

LEGAL PLURALISM THE SOLUTION OF LABOR CONFLICTS IN MINING

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LEGAL PLURALISM: THE SOLUTION OF LABOR CONFLICTS IN MINING

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Abstract

Labor conflicts in mining, especially related to the empowerment of local workers (mining 13)es) still exist, settlement through legal channels still does not meet the sense of justice of the parties so that the legal pluralism approach is used in conflict resolution in order to achieve justice for each party. furthermore, the problem in this study is first, how labor conflicts in mining occur in the Mandailing Natal Regency and Bandung Regency today, and secondly, how legal pluralism is a solution to labor conflicts in mining. This research is a qualitative research with a type of empirical legal research in the form of socio-legal research, which uses interview and observation data as primary data in the study. The conclusion of this study is first that the labor conflicts in mining that occur have not provided a satisfactory solution for each party so that substantive justice is not accommodated in its resolution. Second, the settlement using the legal pluralism approach in several conflicts studied shows that the legal pluralism approach provides the best conflict solution and provides substantive justice for each party.

Keywords: Legal Pluralism, labor conflict, mining, substantive justice

Introduction

Exploitation of Natural Resources (SDA) is increasing, especially in mining. Mining in Indonesia is a natural resources sector that provides a very large income to the state, in fact there are 49.67 trillion of Indonesia's profits from mining products during the third quartile of 2021. The benefits received by the State must also be felt by the community around the mine circle (around the mine), because the mining circle community feels directly the impact of the mining carried

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out. The benefits or contributions that can be obtained by the mining circle community to the opening of mining in the area are usually related to an increase in the absorption of local community labor so as to reduce unemployment in the mining ring area.

In fact, in research conducted in several places, namely in Mandailing Natal Regency, it does not prioritize local residents (mining circles) as workers who work in companies, especially companies prioritize foreign workers both from outside the region and from abroad, while districts as representations of the State have issued regulations related to the empowerment of local workers in their respective regions, namely West Java Province, there is a Regional Regulation (Perda) No. 3 of 2013 concerning the implementation of manpower. At the second location in Mandailing Natal Regency, North Sumatra Province also regulates in Regional Regulation No. 6 of 2017 concerning Regional Labor Empowerment.

The non-empowerment of the mining circle community as mine workers while the government stipulates in the bylaw that companies are obliged to prioritize local workers over workers from outside the area, causing a gap, triggering conflicts between companies and mining circle communities which should be resolved by accommodating justice for each party.

Many studies have been carried out regarding the legal approach of pluralism in resolving a conflict in social reality. Legal pluralism is used to solve problems that written law is incapable of providing substantive justice for various parties. For this reason, this research will look at the problems of two things, namely how labor conflicts in mining occur in the Mandailing Natal Regency and Bandung Regency today, and secondly how is legal pluralism a solution to labor conflicts in mining?

Research Methods

This research is classified into a qualitative research group with a type of empirical legal research, and model analytical descriptive research specifications. The approach in this study is the legal pluralism approach. This approach is useful for understanding law from the point of view of the social context and its pasati also from the point of view of morals, ethics, and religion. Brian Z. Tamanaha calls this the law-society framework. For this reason, with the legal pluralism approach, you can see the law not only in the frame of legislation alone, but also see and consider the law in the form of another face so that to resolve labor conflicts in mining using a legal pluralism approach is able to realize the value of justice based on substantive.

1. Stand Point

This qualitative research is used to find knowledge and understanding, as well as practices that occur in resolving labor conflicts in mining between business actors, communities, and the government, especially related to the empowerment of mining circle communities as mine workers at designated research sites. The legal pluralism approach is used as a method of solving a problem whose form, ideas, and ideas come from factors outside of positive law, such as morals, ethics, and religion, it is also possible to include the cultural aspects of the surrounding community as a solution to the problem. In this study, the location of the study was carried out in two districts, namely Bandung Regency and Mandailing Natal Regency. These two locations became research locations because of the consideration that: first, the culture / culture of the people of their respective regions (Sundanese and mandailing) was different. Second, the absorption of labor in West Java Province is higher than the absorption in North Sumatra province.

