



The Role of Balunijuk Indigenous Communities Against Unconventional Mining a Malay Inner Perspective

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Abstract

This research was conducted in Balunijuk Village, whose indigenous people prefer to reject tin mining as their way of life. It is interesting for the author to examine the role of the indigenous people of Balunijuk village in fighting unconventional mines from an inner Malay perspective and how the methods used by the indigenous people of Balunijuk village to fight unconventional mines from an inner Malay perspective. The research method used is socio-legal. The role of the indigenous people of Balunijuk Village in fighting Unconventional Mining within the Malay inner framework includes (1) protecting the living space of indigenous peoples, (2) preventing corrupt acts in the living areas of indigenous peoples, (3) preventing the criminalization of indigenous peoples. The method used by the Balunijuk indigenous people against the existence of unconventional mining is to use existing local wisdom, namely ampak. The advice given is that the existence of local wisdom that has sacred values should get a better place in solving problems that arise.

Keywords: Role, Indigenous Peoples of Balunijuk Village, Unconventional Mining

Abstrak

Penelitian ini dilakukan di Desa Balunijuk, yang masyarakat adatnya lebih memilih untuk menolak pertambangan timah sebagai cara hidup mereka. Hal ini menarik bagi penulis untuk meneliti bagaimana peran masyarakat adat Desa Balunijuk dalam melawan tambang inkonvensional dalam perspektif Melayu Batin dan bagaimana cara-cara yang digunakan oleh masyarakat adat Desa Balunijuk untuk melawan tambang inkonvensional dalam perspektif Melayu Batin. Metode penelitian yang digunakan adalah sosio-legal. Peran masyarakat adat Desa Balunijuk dalam melawan Tambang Inkonvensional dalam kerangka melayu batiniah meliputi (1) menjaga ruang hidup masyarakat adat, (2) mencegah terjadinya tindakan korupsi di wilayah hidup masyarakat adat, (3) mencegah terjadinya kriminalisasi terhadap masyarakat adat. Cara yang dilakukan oleh masyarakat adat Balunijuk dalam melawan keberadaan pertambangan inkonvensional adalah dengan menggunakan kearifan lokal yang sudah ada yaitu ampak. Saran yang diberikan adalah keberadaan kearifan lokal yang memiliki nilai-nilai sakral seharusnya mendapatkan tempat yang lebih baik dalam menyelesaikan permasalahan yang muncul.

Kata kunci: Peran, Masyarakat Adat Desa Balunijuk, Pertambangan Inkonvensional

I. Introduction

The research team's research locus was Balunijuk Village. Balunijuk Village is a village that is very different from other villages on Bangka Island. The majority of areas on Bangka Island are famous for their tin mines. This village has its own characteristics which are different from other areas on Bangka Island. Balunijuk Village is known as a vegetable-producing village, in fact, this village is categorized as a vegetable barn for Bangka. Various types of vegetables in this area become commodities and are the income of local people who depend on vegetable farming for their life.

The story about the existence of Balunijuk Village seems to be covered by the hustle and bustle of mining on Bangka Island. Excerpted from mongabay.co.id dated September 3, 2021 Dato Akhmad Elvian, cultural observer and historian of Bangka Belitung describes that the people of Bangka cannot be separated from the tin civilization. He conveyed this thought through the article "Bangka Society & Tin Civilization. He wrote that many settlements or cities on Bangka Island were formed due to tin mining activities. For example, Muntok, Toboali, and Pangkalpinang.

Reiterated on the same page, namely mongabay.co.id dated September 3, 2021, that Marine Lt. Col. Fajar Hasta Kusuma, Palaksana Lanal (Navy Base) Bangka Belitung, in the Coordination Meeting of the Regional Leaders Forum of the Bangka Belitung Islands Province also explained the existence of tin which has become part of the which cannot be separated from the people of Bangka. He explained that this province can develop and progress, one of the reasons is because the area is a tin producer, and it can be said that it has become a tradition for most of the people of Babylon (Bangka Belitung) to mine tin for generations. Fakhrizal Abubakar, Head of the Muntok Indonesian Tin Museum (TMI), quoted from National Geographic Indonesia, explained that tin had been mined since the arrival of the Sriwijaya Datuan in Kapur City in the 7th century. At that time, tin was still used for bartering media and inscription materials. Tin is mined on a small scale.

Even this mined tin certainly brings in rupiah coffers and can increase the economic standard of the Bangka people. However, the existence of this mining also brings other consequences, which can realistically cause damage to the mining location environment. The consequences that actually make this worry in practice are covered by the pleasures and comforts that have already been obtained by mining actors.

