TIN AND AUTHORITY CONTESTATION: GOVERNMENT, PEOPLE, AND BUSINESSMEN IN CHRONICAL TIN MANAGEMENT

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Abstract- Tin is a strategic commodity in the world's manufacture industry necessity. As the non replaceable commodity, tin has become a scarce mineral. Nevertheless, within tin exploitation management in Indonesia, there was chronic condition involving government, people, and businessmen. Interests attraction signed by regulation changing from time to time exhibited that tin management involved complicated and complex relation. Whereas regulation as the legal form pivots on three things, they are certainty, expediency, and fairness. Tin management authority has become unclear in which state, people, and businessmen build authority dispute that negate each other their own role. This writing revealed that sovereignty on tin management became unclear as many rules were changed without accompanied by long term and sustainable management design. At the same time, the production area faced with the more critical environment condition, even exploitation started to shift to the coastal area and the sea with all destroying impact. The good fortune on tin was then questioned, when all parties even put tin in profit terminology for each party.

Keywords- Tin, Authority, State, People, Businessman

I. INTRODUCTION

Indonesian tin history development comprises uninterrupted span of times for more than 1,300 years, since early 8th century to the entering of 21st century. Tin has become the longest age mining in Indonesia, in which its traces can be followed since Sriwijaya era, VOC-Dutch, England, Dutch-Indie government era, Japan colonialism and continues in the era of independent Indonesia until recent years (Sujitno, 2005). The long tin mining history traces has left its exploitation that has still occurred recently. Before independent, tin was managed by colonialist through various institutions established by imposing several regulations that were certainly profitable to their country. The good fortune of tin was fully under colonialist power.

Post-proclamation, particularly entering new order era, tin exploitation in Bangka Belitung was monopolized by the government through one state company and one private company. Local people didn't get access to the tin resources buried under their own feet. Local people and local government were merely spectators for their natural resources exploitation. Military protection was also employed to control mining operation. During New Order era, many Bangka people were put in bar because of tin mining and keeping, although it's only one kilogram (Erman, 2010). The closing access for local people toward tin resulted in the grudge of history. As the mining opportunity opened, people felt as if they gained back their good fortune on tin from long years' government monopoly with rampant mining all over islands.

Through the constitution number 11 year 1967 regarding Mining Principle Stipulations, new order regime performed mining centralization, including tin commodity categorized as strategic commodity in group A. Local government itself in that era could not do much on this policy oriented on natural resources optimization and foreign investment to generate national economy. People's mining itself was already managed; however, it was merely on C minerals that were not included in tin inside it.

Post-reformation, the issue of Industrial and Trade Minister Decision Number: 146/MPP/Kep/4/1999 in terms of tin status revocation as strategic commodity, and Trade Minister Decision Number: 294/MPP/Kep/10/2001 that didn't specify tin commodity commerce as the controlled, supervised goods, and banned to export, had totally changed either the national or local tin management, and widely opened the people's mining practice. As if a tit for tat, the Constitution Number 22 year 1999 regarding Local Government was born with the local economy spirit and at the same time, the economical crisis impact hadn't been recovered yet. As the consequence, Bangka regency government issued people's mining policy that was then could not even be controlled its wild, unlicensed, and destroy environment's mining activities.

In the transition era, tin exploitation policy from centralization regime to decentralization one, from national to local monopoly, from military protection to free mining, had changed the good fortune of tin. This non-strategic commodity had evolved into sugar that was surrounded by thousands of ants who came from all places. There were many factors involved in tin exploitation, starting from miner community, collector, smelter, PT. Timah, Kobatin, to some parties that contributed and relied on their life on this tin, such as, solar screw for heavy equipments' fuel, heavy

equipment operators, coffee and food shops in mining camps, until "dimly lit stalls" that were present as the shelter for miners to spend their incomes through entertainments and others. The environment itself would always be the silent victim and not many cares. The damage on land, in river, in the sea, even the mining in the public facility areas was also occurred. The environment law enforcement was weak. On behalf of stomach alias economical interests, environmentally sound mining as if only a mere jargon and a sustainable development concept was difficult to realize.

Based on the aforementioned objective condition, this paper would specifically and deeply identify the tin seizing between government, people, and businessman from colonial era, post-independent, new order regime, and reform transition era to this time. The final objective of this writing was to find out who would really be the holder of tin good fortune, although ideally, clearly, and strictly UUD 1945 has mandated that the tin good fortune has been on the government and as much as possible for the people's prosperity. Here, constitution norms would be tested with the reality condition.

II. PROBLEM FORMULATION

This paper limited its study focus on question of "How was the authority dispute between government, people, and businessman in tin management in Bangka Belitung Islands?" To answer this question, the author would begin with the elucidation of tin domination in colonial era, post-independent, under new order regulation, and entering the reformation into crony's condition among state, people, and businessmen that put tin above their most profitable interests. Finally, this writing would unmasked on to whom actually the good fortune of tin.

