PUBLIC POLICY AND LEGITIMACY: STUDY OF GOLD AND NICKEL MINING MANAGEMENT POLICY LEGITIMATION IN BOMBANA DISTRICT, SOUTHEAST SULAWESI PROVINCE

Abas

1Doctoral Program of Administrative Studies,
Faculty of Administrative Science,
University of Brawijaya, Malang, Indonesia
ab3_male@yahoo.com

ABSTRACT

Decentralization policy particularly that of mining management, since the enactment of Law No. 32 in 2004, have had economic and political objectives. By the economic aspect, it is expected to affect distribution and acceleration of regional economic growth, while by political aspect it aims to increase political legitimacy. After the Law issued, each region has the authority of administrative, political and managerial procedures to manage their own mining resources independently. Unfortunately, the implementation of mining management policies in regions cause problems of social conflict, mining corruption, environmental damage, and has not significantly been able to encourage local economic growth. Therefore, the purpose of this study are: 1). To describe the extent of gold and nickel mining management policy process in Bombana District in the period of 2005 to 2014, 2). To analyze the impact of policies on the legitimacy of the current policy. The research results show that although the policy process administratively and politically has gained legal power as the framework of Law No. 4 Year 2009 on Mineral and Coal became the legal protection, but philosophical substantively inconsistent with the provisions as stipulated in the Indonesian constitution of the governance of natural resources for the benefit of the public, particularly Article 33, paragraph 3 of the 1945 Constitution. Furthermore, decentralization of mining management policy in regions still poses problem of its hope to create prosperity that not synchronous with political legitimacy that still strengthening the political interests practice of regional leaders, mining businessmen and officials in utilizing the mining resources for private purposes by violating law (corruption in the mining sector). This condition is supported by the absence of mining management grand design since enactment of regional autonomy. As a result, policy processes such as policy agenda-setting, public hearings process, mining license publishing, and technical regulations publishing are not arranged based on the legal basis and the principles of good and correct mining management. This in turn affects on the poorly performed mining management policies that harm the state, region, and local communities.

Keywords - Decentralization, Mining Policy, Political Interests, Resistance, and Legitimacy
1. INTRODUCTION

Natural resources such as gold and nickel is a potential economic resource of society and state, therefore needs to be managed well to achieve the objectives of the constitution relating to the natural resources management for the prosperity of the people as stipulated in the Constitution Article 33 Paragraph 3 (Sembiring, 2009). From the historical aspects of mining governance, natural resources management in Indonesia is divided into three important stages; the era of the old order (the President Soekarno era), the era of the New Order (President Soeharto era) and the reformation era. In the era of the old order and the new order, mining policy to be centralized through the full procurement by the state. While in the reformation era, especially after the fall of President Soeharto and the changing of governmental system from centralized to decentralized after the amendment of the constitution, mining governance became the domain of local/regional governments. The formal base is the issuance of Law 32 year 2004 on decentralization and the release of the government's decision on governance of mining licenses and various mining regulations that accompany, such as government regulation number 23/2010 on the Implementation of Mineral and Coal Mining which was then replaced with government regulation number 24/2012 on the Implementation of Mineral and Coal Mining, Government Regulation number 55/2010 on Guidance and Control over Mineral and Coal Mining.

Decentralized mining management thereby encouraging investment, simpler and faster mining extraction activities both in the licensing process as well as the exploration and exploitation activities. The aim is to encourage mining sector to be able to stimulate local economic growth. The contribution of the mining sector is still believed to be a significant factor for the economy not only regionally but also nationally. For the year 2012 alone, the contribution of the mining sector reached 123.5 trillion IDR. Of that state’s total revenue realization, 26.4 trillion IDR of them from non-tax state revenues; fixed fees of 500 billion IDR, sales of mining products 8.8 trillion IDR, and 17.1 trillion IDR royalties, (Kompas, 2012; EMR, 2013). Although that figure is still far from the expected target (which amounted to 32.6 trillion), but significantly contributing to the state budget by 25 percent. This value is certainly significant in encouraging the development of national economy as a whole and if utilized properly, the constitutional purpose of mining for welfare will be realized (Sembiring, 2009). Therefore, the Bombana district government since becoming autonomous region in 2003 has changed the strategy of developmental economic policy. That is, the policy of mining management is the developmental economic policy changes of Bombana District local government which previously relied on agriculture and plantation sector to the mining resource extraction sector. This policy principally in line with the provincial level policy where the provincial government proclaimed Southeast Sulawesi as a center for the mining industry and establishing Southeast Sulawesi province territories in general as a national mining special economic region or territory.