As for tin mining today, various groups are increasingly becoming the prima donna. Even unconventional mining which is actually prohibited, is now being carried out more and more by the community. When talking about the existence of unconventional mining, of course we know that unconventional mining activities can have negative implications. One of the negative implications obtained is not maintaining environmental sustainability at the mining site.

The indigenous people of Balunijuk Village also seem to know the negative implications of this unconventional mining. The pattern of life developed by the people of Balunijuk Village, which has more contact with vegetables and fruit, provides an answer that humans are actually capable of coexisting in harmony with the environment in which they live, regardless of their knowledge of the sanctions that will result if the mining is carried out unconventionally.

Provisions on sanctions regarding the existence of legal subjects who carry out business without a permit, such as illegal mining, have been mentioned in Article 109 of Law No. 32 of 2009 concerning Environmental Protection and Management. The article states that:

"Anyone who carries out a business and/or activity without having an environmental permit as referred to in Article 36 paragraph (1), shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least Rp. 1,000,000 000.00 (one billion rupiah) and a maximum of IDR 3,000,000,000.00 (three billion rupiah)."

There are two theoretical frameworks that this research tries to build, namely the role of the indigenous people of Balunijuk Village themselves against unconventional mining and the methods used by the people of Balunijuk Village in fighting unconventional mining through values that the community understands the truth of which is known as the Malay heart. The urgency of this research can be seen in the effort to change the community's paradigm regarding the utilization of natural resources without being accompanied by an understanding to preserve it towards a more environmentally friendly pattern of utilization of the environment which can

endanger the community itself. For this reason, researchers are very interested in conducting research taking the title "The Role of the Indigenous People of Balunijuk Village Against Unconventional Mining Perspective of Inner Malays".

II. Research Problems

Based on the background of the problem above, the problem can be formulated in the form of a question as follows: (1) What is the role of the indigenous people of Balunijuk Village in fighting unconventional mines from an inner Malay perspective?; (2) How do the indigenous peoples of Balunijuk Village fight against unconventional mines from an inner Malay perspective?

III. Research Methods

This research uses an interactive, intertextual, and dynamic approach. The interactive approach lies in trying to explain the role of the indigenous people of Balunijuk Village in fighting unconventional mining and the ways or methods used by these indigenous peoples in fighting unconventional mining from an inner Malay perspective. In each chronology, time, this study will analyze it analytically and critically to see the evolution of the thinking of indigenous peoples in viewing unconventional mining. The intertextual approach refers to the relational conceptions, interrelatedness and interdependence of texts and discourses. Looking for reasons for changing or expanding basic ideas/values in environmental protection and management which have been the source/legal basis for law enforcement policies on the environment. The dynamic approach will be based on the substance of the fact that there is a balance value in observing changes or expansion of basic ideas/values in environmental protection and management. A dynamic approach cannot escape the principle of balance that has developed in Indonesian law.

The first thing that needs to be understood is that socio-legal studies are not synonymous with legal sociology and sociological jurisprudence. Legal sociology focuses a lot on legal discourse which is part of the experience in people's daily lives. Meanwhile, sociological jurisprudence is a school of legal theory initiated by Roscoe Pound and developed in America starting in the 1930s. Sociological jurisprudence says law is what the court decides. In principle, socio-legal studies are legal studies that use a social science methodological approach in a broad sense.

Socio-legal research is legal research with a non-positivistic paradigm. This is usually done in socio-legal research using legal and social science approaches, which are interdisciplinary in nature. This interdisciplinary method can explain a very broad legal phenomenon, and its relation to power relations and the social, cultural, political and economic context in which the law exists. The methodological characteristics of socio-legal studies show the availability of a wide variety of research methods for legal researchers. This is important, because to this day there are still many legal scholars who are looking for mono-discipline "pure" legal science research methods, which are not contaminated by social sciences.

This interdisciplinary method will have implications for the choice of paradigm to be used in explaining legal phenomena and their relationship to humans, more specifically their relation to the social interactions of citizens. The critical paradigm, in fact, is a broad home and a domain for many approaches in theory and methodology in the social sciences. The failure of legal positivism to guide human life is caused by its mode of thinking which consistently maintains the influence of reductionism, determinism, objectivism, in the science of law. By presenting law as a social institution, it is a desire to capture and understand the science of law more fully. Starting from that, a holistic paradigm offering emerges, which simultaneously becomes an inseparable part of the critical paradigm of symbolic interactionism and restorative justice.

Based on this understanding, the main agenda of the symbolic interactionism paradigm is to place human interaction as a symbol in forming a system of norms that is defined and renegotiated within the human interaction itself. Humans give meaning to what they do through interaction and action.

