

ESTABLISHMENT OF REGIONAL GOVERNMENT-OWNED ENTERPRISES TO ACCOMMODATE COMMUNITY-BASED TIN MINING IN BANGKA BELITUNG

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ABSTRACT; *The tin mining industry in Bangka Belitung has significant economic contributions but also has detrimental environmental and social impacts due to illegal mining practices. Therefore, alternative management mechanisms need to be explored. This study uses a normative method to assess the feasibility of Regional Government-Owned Enterprises (BUMDs) in regulating tin mining. By analyzing legal frameworks and pertinent literature, the research scrutinizes the efficacy of BUMDs in facilitating legal mining activities and curbing illegal operations. The findings suggest that BUMDs present a promising solution to the challenges faced by the current People's Mining License (IPR) system. BUMDs have the potential to streamline mining operations, ensure compliance with regulations, and provide employment opportunities. By integrating BUMDs into tin mining management, sustainable mining practices can be fostered, and law enforcement against illegal activities can be strengthened. This approach offers a multifaceted solution to the pressing issues in Bangka Belitung, promoting economic development, environmental conservation, and social welfare.*

Keywords: *Tin Mining, BUMDs, Community-Based Tin Mining, Environmental Sustainability*

ABSTRAK; Industri pertambangan timah di Bangka Belitung memiliki kontribusi ekonomi yang signifikan namun juga menimbulkan dampak buruk terhadap lingkungan dan sosial akibat praktik penambangan ilegal. Oleh karena itu, mekanisme pengelolaan alternatif perlu dijajaki. Penelitian ini menggunakan metode normatif untuk menilai kelayakan Badan Usaha Milik Daerah (BUMD) dalam mengatur pertambangan timah. Dengan menganalisis kerangka hukum dan literatur terkait, penelitian ini meneliti efektivitas BUMD dalam memfasilitasi kegiatan pertambangan legal dan membatasi operasi ilegal. Temuan ini menunjukkan bahwa BUMD memberikan solusi yang menjanjikan terhadap tantangan yang dihadapi oleh sistem Izin Pertambangan Rakyat (IPR) yang ada saat ini. BUMD berpotensi memperlancar operasional pertambangan, memastikan kepatuhan terhadap peraturan, dan menyediakan lapangan kerja.

Dengan mengintegrasikan BUMD ke dalam pengelolaan pertambangan timah, praktik pertambangan berkelanjutan dapat dipupuk dan penegakan hukum terhadap aktivitas ilegal dapat diperkuat. Pendekatan ini menawarkan solusi multifaset terhadap permasalahan mendesak di Bangka Belitung, mendorong pembangunan ekonomi, pelestarian lingkungan, dan kesejahteraan sosial.

Kata Kunci: Penambangan Timah, BUMD, Penambangan Timah Berbasis Masyarakat, Kelestarian Lingkungan

INTRODUCTION

The problem of unauthorized and unconventional mining is still prevalent in Bangka Belitung and requires attention.¹ Tin mining is responsible for over 40% of the Regional Original Income (PAD) in 2022, making it the primary source of revenue in the region and deeply ingrained in the local community's livelihoods.² While mining provides economic benefits, it also has significant drawbacks, especially regarding environmental sustainability.³ The rampant degradation of ecosystems, deforestation, water and river pollution, and social conflicts with fishing communities and farmers highlight the many challenges posed by this dependence. There is a need for comprehensive and sustainable strategies to mitigate the adverse impacts while promoting economic growth and social harmony.⁴

The economic dependence on tin increased significantly after the opening of tin mining as a non-strategic mineral in 1998, resulting in a rise of illegal mining activities.⁵ The mechanism of community mining permits, which were considered crucial for managing artisanal mining, had never been effectively implemented until the amendment

¹ Rio Armanda Agustian, Reko Dwi Salfutra, dan Rahmat Robuwan, "Law Enforcement Problems of Illegal Tin Mining in Realizing Restorative Justice: A Study at the Bangka Resort Police," *Society* 9, no. 2 (31 Desember 2021): 557–70, <https://doi.org/10.33019/society.v9i2.305>.

² Andri Yanto dkk., "Implikasi Resentralisasi Kewenangan Pertambangan Timah Terhadap Potensi Pendapatan Daerah Di Bangka Belitung," *Jurnal Interpretasi Hukum* 4, no. 2 (2023): 344–57, <https://doi.org/10.55637/juinhum.4.2.7756.344-357>.

