

Law Enforcement of Illegal Tin Mining in Teluk Kelabat, Bangka Belitung Islands

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Abstract This research explores efforts to enforce the law against illegal tin mining in Teluk Kelabat, Bangka Belitung, utilizing a juridical-empirical method and a case study approach. Teluk Kelabat, officially designated as a zero-mining zone in the Coastal and Small Islands Zoning Plan (RZWP3K), has witnessed illegal mining activities by the local community since 2009, leading to social conflicts and significant environmental damage. The study identifies various events that occurred between 2014 and 2021, involving the government and local residents in law enforcement efforts. The government conducted raids and crackdowns to curb illegal mining, including the issuance of Regional Regulation No. 3 of 2020 designating Teluk Kelabat as a mining-free zone. However, the economic needs of the local population continue to drive ongoing illegal mining activities. Through an in-depth case study, this research highlights the challenges and obstacles in law enforcement, including community resistance to government initiatives. Here, the juridical-empirical method proves instrumental in understanding the legal aspects of the conflict, while the case study approach aids in detailing specific events. The research aims to optimize the mechanism of People's Mining Permit (IPR) by allowing mining in specific areas for a limited time and with stringent financial accountability mechanisms.

Keywords: Law Enforcement, Illegal Mining, Kelabat Bay

1 Introduction

The mining industry is considered one of the pivotal sectors that the Indonesian government relies on to generate foreign exchange, create employment opportunities, and contribute to both the national budget (APBN) and regional revenues (PAD).[1] The province of Bangka Belitung, known as the largest tin-producing region in Indonesia, recorded exports amounting to US\$93.4 million throughout 2019.[2] This province has long depended on the mining sector for its economic sustenance. According to data from the local government, approximately 30-40% of Bangka Belitung's regional income is derived from tin mining, despite a decreasing trend in recent years. The average annual decline of 5.64%, from the initial 39.69% in 2017 to 31.45% in 2018, does not necessarily indicate reduced mining activity; instead, it reflects an increase in regional budget allocations and the development of other economic sectors. Overall, tin continues to serve as the backbone of the Bangka Belitung community's economy.[3]

However, the economic dependence of the local population on the tin mining sector has given rise to various challenges.[4] One of the primary concerns is the proliferation of illegal mining activities, characterized by operations conducted without clear permits, procedures, equipment, and safety standards, often carried out by local communities.[5]

The phenomenon of illegal mining in Bangka Belitung, historically, is closely tied to the issuance of certain regulations. Notably, Perindag No. 443/2002, which brought amendments to the Annex of Kepmen Perindag on General Provisions in the Field of Export, Permendag No. 07/M-DAG/PER/4/2005, which modified Kepmen Perindag No. 558/MPP/KEP/12/1998 concerning General Provisions in the Field of Export, and Kepmen Perindag No. 285/MPP/KEP/6/2004, provided extensive opportunities for the development of the tin processing industry in the region, without categorizing tin as a strategically export-monitored commodity. Several local regulations, as extensions of the aforementioned Permendag, were enacted to govern the production and trade of tin. However, not all of them proved effective. Field observations indicate a contrary trend: the illegal exploitation of tin is on the rise, with a general disregard for the various governmental regulations in place. Meanwhile, environmental degradation and land degradation issues are intensifying.[6]

Meanwhile, sanctions related to mining permits and environmental regulations have faced several challenges in their implementation thus far. The emerging dilemma lies in the fact that large-scale enforcement can potentially impact the local economy.[7] However, the failure to regulate illegal mining will further exacerbate its proliferation and accelerate the degradation of productive land and the environment in Bangka Belitung. The applicability of the law is always constrained by the situation or environment in which the law operates, leading to a common discrepancy between what should be (*das sollen*) and what actually occurs (*das sein*).[7]

One particular legal aspect of illegal mining that warrants special attention is the mining activities in Teluk Kelabat, Bangka. The coastal area, which should be free from mining according to RZWP3K, has long been subject to illegal exploitation due to its substantial tin potential, especially during periods of rising commodity prices.[8] Consequently, various conflicts have emerged, ranging from environmental concerns and law enforcement to social conflicts with local fishermen. The research in this paper focuses on examining the legal dimensions of mining in the case of Teluk Kelabat, with the aim of synthesizing the legal position and recommendations that should be followed to accommodate the interests of the community.