IV. Result And Discussion

1. The Role of Indigenous Peoples of Balunijuk Village in Fighting Unconventional Mining Perspective of the Inner Malay

Another consideration is the need for policies governing the recognition and protection of the rights of customary law communities, namely, that customary law communities have not been optimally recognized and protected in exercising communal management rights, both rights to land, territory, culture, and natural resources that are acquired collectively. hereditary or obtained through other mechanisms that are legal according to local customary law. The non-optimum recognition and protection of the communal rights of indigenous peoples has resulted in the emergence of conflicts within indigenous peoples, thereby posing a threat to national security stability.¹

This mining activity should be carried out jointly based on common interests. Regulations have actually provided that space. The definition of a joint venture in Article 33 paragraph (1) of the 1945 Constitution can also be seen from a broader perspective, namely the context of a systematic arrangement of the Indonesian economy.²

Forming a new legal culture will be easier than bringing together different cultural elements. ³ The role of the indigenous people of Balunijuk Village in fighting against Unconventional Mining within the framework of the Malay mind in principle must be seen thoroughly and thoroughly, not only what is seen with the naked eye. From a series of data obtained by researchers, starting from the mindset and activities of the Balunijuk people, it can be concluded that the life of the Balunijuk people requires values and meaning. The indigenous people of Balunijuk village are a reference that they really appreciate the environment with values that they understand the truth. Furthermore, the researchers found a very crucial role for these indigenous peoples in fighting the inconvenient mining of the Malay inner perspective, including:

1) Maintaining the living space of indigenous peoples

We need to understand that existing indigenous peoples are very closely related to the area where they are located. These indigenous peoples are formed from a harmonious pattern of life which over time forms an identity that these indigenous peoples become stronger. The living relationship between humans both individually and collectively with everything in the customary territory which is their living space becomes an inevitability to be separated. Judging from the existing regulations, namely Article 1 Paragraph 28a of Law no. 3 of 2020 concerning Amendments to Law no. 4 of 2009 Mineral and Coal Mining as amended by Law no. 11 of 2020 concerning Job Creation states that: "The Mining Law Area is all land space, sea space, including space in the earth as a single territorial unit, namely the Indonesian archipelago, land under the waters, and the continental shelf".

The meaning of the article above actually has the potential to damage the living space of indigenous peoples because all mining activities can enter into all living spaces of the community, including the living space of indigenous peoples.

¹ Wahyu Nugroho, *Mine Management Policy and Ecologically Equitable Customary Law Community*, Journal of the Constitution, Volume 15, Number 4, December 2018. Pg. 819

² Helza Nova Lita, *Legal Protection for Indigenous Peoples in Mining Areas*. Lex Jurnalica Volume 10 Number 3, December 2013. Pg. 207

³ Ndaru Satrio, *Reformulation of Investigators and Investigators at the Corruption Eradication Commission Perspective of Pancasila Law*. RES JUDICATA Volume 4, Number 2, 2021, p. 196.

Mining activities both on land and at sea can cause environmental damage and also have a negative impact on the surrounding community.⁴ Even though the environment is one of the aspects that humans rely on to live. The environment is said to be an absolute part of human life and is the main source for humans to meet their needs.⁵

2) Prevent corrupt acts in the living areas of indigenous peoples

The rapid increase in the growth of the mining sector in Indonesia is inseparable from the demand for increased economic growth in Indonesia.⁶ The vulnerability of the mining sector to bribery is influenced by the conditions of the previous pandemic, which are related to several factors. First, the pandemic situation forced the government to pay more attention to the health sector. This is an opportunity for regional heads to buy and sell Mining Business Permits (IUP). Second, during the emergency period of the COVID-19 pandemic, the Job Creation Law was passed which regulated a new mechanism in the mining sector, namely the authority and ease of licensing (Law Number 11 of 2020 Concerning Job Creation, n.d.). This condition creates a high potential for corruption, even overmacht, which should be a ballast indicator in imposing criminal sanctions, has not been able to deter perpetrators, this is due to the potential and ongoing nature of corruption against state losses.⁷

3) Prevent the criminalization of indigenous peoples

The legal position of every citizen is guaranteed, so that harmony, balance and harmony can be achieved between individual interests and common or community interests.⁸ The existence of indigenous peoples has actually been recognized by the state.⁹ However, the granting of rights to indigenous peoples is often neglected. Judging from Article 162 of Law no. 11 of 2020 concerning Job Creation which states that: "Anyone who obstructs or interferes with Mining Business activities of IUP, IUPK, IPR, or SIPB holders who have fulfilled the requirements referred to in Article 136 paragraph (2) shall be subject to imprisonment for a maximum of 1 (one) year or a maximum fine of 100,000,000.00 (one hundred million rupiah)."