³ Adiguna Bagus Waskito Aji dkk., "Social Justice on Environmental Law Enforcement in Indonesia: The Contemporary and Controversial Cases" 2, no. 1 (2020): 57–72, <https://doi.org/10.15294/ijicle.v2i1.37324>.

⁴ Ahmad Redi, "Responsive Law Enforcement in Preventing and Eradicating Illegal Mining in Indonesia," *Journal of Law and Sustainable Development* 11, no. 8 (29 September 2023): e1436–e1436, <https://doi.org/10.55908/sdgs.v11i8.1436>.

⁵ Dwi Haryadi dkk., "Integrative Law Enforcement about Tin Mining Reclamation Responsibility at Bangka Belitung Island." 68, no. 2018 (1 November 2018): 03017, <https://doi.org/10.1051/e3sconf/20186803017>.

of the Mineral and Coal Law in 2020.⁶ In 2017, the government released data that showed there were only 30 active community mining permits, which is a stark contrast to the large number of illegal mining pontoons that reached 18,000 units in 2018.⁷ This significant difference highlights the difficulty of regulating and formalizing artisanal mining, and the urgent need for policy reforms and effective enforcement mechanisms to address the proliferation of illegal mining activities and promote sustainable mining practices.

There are three primary factors contributing to the failure of the IPR scheme in controlling artisanal mining.⁸ Firstly, the complexity of legal regulations, intricate licensing requirements, and inefficient registration procedures pose substantial barriers. These complexities make it challenging for mining communities, which are predominantly comprised of low-income individuals with limited education, to effectively navigate the licensing process. Secondly, the limited capacity of mining communities aggravates the situation.⁹ Many small-scale miners lack the necessary resources and knowledge to meet regulatory requirements, which further hinders their ability to obtain licenses. Also, illegal mining operations offer immediate profits without fulfilling environmental responsibilities or paying taxes, attracting miners to informal mining.

Thirdly, the inadequacy of law enforcement exacerbates the issue. Despite government authorities' efforts to enforce regulations, law enforcement actions have failed to deter illegal tin mining activities significantly.¹⁰ Furthermore, the increasing number of illegal tin miners is related to market price hikes, indicating the economic incentives driving the illegal mining practices. The Mineral and Coal Law has undergone significant changes recently, but the framework for regulating artisanal mining remains

⁶ Muhammad Agus Fajar Syaefudin dan Fajar Ari Sudewo, "Penegakan Hukum Terhadap Tindak Pidana Pertambangan Mineral dan Batubara Ilegal di Kota Cirebon," *Diktum : Jurnal Ilmu Hukum* 8, no. 1 (27 Mei 2020): 108–24, <https://doi.org/10.24905/diktum.v8i1.81>.

⁷ Andri Yanto dkk., "Revitalisasi Kewenangan Pengelolaan Pertambangan Oleh Pemerintah Daerah Dalam Mengoptimalkan Pelaksanaan Otonomi Daerah Di Bangka Belitung," *Innovative: Journal of Social Science Research* 3, no. 2 (2023): 8321–30, <https://doi.org/10.31004/innovative.v3i2.1386>.

⁸ Derita Prapti Rahayu dkk., "Environmental And Social Injustice: Impact And Sustainability Of Small Scale Tin Mining Under Indonesia's New Mineral And Coal Regulation," *Cepalo* 7, no. 2 (22 September 2023): 129–42, <https://doi.org/10.25041/cepalo.v7no2.3137>.

⁹ Ronaldo Irzon, "Penambangan timah di Indonesia: Sejarah, masa kini, dan prospekti," *Jurnal Teknologi Mineral dan Batubara* 17, no. 3 (September 2021): 179–89, <https://doi.org/10.30556/jtmb.Vol17.No3.2021.1183>.

¹⁰ Ibrahim, Dwi Haryadi, dan Nanang Wahyudin, "From Charm To Sorrow: The Dark Portrait Of Tin Mining In Bangka Belitung, Indonesia," *PEOPLE: International Journal of Social Sciences* 4, no. 1 (24 Maret 2018): 360–82, <https://doi.org/10.20319/pijss.2018.41.360382>.

the same. The IPR system, which requires permits for mining activities, has been altered to make the requirements even more stringent. However, despite being theoretically ideal, the implementation of these changes has fallen far short of expectations.