Nevertheless, based on performance evaluation of decentralization shows that the area that is rich in natural resources, in fact is far from prosperity and more likely to deliver social and political conflict. The facts demonstrate that the management of natural resources in Bombana District, which in general is part of the decentralization policy for the welfare and increasing legitimacy can not be realized due to the unpreparedness of economic resources, political, technical and regional infrastructure to manage independently the potential natural resource owned. Although nationally, natural resources management has become part of the national economic strategy, but at the local level have not been able to demonstrate achievement of building local economy. On the opposite, it creates conflict that led to the policy inefficiency. This condition eventually become a paradox, where regions producing natural resources are in the state of economic downturn compared to regions with no natural resources. This paradoxical phenomenon has been of concern to some social scientists like Auty (1993), which called it a "natural resource curse". As said by Humphreys, et.al (2007: 1) that countries with abundant natural resources, often have worse economic development performance and governance system than countries with less natural resources. Paradoxically, although hopes were high on the emergence of wealth by natural resources, it often become an obstacle in creating a stable and sustainable development. This is clearly seen from the still away expectations of mining policy with the living conditions of local residents. Natural wealth are creating injustice and conflict both vertical and horizontal (Ross, 2007).

Based on the facts above, this article tries to answer following questions; 1). How is the policy process of gold and nickel mining management in Bombana District? 2). How is the impact of the policy process on the policy legitimacy?
2. RESEARCH ON LEGITIMATION

Research on the legitimacy of public policies, especially in Indonesia is still quite rare. Several studies about the legitimacy of the policy which can be seen in the study Matti in 2009 with the title 'Exploring Public Policy Legitimacy: A Study of Belief-System Correspondence in Swedish Environmental Policy "which reveals that legitimacy is a framework normative concept that is closely related to the position of the democratization of the decision-making Political linking normative basis of the policy with the values that built from public or publicly. Although it is assumed that the government's political perspective is elected democratically, but, more than that legitimacy also has a function that is more practically oriented i.e as variables that influence the success and failure of politics in the long term as well as a determinant for achieving positive results (Matti, 2009:1-2). By using the approach ACF theory of Sabatier, Matti argued that without a foundation of legitimacy, effectiveness and efficiency of policies will have trouble in which the absence of people in long-term adherence to public policy. At the same time, achieving sustainability requires political aspirations broad public participation in the long term. Thus, a matter of principle, important and very real in achieving all of these (policy success) is the level of legitimacy of the policy itself.

Several other authors writing in the form of articles in journals of legitimacy in general, such as: Tanner wrote a dissertation titled "Legitimacy and the Use of Natural Resources in Kruger National Park, South Africa", by conducting a case study on a national protected area in Africa, Tanner revealed that throughout the world, facing a protected area sites and increasingly complex conditions with diverse interests and demands of the various actors who often compete against each other or even likely to result in conflict. Thus, when an action regarding the governance and management of protected areas is observed with such complexity, the decision requires an evaluation of legitimacy. This study shows that the legitimacy of a multi-dimensional concept and if evaluated explicitly will provide insight that is wide enough for the administration and management of protected areas and may help reveal previously unexpected resolution to complex issues (Tanner, 2004).

A fairly recent study conducted by Wallner who see the failure of the policies of the different perspectives that's aspects of legitimacy. Generally, studies typically assess the failure of public policy through the lens of effectiveness, efficiency, and performance. This study proposes a further dimension to evaluate and assess the legitimacy of the policy failure. Substantive elements of public policy and procedural steps taken by the authoritative decision-making during the policy cycle affects the perception of the legitimacy of policies by stakeholders and the public. Substantively, the substance of the policy should be aligned with the dominant attitude in the community affected by the policy and the wider public (Wallner, 2008).