III. THEORITICAL FRAMEWORK

Article 33 verse (3) UUD 1945 affirmed that "*Earth and water and the natural wealth contained inside it must be dominated by the state and used as much as possible for the sake of people's prosperity*." This norm is a national law politics within natural resources governance that underlines two principles; they are *dominated by state* and *for the sake of people's prosperity* (see Sutedi, 2011). The separation for both of them will even be contra productive with the state domination concept and it can cause the existence of natural resources monopoly by capital owners and foreign parties (Utomo & Haryadi, 2013).

Tin mining governance in Bangka Belitung is obligatory in order to keep pace with the constitution norm. The fact however, tin massive exploitation occurred in the post reform era up to present time has shown the weakness of state position. Environmental damages have occurred everywhere, it has merely been sand and tin bar producers without the downstream industries, the weak law enforcement, and the people who have been basically just as miners that must always be ready with the risk of captured by authorities or having working accident with their life as the stakes. Although Constitution Number 4 year 2009 regarding Mineral and Coal have brought the spirit to synergize interest among state, people, and businessmen, in its practice, tin exploitations were contested or partnering on profitable origin. Various regulations and policies were issued by central and local government in which each of them could be in harmony but it could also contradict each other or looking for finesse for their own interests. Meanwhile, the people's interest is always the victim or camouflaged as if beneficial.

The study of tin exploitation authority dispute could not be separated from the law study that becomes the basic of authority providing and legitimize all state policies through either central or local government, including the weakness of law enforcement in mining and living environment. The regulation phenomenon often beneficial to the have can be seen from Karl Marx perspective that the law itself is the interest of the have. It is in accordance with the thesis from Rafl Dahrendorf that law is the interest of powerful people, hence it can be ensured that in every regulation or policy, it will be oriented on the ruler interest itself. Subsequently, to see the authority dispute of tin contestation among state, people, and businessmen can be studied with law operating theory by William J. Chambliss and Robert B. Seidman.

The present of law as the human orderly instrument has the justice purpose. Simply stated, Rahardjo (2009) mentioned law making people happy. However, behind that ideal value, thera are actually many interests behind the law itself, including regulation context and tin exploitation policy. As speaking in terms of natural resources, therefore it will be clear that it cannot be separated from economic motive in local, national or even global level. It is very difficult to separate mining mineral exploitation from economic motives behind it. Whether we like it or not, law interests will be much influenced by economic interest, thus the issued policy and regulation will have great potential to protect and accommodate capital owner interests.

According to Karl Marx, law is the legitimating instrument from certain economics class. The major issue in law is not justice, since the fact is law serves the interest of wealthy people. Law is not more than a power vehicle and a device of exploiters who use it as suitable to their own interests. In the hand of the rulers cheating with the capital owner, law finally presents as 'the iron boxing and the velvet glove.' Iron boxing is the law reality, while velvet glove is the lie cover from

law (see Tanya, 2013). Based on this theory, tin exploitation through its various regulations and policies taken by state through central and local government is not separated from capital owner interest or businessmen with their business motives.

The state owing full authority, even in constitution firmly stated that tin good fortune is under the state control, needs to study its role in performing this big authority. According to Ralf Dahrendrof, law is the interest of power people. Law is controlled by those who are holding or having power. Since the law producers are those who are in the power structure, hence, it will not be surprising if the law tends to stand and serve these authority holders (see Tanya, 2013).

Tin exploitation among state, businessmen, and people can either compete or collaborate each other. The government position through its state companies for example, showed dual roles, they are public and private role. According to Adji Samekto (2008), the state involvement to directly manage economic processes such as, performing capital accumulation, establishing state companies, encouraging the business world creation as well as intervention in industrial and trade regulations, thus the state (government) along with businessmen can collaborate in perpetuating their business activities that sacrifices people and environment interests.

Tin exploitation authority dispute in Bangka Belitung can be revealed through the law operation theory in society by William J. Chambliss and Robert B. Seidman (see Chambliss & Seidman, 1971; Warassih, 2005). This theory sees the state role as the regulation maker, law enforcer and the society in which inside it, there is miner and businessman. The people as the role occupant is expected by the law to fulfill the certain hopes as stated in the role expectation. According Seidman, any action to take either by the role holder, executive agencies or the constitution makers is always under complexity scope of social, culture, economic, politic pressures, and others. All of the power pressures always work in every effort to function the prevailing rules, implementing sanctions and within all of their executive agencies' activities.

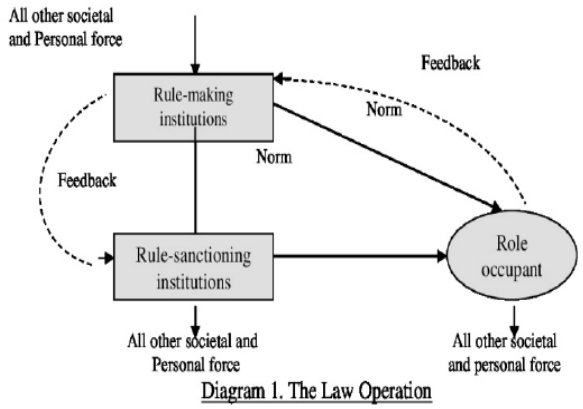


Diagram 1. The Law Operation

IV. RESEARCH METHOD

This study employed qualitative approach by considering that the researcher would be able to get more spaces to explore the collected data on the field without any restriction of certain questions. Nevertheless, it was still needed problem restriction; hence the researcher would focus on problem formulation, the authority dispute among state, people, and businessmen in tin governance in Bangka Belitung Islands and finally finding out who actually have the good fortune on tin.