The shift of authority from local to central government was intended to provide solutions, but empirical evidence from the field suggests otherwise. Local governments have not been adequately prepared to manage artisanal mining authorities, leading to a proliferation of illegal mining and widespread environmental damage. Although Law No. 4 of 2009 concerning Minerals and Coal has transformed the policy design for artisanal mining from a free-for-all system to mandatory IPR acquisition, this transition has not been effective.

Following the Presidential Regulation 55 of 2022, the provincial government has regained the authority to implement IPR and prevent losses caused by illegal mining.¹¹ However, it is crucial to optimize efforts to ensure successful implementation. Due to legal uncertainty between 2020-2022, illegal mining activities have been on the rise in Bangka Belitung, causing social repercussions. The COVID-19 pandemic has added to the situation, disrupting economic stability, leading to job losses, and mobility restrictions. As a result, many individuals have resorted to the illegal tin mining sector for employment. The increased mining activities have resulted in social conflicts between miners and fishermen, such as those witnessed in Teluk Kelabat in 2021. Moreover, there have been conflicts between miners and palm oil companies in Tempilang, Simpang Teritip, and Parittiga in 2021 and 2022.¹²

Environmental damage is on the rise due to illegal mining activities.¹³ However, law enforcement agencies have not been able to take strategic actions against it. This is because local communities are highly economically dependent on mining, and there is a lack of compatible and implementable licensing mechanisms for artisanal mining. To accommodate artisanal mining, two approaches can be pursued - IPR and partnership schemes. However, partnership schemes are limited and difficult to access, as they need

¹¹ Andri Yanto dan Faidatul Hikmah, "Aspek Hukum Hak Menguasai Negara DI Bidang Pertambangan Pasca Pembaruan Undang-Undang Mineral Dan Batubara Di Indonesia," *Jurnal Penelitian Hukum De Jure* 23, no. 4 (29 November 2023): 419, <https://doi.org/10.30641/dejure.2023.V23.419-432>.

¹² Indra Ibrahim, "Dampak Penambang Timah Illegal Yang Merusak Ekosistem di Bangka Belitung," *Jurnal Hukum dan Bisnis* 1, no. 1 (2023).

¹³ Ahmed Adham Abdulla dkk., "Environmental Crimes: A Framework for Detection, Monitoring, and Enforcement in The Maldives," *Journal of International Wildlife Law & Policy* 24, no. 2 (12 Juli 2021): 131-77, <https://doi.org/10.1080/13880292.2021.1942249>.

approval from mining license-holding companies like the state-owned enterprise PT. Timah Tbk.

The most viable solution is optimizing the IPR, as its authority currently rests with local governments. This study aims to explore ways to maximize the IPR by establishing regional government-owned enterprises in the mining sector. These enterprises will be capable of accommodating the interests of artisanal miners to engage in mining activities legally.

RESEARCH METHOD

This study uses a normative method, specifically a juridical-normative approach, to identify discrepancies between the reality of tin mining management in Bangka Belitung and the normative expectations.¹⁴ The analysis is conducted through a literature review of legal regulations, journals, books, and relevant literature to produce a credible synthesis that is characterized by academic accountability, comprehensiveness, systematicity, and integration. The focus of the study is on tin mining in Bangka Belitung, with an emphasis on recent research to ensure that the research aligns with developments in law enforcement and policy management of tin mining in Bangka Belitung through the establishment of regional government-owned enterprises.

RESULTS AND DISCUSSION

1. Regulation of Mining Licenses Based on Regional Government-Owned Enterprises

Regional Government-Owned Enterprises (BUMDs) are business entities where the majority or all of the capital is owned by the Regional Government (Pemda). BUMDs are meant to generate profits for the regional government, by managing local resources with business management separate from governance. The involvement of BUMDs in the mining sector is regulated by the Minister of Energy and Mineral Resources Regulation No. 11 of 2018. According to this regulation, the government, through State-Owned Enterprises (BUMNs), can allow BUMDs operating in the mining sector to have equity participation, with a minimum of 10%.

¹⁴ Roberto Scarciglia dan Werner F Menski, "Normative Pluralism and Religious Diversity: Challenges and Methodological Approaches," 1 Januari 2018.

Under this scheme, BUMDs can participate directly in mining activities alongside BUMNs, such as PT. Timah Tbk under the MIND ID holding. The collaboration between BUMNs and BUMDs also provides opportunities for community involvement in mining activities under the auspices of BUMDs. The involvement of Regional Government-Owned Enterprises (BUMDs) in the mining sector is facilitated through various types of licenses, each serving distinct purposes and catering to different stakeholders within the industry.