Several studies show that the legitimacy of public policy models, especially the model of deliberative democracy policy is an important factor for the formation of legitimacy. Woley in his research about the legitimacy of public policies in the case of security and economic policy in Canada and the United States, indicate that the process of deliberation have an impact on the legitimacy of public policies. model of policy making mere procedural nature does not necessarily impact the legitimacy (Woley, 2008). Slightly different, Parkinson assess deliberative democracy has a problem associated with the efficiency of the policy. Democratic legitimacy or model of deliberation thus face the challenge of efficiency (Parkinson, 2003; 2006). Research conducted Abels regarding participation relationship with legitimacy and accountability (a case study on the technology of Participation) provide conclusions are quite interesting that participation does not necessarily increase the legitimacy and accountability. Although some circles argue that the procedure participatory believed to (1) increase the motivation of those involved, (2) improving the knowledge and the basic values of policy-making, (3) start the process of social learning, (4) an opportunity for a resolution of the conflict and achieve common prosperity and (5) increasing the level of acceptance and political legitimacy of the policy. However, this view is too reductionist. participative procedure does not automatically increase the democratic legitimacy and accountability of decision-making (Abels, 2007).

Ogundia research conducted in Africa also shows more or less the same. According to him, the structural elements become an important part of the factors that influence the final and ultimately the legitimacy of the policy itself. Through the legitimacy crisis mechanism can be seen through the circle model of legitimacy (cycle of legitimacy). Performance capacity factors have an influence on political instability. The ability of the government or leader to transform natural resources into economic resources effectively to achieve the country's goal of providing goods and public services, creating the same opportunities and
equitable or fair in which resources can be accessed by all parties and to create social security and reduce merajalelahnya corruption is a factors that determine the legitimacy, whereas democratic processes or procedures did not give significant effect (Ogundiya, 2009). Thus, this study shows that the accountability policy becomes an important variable for the formation of legitimacy. At the operational level, especially related to the position of the private or corporate sector in the management of natural resources (mining), for example, Claasen showed in his study that the CSR (Corporate Social Responsibility), which is a mechanism for corporate accountability on the environment have an impact on legitimacy. Privatization of the mining sector through PPJV (public private joint venture) ensure the fair distribution of benefits, efficiency of exploitation and strengthen the bargaining position towards international markets. In PPJV, position of the government is a representative of the citizens. Claasen research results show that PPJV and CSR can establish pragmatic legitimacy, but failed to produce a normative and cognitive legitimacy. This study menysahkan a petanyaan whether PPJV is the best governance structure for mining activities in developing countries (Claasen, 2009). In fact, as indicated Palazzo and Scherer in penelitiaannya regarding corporate legitimacy that CSR is often unable to respond to the dynamics in modern society. Therefore, Palazzo and Scherer propose changes towards deliberation (Palazzo & Scherer, 2006). In modern society the individual becomes a central position, hence the communicative approach into a solution can be reached.

Several other studies have shown that the procedure legitimacy(input legitimacy) and the performance of the policy(output legitimacy) is a process that is reciprocal. This approach Schrapfdiadobsi of view regarding the legitimacy of input and output legitimacy (Schrapf, 1998). Backs trand see that through a process of deliberation, the legitimacy of the inputs and outputs can be connected. This view is a response to the fact that the more complex an actor in public policy that requires a network approach and deliberation. In this case, the issue of governance (replacing government)be implications in a society that is increasingly global clicking. It takes a strategy of cooperation among various groups in the community or network policy (Backstrand, 2011). Bauckaert said: "a strategy of governance is the interaction and co-production of citizens in public services improves the efficiency, the effectiveness and the legitimacy" (Bauckaert, 1993; 156).

Skogstad his studies on the relationship of legitimacy and democratic and multi-level regulatory governance showed that the process of direct democracy through a policy network becomes important. As mentioned in his study that the democratic deficit in the multi-level governance, resulting in reduced government accountability. Therefore, input or procedural legitimacy is needed to make the policy-making process and legally acceptable and has a good impact or output. To safe guard the procedural legitimacy, decision makers have sought to incorporate non-state actors closer to decision-making through a network policy. The hope is that democratization through’ multi-level governance" is equipped with a network of government to facilitate dialogue and learning for all non-state actors and states to build consensus around political issues that occur (Skogstad, 2002).