Data collection technique used was deep interview by using purposing sampling technique, direct observation to mining areas, the related stakeholder, and performing documentation techniue to collect data considered as important. The primary source of this study was miners, the affected people, stakeholders such as Mining and Energy Agency, Living Environment Body and Oceanographic and Fishery Agency, and environmental activists. While, secondary sources were obtained through data issued by some institutions, the supporting pictures, and local mass media news support.

V. DISCUSSION

The authority dispute among state, people, and businessmen toward tin exploitation in Bangka Belitung has actually rooted from its status shifting policy issue from strategic commodity into non-strategic commodity in the beginning of reformation. At the same time, local autonomy tap was opened and the economic crisis occurred. As a result, local government with authority provided the space for local mining, as well as became alternative to move out from economic crisis. Although in 1999 it was the beginning of the complex tin exploitation dispute problem, the previous tin governance problem actually played very important role in this current chronic condition. Therefore, it is important to understand the tin governance from time to time up to the recent condition.

This study identified four major issues regarding authority dispute in tin exploitation from time to time, in terms of its regulation, the involved actors, how the state role and position, how the people access in mining, the power of capital owner, and who actually have the good fortune on the tin in each era.

A. Tin Control in Colonial Era

Westerveld explained that Bangka Island is included in the Malay orogenese route that is passed by the glory tin belt span in the world spanning from Burma, Malaysia, Singkep, Bangka, and Belitung Island (see Ibrahim, 2002). Since when the tin was found in Bangka Belitung, there was no certainty, although 1710 is usually used as the year of tin "finding" in Bangka. The name of Bangka is sometimes said as

coming from Sanskrit, *vanga*, which means tin and it is written in Kota Kapur inscription from 7th century in this island (Heidhues, 2010). Far before it, in I-Tsing utterance, it was said that in 4th century, there was a country named Mo-Ho-Shin. A neighbor country of Sriwijaya that was mentioned as located between Shilifoshin (the calling for Sriwijaya) and Hong-ling (Java Island). From several possibilities, it was concluded that Mo-Ho-Shin was located in Kota Kapur in the west coast of Bangka Island (see Purnama, 2015).

There are not many historical notes about the beginning of tin control in Bangka Belitung. Several studies and writing in journals or books, most tin control era was initialized by Palembang Sultanate and then cooperated with VOC. In 1755, the agreement between VOC and Palembang Sultanate was renewed since VOC was disappointed of the massive tin smuggling by the miners directly sold to China or sold to England traders. The new agreement was particularly consisted of two things: Sultan might only allow selling the tin to VOC, and VOC could buy the tin in any quantity needed. This agreement impact even caused the more massive smuggling practice (see Sujitno, 1995). By the VOC assistant, Palembang Sultan tried to overcome the tin smugglings (see Elvian, 2012). Nonetheless, Palembang Sultanate actually also performed tin sand smuggling because of the higher price if it was sold in the free market like England and Chinese traders (see Zulkarnain, 2005). Tin smuggling didn't only involve miners, but also it was conducted by ruler elites to get big benefit.

In December 28, 1816, Dutch came in to take over Bangka power from England's hand. Related to this power status shifting, Thomas Stamford Bingley on July 3, 1818 sent a letter to Secret Committee of East India Company containing the disappointment of the London's convention content signed on August 13, 1914 regarding the taking over of England power toward Bangka Island to Dutch Kingdom government. Bangka Island was only exchanged with Cochin located in Kerala India (see Elvian, 2014). Raffles posted a protest as seeing Bangka Belitung strategic location, included its natural resource potential as tin. Dutch established a company to manage tin by the name of Banka Tinwinning Bedriif (BTW),and thus in 1850, Prince Hendrik Baron van Tuyll van Serooskerken proposed a request to open tin mining in Belitung. This request was granted on March 23, 1852. In 1860, this business changed into Billiton Maatschappij that established the subsidiary company named Gemeenschappelijke Mijnbouw Maatschappij (GMB). In Singkep itself, in 1887, Dutch gave permission to Singkep Tin Maatschappij (STM) to conduct mining. In 1934, this mining was taken over by Billiton Maatschappij and handled by its subsidiary named N.V. Singkep Tin Maatschappij (SITEM) (see Sujitno, 2005).

The mining arrangement in Dutch East Indie era was regulated within Indische Mijnwet 1899 which set about contract between Dutch East Indies and private party. This contract was known as 5 A contract that became the embryo for the birth of either working contract or profit sharing contract applied after independent (Sudrajat, 2013). Tin exploitation at that time, much involved Tionghoa ethnic which was deliberately imported from its original country. This migration had become the entry gate of Tionghoa ethnic to Bangka Belitung and the occurring culture acculturation up to this moment.

As Japan entered, all tin companies were taken over by Japan private company, Mitsubishi Kogyo Kaisha (MKK), under Japanese military control. Since Japanese taking over, tin production decreased, from around 54 thousand tons into 10 thousand tons and even only 6 thousand tons (Muhammad, 1999).

