

The Impact of Illegal Mine C Mining and Regulatory Reform in East Kalimantan

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Abstract

Mining activities are activities that utilize natural resources that have a direct impact on the environment. Development activities that do not comply with regulations and are not sustainable have the potential to cause major damage to the environment. C Excavation Mining is a type of mining whose scope is smaller than mineral and coal mining. However, because its scope is smaller, this does not mean that Excavation C mining does not have an impact on the environment. As a region rich in natural resources, East Kalimantan is a province with enormous potential in the mining sector. With this great potential, regulations are important to regulate all types of mining operations. In 2022, authority over mining permits, which was previously in the hands of the center, will again be in the hands of regional governments. However, East Kalimantan in particular still does not have a PERGUB regulation regarding the Galian C mine, so there are several cases involving the illegal Galian C mine and its negative impact on the related environment. This article will briefly discuss how the absence of a PERGUB regulating the illegal mining of Excavation C has resulted in losses and hampered East Kalimantan's natural resource wealth, and what recommendations for regulatory reform the local government can carry out regarding this issue.

Keywords: Galian C, Governor Regulation, East Kalimantan

Introduction

Mining Excavation C is a type of activity or activity that requires a People's Mining Permit (IPR) in its implementation. Mining excavation materials have 3 groups, namely A, B and C (Law No. 11 of 1967). Excavation material C is mining sand, gravel, soil, kaolin, granite, marble and others. In Nurkatika (2011) mining is all types of search, allotment, evaluation, exploration, exploitation, development to sales and marketing. Exploitation in particular is the extraction of natural resources to be exploited and utilized.

Mining is one of the sectors that uses natural resources that directly has an impact on the environment. Therefore, mining practices must be carried out in a sustainable and responsible manner. In good mining, it is a mining activity that pays attention to the environment with legal certainty and refers to the principle of benefits for the community. In Indonesia, especially in East Kalimantan Province, the Mining Permit for Excavation C does not yet have a Governor's Regulation regulating it. For the center itself, it has fully given the transfer of authority to the regions related to all types of permits for Excavation C. This transfer is contained in Presidential Regulation (Perpres)

Number 55 of 2022 which contains "Delegation of Business Permits in the Mineral and Coal Mining Sector" (Cerya and Khaidir 2021)

Regulations related to licensing are needed so that mining carried out can be supervised according to existing procedures, and prevent illegal mining from occurring. In addition, environmental and economic issues cannot be separated from all mining activities. If mining is carried out near residential areas, it will of course affect the lives of the surrounding communities. The impact that occurs can be such as the transfer of agricultural land functions. The transfer of agricultural land functions can then occur in two directions, the first is if the agricultural land is used for mining, then the community needs to open new agricultural land as a transition, the second is the conversion of agricultural land into a mining area due to sluggish economic factors, and regulations that do not yet exist so that illegal mining activities can occur freely. These illegal mining activities, without proper regulations, proper procedures and not paying attention to land conservation, will damage the environment.

In fact, legal mining in East Kalimantan touches 44% of the total area. However, in practice, the area of mining areas in the field is larger because of illegal mining. As of 2024, the Kutai Kartanegara Kapupaten has around 29 Mining C operation permits out of a total of 82 for East Kalimantan Province (Z, 2024). Apart from the number of illegal Excavation C mines above, illegal Excavation C mining activities that are not in accordance with procedures and regulations result in several losses such as roads and even loss of life. In January 2024, the road in Rapak Lambur Village, Tenggarong District, Kutai Kartanegara was damaged and landslided due to irresponsible illegal mining activities. The damage that occurred on one of the roads in Rapak Lambur Village hindered access for the surrounding community, because the road was used as an alternative and main road for RT 10 residents (Haikal, 2024). The above case is 1 of many cases that have been exposed by the media.

Through this case, we can see that illegal mining of Excavation C is still happening in East Kalimantan Province, and even damaging roads. The example of the case above is 1 of many that have not been exposed to date. The importance of a regulation can be the basis for the implementation of Excavation C mining procedures which are more towards land conservation, if left unattended and not adopted into regulations, environmental damage is inevitable, and the impact will result in the surrounding community experiencing losses both materially and morally. On the basis of the above, the author raised the title "Illegal C Mining and Regulatory Reform in East Kalimantan".