Studies in the frame of democratic legitimacy, especially in the perspective of governance or the networking done by Klijn & Edelenbos showing the relationship between the democratic legitimacyand the efficiency or the results of policies and strategies in the role of network management with democratic legitimacy. Processordeliberationnetworkwillprovidelegitimacystrengthcompared to the mechanisms of representative(Klijn & Edelenbos, 2011).
Through the process of democratization of public policy, the government is expected to be able to transfer the existing value at the level of the public to be value in policy implementation. Through the policy network will be established a consensus value along with the development dynamics of stakeholders. Brinkerhoff which refers to the legitimacy of Suchman views about the legitimacy of cognitive, Moral and pragmatic provide a strategy for the improvement of legitimacy with regard to stakeholders dynamic through strategic policies; informing, conforming and manipulating. This method basically has been done in the case SISDUK policy in Takalar Distric, Indonesia (Brinkerhoff, 2005).

3. RESEARCH METHOD

This research was conducted using qualitative method as described by Lincoln and Guba (1981) as a naturalistic paradigm, which aims to deeply understand the process gold and nickel mining management policy in Bombana District and its legitimacy through close observations of the study subjects from 2005 until 2014.

Data and information were collected through interviews, field observation, Limited Group Discussion and Documentation. Sources of information obtained through key informants such as government and local government elements, elements of mining entrepreneurs, and Moronene Traditional Indigenous Society and landowners.

4. RESULTS AND DISCUSSION

4.1. The Policy Process

Theoretically, from the process aspect, public policy takes place through processes of formulation, implementation and evaluation (Dunn, 1981). Policy formulation is an important stage in the policy process that includes agenda setting, problem definition, and policy design (Palumbo, 1987). The process has been formalized through a decision of the State Apparatus Empowerment Minister number: PER/04/M.PAN/4/2007, dated April 6, 2007 on general guidelines for the formulation, implementation and revision of public policy in the central and regional government agencies. In the formulation stage, the policy process takes place through goal setting and joint problems, preparation, academic texts, public process, policy draft and legislative process (policy decisions).

In the context of mining management, process of gold and nickel mining management policy in Bombana District, normatively and institutionally through several important stages: (1). Determining the policy agenda (Draft submission by the Regent), (2). Public Consultation (Regional House of Representatives), (3). Making the rules (Regional Regulation), (4). Issuance of Mining License, (5). Implementation of Mining Activities (Mining Law number 4 of 2009, adjusted by Regional Regulation number 14 of 2012). That stages and processes are prevalent of mining extraction activities in regions since mining autonomy rules rolled out, especially since the issuance of Law number 32 year 2004 on Regional Government and Law number 4 Year 2009 on Mineral and Coal.

The first stage is the process of making policy proposals by the Regent as head of the region. Conceptually, this stage can be called as the construction process or policy agenda-setting, problem defining process and the process of designing the policy by a policy maker. At this stage, a regent or head of region as policy maker to formulate public policy of regional mining by analyzing and establishing the nature and magnitude also distribution of problems encountered; estimating the needs and establish the area as well as the target group; analyze and identify alternative policies as a means to achieve the policy objectives (Palumbo, 1987). In this process, aspects such as rationality, values and interests to be very decisive on policy choices that will be taken by policy makers. Schneider and Ingram (1997) said that the policy must solve problem in a way that is efficient and effective; should be responsive to public preferences, representing the interests and resolve conflict of interests when they clashes; and should promote fairness and democracy in all spheres of life by providing equal opportunities, helping the less fortunate, reducing oppression, and empowering communities to gain greater control of their own lives and the environment.

In reality, there are no documents or drafts of formal policy analysis produced by the team of policy makers. This reinforce the analysis of environmental activist organizations like WALHI and JATAM that
mining extraction policy in Bombana district damaging the environment. It also not in line with economic interests and public health as well as within long term give a serious problem for the survival of society, especially those who work as farmers. Mining extraction policies, also in principle incompatible with the interests of local communities, especially owners of agricultural land. It also not in line with the potential of Bombana’s region based on documents in the Regional Medium Term Development Plan of Bombana District years 2011-2016 as well as territorial characteristics of the region as stated in Spatial and Regional Planning of Bombana District years 2008-2027 (law number 8 of 2008). In Bombana’s Spatial and Regional Planning of 2011 for example, it is known that the forest area of Bombana District has decreased drastically. In 2009 the forest area of Bombana reached 249.320 ha, but then only until 2012 it turned 207.320 ha (Source: Forestry Agency, Bombana District).