The existence of this provision actually makes some Balunujuk indigenous people feel worried if the existing local wisdom is actually seen as an obstacle or a disturbance to mining activities or activities. Existing local wisdom is solely a form of environmental preservation which often conflicts with mining interests. Indigenous Peoples are often disadvantaged in mining and investment activities in Indonesia.¹⁰

As well as in the sound of Article 164 of Law no. 3 of 2020 concerning Amendments to Law no. 4 of 2009 Mineral and Coal Mining: "In addition to the provisions referred to in Article 158, Article 159, Article 160, Article 161, Article 161A, Article 161B, and Article 162, perpetrators of criminal acts may be subject to additional punishment in the form of:

⁴ Tirta Anugera, The Impact of Sea Tin Mining on the Livelihoods of Fishermen's Households in the Meranti Islands. *Bhumi: Journal of Agrarian and Land Affairs* Vol. 7 No. May 1, 2021. Pg. 114.

⁵ Mella Ismelina Farma Rahayu. Legal Aspects of Indigenous People's Participation in Environmental Management. *Journal of Ethos* Volume 1 Number 1 January -June 2003. Pg. 1

⁶ Wiwik Warjanti. Alternative Efforts for the Government of Indonesia in Reducing the Negative Impacts of Mining Activities in Indonesia. *Legal Treatise*, Issue Number 3, June 2006. Pg. 45

⁷ Rr. Halimatu Hira, Eradicating the Crime of Bribery in the Mining Sector Through Strengthening Cooperation with Law Enforcement Agencies in Indonesia. *Journal of Anti-Corruption* Volume 3 Issue 2 (2021), pp. 01-20 Published online November 2021. Pg. 2.

⁸ Ndaru Satrio, Independent Oversight of Members of the Witness and Victim Protection Agency. *PROGRESSIVE: Journal of Law* volume XVII/No.2/December 2021. Pg. 184.

⁹ Ahsana Nadiya. Measuring the Mineral and Coal Law on the Vulnerability of Protecting the Rights of Indigenous Peoples. *Lex Generalis Law Journal*. Vol. 2, No. March 3, 2021. Pg. 196

¹⁰ Rifi Marcelino Sumampouw, Legal Protection of the Rights of Indigenous Peoples in Mining Activity Areas. *Lex Private* Vol. VIII/No. 3/Jul-Sep/2020. p. 26

- a. confiscation of goods used in committing a crime;
- b. confiscation of profits derived from criminal acts; and/or
- c. obligation to pay costs incurred as a result of a crime."

These two articles can be seen as provisions that can be detrimental to indigenous peoples. Moreover, these provisions are not explained in detail so that in its implementation it is very possible that multiple interpretations will occur. This regulation on Minerals and coal clearly protects the interests of state officials and on the other hand, is repressive towards indigenous peoples.

2. The Way of the Indigenous People of Balunijuk Village in Fighting Unconventional Mining Perspective of the Inner Malay

Various efforts in realizing a just, prosperous and prosperous society have been attempted through various substances.¹¹ The term indigenous peoples was introduced by van Vollenhoven to denote native Indonesians or ethnic groups. This relates to the issuance of a political policy by the Dutch Government based on Article 131 IS (*Indische Staatregeling*) 1939, so Indonesian citizens at that time were differentiated into native citizens (Irlander), Europeans and Foreign East. Recognition of differences in these citizens brings the consequence of the emergence of pluralistic legal systems.¹²

The definition of a mining business is contained in Article 1 point 6 of Law no. 3 of 2020 concerning Amendments to Law no. 4 of 2009 concerning Mineral and Coal Mining. The article states that: "Mining Business is an activity within the framework of Mineral or Coal exploitation which includes the stages of general investigation, exploration, feasibility study, construction, mining, processing and/or refining or development and/or utilization, transportation and sales, as well as post-mining."

The definition of mining is in Article 1 number 19 of Law no. 3 of 2020 concerning Amendments to Law no. 4 of 2009 concerning Mineral and Coal Mining. The article states that: "Mining is an activity to produce Minerals and/or Coal and its associated Minerals." Unconventional can also be interpreted as an illegal pronoun. Illegal, according to you, the Indonesian language is illegal or illegal or uses a method that is not in accordance with applicable regulations. From the elaboration above, the authors can conclude that illegal mining is an activity within the framework of Mineral or Coal exploitation which includes the stages of general investigation activities, exploration, feasibility studies, construction, mining, processing and/or refining or development and/or utilization, transportation and sales, and post-mining by using methods that are not in accordance with applicable regulations.