2 Method

The method employed in this paper is a juridical-normative approach, which involves legal research by examining bibliographic materials,[9] concrete case studies, and the abstraction of ideas, along with their integrated comparisons. Some of the primary reference materials used include: Law No. 3 of 2020 concerning Mineral and Coal Mining, local regulations of the Bangka Belitung Province related to tin mining policies and non-mining area zoning, books, journals, theses, and literature pertaining to tin mining law and governance, mass media reports, newspapers, and relevant research findings.[10] Qualitative analysis using this method is focused on identifying, discovering, and testing alternative solutions to the issues concerning tin mining in Teluk Kelabat and Bangka Belitung.

3 Result and Discussion

3.1 Legal Issues in Illegal Tin Mining

In essence, the law is designed to provide clear regulations that address the various complexities of public interests.[6] In the governance of tin mining, both the central government and local governments have, in theory, produced numerous legal instruments to regulate the mechanism of management optimally and sustainably by the mandate of Article 33, paragraph (3) of the 1945 Constitution.[11] Local regulations governing the tin mining mechanism in Bangka Belitung include Regional Regulation (Perda) of the Bangka Belitung Province No. 3 of 2004 on the Management of Public Mining Activities, Regional Regulation (Perda) of the Bangka Belitung Province No. 7 of 2014 on the Management of Mineral Mining, and Regional Regulation (Perda) of the Bangka Belitung Province No. 1 of 2019 on the Management of By-Products and Side Products of Tin in Bangka Belitung.[12] These regulations are in line with Law No. 3 of 2020 amending Law No. 4 of 2009 on Mineral and Coal Mining, also known as the Minerba Law.[13]

The provisions contained in various regional regulations represent a strategic effort by the government to regulate and organize mining activities legally while reducing illegal tin mining.[14] Specifically, regulations aimed at eradicating illegal mining are attentive to the establishment of licensing mechanisms for the community to participate in sustainable tin exploitation and mitigate environmental impacts and other threats.[15] However, the current situation indicates that a series of regulations set by regional governments, especially concerning mining business permits, have not been implemented as ideally intended. For example, regulations related to the prohibition of heavy machinery use in artisanal mining. Unauthorized tin mining remains a latent issue in nearly all potential areas in Bangka Belitung.[16]

Unauthorized TI mining also often encroaches upon areas designated as mining-free zones. Until August 2021, activities involving the use of five suction dredgers were still observed in Teluk Kelabat, Bangka, and Bangka Barat. However, based on Regional Regulation No.3 of 2020 on the Zoning Plan for Coastal Areas and Small Islands (RZWP3K), Teluk Kelabat is classified as a zero-mining area. Violations of the law within the Teluk Kelabat area leave behind complex issues, which go beyond environmental damage caused by exploitation, extending into social conflicts among the community and the routine enforcement by authorities, often involving legal penalties.[17]

3.2 Kelabat Bay Illegal Mining Law Enforcement and Solution Approaches

Teluk Kelabat is a coastal area spanning 32.9 thousand hectares, situated in two districts, Teluk Kelabat Dalam in Bangka Barat Regency and Teluk Kelabat Luar in Bangka Regency. It has been a primary source of livelihood for the local community, primarily consisting of farmers and fishermen.

According to a report by Mongabay Indonesia, the rural areas around Teluk Kelabat are home to seven Malay tribes in Bangka: the Maras, Lom, Sekak, Jerieng, Ketapik, Kedalek, and Empeng. Tin mining exploitation in the Teluk Kelabat region began as early as 2009, and the

significant increase in global tin prices has driven local residents to engage in mining, even without proper permits. The relatively low law enforcement and limited legal knowledge among the local population contribute to the seemingly uncontrollable illegal tin mining.

All tin exploitation activities in Teluk Kelabat are entirely illegal, as the area is not designated as a mining zone according to Regional Regulation No. 3 of 2020 regarding the Zoning Plan for Coastal Areas and Small Islands (RZWP3K). Consequently, all mining activities taking place there are destructive, lack environmental accountability mechanisms, and are conducted unlawfully.[11] The local community's resistance against illegal mining activities in Teluk Kelabat has garnered the attention of the regional government.

In addition to resolving conflicts through mediation and enforcement, the provincial government enacted Regional Regulation No. 3 of 2020 regarding the Zoning Plan for Coastal Areas and Small Islands (RZWP3K) in 2020. In this regulation, Teluk Kelabat was categorized as a "zero mining" area, meaning it is free from all mining activities.[18] The provisions in the regional regulation require the complete cessation of any mining activities, whether licensed or unlicensed, conventional or unconventional. All mining activities in Teluk Kelabat are considered illegal and subject to legal penalties. In theory, the enforcement of RZWP3K is a solution to separate (zone) areas where mining is permissible from areas where mining activities are prohibited. This would be ideal if implemented properly. However, the problem lies not in theory but in practical implementation. Despite the designation of RZWP3K and the isolation of Teluk Kelabat from mining areas, illegal mining activities persist. The consequence of these continuous 'wildcat' miners is the ongoing conflicts in Teluk Kelabat and disruptions to the activities of local fishermen.