By economic aspect, the contribution of the mining sector was also not significantly impact the economic progress of the region. Likewise the employment in the mining sector that are still minimal (Central Bureau of Statistics Bombana, 2012). The lack of supporting infrastructure such as human resources, technical and other supporting infrastructure causes mining governance of Bombana is not maximal over the years. Not to mention the calculation of loss rates it cause that were also not small. Even on a national scale, the contribution of mining industry to the country’s financial is still low, which ranges from 1% - 3% of the state revenues. In addition, this sector is also assessed as having more negative impacts than positive impacts on the environmental aspect and quality of life for people around the mining area because of the ecological damage such as air, water, climate, flora and fauna, soil and landscape. Strangely, the state is very fond of this destructive industry by frequently issued regulations and policies that benefit investors in the mining sector (Harjanti, 2006).

<table>
<thead>
<tr>
<th>Business field</th>
<th>PDRB in Rupiah</th>
<th>LQ</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Bombana Regency 2010</td>
<td>Southeast Sulawesi Province 2010</td>
</tr>
<tr>
<td>1. Agriculture</td>
<td>197,024,42</td>
<td>3.731,856,51</td>
</tr>
<tr>
<td>2. Mining and Quarrying</td>
<td>17,105,76</td>
<td>558,809,44</td>
</tr>
<tr>
<td>3. Processing Industry</td>
<td>7,964,64</td>
<td>953,959,86</td>
</tr>
<tr>
<td>4. Electricity, Gas and Water</td>
<td>947,89</td>
<td>74,292,58</td>
</tr>
<tr>
<td>5. Construction</td>
<td>40,681,19</td>
<td>877,513,86</td>
</tr>
<tr>
<td>6. Trade, Hotel and Restaurant</td>
<td>42,799,55</td>
<td>1,695,809,00</td>
</tr>
<tr>
<td>7. Transportation and Commun.</td>
<td>7,653,07</td>
<td>849,519,56</td>
</tr>
<tr>
<td>8. Finance, Real Estate &amp; Business Services</td>
<td>19,065,79</td>
<td>620,181,58</td>
</tr>
<tr>
<td>9. Offices</td>
<td>55,623,05</td>
<td>1,405,098,89</td>
</tr>
<tr>
<td>Amount</td>
<td>388,847,36</td>
<td>10,767,041,28</td>
</tr>
</tbody>
</table>

Table 1. Economy Position of Bombana District Against Economy of Southeast Sulawesi Province [LQ Results


The second phase of the policy, the Political Process - Policy Consultation. The results show that the effort of public consultation in policy-making processes is not maximal, as well as with the lack of knowledge of legislators regarding the political process of regional mining management shows that political access in the
policy process is still limited and closed. It is limited to the executive level of Bombana's local government. Such a situation leads to the difficulties for people to be able to fight for what is important to them, as well as in its implementation will be difficult realizing people's participation. This condition at the same time affirmed the result of Jackson's (1978) research in his study in Indonesia, which depicted that participation in policy formulation is an exclusive area of senior officials, officers and elite civilian group. Models of this policy can be seen in the decision-making process that is restricted to the elite of the country. Likewise, the policy process that is not transparent and far from public information reach. While participation opportunities for interests outside elite of the country was only at the implementation stage, and generally only minor adjustments at a local level. In the case Bombana for example, it can be seen of how the implementation of the policy in the case of gold mining involving community through partnership employment systems that are not profiting community groups, and gave an exploitative and forcing impression considering that there are no fair division of the production or extraction outcome. On the other hand, the position of land owners are squeezed on condition where there are no other choice of job, their land of farms and plantations many had converted to mining sector by companies.