Inner Malay are values born from maritime culture; religious, open and egalitarian. These values embody togetherness (all living things) in building comfort, happiness, peace as safety in the world (earth) and the hereafter, like the harmony of the universe.¹³ It is explained again on the website page about the Malay mind that creates community groups in a number of regions in the archipelago. For hundreds of centuries, the Malay mind gave birth to various community groups in the archipelago. Call it Papua, Pasemah, Buton, Jambi, Palembang, Aceh, Batak, Minangkabau, Komering, Lampung, Bugis, Dayak, Makassar, Minahasa, Rejang, Betawi, Sea Tribe, Riau Islands, Malay Peninsula, Banten, Tidore, Ambon, Bangka, Belitung, Nias, Mentawai, Bali, Enggano, Kerinci, Ternate, Sunda, Nusa, Java, Bali and others.¹⁴

¹¹ Muhammad Syaiful Anwar, Position of a Witness Outside a Criminal Case in the Protection of Witnesses and Victims from the Perspective of Justice. HERMENEUTICS VOL. 6, NO. 1, FEBRUARY 2022. Pp. 134.

¹² Jawahir Thontowi, "Protection and Recognition of Indigenous Peoples and Challenges in Indonesian Law", Journal of Law IUS QUIA IUSTUM NO. 1 VOL. JANUARY 20, 2013 . p. 22

¹³ <https://www.mongabay.co.id/2020/01/09/berharap-batin-melayumenyelamatkan-alam-dan-manusia-dindonesia/#:~:text=Batin%20melayu%20adalah%20nilai%2Dnilai,akhirat%2C%20seperti%20harmoninya%20alam%20semesta.>, diakses pada hari rabu tanggal 3 Maret 2022

¹⁴ *Ibid*

All community groups in the archipelago have the same attitude towards nature. They make nature the center of life (ecocentric), not conversely humans as the center of the universe (anthropocentric). This attitude eventually made them protect nature. Traces of this understanding can be read from various symbols obtained from the Pasemah megalithic statue in Bukit Barisan which is around 2,000 years old, which displays the relationship between humans and animals. Then the Talang Tuwo Inscription, the Sriwijaya Kedatuan inscription which was made in 684 AD, to the philosophy "nature stretches to become a teacher" which became the basis of the civilization of various tribes in the archipelago in the AD era. In Minangkabau (West Sumatra) this philosophy plays a role in people's lives.¹⁵ One of the problems in countries rich in non-renewable natural resources, especially mining, is the phenomenon of "Dutch disease" or "Dutch disease", which is a phenomenon that describes areas rich in natural resources but experiencing slow economic growth, actually not because of what is referred to as "resource curse". But more because of the inability of institutions to manage and utilize these natural resources, causing conflict which in the end undermines the benefits that should be enjoyed.¹⁶

The Malay community in Bangka has local wisdom to protect their territory from the presence of tin mines, namely the ampak tradition. Ampak is the elimination of tin sand in an area. That is, there is no lead sand. Even if there is quality (hollow and light), then it has no selling value. Ampak is the local wisdom of the people in Bangka Belitung to protect the environment from tin mining. Ampak is the elimination of tin sand in an area. That is, there is no lead sand. Even if there is quality (hollow and light), then it has no selling value. Not finding tin sand in an area on the islands of Bangka and Belitung, of course, is a bit surprising. In theory, all of these areas are thought to contain tin, because they are part of the granite belt, namely granite rocks rich in the mineral cassiterite or the tin belt which are strung from Myanmar, Thailand, Malaysia, the Riau Islands, the Bangka Belitung Islands, to Karimata Island.

V. Conclusion

The role of the indigenous people of Balunujuk Village in fighting Unconventional Mining within the Malay inner framework includes (1) protecting the living space of indigenous peoples, (2) preventing corrupt acts in the living areas of indigenous peoples, (3) preventing the criminalization of indigenous peoples. The method used by the Balunujuk indigenous people against the existence of existing unconventional mining is by using existing local wisdom, namely ampak.

The author tries to provide his views in a balanced manner based on his analytical knife. This study tries to present real information by using the legal science standing point. The suggestions that can be given for the existing problems are of course simple. The existence of customary law in the Balunujuk indigenous people is a value that can color and at the same time provide long-term solutions to mining and environmental problems in their territory. This should be impregnated and understood by other regions. The Balunujuk indigenous people can be a real example if the people of Bangka Belitung are able to protect and preserve their environment and are able to live side by side with their environment.

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¹⁵ *Ibid*

¹⁶ *Ibid*

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