

Social Injustice from the Presence of the Bauxite Mining Companies. Study in Tayan Hilir, Sanggau District

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Abstract- The problems by the presence of mining companies is not only inflicting damages to nature, but also causing damages to the social environment. This research aims to study the social injustice by the presence of mining companies in Tayan Hilir of Sanggau District in Indonesia. This research used the qualitative approach with a descriptive method. This research data retrieval used purposif technique in which the data was taken from both the informant of the companies and the relocated communities. Then, it was processed using qualitative analysis with described the social injustice by the presence of mining companies. The results explain the social injustices of government policies which favoured the compannies by giving capital and supports which lead them more superior and acting half "force" against the the communities. Whereas, the communities who have limited information and power to bargain got harmed in economical side. They lost their livelihood that was previously available, this occurs because the new area of relocation is not suitable for their livelihood. Based on facts, the land concessions in Semerah village did not match with the contract agreement. The company offered a relocation area but it is remote and there are no public facilities. In addition, ownership status of the land is not clear.

Index Terms- Social Injustice, Mining Companies, Land Concession

I. INTRODUCTION

The unrenueable natural energy resources spread in some areas, as described by Febriansyah, Artha; Novianti Vera; Ikhsan (2013:395. Criminal Acts in mining. Proceedings of the "law in development policies in Indonesia) that potential natural resources and metallic mineral reserves spread over 460 locations in western and eastern of Indonesia. Similarly, West Kalimantan also reserves natural resources especially gold mines, lead, iron, manganese, zircon, koalin and ball Clay. The Data Base of Energy and Mineral resources, Distamben West Kalimantan Province in 2011, explains that primary mining areas containing mineral material type such as bauxite are in Ketapang and Sanggau with total amount 622,921 million tons. Due to the very rich minerals, the investors are attracted to invest in mining because it promises huge advantages that should not be missed. Based on regulation No. 4 of 2009 about mining and minerals, regional chief of Sanggau district published permissions to 36 bauxite companies with areas of 517.175 hectares. Particularly, Tayan Hilir in 2012 gave permissions to the 16 bauxite companies. The large areas of mining has also impacted on lands of the local communities. The companies stated "having business license" by "half-forced" performing various efforts in order to

make spots that were suspected containing minerals in the communities lands submitted to the companies through land concessions.

Potential of mining minerals are explored and exploited, indeed, it also can add revenue to the State. But in future, it will impact badly on nature by making giant spots. It is due to mining is done by digging from inside the earth. Exploiting mines from land surfaces can not only damage nature but also undermine the community order surrounding the mining area. Tragically, the domination of right for business by the companies for a long period of decades is detrimental to the communities, which in turn making the communities unable to pull back their land that has been handed over to the companies.

Impact of the presence of mining companies also occurred in Tenggarong as described by Apriyanto and Harini (2013:290. Lib, geo. ac.id./ojs/index.php) and Fatmawati. (2014:164. Familial Bond of Multi-ethnic Society Based on Wisdom Culture Throug Social Network in Anticipation The Inter Ethnoc Cobflicts) based on the results of the research by the presence of coal mining in Loa Ipuh Darat Tenggarong, the negative impact is environmental damages such as contamination of the river, and large spots due to the excavation of coal. The growth of the community economy looks insignificant compared to the advantages gained by the companies. It is also described by Pertiwi and Dharma (2011:1. <http://respository.ipb.ac.id/handle/123456789/48181>) research results regarding the presence of coal mining in Sempaja Utara Samarinda which showed that the mining activities increased problems to communities as they cause erosion, floods, and contamination of water, air and soil. The natural damages indicator is dwindling of Karang Mumus River due to erosion of forest areas.

Problems arisen from the existence of mining companies that directly related to the residents are about land concessions. This case happened in Embaloh and Semerah village of Tayan Hilir. The residential relocation price area did not match to the companies bid and are incomparable to the land being sold. The location of relocation was also far away in remote villages. The deal points according the contract that has been agreed together apparently incompatible with the reality. The companies did not keep their promises.