Based on the description above, tin exploitation under Palembang Sultanate together with its VOC partner showing tin good fortune was under both of them in the mutual benefit collaboration. VOC assisted to protect the Sultanate included from the smugglers action, while the Sultanate kept monopolizing the tin gained. The smuggling, however, continued to take place since it would be more beneficial to the businessmen, included Sultanate as the lower price in selling to VOC. It could be clearly seen on how the ruler elites and capital owners had power on tin commodity in that time and they were mutually assertive to gain the greatest profit. The local people themselves were only the crude miners in their homeland with not much income, that must subsequently compete with the miners from China whose number were hundreds even thousands (see Ibrahim, 2007). Under Japanese power, tin was controlled by the *sakura* state companies. Although its production kept decreasing as the war was still continuing. The condotopm above had justified Marx and Ralf theory that regulation and policy implemented would beneficial for ruler and capital owner.

B. Independent Transition

Post-independent, mining activities were not much performed. By regulation, based on 1945 Constitution Article II regarding transitional rule regulated that all existence regulations in mining would still prevail, included *Indische Minjwet*. This Dutch regulation prevailed until 1960 after the issue of government regulation in lieu of law number 37 year 1960 regarding Mining and government regulation in lieu of law number 44 year 1960 regarding Oil and Gas. Government Regulation number 37 year 1960 was substantially almost similar to *Indische Mijnwet 1899*, it was only in Indonesian version. The changing was merely to replace its authority, such as every word of 'queen' and 'governor-general' was replaced into

belongs to national and government (see Yunianto, 2004; Sudradjat, 2013).

The policy to nationalize business units owned by invaders was performed, included tin mining company. All tin companies were under BUPTAN (Biro Usaha Pertambangan Negara/State Mining Business Bureau) coordination on December 10, 1957. Subsequently, based on Law Number 19 year 1960 regarding State Companies, it was made Government Regulation to establish State Company, such as Singkep Tin Mining State Company and Ombilin Coal Mining State Company. To coordinate State Companies' planning and execution in the similar mining aside of oil and gas, it was then made three General Leader Bodies (BPU/Badan Pimpinan Umum) in 1961, they were Tin Mining Company, Coal Mining Company, and General Mining Company (see Rosadi, 2012). The next development in 1968, all companies was unified under the flag of Timah State Company.

The opening of foreign investment opportunity through Law Number 78 year 1958 and Law of Mining year 1960 that also gave permission to exploit causing foreign investment entered Indonesia in mining with the pattern of production sharing contract. This pattern was in accordance to President Regulation Number 20 year 1960 in which this production sharing was in the form of capital lending from foreign party paid with production gained (see Rosadi, 2012). The effort to attract investors, however, was not succeed, it even brought out anti-foreign capital attitude, and thus it impacted to the revocation of Law Number 78 year 1958 through Law Number 16 year 1965. As a result, there was not much that could be done from mining business, included tin company.

Although tin's good fortune had moved from colonialist into motherland; however, in this independent transition era, tin exploitation had not been able to optimize for national economy. Several efforts have been made by replacing colonial regulation with national one, though it was actually and substantially not too different. The effort to open entry gate for foreign investor was the performed; however, it ended with anti-foreign attitude emerging from nationalism spirit in post-independent having strong view that foreign assistant would be the nation destroyer. It could be concluded that post-independent, tin control was on the state with stagnant status or going nowhere. Foreign investor was assessed as a threat, while national ability hadn't been able to independently manage tin mining with all of the available limitation, either from human resources or technology.

C. Under Law Number 11 year 1967 Regime

Development relay in Indonesia post-independent was the transition from old order era to new order one. Mining exploitation policy also experienced transition, in which economic development had been the government's major foundation in new order era. MPRS number XXIII/MPRS/1966 stipulation regarding Economical, Financial, and Development Foundation Policy Renewal, specified several important points in terms of Indonesian natural resource exploitation and the technology, human resource, and foreign capital utilization. The follow up from this MPRS stipulation was the birth of several law devices, such as Law Number 1 year 1967 regarding Foreign Capital Investment and Law Number 11 year 1967 regarding the Mining Principals' Stipulation.

According to Law Number 11 year 1967 regarding the Mining Principals' Stipulation, there were three mineral classifications:

a. Mineral classification A, it is strategic mineral (strategic for state defense/security or for state economy).
b. Mineral classification B, it is a vital mineral (mineral that can guarantee many people's livelihood).
c. Mineral classification C, it is the mineral that is not included in classification A and B.