2. Participants

The target instrument interview of this study is the mining circle community in two research locations, namely in the communities around the mining circle of Mandailing Natal Regency and Bandung Regency, then the village head and head of government at the village level of the mining circle area, then representatives of mining companies in charge of labor issues, and finally the manpower office as a representation of the government as who carries out the function of the mining circle area implementing policies and supervision in labor matters.

Discussion

1. Current Labor Conflicts in Mining

No	Company	Location	List of conflicts that occur
1	Company A	Madina District	1. The community is asking for priority and more local labor rations 2. There is jealousy between each one and the other in the community of the mining ring area, because the community considers the distribution of labor

			<p>absorption to be unfair and evenly distributed.</p> <p>3. Many jobs in the mine are not in accordance with the competencies possessed by the mining circle community and there is no job training to improve the competence and certification of the mining circle community in order to be able to fill job posts with certain areas of expertise</p>
2	Company B	Madina District	<p>1. The community asked for priority and more local labor rations and has not been able to maximize the labor coming from the mining circle because the company is still in the exploration stage.</p> <p>2. Many jobs in the mine are not in accordance with the competencies possessed by the mining circle community and there is no job training to improve the competence and certification of the mining circle community in order to be able to fill job posts with certain areas of expertise</p>
3	Company C	Bandung Regency	<p>1. The problem of labor quotas in mining companies</p>

4	Company D	Bandung Regency	1. The problem of labor quotas in mining companies
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From the table above, it can be seen that each company has several conflicts in common and not infrequently there are different conflicts and are not owned by each other's companies. The analysis that will be given in this discussion is as follows:

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Company A, Company B, Company C, and Company D, of which Companies A and B are located in Mandailing Natal Regency and company C, and D is in Bandung Regency as one of the mining companies that have various labor problems/conflicts in mining, namely:

a. The community is asking for priority and more local labor rations and has not been able to maximize the labor coming from the mining circle

The community is an important component in the implementation of a good mining system in an area, because the first area exploited by mining is an area that has a community around it as a local community that first occupies the area. second, the laws and regulations give the right to every mining company that has a (official) permit to carry out mining activities at the specified mining site, but on the other hand the government also imposes an obligation on the mining company, namely to empower and prioritize the mining circle community as mine workers. In Bandung Regency Regional Regulation (Perda) No. 3 of 2013 concerning the implementation of manpower, and Madina Regency Regional Regulation No. 6 of 2017 concerning Regional Labor Empowerment. The two regulations stipulate that every company must prioritize local people as workers in the company.

In Article 28 of the Madina Regency Regional Regulation No. 6 of 2017 concerning Regional Labor Empowerment, it is stated in paragraph (1) that "Every company in the area is obliged to empower the surrounding population through development activities to expand employment opportunities. And in paragraph (2) it is said that the development of the expansion of employment opportunities as referred to in paragraph (1), is based on the potential and needs of the community.

As for the purpose of Article 28 Paragraph (1) specifically in Madina District, the government requires every company to empower and employ every local resident in this case the community of the mining circle. This means that if the company does not empower the residents of the mining circle as workers in terms of providing expansion of employment opportunities, the company has legally violated the special rules made by the regions so that the company can be considered to have committed an unlawful act.

In Article 28 Paragraph (2) the right of the mining circle community to obtain an expansion of employment opportunities is emphasized by adding factors that are ¹⁷ the nature of strengthening Article 28 Paragraph (1) which is "¹⁷ based on the potential and needs of the community". The phrase "based on the potential and needs of the community" in the expansion of employment opportunities means that the company must see and develop (in the KBBI the term potential refers to the ability that has the possibility to be developed; strength; ability; power) and the needs of the community means that the company also in providing job opportunities must see the community's need for job positions that must be provided to the community.