Regulatory Reform

According to the Great Dictionary of the Indonesian Language (KBBI), reform is a change for improvement both in the political, social and religious fields in society and even the state. In Widjaja (2011), reform is associated with an effort that is intended to make political, economic, government and socio-cultural practices that are still considered inappropriate for the benefit of society, and then changed to become more suitable. Meanwhile, the regulation in Stigler (1971) is a series of activities related to regulations that aim to describe the bond between an entity, political power, between

interest groups, more precisely industrial and executive groups and legislative groups.

Another definition of regulation is according to Scott (2009), which divides regulatory theory into two, namely *public interest* and *interest group*. *Public interest* is a regulation aimed at the welfare of the people, while *interest group* is a regulation that is the result of the request/lobbying of a group of interested people whose purpose can be in the form of personal or group interests.

It can be concluded that regulation is a must in society because it can be a guarantor for public security. Regulations will act as an instrument that controls the behavior of individuals and groups, so that they act more responsibly. In the process of forming regulations, the stages that are passed include formulating problems, analyses and solutions. At the state level, the government plays the role of the formulator and originator of regulations. Likewise at lower levels in the state, such as local government. If the central government has given authority to local governments to form regulations, then local governments can make it happen through good consideration.

Based on the definition above, regulatory reform is a form of change in improving the quality of a regulation, taking into account the welfare and interests of the people. For regulatory reform of existing regulations, the stage model used is the Legislation Analysis Model (MAPP). In the application of this model, MAPP adheres to the principles of *simplicity*, *user friendliness* and *accountability*. *Simple* means easy to operate and easy to understand (simple). *User-friendly* means that it can be applied to government officials, both central and regional and also stakeholders such as NGOs and entrepreneurs. *Accountable* means that its benefits and effectiveness can be accounted for regardless of its simplicity. MAPP then has 3 criteria, namely *legal basis*, *needs* and *friendly*. *Legal basis* means that the regulation has no potential to cause conflict, is not multi-interpreted, consistent and operational. *Needs* means that the regulations that are made are indeed needed both for the makers and the targets of the regulations. While *friendly* means that the regulation will not provide unnecessary burden in its implementation, especially for regulatory targets (Bappenas, 2011).

In this paper, the author will analyze the right regulatory reform that can prosper the people. The author will describe the problems related to illegal mining that occur in East Kalimantan, and take several case examples to analyze, then provide recommendations for solutions related to regulatory reform.

Mining Mine C

Mining in the Great Dictionary of Indonesian (KBBI) is all kinds of affairs and work related to mining. According to Law No. 4 of 2009 (Minerba), mining is divided into 5 main commodities, namely non-metallic minerals, radioactive minerals, metallic minerals, rocks and coal. Excavation C was initially regulated in Law No. 11 of 1967 and then transformed based on Law No. 4 of 2009, into rocks. This transformation then changed the term Excavation C to rock (Sitinjak, 2011). The types of rocks in this law are sand, gravel, soil, kaolin, granite, marble and others

Method

In this article, we will use a qualitative method with a literature review technique.

The author reviews writings and literature related to local government regulations related to the Excavation C (now rock) mine. The stage that the author will do is to find articles that have relevance to the theme that the author is researching, then filter the articles found, analyze the articles found and draw conclusions from these articles. conclude that the focus of qualitative research is on the process and the meaning of the results (H 2014).

Results and Discussion

Legally, the mining permit for Excavation C is stated in Law Number 11 of 1967 concerning the main provisions of mining with the read: the implementation of state control and the regulation of mining business for group C excavated materials is carried out by the Level 1 Regional Government (Province). Based on the Law, the Governor's Regulation is a reference in the licensing of the Excavation C mine.