There are five types of mining permission based on this law. They are Working Contract, Exploitation Work Agreement for Coal Mining, Mining Power, Local Mining Permission Letter, and People's Mining Permission Letter. Of those, only Mining Power, Local Mining Permission Letter, and People's Mining Permission Letter that has access by people. While Working Contract and Exploitation Work Agreement for Coal Mining are for national companies and foreign investors. Mining Power and Local Mining Permission Letter themselves, although they can use cooperation, are still difficult since they must compete with state-owned enterprises and national privates. Likewise with the local mining policy that isn't side to the people, and even from people's mining definition, it is impressed to position it as non-strategic and no effect to the national economy. People's mining is defined as mining exploitation activity conducted by people, by using simple equipment and technique to fulfill the daily life. This understanding showed that state positions its people as second class citizen in comparison to foreign investor and owned-state enterprises as well as national businessmen. People only obtain limited access to their natural resources for their daily life and therefore it is assessed as not influencing to the national economy. People's mining marginalization is getting seen as the B mineral permission must through minister. Mining policy centralization has become the main character in new order era.

Mining policy centralization by central government, state-owned enterprises monopoly and foreign private in investment, and the minimum access of local people

as the effect of regulation above also occurred in tin mining in Bangka Belitung. When the foreign investor tap opened, in 1968 the working contract was given to PT Kobatin whose 25% share belonged to government and the rest was divided in a consortium consisted of three Australian companies (see Sujitno, 2005). Meanwhile, PN Timah (State Company) itself had changed into PT Timah (Persero/Limited Company) in 1993 to be PT Timah Tbk and PT. Kobatin. While local people and local government were only the spectators who could not access tin as their local natural resources. Military protection was even used for everybody who was brave to dig tin though in a tiny piece, but all two companies. This is the consequence of tin as a state strategic commodity. New order political economy had made the state to monopolize its own resources by ruling out local people and local government position. Once again, this regime had delivered the centralistic tin mining characteristic, state monopoly through state-owned company, and foreign private, as well as closed local people access to enjoy their natural wealth. Tin good fortune was indeed under the state; however, it hadn't made the people prosperous (see Supramono, 2012).

D. From Strategic to Non Strategic: Chronic Condition

Tin mining centralization and monopoly in Bangka Belitung as described above began to end after the issue of Industry and Trade Minister Decision Number 146/MPP/Kep/4/1999 that changed tin status in which it was previously included as the group of goods being supervised and forbidden to export into free export commodity. It was then the change of that aforementioned decision through Industry and Trade Minister Decision Number 294/MPP/Kep/10/2001, was also not included tin commodity commerce as the one to be regulated, supervised, and forbidden for its export. Both regulations were assessed as having shifted the tin status from strategic into non strategic mineral.

That policy, though merely in minister decision level, had changed the tin commerce either nationally or locally in Bangka Belitung, and it had become the entry gate for massive unconventional mining practice by people. Whereas if referring to Government Regulation Number 27 year 1980 regarding mineral classification, Article 1 firmly stated that tin was a strategic commodity. It meant that by hierarchy the legislation would not be in similar level as government regulation in which it has higher position. The law principle had been violated in this case. Thus, the issue of that decision letter should be understood that tin remained the strategic commodity and only its export commerce undergoing mechanism change. Nevertheless, outside of its exaggeration, the free export policy was clearly less appropriate and it's seen as not thinking either its locally or nationally impact.

Dictum considering this Industry and Trade Minister Decision Number 146/MPP/Kep/4/1999 stated that in terms of national economy reform and to improve competitiveness, as well as to give business certainty, and thus it was seen as need to change Industry and Trade Minister Decision attachment Number 558/MPP/Kep/12/1998 by replacing the status of several kind of certain goods previously included in its export supervised and forbidden into the free export goods. Taking a close look of three reasons in this consideration, i.e. reforming national economy, improving competitiveness, and providing business certainty, was obviously without further considering the future impact. Tin as a non-renewable natural resource and available in limited number in the world would be run out in the future, and thus it should be the major consideration not to liberate its export. All three considerations should be conducted while still making tin as a national strategic commodity whose export was strictly monitored, prioritizing present and future domestic industrial necessity, and legalizing people's mining, more equitable tin distribution for local area, and oriented towards the development of tin downstream industries. Export liberation policy exhibited that our natural resources governance orientation was to export the raw material rather than finish goods which has more economy price. This export liberation also opened tin smuggling potential because of the loose monitoring (see Haryadi, 2015).

Both regulations above had been the entry gate for local area to take over tin governance policy. Local autonomy euphoria provided a new spirit to obtain the big economy contribution they belong. Grudge as a result of PT Timah and PT Kobatin monopoly toward tin mining, and the recently ongoing tin mining centralization, as well as economy contribution dominantly flowing to central government had made "free to export tin and non strategic commodity" policy and local autonomy era as the momentum for "local area to control tin."

Bangka regency, for example, responded the above condition by issuing some local law products that opened mining access to local people. These policies were Local Regulation Number 6 year 2011 regarding General Mining Governance, Local Regulation Number 20 year 2001 regarding the Establishment and Setting of Strategic Goods Trade Management, Local Regulation number 21 year 2001 regarding general mineral and other composite mineral and Local Regulation Number 10 year 2002 regarding Kolong Management and Utility. As the derivation, then it was issued Bangka Head Regency Decision Letter Number 6 year 2001 regarding Mining Business etiquette and Permission Procedure and Bangka Head Regency Decision Letter Number 540.K/271/Tamben/2001 regarding licensing of mining business for Management and Selling.