Meanwhile, Article 28 Paragraph (4) reads "The expansion of employment opportunities as referred to in paragraph (1) can be part of the corporate social and environmental responsibility program" meaning ²⁵ that the expansion of job opportunities is also an inseparable part of corporate social responsibility (CSR) which must be carried out by each company. This is regulated in Government Regulation (PP) Number 47 of 2012 concerning Social Responsibility and Limited Liability Companies. In Article 2 and Article 3 of the PP, it is said that every company as a legal ⁷ subject has social and environmental responsibilities. This social responsibility is an obligation for companies that carry out business activities in the field of and or ²⁷ related to natural resources based on the Law. The obligations are carried out both inside and ⁴ outside the Company's environment. This provision emphasizes that basically every company as a form of human activities in the business sector, morally has a commitment to be responsible for the creation of a ⁴ harmonious and balanced relationship between the Company and the environment and the local community. In accordance with the values, norms and culture of the community.

Meanwhile, according to the provisions of the Bandung Regency Regional Regulation (Perda) No. 3 of 2013 concerning the implementation of manpower, Article 18 Paragraph (1) reads "Every company is obliged to strive and prioritize optimally so that job vacancies that are open are filled by local workers, especially job seekers who have been registered with the Dinas". This means that in Bandung Regency, it is also related to the labor of a company, local people to work at the mine site. However, in this Bylaw, it is prioritized for local workers and job seekers who are job seekers who have been registered with the Dinas.

Furthermore, Article 18 Paragraph (2) reads "Job vacancies that cannot be filled by local workers because they have not met the specified requirements, employers can recruit job seekers from other regions both from within and outside the province". This paragraph provides an understanding to the public and companies that the work must be in accordance with the competencies and fields set out in the

requirements set out in the job vacancy. This means that even mining circle workers cannot immediately work in a mining company in their area if the applicant's terms and conditions are not met. Manpower/communities around the mine are a priority if all qualifications have been met in a job vacancy, then according to Article 18 Paragraph (1) Paragraph (2) local workers (mine circles) must be prioritized.

The above presentation should be what should be applied in the mining circle community and companies, but in practice the source of conflict that occurs between the community, the company, and the government is from the quota, the ration requested by the community is not in accordance with the amount of work provided by the company. This is a conflict that was obtained in the 4 companies that carried out the research.

2. Employment Conflict Resolution Model in Mining Based on Legal Pluralism Approach

Conflict is an inevitability that is always present in every human association. Conflicts tend not to be dangerous if they can be managed properly, especially if they can be resolved with a win-win solution. It's another thing if it's covered up, sooner or later it will inevitably appear, and if the closure efforts are continuous it can cause a violent explosion of conflict. Based on the foregoing, it is necessary to form a channel that functions to discuss conflict resolution.

Examining the elements of the conflict, that the central concept of this conflict theory is authority and position. Both can be said to be social facts. The essence of his thesis is as follows: "The uneven distribution of power and authority without exception becomes a factor that determines social conflicts systematically". The difference in authority is a sign of the existence of various positions in society. As for the differences in position as well as the differences in authority among individuals in society, it is the main concern of sociologists ("law"). The actual structure of the anatomy of the conflict must be observed within the makeup of social roles aided by expectations about the possibility of gaining dominance. The main task in analyzing the occurrence of conflicts is to identify in the various roles of power in society.

At the research location located in Bandung Regency, Participant 3 and Participant 4 in their statement as parties representing the company and the community said conflicts still exist, it is impossible that there cannot be or can always be avoided, but must be managed to be resolved in the best ways. For this reason, when there is a conflict, especially an employment conflict, the earliest thing they do is to meet with the community, the head of the village, and the head of the RW

of each community to immediately resolve the conflict that occurred. In an effort to resolve the labor conflict, no one shows dominance, each party has a good discussion with each other and uses polite language.

Promoting a culture of Sundanese that is friendly and does not like to be noisy in resolving conflicts shown by the people of Bandung and companies in resolving conflicts is the determining factor in reaching an agreement. The resolution of conflicts without going through legal channels and trials (courts) can be said to be a settlement that uses legal pluralism.