Mining is the utilization of the potential of natural resources. Natural resources are of great economic value, especially for a country's income, even a potential natural resource in each region is often the backbone in the process of realizing the existence of continuity and sustainability of the life of society, nation, and state. Tenggarong City itself is an administrative area of the East Kalimantan Provincial Government. For Tenggarong City in particular, there are cases of illegal mining that harm the community. In 2024, the Rapak Lambur road will experience a landslide and interfere with the activities of the surrounding community who use the road as an alternative road and main road. Mining activities that do not have permits result in roads being cut off up to 60 meters. The landslide on the road was because the former mining excavation was not covered properly and correctly. Another case related to illegal mining in Tenggarong City is the case of persecution of a sub-district head in 2020 who dissolved illegal mining activities in Mangkurawang Village, Tenggarong. In the case of the persecution of the sub-district head, the environment used for illegal mining is the plantation of local residents. As a result of illegal mining in the area, the water source that is usually used by residents is damaged, and causes waterlogging because the former excavation is not closed again. (Asshidiqie 2009) (Jefri Anthoni 2020)

These two cases are some examples of cases due to illegal mining. However, until now, the Governor's Regulation (PERGUB) related to the Excavation C mine still does not exist. In the East Kalimantan Governor's Regulation Number 1 of 2018, the mining permits regulated are mineral and coal mining. As for the Excavation C mine, it is only slightly mentioned in the Second Part of Article 5, paragraph 6 which contains the Postponement and Arrangement of Licensing and Non-Licensing is not applied to the issuance of new permits and the extension of non-licensing of Non-Metallic Minerals and Rocks.

The absence of a definite regulation of the East Kalimantan Governor's Regulation related to the Excavation C mine makes the illegal mining practice of Excavation C inevitable. Curtained to the Head of the East Kalimantan Energy and Mineral Resources (ESDM) Office, only about 82 companies actually have a permit to operate the Galian C mine, with the largest total of 29 mining operations with permits in Kutai Kartanegara. To obtain permits related to the operation of the Excavation C mine, the process that must

be taken is to start submitting an application for an area for mining business (WIUP), then exploration, then the production operation stage. The next stage is the Space Utilization Suitability Activity (KKPR), in this stage the coordination carried out needs to be realized through the Public Works and Public Housing Office (PUPR) and the Agrarian and Spatial Planning Service (ATR) of districts and cities. The licensing process for mining operations in Excavation C requires many stages because mining is basically a high-risk business and has a direct impact on the environment. The long process above can then be a driver for certain individuals to carry out illegal mining of Excavation C, considering that the above process takes quite a long time, moreover there is no East Kalimantan Governor's Regulation that regulates this.

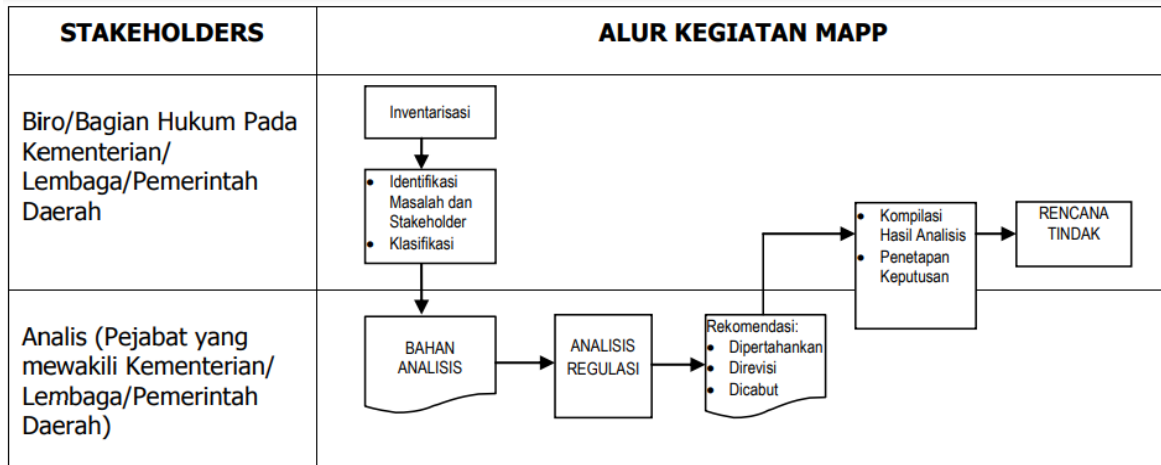
In regulating rock mines that do not have permits, the Kutai Kartanegara Regency Government specifically conducts control efforts in accordance with the President's instructions and refers to Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning mineral and coal mining. Overcoming the problem of non-regulation of administrative sanctions against illegal mining, the Regent issued a policy regulation regarding the prohibition of illegal mining or PETI.