The unconventional miners' existence actually began from PT Timah policy to perform mining in its non economical mining concession to do by themselves. However, post-reform, the result of central regulation and responded by local government by providing larger spaces to mine for local people but in minimum control, this TI-TI was also started to mine outside of PT Timah concession and the number of them could be hundreds or even thousands all over Bangka Belitung. Their numbers could not be exactly calculated, since TI activities were spontaneously performed and moved from one place to another. Mining and Energy Agency of Central Bangka Regency had noted that up to 2011, the number of non license mining (PETI/Pertambangan Tanpa Izin) reached 1,363 mining (Central Bangka within number in 2012). If six regencies/other municipality in average have the similar PETI number, thus there would be at least 9,541 PETI activities in Bangka Belitung Islands. Unconventional mining performed by people had become the complicated problem between economic necessity demand, environmental damage and law enforcement (Rahman, 2011). The late Eko Maulana Ali who became Bangka head regency for two periods and Bangka Belitung Island governor also for two periods since 2007-2013), had ever stated that "TI problem was like to be caught between rock and a hard place" (Bangka Pos, December 6, 2004). The community dependency toward tin still went on until now. Based on 2010 population census result, the population of 15 years old or older working in mining and digging sector was 111,127 people. This number was the second largest compare to plantation business (Babel in Number 2013).

Tin problem as free-export commodity was finally over by the issue of Industry and Trade Minister Decision Letter Number 443/MPP/Kep/5/2002 regarding commodity with export supervision that firmly forbade tin sand export. Dictum considered it and firmly stated that in terms of encouraging export particularly added value mining commodity as well as to support sustainability and natural resources maintenance, it needed to re-determine the export regulated, monitored, and forbidden goods. In its attachment, it was stated that black tin core and its concentrate and tin core and its concentrate as the forbidden goods to export. The present of this regulation, one of them as the response from central government on the damaged environmental condition in Bangka Belitung resulted from so many unconventional tin mining. The central policy changing after seeing the previous policy impact exhibited that there was a problem in the previous policy design that didn't pay attention to natural resources management as the long term design and already ruled out environment. It seemed that there was hidden agenda behind tin as the non strategic commodity that was eventually only benefited to a group of people.

The consequence of export prohibition regulation was only PT Timah and PT Kobatin that could export tin in metal and bar form since they had processing unit (smelter). This condition was clearly not benefited for regency/municipality since there would be no local origin income contribution for local area and whether we liked it or not, the tin price would be controlled by both companies. In response to that situation, regency/municipality government took uncommon policy, i.e. by issuing permission to build smelter with reason that smelter functioned to change raw material into intermediate goods, i.e. from tin sand into tin bar, and it meant that smelter activity had fulfilled the industrial restriction, and thus Regency/Municipality Industry and Trade Agency had authority to issue smelter establishment permission (see Zulkarnain, 2005). Whether this was stated by critical law study that law existence was to support people's interests or classes that formed the law (see Samekto, 2008).

The central government attitude wanting to limit and even responded by local area by making some policy to accommodate central government limitation policy gap, exhibited the existence of purpose disharmony between central and local government in the tin management policy. Government wanted to control tin export by minimizing state lose and environment damage; however on the other side, local government wanted to maintain local original revenue from TI activities that was more perceived their contribution than royalty division from both companies through central government that was also frequently late. Until now, royalty obtained by local government has been only 3%, although it has been long proposed into 10%, however it has not been approved by central government.

Based on the researchers' interview with some mining stakeholders regarding chronic condition resulted from tin status from strategic to non-strategic commodity exhibited that it indeed occurred tin seizure or authority dispute among state, people, and businessmen. According to Ri as the legislature in Pangkalpinang municipality, post-reform policy had surely affected people because of free mining; however, as a result the environment damage much going on. In such condition, it was capital owner/businessman who was benefited. In the future, tin upstream must happen so that it won't just sell intermediate goods in order to gain higher economy value added. Not more different thing was also conveyed by co-legislator from East Belitung, according to him, the recent management has actually worse since it has impacted on environment damage, capital owner benefited more and in this decentralization era, there must be a synergy among regency, province, and central government. Mu, a Basel legislator has seen that reformation opened mining access to local people; however, the capital

owner remains to get more benefit and it is needed a clear regulation that takes side on people. Law enforcement should not only limit to small people. Pa, a Bangka Regency legislator, stated that the recent tin world is only beneficial to big capital owner.

While from businessmen or capital owner point of view, post reform tin policy has been economically beneficial. According to Ka and Ro, tin businessmen in Pangkalpinang stated that tin policy has been much better since people can mine although the environment can be damaged. It is admitted that the revenue gained is bigger for capital owner than the miner's high working accident risk, though every miner must get working safety guarantee (see Suyartono, 2003). The same opinion was also conveyed by Ir and Do from East Belitung, as well as Ha and Ja from Bangka regency.

Regency/municipality government through related OPD from interview also gave similar opinion, that tin decentralization has opened access for people's mining and management by local government. However, one that must be immediately anticipated will be environment damage, and thus zoning system must be available soon. The recent condition showed that capital owner had the good fortune on tin. Law Number 4 year 2009 regarding Mineral and Coal itself, though trying to give more space to state, businessman and people, IPR and WPR are like a dream and difficult to realize. Tin decentralization to regency/municipality cannot evidently solve the problem and the difficult control from central government, and thus, based on Law Number 23 year 2014, all mining authorities have been withdrawn to province. The positive thing is that it eases central government control; the negative is that the bureaucracy is getting longer.