The phenomenon of land cases occurred in tayan hilir also occured in other areas, for example agrarian problems. This problem elicited a prolonged conflict because the communities felt marginalized in their own land as sources of livelihood. Of course the communities have been manipulated by the power of capitalist as explained by Purbaya, Bawor dan Nurmala Dewi, Sisilia (2014:22. <http://www.mitrahukum.org/wp-content/uploads/2014/08/jurnal-04.apdf.pdf>). Seizure of lands by

having business permits *modus operandi*, while they have capital power to influence policies of natural resources that can secure their interests. These practices constituted a form of criminalization to public by a very strong corporation. Although the residents had made efforts of communication and discussion to the Government or the companies, in fact it was failed because their bargaining power was weak which made their aspirations unaccommodated.

The problems of land concession between the mining companies and residents in Dusun Embaloh and Dusun Semerah until now has not been settled, especially regarding the mismatch of land relocation either place or size, thus leading to huge losses for the residents and become a marginalization for their livelihood right.

Based on the indications that have been presented, the purpose of this paper is to discuss the indication of social injustice afflicting the residents by the presence of mining companies in district of Tayan Hilir through social justice perspective. Analysis of social justice is meant, according to John Rawls, 1972 (Ife, Jim & Tesoriero, Frank, 2008:106) seeking to apply the principle of equality in freedom and equality in chance to progress. In fact, the opposite condition occurs to residents around mines, an inequality -domination of economic structure and control of land by mining companies-exists.

II. RESEARCH METHODS

This research uses a qualitative descriptive method. This method describes a social phenomena in the area of bauxite mining in Tayan Hilir related to community land concession by mining companies. The primary data was obtained from the informants of the residents, mining companies, community leaders and some residents who knew the exact problems of land concessions. It was supported using the technique of collecting data through observation and interview. The observation techniques observed the location of the mining area and residential area as well as the area of land affected by the mining exploration. The interview activity has dug up information from the residents, the community leaders, the companies and the Government by using in-depth interview technique. The secondary data obtained through documentations and study of the literature pertaining to research objectives. The research data analysis was processed using qualitative analysis by describing the existence of social injustice in the presence of mining companies in Tayan Hilir.

III. DISCUSSION

Relocation Case of Bauxite Mining Company in Desa Tanjung Bunut

The relocated areas were Sei Merah Dusun Piasak, Desa Pedalaman (13 Families) and Dusun Embaloh in Desa Tanjung Bunut (105 families). The initial relocation area was Bukit Sembilan Belas, Dusun Embaloh Desa Tanjung Bunut. However, this relocation planing caused numerous problems especially from residents of Embaloh, Desa Tanjung Bunut. It because the location did not match the contract agreement with the companies.

Recently, bauxite mining in the region faced serious problems related to the relocation plan, particularly to areas in Embaloh. There are several issues that arise so that the relocation cannot be done between PT. Aneka Tambang, as owner of the concession permission, and the residents in Embaloh. The relocation from companies are placed on dissatisfactory locations, far from road access and public facilities such as markets, schools and hospitals. The resident considered the draft relocation may not be similar to their area, which is very strategic and fertile. In addition, several ex-mining companies in some areas left lands that cannot be replanted.

The unilateral actions of the companies by diverting land concession to a new location indicated an unclear ownership status on the new relocation area. Regarding this, Embaloh residents do not have legal certainty, thus it was difficult to utilize the lands to support their economic needs, social life and culture. The residents needed the certainty of ownership status for the new area. This uncertainty made residents unable to cultivate the previous land as livelihood and worried they would be moved forcefully to other unfertile location for farmland.

Natural resource management can add revenue to the State. Of course the residents looked forward to the presence of mining companies on their areas as it could improve their welfare through absorbing the local labors. In addition, the economic resources could also be managed by the residents. The residents expected new jobs, areas of trades and services, and accessible roads to connect isolated areas. In contrast, the presence of the mining companies has inflicted damages to the natural, social, economic and cultural. The following are examples of social injustice on communities due to the presence of mining companies.