Firstly, the Mining Business License (Izin Usaha Pertambangan or IUP) serves as the primary permit that grants authorization for mining activities. This license is regulated under Ministerial Regulation No. 11 of 2018 and is essential in providing legal permission for mining operations. The IUP can be obtained by various entities, including state-owned enterprises (BUMNs), regional government-owned enterprises (BUMDs), private entities, cooperatives, and individual companies. To acquire an IUP, the applicant must meet stringent criteria, which includes fulfilling administrative, technical, environmental, and financial prerequisites.

In addition to the IUP, BUMDs can obtain Special Mining Business Licenses (Izin Usaha Pertambangan Khusus or IUPK) for operations in specialized mining areas dedicated to metallic minerals and coal. The IUPK allows the BUMDs to engage in mining activities within designated territories, subject to compliance with regulatory standards and procedural requirements. Moreover, the Special Mining Business License for Continuation of Contract/Agreement is a strategic mechanism for extending mining activities after the conclusion of a Work Contract or Mining Business Permit Agreement for Coal Mining. This regulatory provision enables holders of such contracts or agreements to transition seamlessly into subsequent phases of mining operations, provided they adhere to stipulated administrative, technical, environmental, and financial conditions.

In parallel, the People's Mining License or IPR offers a tailored solution for individuals or cooperatives who want to participate in mining activities within delimited areas and investment constraints. The IPR is designed to accommodate grassroots participation in the mining sector while ensuring compliance with regulatory frameworks. Lastly, the Rock Mining Permit (Surat Izin Penambangan Batuan or SIPB) is a specialized authorization for specific types of rock mining activities or designated

purposes. The SIPB is accessible to a diverse array of entities, including BUMDs, village-owned enterprises, private enterprises for domestic investment, cooperatives, and individual companies. To acquire the SIPB, the applicant must comply with administrative, technical, environmental, and financial requisites, which are essential for securing the permit and reinforcing regulatory oversight and operational integrity.

2. Community-Based Mining Operations Utilizing People's Mining Licenses (IPR)

The ability of Regional Government-Owned Enterprises (BUMDs) to obtain various forms of mining licenses does not guarantee immediate implementation due to limitations in capital and facilities. This poses challenges for BUMDs in managing operations based on Mining Business Licenses (IUP). Additionally, accommodating the interests of artisanal miners is a critical consideration to ensure a smooth transition from illegal mining to legal mining practices. In 2022, data from the Bangka Belitung Provincial Manpower Office revealed that around 24.3% or approximately 344,430 individuals out of the total working population were employed in the mining sector. The majority of these individuals are engaged in small-scale and illegal operations. Illegal mining activities undermine regulatory frameworks and generate significant losses for the country.

According to calculations based on data from the International Tin Research Institute (ITRI), Indonesia's total tin production from 2008 to 2013 reached 593,304 tons. However, only 241,304 tons were officially reported, with an additional 352,000 tons going unreported. This discrepancy underscores the scale of illegal mining activities and the associated economic implications.

Assuming a tin ore price of USD 15,000/ton and an exchange rate of Rp 11,000/USD, Indonesia's total loss during that period was approximately Rp 58.080 trillion. This includes Rp 20.675 trillion from the area under PT Timah in the Bangka Belitung Province and Rp 37.405 trillion from areas outside of PT Timah's jurisdiction. This situation represents an average loss of at least Rp 11.616 trillion per year due to illegal mining activities. The exploitation of tin mines has left extensive environmental damage in Bangka Belitung. An inventory of environmental damage released by the Regional Environmental Agency of Bangka Belitung Province in 2014 reported that out

of a total land area of 1,675,240.51 hectares, critical land reached 15.15%, potentially critical land reached 37.28%, moderately critical land reached 44.54%, and only 10.79% remained classified as non-critical land.

A survey conducted by the Indonesian Forum for the Environment (Walhi) of the Bangka Belitung Islands Province in 2020 revealed that the number of critical lands had expanded to 1,053,253.19 hectares. This accounts for 64.12% of the total land area. Over the last decade, mining activities have resulted in the loss of 320,000 hectares of productive land in Bangka Belitung. These figures highlight the pressing need for comprehensive measures to address the environmental impacts of mining and ensure sustainable management of natural resources in the region.

