Nevertheless, the problem that in fact these lands are also sold to someone for \$ 25-30 million per hectare and then the person selling the land to another company, resulting in overlapping areas between the mining concession of the mining company with other mining companies.

Another informant also said that traded by the community is also overlap between the firm and other mining companies. Overlapping areas had caused by the double owner of area which the area has more than one the owner in the same area and they has also a title from the village head. Thus, the problem appears in this area and has a potential to conflict from each firm.

Another problem that surfaced with regard to the land issues in around of mining area is a difference of perception between community and local government. The communities assume that the area that will be proposed as mine site area is the forest area which has a function in limited production. In generally, it is an area *anahoma* that controlled and managed by the community, but the government has declared as a protected forest. The differences in perception have made a conflict of interest that impact to the emergence of defense issues in the mining areas. This study differs from the research results Dimas et.al. (2014) that the mining conflict occurs in the absence of socialization, lack of legal awareness and orientation of substantial economic gains in the value of land compensation. On the other hand the results of this study are relevant to Fuad & Maskanah statement (2000) that the mapping conflicts one space conflict is due to a conflict of interest and psychological problems (perception or confidence) and misperception.

Socio-economic problems

The existence of a mining company scattered in the District Molawe and Lasolo North Konawe relatively broad area of its concession led to changes in socio-economic structure of society. Mining firms in several places are involving relatively large company employees and most of the employees are from the local community. In general, these employees work as an operator of vehicles and security. Such conditions lead to changes in the structure of employment, whereas previously the majority of people working in agriculture, plantation and fisheries as farmers

and fishermen turned to the service sector and employees of the mine.

The problems that emerged later that the employee who work in the mining companies that earn revenue is relatively small so as to meet the needs of family life were deemed to be inadequate. Nevertheless, the employees of the company persisted to remain employed in the mining companies. Such a condition is often appearing protests and demonstrations employees against the mining companies to increase their wages.

Another problem that often arises in the mining area is uncertain working in the mining companies. There are some mining companies to stop doing activities mine, so most employees the company was forced to be idle. This led the employees of mine did not get salary and this conditions is considered to be detrimental to the employees who are mostly employees from the community living around the mining area. Mining companies that often do not perform activities of mining exploitation is a company that does not have the mining license and the company is only a sub-contract with a company mining permit.

Another problem that arises among the people living in the mining area is related to the decrease in income of the fishermen who cultivate seaweed and fishing catch. Prior to the mining company in the District Molawe and District Lasolo, fishermen can be able to cultivate seaweed with the income relatively large and the fishermen catching obtain the catches are relatively large, but since their mining activities lead to sedimentation and pollution of waste companies in the fleet region Molawe, so that their income has declined. Moreover, in the beginning of rainy season the fishermen, both fishing and seaweed farming fisherman were catching a failure seaweed cultivation and difficulty to catch fish. It can result in losses in terms of economic value perceived by the fishermen who live in the fleet region of Molawe, as perceived by fishermen from the village of Tapungaya, Tape Emea, Mandiodo Mowundu, and other villages around the bay and coastal subdistrict Molawe Lasolo. The results of this study strengthen the results Qomariah (2002) that the impact would not only result in air pollution but also raised a large basin surrounded by piles of excavated soil that was mixed with the tiling.

Environmental Degradation Issues

The other problems that quite felt by the community in around of mining area are an environmental issue. It is a fundamental issue for safety, comfort, and livelihoods that are regard as a physical environmental problems and social environment. Physical environmental problems are mainly related to the destruction of public infrastructure, landslides, floods, and sea pollution by sedimentation processes and overflow from the mining area which is located on the shoreline of Molawe fleet.

In accordance with the legislation that before the regional government issued the Letter of Permit for Mining (LPM) is preceded by an Environmental Impact Assessment (EIA) which is in decision making involving various government agencies, communities and other parties concerned. Formally, the government has carried out a document stated

that is feasible, but in substantially, the implementation of this document has not gone well. According to some informants, in presentation of this document, government and firm only invited some people from local agencies and some people who are considered to agree the presence of mining firm. While the people that are critical and vocal against the mine plan were not invited, so that the environmental impact assessment is deemed not qualified and not in accordance with the purpose of the document itself. Thus, the environmental impact assessment has not been going well and brings on a less favorable impact for community such as the destruction of environment and ecosystems.

Based on interviews with several informants, they said that indigenous people in the mining region of nickel are harmed by the mining exploitation. They feel that it is disadvantaged by the conditions because of in rainy season, the roads traversed were muddy, floods and landslides which the mobility of society to another is difficult, but in dry season, the roads were dusty which can effect on diseases, especially respiratory diseases. In addition, there are several bridges were damaged and lost so it is difficult to access the other villages. This situation often complained especially in mining areas of nickel. The findings of study are supported by Risal et.al. (2001) stated that mining has brought damage to the socio-economic life of society on a larger scale.

Culture and Other Social Issues

Another problem that arises in the mining area is related to the problem of comfort and public security. The existence of a mining firms, either directly or indirectly, have provided benefits to increase the acceptance of local revenue, but on the other hand it is followed by high mobilization of heavy equipment and employees both local employees and from outside the region that have affected the activity of community in around of mining area. It must be recognized that an increasing of local revenues from mining sector is relatively large, but it is not felt directly by the people yet. Acknowledged that the activity that in uncontrolled will bring a massive negative impact on the social, cultural and socioeconomic. The attending of night entertainment such as night club neared to residential of communities has changed the custom of indigenous people. It is similar with life of yippee, prostitution and alcohol drinking (drunk) that may impair the mental and moral society, especially among local youth. Therefore, It is needed a policy which give a space for the firm to remain their mining activities that were not harmed the interests of social, cultural, and socioeconomic of indigenous people. This finding is supported by Wibisono (2007) stated that the firms are not only has an economic responsibilities to the stakeholders, but they must also have a social responsibility if they wish to exist and acceptable.

5. Conclusion

The problem faced by the people in the mining area is very complicated and complex. The fundamental problems faced by the people in the mining area are the decrease of income for the farmers and fishermen as a result from the damage of environment and ecosystems in around of mining exploitations. Even thought the local revenue is increased from mining sector, but the mining activities has massive

and uncontrolled that can destroy indigenous people's lives weather aspect from social, culture, or economic. Negative impacts perceived by indigenous people are narrowing their *lebensraum* and the disappearance of agrarian resources in mining areas. Compensation granted the mining company to the public, either in the form of hiring local personnel in various mining companies as well as compensation in other forms such as CSR (cooperate social responsibility), and other relief deemed public is still inadequate compared to the negative impact arising from mining activities.

6. Suggestions

Local Government should review the granting of mining permit in this area so that the negative impact will not disturb the community. It is recommended that the Regional Government and Parliament and the parties concerned to conduct a comprehensive evaluation on mining activities. All parties, local government, parliament, NGOs, civil society and other stakeholders should monitor and supervise the mining exploitations. The mining companies should improve the provision of compensation both in form of CSR (Corporate Social Responsibility), and other assistance that can improve the welfare of indigenous people. It is required an environmental impact assessment which is precise, accurate, and objective before the local Government Issue and grant the mining business license to mining companies.

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