This chronic condition, according to environment activists joined to some organizations, saw that there was omission of unconventional mining that became tin supplier for tin businessmen, and thus it was obvious the one benefited was capital owner and the environment was damaged, while state that should be the regulator and controller could not work optimally in executing its function. According to Rat from WALHI Bangka Belitung, post local autonomy tin mining is not centralistic anymore, and people could get access. However, the available regulation even liberalized mining. In the context of natural resources utilization, businessman benefited more, while miners were merely as supplier; however, environmental damage was getting worse compare to that before local autonomy. Therefore, the most sovereign on tin were companies, it was foreign investors who dominated and directly enjoyed tin (see Rachman, 2008). It could be proved from some electrical devices that we use its tin from Babel (see Maemunah, 2008). Local businessmen were only as pawn. Thus, government must be encouraged to do mining permission moratorium and review all overlapped permission in forest area, as well as the firmly law enforcement. The same thing was delivered by Su and Ra as the activists from East Belitung, that the condition was economically better, however the environment became victim and only capital owner/smelter benefited more. While Jo and He from GAPABEL, assessed unconventional mining deliberately left, and they didn't agree if tin greatly contributed to local area. Dominant environment damage and the effort to overcome it had not been optimum. In other word, coming, digging, and leaving (see Paripurno *et al.*, 2009). Belitung people had been aware and in the middle of hard working to promote tourism as the superior sector and starts to leave mining sector behind. We have learnt from the Bangka damage as a result of mining. Therefore, we work together to refuse tin mining in the sea. Environment activists from Bangka regency, Sy and Ar, also stated that businessmen were more benefited of this recent mining policy. It is expected that either local or central government are not controlled by capital owners. Tin mining make all people live in prosperity.

Mining stakeholder, either local government through related OPD, businessman/capital owner, legislator, or environment activist, although had various opinions from their own viewpoint in running their role, seem as one red line that tin mining decentralization post reform positively affecting local people economy and state monopoly was not available anymore for natural resources in local area; however massive environment damage has remained going on. Later, the one obtaining most benefit and sovereign on tin was tin's capital owner or businessman. Tin miner community involvement was actually only as supplier to the big businessman, whereas most miners were susceptible to working accident and became the raids target of law enforcer.

Various regulating changes either in central or local apparently didn't have long term design, contradict each other, and environmentally friendly mining was merely a jargon, as well as tended to benefit capital owner/businessman. It was true what Mark and Ralf said that law was a media for capital owner and ruler interest, and the collaboration for both of them. While the opening access of mining for people and their prosperity improvement was eventually a pro-people development camouflage that all of them would be in turn benefited capital owner, and the environment would be always the victim. People's mining area and people's mining permission were actually the regulation idealism that far from reality, when the dominant people mine were even said as illegal; however their yield was mostly enjoyed by big businessman and foreign importer. Law enforcement touched more on people's miner in the upstream, while the downstream businessmen were seldom

touched. In addition, there had been many mining accident victim in which the party taking the responsibility for it was not clear.

Authority dispute or power seizure on tin ending to chronic condition could also be explained by the theory of law operation by Chambliss and Seidman. Every mining actor role could be seen, synergy or even negate other in accordance to their own interest. State represented by either central or local government made non-consistent policies; they didn't take side on people and was not designed for long term as well as environmentally friendly. In local level, government or legislator role was also questioned. Disharmony between central and local was also occurred as Industry and Trade Agency issued permission for smelter to process tin bar, thus it could be exported. Subsequently, tin is always a political commodity in every local or general election, even some of elites themselves in legislative and executive level had tin business. Next, the law enforcers position themselves were in dilemma position between firm law enforcer, environment damage, and miners' economy livelihood. Although it had been heard some actors involved in illegal tin network. Several law enforcements tended to small miners and seldom to businessmen or corporation (see Haryadi, 2014). While people's role in the law operation, in which in this context included businessmen, miners, non-miners, and others. Businessmen clearly oriented on profit, and it hadn't clearly seen their contribution and attention on living environment. Miner community relying their life on tin were clearly difficult to understand the impacted damage, although aware of it, and once more economy reason had been the best argumentation. The chronic condition of tin seizure by state, people, and businessmen in the framework of either policy/regulation implementation or operation were each influenced by many factors (politics, social, economy) in which each of them could be support or even negate because of different purpose.