The third stage is making regulations / Rules. Policy instruments principally have a purpose as a way to achieve the policy objectives set out in the its agenda (Suharto, 2011: 53). Regulatory policies, or operational rules are an important part of the public policy process. Regulation is one of legal instruments that could be used by government or policy makers to actualize the goal of public policy. Regulation is related to the work of legal instrument for the implementation of socio-economic and administrative policy objectives (Hertog, 1999: 223). Unfortunately, local governments of Bombana District are too hasty in executing policy without undergoing preparation and provision of good regulation, as well as the provision of other supporting infrastructure. This thing for example, can be seen at several stages of the mining policies by Bombana's Regent which arr open-pit mining policy (first policy), artisanal mining policy (second policy) and the privatization policy (third policy). In the open-pit mining policy for example, the government did not publish rules which regulate and tie mining activities that serve as public knowledge and can be accessible to everyone without exception. It later have an impact like what experts of public goods theory called as "collective action dilemma" (Hardin, 1968). As mentioned by that (2010) that at this stage, each actor concerned only themselves regardless of the surrounding environment.

Likewise the second phase of the policy taken by the government in the form of artisanal mining. In the artisanal mining policy, the government actually publish a rule in the form of Regulation No. 20 in 2010. However, this regulation has not portrayed a good one. The local government in this case using Mining Entrance Card as an instrument to control mining activities. Also a defect in the publication of the regulation of artisanal mining, that it does not include specific criteria that are in line with the spirit of building a good and sustainable mining. Another problem also seen on regulations that are not in line with the mining constitution above it. Results of research conducted by Pudjiastuti (2010) for example, show that Regulation number 20 Year 2010 has a lot of drawbacks associated with substance of chapters in it, including the definition of artisanal mining which is in contrary to Law 11, 1967 which is above it. Ultimately, artisanal mining policies also pose problems of environmental degradation and social conflict. This is because the activities of artisanal mining does not professionally carried out using the principle of good mining practice. Until finally at the fourth stage, government to make policy of privatization which is devoted to the companies holding mining processing license.

Unfortunately, the privatization policy of the local government on the mining resource is not accompanied by adequate regulatory instrument making. As the impact, the government is not professionally assess each company that will undertake the mining extraction activities. Mining extraction activities license without basing on the competence of the company resulted on some companies that does not work at all, as well as several other works in the traditional and manual way through partnership system. In the matter of CSR, for example, there are no clear rules and the exact amount of compensation to be paid resulting in the company freely and unilaterally distribute it and generally they do it through local government agencies. Regional government only issued rule in 2012 in form of Regulations number 14 Year 2012 on Mineral and Coal Mining after the issuance of more than 84 mining processing license or after the change of Regent. Companies with already issued license has done mining activities of exploration, exploitation until the sale that environmentally damaging and detrimental to the region.
The fourth stage is the Mining Business License Issuance Process. The process at this stage is the legitimacy process of administrative decisions on the implementation of regional mining in the form of mining license. From the legal aspect, the license is intended as a form of control over the behavior of any person or entity (entrepreneur) that are preventive (Sudrajat 2013: 88). Since regional autonomy was introduced in the reformation era, there were decentralization of mining licenses from the central government to local governments. Decentralization of policies and laws are ultimately used by all local governments in Indonesia to take advantage (Amri, 2010). The authority region posses resulted in companies of mining sector put Regent as important actor to serve as a political patron in processing mining license to conduct mining activities in the region. As a result, power abuse is very difficult to avoid. Instead, the Regent often put authority possessed to provide a great opportunity for investors to own interests in order to gain personal economic benefits (Mining Special Committee of Indonesian Regional House of Representative, 2012). Eventually, corruption in the mining sector through the practice of mining license trade often occurred and economically harming state financial in general and in particular Bombana District because of the lack of local revenue of the license levy sector. The practice of mining license trade can be seen for example that in just over 4 years, mining license issued reached 84, taking space of almost all regions of Bombana. At first, in May of 2009, the number of license holders in Bombana totaled 12 companies. In June 2009 the number increased to 16 companies. Moreover, until 2010 alone there were 84 companies that received license conduct mining activities in Bombana. In practice, mining activities are vulnerable to corruption and violations of statutory provisions, such as mark-down of mining products, exceeding the boundaries of mining area owned, use of subsidies fuel in the activities of mining production, conducting exploitation using exploration license (Mining Special Committee of Indonesian Regional House of Representative, 2012).

In the perspective of the political economy policy, the relationship between the interests and power of political actors and governments that collaborate with the entrepreneurial actors, can be described as mutual relationship that influence each other. Staniland (1985) revealed the theory of relationship between politics and economy as a causal or determining relationship, it divided into two. First, public policies or politicism which see politics determine economy. Second, economism wether liberalism or Marxist which see economy determines politics. In the case of mining policy in Bombana, economy and politics relations are a mutual influence. That is, the mining policy-making should be through political institutions, where policies are made after approval given by the government both the executive and legislative branches.