The IPR mechanism has failed to address illegal mining due to several factors. According to Derita Prapti Rahayu, low legal culture among communities, convoluted application processes, technical and financial obligations, and suboptimal conditions of People's Mining Areas (Wilayah Pertambangan Rakyat or WPR) contribute to the challenges in implementing IPR. As a result, communities resort to illegal mining activities. Although IPR is still included in the new Mineral and Coal Mining Law No. 3 of 2020, its effectiveness and implementation remain inadequate.

Regional Government-Owned Enterprises (BUMDs) can provide an alternative solution to maximize the utilization of IPR. BUMDs can manage IPR, offering employment opportunities for local miners to operate within licensed mining areas as per the law's regulations. By centralizing IPR management under BUMDs, it becomes possible to streamline the application process, improve compliance with legal standards, and integrate local communities into the formal mining sector. This approach strengthens regulatory oversight, promotes sustainable mining practices, and fosters socio-economic development in the region.

This mechanism offers several significant advantages, each contributing to the overall improvement of the mining sector and its impact on society and the environment. First, by entrusting the management of artisanal mining operations to Regional Government-Owned Enterprises (BUMDs), the mechanism ensures substantial benefits for the nation's mining sector. BUMDs can effectively oversee mining activities conducted under People's Mining Licenses (IPR), ensuring that all tax obligations, levies, and royalties are meticulously met. This streamlined oversight not only guarantees

compliance with regulatory financial requirements but also maximizes the state's revenue, which can be channeled toward essential developmental initiatives across various sectors.

Second, this mechanism addresses the critical issue of environmental conservation and restoration. BUMDs, acting as responsible stewards of the land, are mandated to fulfill environmental rehabilitation obligations as per legal mandates. By implementing stringent environmental safeguards and restoration measures, BUMDs can prevent unauthorized mining practices that pose risks of environmental degradation and pollution. This commitment to environmental stewardship aligns with sustainable development goals, ensuring that mining activities are conducted responsibly and with minimal ecological footprint. Third, by transitioning artisanal miners into legal, regulated operations under BUMD management, the mechanism ensures that communities can sustainably derive income from mining activities without resorting to environmentally detrimental practices. This not only secures the economic well-being of mining-dependent communities but also fosters socio-economic stability and resilience in the long term.

Fourth, the mechanism facilitates enhanced law enforcement capabilities for the government. With BUMDs overseeing legal mining operations and communities transitioning to compliant practices, governmental authorities can more effectively enforce regulations and crack down on illegal mining activities. This strengthened enforcement not only upholds the rule of law but also fosters a conducive environment for legal mining enterprises to thrive, further bolstering the nation's mining sector. To operationalize this mechanism effectively, the government must undertake several strategic initiatives. This includes facilitating the establishment of BUMDs, defining clear mechanisms and operational frameworks for collaboration with local communities, and expediting the process of granting People's Mining License Areas (WPR). By addressing these foundational aspects, the government can pave the way for the successful implementation of this innovative approach to artisanal mining management, yielding significant benefits for the nation, its people, and the environment.

CONCLUSION

Illegal tin mining in Bangka Belitung remains a significant unresolved problem, as it has negative impacts on the environment and communities. Although the tin mining sector contributes significantly to the Regional Original Revenue (PAD) and is an important part of the local economy, the existing mechanism of People's Mining Licenses (IPR) has not been effective in controlling illegal mining. This is due to various factors such as the low legal culture in the community, complex bureaucracy in IPR management, and limitations in People's Mining License Areas (WPR). As a result, many communities resort to illegal mining as an economic solution. An alternative solution is to involve BUMDs in tin mining management. This approach can help oversee mining operations based on IPR, ensure compliance with tax and environmental obligations, and provide employment opportunities for mining communities. By managing tin mining in a more structured and controlled manner, the negative impacts on the environment and communities can be reduced while ensuring economic benefits for both the community and the local government. The management of tin mining by BUMDs is expected to strengthen law enforcement against illegal mining. With stricter oversight of mining operations and cooperation between BUMDs and the government in law enforcement, it is hoped that illegal mining practices detrimental to the region can be reduced. The use of the mechanism of tin mining management based on BUMDs has the potential to address the challenges faced by the mining sector in Bangka Belitung. The successful implementation of this approach requires close cooperation between the government, BUMDs, and local communities, as well as a strong commitment to upholding existing laws and regulations. By ensuring compliance with regulations, protecting the environment, and improving the welfare of communities, this approach can bring significant positive impacts to sustainable development in the region.

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