Werner Menski in his book ²² *Comparative Law in a Global Context: The Legal System of Asia and Africa* defines legal pluralism, namely an approach in understanding the relationship between state law (positive law), social aspects (socio-legal approach) and natural law (moral / ethic / religion). From this definition, legal pluralism is conceived as a way of looking at understanding the laws that live in society can coexist with the laws imposed by the state. The most important element characteristic in legal pluralism by this definition is the work of all legal systems as a whole, not partial. The element of interaction becomes inherent in understanding the concept of pluralism because it is closely related to the legal system that lives in a pluralistic society. The law that lives in society is based on a social reality society has a diversity of legal systems, as a manifestation of the socio-cultural identity of the community.

A settlement using legal pluralism in conflicts, at the location of the research conducted in Bandung Regency was entirely resolved only at the level of deliberation between local communities, companies and leaders / figures in the region without once taking legal channels. Not all problems must be resolved through trials and trials because their respective communities and regions also have other laws that live in society (natural law, culture, ethics, morals) For this reason, each participant in the conflict after a more in-depth study stated that they accepted conflict resolution from the results of deliberations because neither party had ever been harmed from such a settlement, this means that regional communities experience profits, mining companies also experience profits so they call it a win-win solution.

This is interesting because in general mining circle workers and communities are usually in a weak position, especially when dealing with entrepreneurs / companies that have better power and position so that sometimes local communities / job seekers usually only accept by force (taken for granted), because if they try to bid with other alternatives, they are likely to accept the consequences of losing what is needed. So, there are only two alternative options for a weak bargaining position, accepting or rejecting (take it or leave it). This is

what researchers found at a mining company located in Mandailing Natal District. Another thing found in companies whose location is in Bandung Regency in resolving conflicts uses a legal pluralism approach in its settlement which provides an opportunity for various conflicting parties to convey what the demands of each party are, and each party also accepts the resolution given / offered by the other party in conditions without pressure, voluntarily and without any dissatisfaction.

Conclusion

1. That labor conflicts in mining, especially issues related to the empowerment of local communities as mining ring workers, still occur in the companies studied in Mandailing Natal Regency, because data on workers working in these companies still show more workers who come from outside the mining ring area and foreign workers who are employed than local workers from the mining circle. Meanwhile, the regional regulations of each region require companies to prioritize mining ring workers. This is regulated in Article 28 of the Bandung Regency Regional Regulation (Perda) No. 3 of 2013 concerning the implementation of manpower, and Article 18 of the Madina Regency Regional Regulation No. 6 of 2017 concerning Regional Labor Empowerment. The conflict that was found was further caused by the community not being given job training to increase the capacity of ability and work skills so that many jobs contained in mining companies could not be given to job seekers in the mining circle on the grounds that they did not meet the job qualifications. The company should jointly with the government provide job training to increase the capacity of the ability and competence of the expertise and ability of the mining circle job seeking community, this is in accordance with Article 5 of the Bandung Regency Regional Regulation (Perda) No. 3 of 2013 concerning the implementation of manpower, and Article 13 Paragraph (1) of the Madina Regency Regional Regulation No. 6 of 2017 concerning Regional Labor Empowerment

2. -The conflict resolution model with the Legal Pluralism approach found in companies at the research location of Bandung Regency prioritizes a friendly Sundanese culture and does not like to be noisy in resolving conflicts shown by the people of Bandung and the company in resolving conflicts is the determining factor in reaching an agreement. The conflict was resolved with the earliest flow carried out by them was to meet with the community, the head of the village, and the RW chairman of each community to immediately resolve the conflict that occurred. In an effort to resolve the labor conflict, no one shows dominance, each party has a good discussion with each other and uses polite language. For this reason, each participant in the

conflict after a more in-depth study stated that they accepted conflict resolution from the results of deliberations because neither party had ever been harmed from such a settlement, meaning that the regional community experienced a profit, the mining company also experienced a profit so they called it a win-win solution.

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