4.2. Policy Legitimacy

From the aspect of politics, mining management policy which took place as described previously were getting hard resistance from indigenous communities and landowners. As mentioned by Resosudarmo and Subiman (2009) that the public believes that the mining area managed by the company is their right, generally through customary rights. Therefore, especially after Indonesia entered the reformation era in the late 1990s, the awareness of local people was rising against the arbitrariness of the state - in the form of corporate exploitation and control of land unilaterally - to take over the mining activities (Resosudarmo and Subiman, 2009: 431). A lot of mining licenses issued by the Regent of Bombana, almost entirely located in the protected forest area and it became the claim of Moronene indigenous society. Other part located in residential area and plantation area of residents. It pose a problem because done without notification and consensus with residents as owners of land or with Moronene society that have occupied the area for generations. The historical social conflict later became protracted conflict marked by the takeover of land and Rawa Aopa Watumohai National Park by Moronene indigenous society after the fall of Suharto in 1998. The descendants Moronene of indigenous communities claiming the land and building houses on it that had previously been restricted to residents. Although several times that houses was burnt by the police, it did not dampen the intentions and efforts of the indigenous groups of Moronene to re-claim and a building on land that is believed to be theirs’.

The land conflict issue became the basis of the mining management conflict in Bombana between the government or local government, corporate and civil society. Policy conflicts expanded when in substance and principle, the policy orientation is not consistent with the values and interests of local communities. In the implementation, this orientation changes, raises legal and social issues. From the legal aspect, it raises legal dualism between formal law (local government) and informal law (Moronene indigenous people). While
the social aspect of this issue raises a substantive question, whether the policy of exploitation of gold and nickel mining in Bombana District in line with the socio-economic interests of the local community.

Although local government of Bombana District claims that the policy is intended for the public interest, but that policy obtain different response from local community, as well as some environmental activists. They conduct campaigns against the policy and resistance against mining management by local governments in various forms. Among them are demonstration, vandalism and theft of companies' production machinery, blocking the way of the mining site, activity of plantation and agriculture in the area of concessions, and undertake political fight by proposing political demands "rejection of the mine" to the Parliament of Bombana and legal action by the prosecution through the state court in Kendari. Conflict between mining policy actors thus turning into open conflict. Coicaud (2004) for example, considers that this agreement factor becomes important legitimacy aspect of the policy. Matti (2009) considers that this form of expression is a reaction or further processing of the crisis of values in the policy, where the value in public policy is not synchronized with value and policy of the affected society. Both protest and resistance are forms of expression of the farmer groups toward policies they considered not in line with their values and interests.

Thus, the existence of conflicts in the process of mining policy indicate a clash of values and interests between groups in the mining policy. Changes in policy orientation that occurred in Bombana District after the discovery of gold mines has implications for the creation of that conflict. As mentioned by Laderach (2005) in the transformation of conflict, that changes around a society that occur quickly is a distinctive conflict. This conflict is most felt when the cultural economic structure of society is not in harmony with the radical policies taken by local governments of Bombana District that in line with the policy of the provincial government that establish areas with potential mining resources in Southeast Sulawesi province as a special economic zone of national mining. The problem is, a policy that resulted not in accordance with the values and the public interest is likely a policy that does not have strong legitimacy because of rejections. On the other hand, a policy will tend to be more effective in practice and have an efficient performance when it has a strong legitimacy (Matti, 2009). Matti’s argument is in line with the view of Lipset (2007) which stated that legitimacy including the ability to establish and maintain confidence that institutions or political forms that exist is most natural for the community. Suchmann (1995) further classifies the legitimacy that is consistent with the values and the public interest into cognitive, moral and pragmatic aspects. These three aspects are important to create the so-called legitimacy.