Law enforcement efforts to halt mining through crackdowns have faced challenges due to the significant local demand for tin resources in Teluk Kelabat. If all mining activities were to be halted, many locals would face economic difficulties, particularly given the high demand and prices for tin, exacerbated by the COVID-19 pandemic.[19] The effectiveness of law enforcement is not solely determined by criminal aspects but also the cultural legal capability of the local population to find long-term alternative solutions that allow for sustainable economic activities.

People's Mining Permit (Izin Pertambangan Rakyat or IPR) is a mining authority granted by the government to local residents to engage in limited-scale mining activities within a specific area.[20] The key characteristics of IPR include limitations on the area of operation and investment. IPR is regulated by Law No. 3 of 2020 concerning mineral and coal mining. This legislation provides comprehensive guidance on the policies governing people's mining permits, which is essential for public awareness.[21]

Generally, IPR can be granted to individuals, community groups, and cooperatives. To obtain IPR, applicants are required to submit an application to the regent/mayor with delegated authority from the Ministry of Energy and Mineral Resources. The permitted area for IPR holders is as follows:

- a. Cooperatives have a maximum area of 10 hectares.
- b. Individuals: Up to 1 hectare
- c. Community groups with legal entities: Up to 5 hectares

d. Cooperatives: Up to 10 hectares

An IPR is valid for a period of only five years, after which it must be renewed. Compared to other mining permits, such as Mining Business Permits (Izin Usaha Pertambangan or IUP) or Special Mining Business Permits (Izin Usaha Pertambangan Khusus or IUPK), IPR has a shorter duration. The cost of obtaining a people's mining permit is borne by the applicant, if applicable. The use of the IPR mechanism represents a solution to illegal mining activities primarily driven by economic goals. Law enforcement crackdowns not only aim to cease mining activities but also to provide understanding and empowerment, encouraging miners who wish to continue their work to comply with the requirements of the relevant regulations..

Through the IPR mechanism, mining activities can continue with three key benefits: First, mining activities can only be conducted outside the zero mining zones as defined by RZWP3K, minimizing the potential for conflicts with local communities. Second, there are time restrictions on IPR permits, allowing for land recovery and preventing overexploitation. Third, mechanisms for taxation, fees, and financial responsibilities are in place to cover land reclamation costs, thereby reducing potential environmental impacts. IPR represents a convergence of interests between miners and local communities to foster harmony, economic sustainability, and the prevention of social conflicts.[22]

The issue of tin mining in Teluk Kelabat is a latent dynamic occurring in almost the entire Bangka Belitung region. The interests of mining, as a source of economic surplus, consistently clash with environmental and ecological interests. In such cases, the government's role in creating ideal regulations is both urgent and central. According to Lawrence E. Friedman's theory, law enforcement must be supported by three elements: substance, structure, and legal culture. The proper regulation of IPR and mining governance must be accompanied by comprehensive law enforcement efforts by government authorities while involving the community to ensure inclusivity. In summary, the enforcement of mining laws is a collective effort involving all elements of society and the government.

4 Conclusion

Teluk Kelabat, a region designated as a 'zero mining' area in the Regional Spatial Plan for Coastal Areas (RZWP3K), is intended to be free from any mining activities. However, illegal mining by the local community has been ongoing since 2009, resulting in various forms of resistance and social conflicts between 2014 and 2021. As an area also utilized for fishing, mining activities in Teluk Kelabat have caused pollution and environmental damage.

The government, through its law enforcement agencies, has made efforts to conduct raids and enforcement actions to halt illegal tin mining activities in Teluk Kelabat. In 2020, the government reinforced these efforts by implementing Regional Regulation No. 3 of 2020, which designated Teluk Kelabat as a mining-free zone. Nevertheless, the pressing economic needs of the local population continue to drive illegal mining activities. One potential solution is to optimize the mechanism of Small-Scale Mining Permits (Izin Tambang Rakyat or IPR) by allowing mining operations in specific areas, for a limited duration, and with robust financial accountability mechanisms. This endeavor serves as a middle ground to provide economic opportunities for miners while ensuring protection for the local fishing community and the environment in Teluk Kelabat.

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