The Injustice on communities by Government policy as the permission giver

The management of mining were derived from Government policy issued regulations as on law of Minerba or law no. 4 of 2009, it states that "the mining is some or all phases of activities in research, management and concessions of mineral or coal that includes the general investigation, exploration, feasibility studies, construction, mining, managements and refining, transports, selling and activities after mining". It is confirmed again in Article 6 and 7 that the management of mining, the authorities to conduct the management of mining is the Central Government, provincial governments and district/city governments. Then by Regulation No. 75 of 2001 about the issues of Decision power letter of Mining can be implemented by the Minister, the Governor, and the Mayor based on the authority mining area.

The local government authorities to give permission to companies allegedly contained "fraud". The local Government gave permission to companies which did not meet the requirements without looking to the situation and condition of the areas. As the Sanggau Government had given permission, 16 in total, to mining companies in 2012. This is the source of problems of mining management which was "already" given to the companies. The companies utilizes its own money power to "negotiate" with the authorities for their advantages. According to informants in Tayan Hilir, among 16 companies that had gotten permissions, they damaged hundreds of hectares of landscapes, agriculturals and plantations. The land became

infertile and could not be cultivated either for plantations and farmland. The area became abandoned without reconditioning. The suspected companies that has "pocketed permission" from Government conduct exploration and exploitation on residents lands which were suspected to contain minerals. As explained by Bawor Purbaya, Tandiono and Nurmala Dewi, Sisilia (2014. <http://www.mitrahukum.org/wp-content/uploads/2014/08/jurnal-04.-apdf.pdf>) explained that the existence of plantation and mining companies indicates manipulation practice on government regulation in various ways. The residents who have limited information and bargaining position have loss and become "victim" because of the power of companies' capital. The greatest loss is the problem of unmatched compensation for the land price. Finally, the residents become marginalized on their own land. Righteously, the Governments should "be on the side of communities" as their welfare.

Government's promises to improve local welfare through the presence of mining companies has become questionable. Whether the presence of companies can improve the economy of residents? Or just a few of them. For example, the labors recruitment left an unanswered question. Based on the result from an informant in Embaloh, he stated that the company previously promised labors recruitment would be recruited from local communities, but they ignored the promise. Instead, labors were brought in from the city. Their reason was that the local communities did not meet the technical requirements as mining labors. Therefore, the Government cannot yet be the facilitator to provide jobs for residents.

Injustice of access opportunities in economical resources between companies and local communities

Indonesia development goals are to improve society welfare and social justice. Those are aimed to be sustainable development as described by Tjokrominoto, Moeljarto (2008:12) that sustainable development will be realized through interlinkages among aspects of nature, socio-economic and cultural. Ecologically, the preservation of natural environment must not be damaged by humans. But in fact, the environment has been damaged as described by the Ife, Jim & Tesoriero, Frank (2008:53) through the declining of natural resources, the loss of biodiversity, while on the other hand, increasing of air pollution, increasing of nuclear and other toxic waste would lead the extinction of human civilization itself.

Community as a subject of development is none but the partner for both Government and entrepreneurs, especially not the victim of the development itself. Therefore, social justice has not impacted to the communities life rights. The thought of social justice (Ife, Jim & Tesoriero, Frank, 2008:107; John Rawls, 1973) is the awareness from society to justice, honesty and equality. Here, social justice acknowledges the equality of the rights of the individuals chance of getting individual and institutional aspects of social life. Equality becomes an important aspect of getting access to develop without any stress or intimidation for those who are unable to compete the investors. The problems of environmental and nature damages as described by Hartati & Zulfa Aulia (2013:155. Mineral and Coal Mining Management Reformation. Evaluative studies of Mineral Mining management policies and coal in autonomous regions. Proceedings of law in Indonesia development policies) lay out

the active role of local governments in maximizing of mines digging also trigger social conflicts and environmental damages in communities especially regarding residents' land. From this point on, the investors have a superior position in mining managements. Government involvement by providing opportunities to investors has empowered the mining companies to control business in Tayan Hilir. Sixteen companies have spreaded across villages in Tayan Hilir with lands of more than 200 thousand hectares.