The control carried out by the Kutai Kartanegara Government is certainly only limited to sanctions against illegal coal and mineral mines, considering that the Excavation C mine does not have its own PERGUB. Therefore, reform of regulations needs to be carried out.

The existence of legal certainty as a result of regulatory reform can regulate the dynamics and social behavior of government administration and development. In this case, legal certainty is needed in supporting the economic sector because mining is one of the sectors that generates GDP and Regional Original Revenue (PAD). Regulations related to the Excavation C mine in the Governor's Regulation should be formulated rationally so that it is easy to understand and operate. This is based on the fact that the more quantity of regulations, the lower the level of compliance will be (Bappenas, 2011). One of the objectives of regulatory reform is to improve the quality of an existing regulation while maintaining the simplicity of the regulation, by paying attention to improving welfare (Bappenas, 2011). Good regulatory reform is regulatory reform that avoids conflicts, does not have multiple interpretations, is consistent and operational (Bappenas, 2011). In addition, regulatory reform that is right on target is a regulatory reform that has a utility. In KBBI, usability means providing benefits and benefits and is feasible to do according to its function (Bappenas, 2011).

In practice, the regulatory reform of the Governor's Regulation related to the Excavation C mine in East Kalimantan needs to be carried out with the Legislation Analysis Model (MAPP). Because regulations related to the Excavation C mine already exist and are regulated in Government Regulation of the Republic of Indonesia Number 25 of 2023, concerning Mining Areas. By using the MAPP regulatory reform, the East Kalimantan Provincial Government can receive benefits, namely an increase in Regional Original Revenue (PAD) from the Mining Sector of Excavation C. Regulatory reform of the East Kalimantan Governor's Regulation related to Mining Excavation C can be carried out with the flow as shown below:

Figure 1. MAPP Operationalization



Source: Bappenas 2011

The stages of MAPP Operationalization are:

1. Regulatory inventory

In the first stage, the interested party in this case is the legal bureau of the East Kalimantan Provincial Government to collect data related to mining laws and regulations of Excavation C. Inventory can be carried out against Government Regulation of the Republic of Indonesia Number 25 of 2023, concerning Mining Areas.

2. Regulatory identification/classification

In this stage, the interested party, namely the East Kalimantan Provincial Government, identified the problem of Excavation C mining in East Kalimantan. After identification, the problem is then classified. In this case, the classification of mining permits for Excavation C in East Kalimantan Province is included in "Non-Operational" because the existing regulations do not yet have implementing regulations (there is no Governor's Regulation that regulates them).

3. Regulatory analysis

In the regulatory analysis stage, the East Kalimantan Provincial Government can include articles and paragraphs that have been classified as still lacking or need to be revised. Regulatory analysis can be carried out by representatives of the central government, but because the authority has been fully returned to the local government, the analysis can be carried out by the East Kalimantan Provincial Government to then be maintained, revised or even revoked.

4. Action plan

After the analysis and determination of the action, eating an action plan is a concrete step from the previous stage. This decision then returned to the East Kalimantan Provincial Government, where if the regulation is maintained, an action plan does not need to be carried out, on the contrary, if the step taken is a revision, the regulation will undergo changes in accordance with what the legal bureau has determined. And finally, if the decision is revoked, then the action plan is to revoke the regulation.

Reform recommendations related to the Governor's Regulation on Excavation C mining in East Kalimantan are a special urgency considering that East Kalimantan will

become the Capital City of the Archipelago (IKN), therefore automatically group C mining operations as a basic material for development are important things to pay attention to. With regulations as legal certainty, it will directly have an impact on PAD and can even open up new income for people in East Kalimantan. Taking 2 cases in Tenggarong as an example, illegal mines operating could have given reasons for the absence of permits because there were no official regulations in the Governor's Regulation. To avoid the phenomenon of illegal excavation C, the East Kalimantan Provincial Government needs to carry out regulatory reforms while still considering aspects such as regulatory simplicity, operability for both targets and organizers, and usefulness and effective.