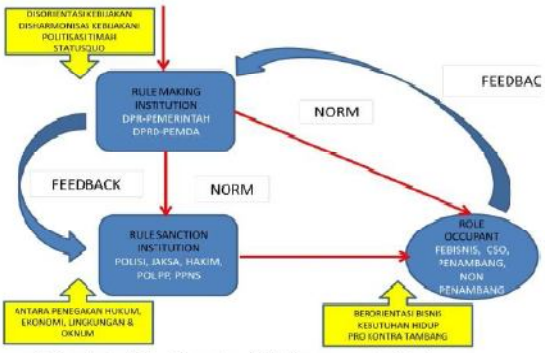


Diagram 2. Regulation/Policy Operation of Tin Management in Babel

CONCLUSION

Tin management centralization during new order era has delivered local people and local government grudges that recently have only been spectators on tin natural resources in Bangka Belitung Islands. Moreover, mining management decentralization could not directly solve the problem; however, what certainly happened today is even the more environmental damage and confusion to start as which part that must be fixed first. One has got a little reclamation touch, and it has been mined again. How about the hundreds and thousands hectares that have been already damaged as a result of illegal mining, and who will take the responsibility then.

The existence of central government tin management policy disorientation changing tin strategic status into non strategic as well as becoming non forbidden and non supervised commodity for its export showed that this state doesn't have natural resources policy design considering national interest in long term and environmentally friendly. Not to mention the disharmony between central and local policy that were in position to local income and capital owner interest. Law enforcement aspect was also faced with the miners' stomach interest that clearly did not have permission and damaged the environment. The operating law enforcement also tended to small miners, while tin brokers collecting illegal tin were not touched by law. Dominant law enforcement was still in upstream and had not shifted to downstream. In other side, the elites in local areas, whether in legislative, executive, or judicative environment, there were certain persons entering illegal tin circle, hence it was difficult to expect many actions since it would disturb their interests. Tin was often a political commodity.

REFERENCES

[1] Chambliss, William J dan Seidman, Robert B. 1971. Law, Order and Power, Reading, Mass: Addison-Wesly
[2] Elvian, Akhmad, *Perang Bangka, (Tahun 1812-1851)*, Dinas Kebudayaan, Pariwisata, Pemuda dan Olahraga, Pangkalpinang, 2012.
[3] Elvian, Akhmad, *Kampoeng di Bangka*. Dinas Kebudayaan, Pariwisata, Pemuda dan Olahraga Kota Pangkalpinang, 2014.
[4] Erman, Erwiza, *Aktor, Akses, dan Politik Lingkungan di Pertambangan Timah Bangka*, Jurnal Masyarakat Indonesia, Edisi XXXVI/No.20/2010.
[5] Haryadi, Dwi, *Illegal Mining Masalah Sepanjang Masa, dalam Buku 14 Tahun Bangka Belitung*, Imperium, Yogyakarta, 2014.
[6] Haryadi, Dwi, *Membangun Kebijakan Kriminal Illegal Mining Timah yang Mensejahterakan Masyarakat Kepulauan Bangka Belitung* (Disertasi), PDIH UNDIP, Semarang, 2015.
[7] Ibrahim. *Kepulauan Bangka Belitung Menuju Hakikat Sebuah Provinsi*, Philosophy Press, Yogyakarta, 2002.
[8] Muhammad, Chalid et al, *Menggugat Ekspansi Industri Pertambangan di Indonesia*, Pustaka Latin, Jakarta-Bogor, 1999.
[9] Paripurno, Eko Teguh dkk, *Datang, Gali dan Pergi (Potret Penutupan Tambang di Indonesia)*, JATAM, Jakarta, 2009.
[10] Purnama, Agung, *Sejarah Pertambangan Timah dan Keberadaan Etnis China di Pulau Bangka*, dalam Buku Kelekak Sejarah Bangka, Dinas Kebudayaan dan Pariwisata Bangka, Bangka Belitung, 2015.

[11] Rahman, Bustami, dkk. *Menyoal Penambangan Timah Babel*, Khomsa, Yogyakarta, 2011.
[12] Rachman, Rusli, *Penyelundupan Timah* dalam Buku Rusli Rachman Beginilah adanya, Aksarasastra, Yogyakarta, 2008.
[13] Rosadi, Otong, *Quo Vadis Hukum, Ekologi dan Keadilan Sosial (Dalam Pemikiran (filsafat) hukum)*, Thafa Media, Yogyakarta, 2012.
[14] Rahardjo, Satjipto, *Negara Hukum Yang Membahagiakan Rakyatnya*, Genta, Yogyakarta, 2009.
[15] Samekto, FX. Adji, *Justice Not For All (kritik terhadap hukum modern dalam perspektif studi hukum kritis)*. Genta Press, Yogyakarta, 2008.
[16] Samekto, FX. Adji, *Kapitalisme, Modernisasi dan Kerusakan Lingkungan*, Genta Press, Yogyakarta 2008.
[17] Somers Heidhues, Mary, *Timah Bangka dan Lada Mentok (Peran Masyarakat Tionghoa dalam Pembangunan Pulau Bangka Abad XVIII s/d XX*, Yayasan Nabil, 2008.
[18] Sudrajad, Nandang, *Teori dan Praktik Pertambangan Indonesia*, Yustisia, Jakarta, 2013.
[19] Sujitno. Sutedjo, *Dampak Kehadiran Timah Indonesia Sepanjang Sejarah*, Cempaka Publishing, Jakarta, 2005.
[20] Supramono, Gatot, *Hukum Pertambangan Mineral dan Batu Bara di Indonesia*, Rineka Cipta, Jakarta, 2012.

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