Based on an interview from an informant in Tobak village, if all mining permits operated without any control, it would negatively impact the ecology in each village. As well, it would make the communities slowly be displaced to infertile areas, remote from access to districts. The total infertile areas due to mining exploitation are on the bukit 19 is proven to be high due to CSR responsibilities in December 2012 through land revegati program. Company planted fruits such as cempedak, jackfruit, guava, durian, and rambutan. However, the observers found that the land was infertile and contained only a very small amount of topsoil. This means that areas of ex-mining are unable to be planted. This also happens in other areas so that the land was left abandoned.

Such condition raises the potential for conflicts, as reaffirmed by Habib, Ahmad (2004:23) that potential conflict in rural areas due to the companies domination on the economic resources. This injustice comes from the power of companies cutting the livelihood opportunities of communities. This condition raises the conflict between both sides. The impact of the presence of mining companies in fact has chagrined the community.

The communities "helplessness" by the power of the capitalist who can do anything in mining management, for example, land dispossession through the concession, is regarded as a deprivation of communities rights. In some cases, the current relocations leave a lot of problems. These conditions cause difficulties for communities to fulfill their daily needs, which then wedged them and omitted their livelihoods. The communities are difficult to get new livelihoods. As explained, according to Paranoan, Risal and Djaja (2013:122. The analysis of Mining Policy Impact towards the socio-economic of community in kelurahan Akroman. E-Journal Administrative Feform), most agricultural lands were turned into mining areas, most of the community lost their land, sources of life among generations.

Injustice of land concession for residents

The companies mining areas also penetrated into Sungai Jaman and Des Emberas. Thirty three families on both villages were moved to inappropriate locations. The relocations were in remote area and away from public facilities and districts. The location of previous residents was very strategic, close to public facilities and other villages. This problem resulted the rejection from residents. This is due to the incoherent deal with companies that has promised to relocate them to a more strategic location than the previous ones.

The incoherent relocation may initiate conflicts between the companies and the communities. Residents do not agree with the inappropriate relocation, so they protest the companies. This is emphasized by Purbaya, Bawor and Nurmala Dewi, Sisilia

(2014:22. <http://www.mitrahukum.org/wp-content/uploads/2014/08/jurnal-04.-apdf.pdf>) that stated conflicts of natural resources are not a conflict between two sides with an equal strength. By supports from State and money power, the companies have a stronger position on communities in social structure. Based on this argument, the author believed that marginal position of communities is social injustice by the power of authorities and companies.

Uncovering a social phenomena with potential conflicts in mining areas basically is a response from communities toward the existence of mining companies. They hope significant changes to improve the quality of their life as a part of the mining companies presence. Activities related to the social order of culture based on values and social norms, such as working together and other socio-economic activities, are degraded. now, those are shifting and turning into an individual life style. They are competing each other to dominate economic resources leading to liberal economy.

Potential conflicts originated from the conflict of interest between the companies and the residents changed to inter-residents. On one hand, the residents clashed and avoided each other. They negotiated with a profitable side, mainly the companies. On the other hand, the companies wanted their business to run smoothly. The residents could be "accomplices" of the companies as a part of newly-made Corporation. Disapproval of land concession described by a resident in the area said that some residents were accompanied by Leaders of Dayak Tobag to question the land which is not in accordance with the agreement. The residents also asked to revise the agreed contracts. However, the company argued that the relocation of land was fit to the agreement and quite decent for livelihood.