Furthermore, the lack of legitimacy of the policy impact on organizational performance and also companies’ target in maximizing available resources. Thus, this condition emphasized what was said by Matti (2009) and Wallner (2007) that legitimacy affect policy efficiency and performance. Neglect of cultural social value aspect and economic interests of the communities in Bombana mining public policy resulted in obstacles on the implementation of the policy itself. This issue started when the policy defined not align with the cognitive aspects of the public based on social and cultural systems of Moronene tribes, as well as the pragmatic aspects. The cognitive aspect is concerned with the perception of the natural resources that are understood and defined by each actor. While the pragmatic aspect is how the mining resource providing benefits to physical development and public services, welfare and foremost is how the distribution of the benefits and disadvantages of mining resources are equal. Unfortunately, for justice, amid the many values and interests of the actors involved, is not an easy matter to happen. The number of actors shows the number of values and interests. Understanding of the policy issues surrounding the rights to minerals, and the position of minerals themselves still an issue surrounding the mining policy in Bombana district.

What happens in Bombana district theoretically is a common situation in almost all parts of the world. Thesis proposed that natural resources and the scarcity of it if not handled properly tend to create a civil conflict with a variety of motives or reasons underly. Its substantial goal is to take over the scarce resources or the economy (Billon, Porto, in Baiquni & Rijanta, 2007). State power that is so strong on one side and capital strength to influence the direction of economic development policies on the other side have an impact on the alienation of the vulnerable groups. Some social theorists such as Scott (1989) to see that community’s resistance movement is a form of strategy that are generally carried out by group of farmers related to industrialization and privatization activities in their territories. This resistance is actually a form of civilian resistance against the hegemony of the state that collaborated with the companies.
5. CONCLUDING REMARK

From the legal aspect, the process of mining management policies have been implemented by administrative and political authority owned by autonomous regions in mining resources management based on Law number 32 of 2004 on local governments as well as Law number 4 of 2009 on mineral and coal.

In practice, the policy process that should run through four stages of formal policy was not carried out in accordance with the principles of democratic governance and owning legitimacy. Firstly, from the policy design aspect, the policy has not reflected the regional interests and characteristics also cultural socio-economic of Bombana society. Of the substantive aspects, the mining extraction policy are not in line with the values and economic interests of local communities that depend on the resource sectors of forestry, agriculture and plantations. Secondly, from the aspect of the political process, the policy is still elitist supported by the use of instruments of state violence. Thirdly, from the aspect of technical regulations, the absence of adequate regulation to guide policy actors. Fourthly, the process of issuing mining license are not transparent, political and corruptive. This has an impact on the bad implementation of mining process and damaging to the environment also does not reflect the value of public justice.

Furthermore, the ongoing policy process impact on the waning and reducing policy legitimacy. Actors such as landowners, environmental activist groups, Moronene indigenous groups and other civil actors commit acts of resistance in various ways that impact on the effectiveness of the mining extraction and performance of the overall policy.

Recommendation

Decentralization of mining management policies in regions still poses problems of the not synchronous of its hope to create prosperity and political legitimacy, because of the still strengthening political interests practice of regional heads, mining operators and authorities in utilizing mining resources for their personal benefit. This condition is supported by the absence of the mining management grand design since regional autonomy enforced. As a result, policy processes such as policy agenda-setting, not compiled based on the legal basis rules and the principles of good mining practice. This in turn affects the poor performance of the mining management policies that harm the state, regional and local communities.

1. The need to develop a national agenda on the grand design of mining management policies which includes the philosophical, normative, political and technical managerial aspects that in line with the agenda of national development plans both in the medium and short term and spatial plans, based on the characteristics of each different regions throughout Indonesia.

2. The need to encourage the implementation of the mining activities are in line with the principles of good mining governance to produce the mining policy that is consistent with the principles of environment oriented development.

3. The need to exercise the interpretation and decision of Constitutional Court related to the authority and obligation of government in the management of natural resources according to the law (Constitution Article 33) which includes aspects of regulation, planning, execution, and control.

4. The need to formulate and implement an independent agency to streamline the role and functions of government in the national mining governance.
REFERENCES


[28]. Koran Kompas, tahun 2012


[54]. Tanner, Randy(2007). Legitimacy And The Use Of Natural Resources In Kruger National Park, South Africa, The University Of Montana Missoula, MT.


Figure 1. Forest Areal Map of Bombana District
Figure 2. Recommendation Framework for Enhanced Policy legitimacy in the case of Gold and Nickel Mining Management Policy in Bombana District