Until now, the challenges of East Kalimantan Province have been faced with a change in the authority of mining management to the authority of the local government. Business actors also have their own challenges, because Mining Excavation C needs to be accompanied by the delivery of simple but informative technical information. Regional revenue is also affected by the absence of the Governor's Regulation, where illegal sales related to non-metallic minerals and rocks will harm the regional treasury because they are not reported and are not subject to business tax. Another impact of the absence of the Governor's Regulation is that companies and individuals who operate do not necessarily practice good mining rules or regulations.

In the Draft Strategic Plan (RENSTRA) of East Kalimantan Energy and Mineral Resources 2024-2026, it has been emphasized what are the strategic issues related to the mineral and coal sector, namely:

1. The increase in population which has an impact on increasing economic needs makes the consumption pattern of mining basic materials as building materials increase as well. Infrastructure such as bridges, roads, buildings, and houses are needs that need to be met due to population growth. In the absence of the relevant Governor's Regulation regulating the Excavation C mine, illegal mining activities are increasingly rampant in districts/cities, and under the guise of land use for plot management and others.
2. Mining Without a Permit (PETI) on coal and rocks has an impact in the form of environmental damage and loss of potential regional revenue from the mining sector.
3. The management of the implementation of mining business operations that is not optimal due to the absence of the Governor's Regulation can lead to double business activities, which if not reported and included in the administrative permit will provide unilateral benefits for certain individuals.

Mining activities are likened to the opposite side of coins. In the sense that if used wisely and upholding welfare, it will be a source of prosperity and can be a source of regional fixed income for a long period of time. The other side of mining is its use that is not in accordance with the rules and does not have a permit, resulting in arbitrary power that will make mining activities as environmental destroyers. Environmental damage due to mining can turn originally fertile soil into arid and prone to landslides. Even climate can affect if the area of post-mining is not managed properly and sustainably. Not

to mention the destruction of forest vegetation which directly damages the ability and function of forests as carbon sinks, oxygen suppliers, temperature regulators and erosion and flood control.

If the Governor's Regulation related to the Excavation C mine can be issued, optimization opportunities in terms of administration and licensing can have an impact on technical supervision to be more focused. In addition, deforestation and forest degradation can be balanced with reclamation and revegetation of post-mining land if reform regulations are carried out immediately.

Conclusion

Mining in East Kalimantan Province is the utilization of natural resource potential that can provide benefits for entrepreneurs and the region. However, due to the absence of a Governor's Regulation (PERGUB) regulating the Excavation C mine, illegal activities that damage the environment are inevitable. Therefore, regulatory reform needs to be carried out to overcome the issue of illegal Mining C.

The author provides recommendations in the form of regulatory reform with a Multi-stakeholder Action Plan and Policy (MAPP) approach that still considers the welfare of the community and pays attention to its benefits and effectiveness. This MAPP approach will involve a wide range of stakeholders, including governments, communities, and industry players, to design and implement more comprehensive and responsive policies to illegal mining issues.

In addition to the recommendations for regulatory reform, the author would like to provide advice related to the issue of illegal mining that is still rampant in East Kalimantan. The East Kalimantan Provincial Government is expected to provide a platform that can involve the community in overcoming illegal mining. The platform will serve as a communication and coordination tool between the community and the government, allowing residents to report illegal mining activities and monitor government actions in dealing with them. With this platform, the process of monitoring mining activities in East Kalimantan can be more effective. People who are actively involved in surveillance will provide more accurate and faster information about illegal activities. This will help the government in taking appropriate and immediate action to address the problem.

The implementation of this platform will also increase transparency and accountability in natural resource management in East Kalimantan. The public can see firsthand the steps taken by the government to tackle illegal mining, so that trust in the government will increase. In addition, community involvement in the monitoring process will also increase their awareness and participation in preserving the environment.

Overall, comprehensive regulatory reforms and the provision of a platform that engages the community are important steps in addressing illegal Mine C in East Kalimantan. With this approach, it is hoped that a more sustainable and equitable management of natural resources can be created, as well as provide maximum benefits for community welfare and regional development.

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