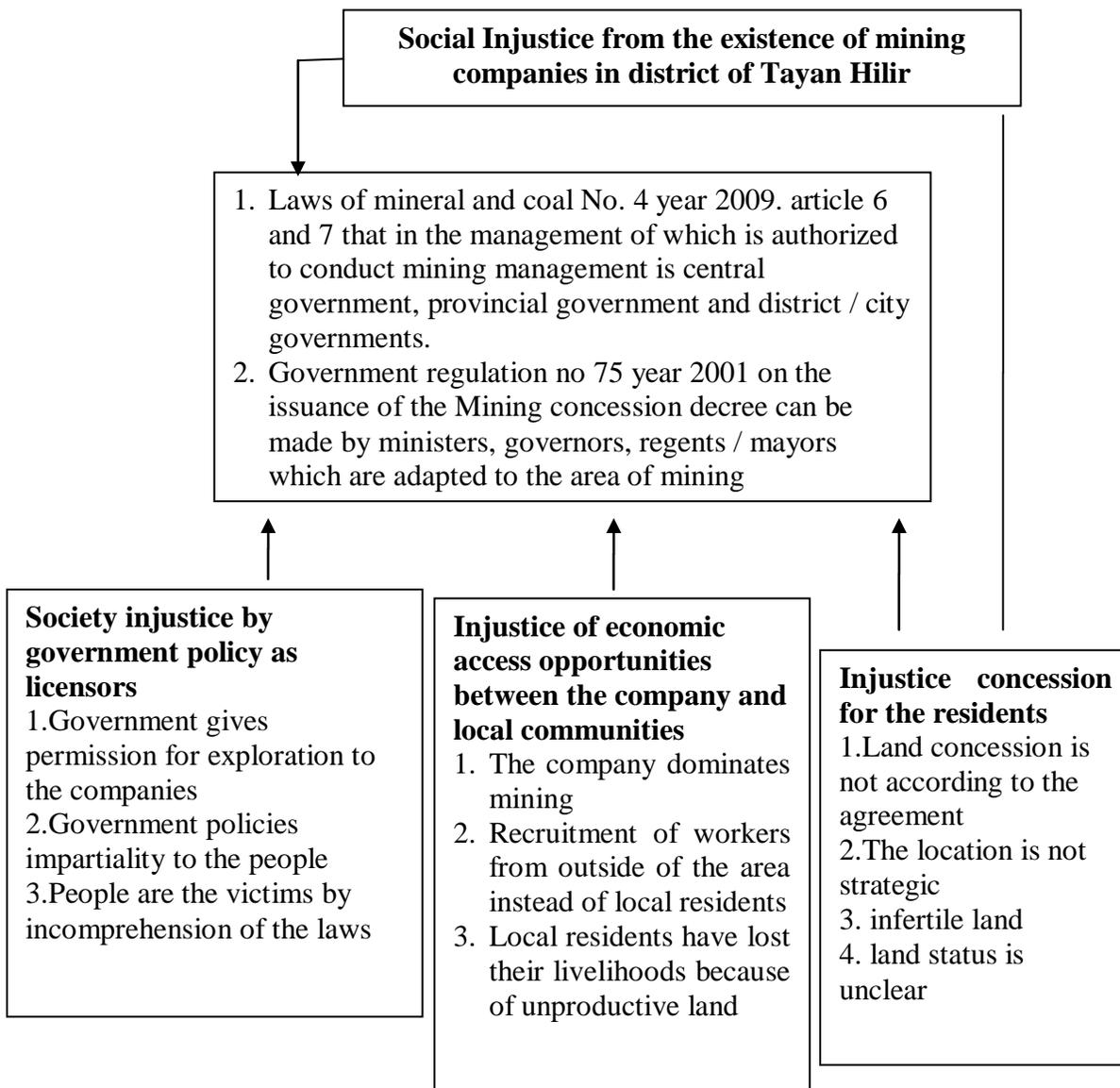
This mismatches of perspective begin from the rise of potential conflicts in the mining environment and lead to other problems by the presence of bauxite mining. As emphasized by Atok, K and Sinju, B (2009: 296) and Jenkins, Heledd (2004:23. Corporate social responsibility and the mining industry: conflicts and constructs. Corporate Social. <http://onlinelibrary.wiley.com/doi/10.1002/csr.50>) that the injustice control of various social groups such as tenure by entrepreneurs exclusively spawned a crisis of justice resulted in people being "refugees of development" marked by the loss of rights over resource management on communal land. Similarly, the potential for most vulnerable conflict in the district of Tayan Hilir is land conflict.

The existence of mining companies, PT. Aneka Tambang Tbk, PT Kapuas Bara Mineral, PT. Indonesia Chemical Alumina, PT. Kapuas Persada Prima, PT. Kalmin Lestari, based on the research results have raised some cases involving the dignity of citizens. Indeed before the presence of mining companies, the forest area was used as a source of livelihood by using plants found in the forest, animals and rivers for fishing. The

community freely used the land for farming, such as rice and vegetables, and plantation such as rubber. When the residents work the land for rice farming, they can also work on a variety of different crops such as another crops that were planted around rice fields and vegetable crops. The results of these plants can be sold to make money. When the presence of mining with the procurement of the vast land, resulting in loss of the source of livelihood of citizens. People are looking for other livelihoods such as being a miner or vehicle services (motorcycle taxis).

These economic loss is incomparable with the presence of companies that says it will improve people's welfare. When citizens lose their source of life because of the reduced land which is inoptimal for agricultural land, the only hope for the people is by getting a job in the company. In fact, bauxite industry employs very few local residents, by reasoning that local employers do not meet the requirements of expertise in accordance with company requirements. This creates new unemployments due to the existence of the company. Moving on from the phenomenon, mining has resulted in a decreased level of income for citizens. Recruitment of labor from other regions was confirmed by Yudhishtira; Krisna Hidayat, Revelation; Hadiyanto, Agus (2011 Journal of Environmental Damage Impact Assessment Due to Sand Mining activities in the Meningar village of Mount Merapi Region) where mining attracts migrants to find job so it cuts the opportunity for locals. This creates social jealousy which has potential of conflict between locals and migrants.

The phenomenon of the presence of mining companies, of course, is the public land which has been usually tilled for agriculture will be narrower or even disappear, so that the culture of cooperation and mutual assistance as well as the simple nature of the farming communities in rural areas will also be destroyed and replaced by consumer culture, which can emerge new social problems. In fact, the presence of Bauxite mining companies in the district of Tayan Hilir still leaves the environmental damage and the degradation of the social environment issues; in other words, it is destructive to the economic, social and local culture. The impact of the existence of mining towards the local residents is that they have to bear the heavy burden of life because of damaged natural environment which means a loss of biological resources — the foundation of their life. That means mining does not have any significance on the increasing of income of local residents. But, the presence of mines are considered as one alternative to increase the productivity of foreign exchange to finance the government, with the possibility of turning a blind eye to the natural damage and social environment damage to the surrounding areas. The injustice conditions that occurs will be described more details in the schematic of bauxite mining below:



Schematic of Mining Existence Injustice in Tayan Hilir, 2015

Significance that mining can improve the welfare of society requires further study. As Fatmawati (2011: 12) and [Triscritti, Fiorella. \(2013:438. Mining, development and corporate–community conflicts in Peru. \(<http://cdj.oxfordjournals.org/content/48/3/437.full>\)](#) explains that the existence of the (group of) employers will marginalize the vulnerable groups, so that it will create new poverty for the people of lower classes. Application of justice in the environment management must be seen within the framework of what becomes the environmental rights and what becomes the human rights, in this case is in the form of the fulfillment of the right of one party to the other party. Since humans are born, people have got the right to survive in their environment. In the context of justice, human beings have an obligation to maintain, preserve, protect, and conserve the environment, so that people can be assessed as fair to the environment.

In fact the presence of bauxite mining companies in the district of Tayan Hilir still leaves the issue of environmental degradation. Foreign exchange earnings are not comparable to the results of mining damage to nature and the environmental damage caused. So it becomes destructive to the economic, social and local culture. The impact of mining forces the local residents to bear the heavy burden of life because of the damaged natural environment, which means a loss of biological resources that have been the foundation of their life. That means mining does not have the significance on increasing the income of local residents. Nevertheless, currently the presence of mines are considered as one alternative to increase the productivity of foreign exchange to finance the government, with the possibility of turning a blind eye to the natural damage and social environment damage in surrounding of mined areas.

IV. CONCLUSIONS

Based on the explanation above, the conclusion of this paper is that the presence of mining companies in the Tayan Hilir, Sanggau Regency has created injustice for the society. Mining companies superior position as the financier makes the getting privileges from the government to the benefit of their companies; on the other hand, the community remaining in a weak position turns into the injured party, eventually they have been marginalized in their own livelihoods and life. As in cases involving the relocation of citizens "displaced" by the company, their new locations are not representative; the relocation placed them in the far remote location and lack of public facilities, besides it closes the opportunities for the source of life and livelihoods. The fact that since the presence of the mining, social justice has not reached the rights of the people who live around the mines.

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