

E-governance as an Alternative Solution in Eliminating Conflict of Overlapping Coal Mining Areas

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ABSTRACT : The settlement of overlapping land use was happen at coal mining in Kutai Kartanegara District for the our land used purposes that was involved property of civil society. From the government viewed, the conflict made from lacked coordination between public agencies who involved with issued land used lisences. From the civil society viewed often found the doubles land used lisences caused from the development new region which is village or sub district. From the privat viewed if the good governance practiced the overlapping land use was not happen. Good governance will supported the growth of investment climate and performance company. This study was made to found e governance as an alternative solution from overlapping land use that mining coal sector faced, the roots of overlapping land use conflict, solution and the correction from the solution. The research method was qualitative method.

KEYWORDS - e-governance, overlapping land use, mining coal sector, kutai kartanegara and conflict

I. INTRODUCTION

Land use conflicts in mining areas have been a topic of discussion for a long time, the causes and impacts of land use conflicts between large-scale mining and community groups, and identifying a series of conflict resolution (land use) strategies for mine management [1]. Land use conflicts are becoming increasingly visible on a local to global scale. For one thing, surface gold mining is an extreme source of such conflicts, but the impact of mining on local livelihoods often remains unclear [2]. In fact, Kutai Kartanegara Regency is one of the centers of coal mining in Indonesia, therefore there are often conflicts over land in the coal mining area with other designations. One example of an overlapping land conflict case is the land overlapping case in the Sangasanga district. Sangasanga District is one of the oil and gas producing areas in Kutai Kartanegara whose exploration and production activities of oil and gas have been carried out by PT. Pertamina EP UBEP Sangasanga based on Technical Assistance Contract Number 0337/03 / M.DJM / 89 dated January 27, 1989 which is operated by oil and gas operators, in which case the Oil and Gas Operators have explored and produced oil and gas in the working area of the Regency. Kutai Kartanegara, East Kalimantan Province since 1992.

The desired goal is to find an alternative solution to land conflicts in the mining sector. This research is one of the media to facilitate the ease of land conflicts in mining and there are not many writings that discuss this matter so this research will be very helpful. One of the coal companies as the holder of the coal exploitation land in the Sangasanga district is PT. Indomining. PT. Indomining started coal exploitation activities in Sangasanga District, Kutai Kartanegara Regency, East Kalimantan Province with an area of land under the Mining Concession of PT. Indomining covering an area of approximately 683 hectares. Mining Authority is based on the Decree of the Regent of Kutai Kartanegara Number 540/022 / KP-Ep / DPE-IV / 2007 since June 21, 2007. The problem of overlapping land often occurs in Kutai Kartanegara Regency, while the resolution is still unclear. This case is basically based on the problems that exist in oil and gas operators which are partners of PT. PERTAMINA EP in the Sangasanga working area, Kutai Kartanegara Regency, East Kalimantan Province based on a Technical Assistance Contract Number 0337/03 / M.DJM / 89 dated 27 January 1989 which was operated by an oil and gas operator. In this case, oil and gas operators have been carrying out exploration and production activities for oil and gas in the Sangasanga working area, Kutai Kartanegara Regency, East Kalimantan Province, since 1992 before the coal mining permit (KP) was issued to the coal company PT. Indomining. From an area of 683 hectares of Exploitation KP which is run by PT. Indomining part of the area overlaps with the work area of PT Pertamina EP. The factors causing the overlapping problem of mining land between PT. Pertamina EP UBEP Sangasanga and PT Indomining Sangasanga [3] is one of them caused by the deliberate factor of the Mining and Energy Office of Kutai Kartanegara Regency. The factors causing the problem of overlapping land between PT. Pertamina UBEP Sangasanga with PT. Indomining Sangasanga has 3 (three) things, including:

1. There was a deliberate factor from the Mining and Energy Agency due to the issuance and issuance of permits to PT. Indomining in 2006 on land that is already within the working area of PT. Pertamina EP UBEP which was granted an operating license since 1996. The reason for granting permission to PT. Indomining is due to the viewpoint of the Mining and Energy Office of Kutai Kartanegara Regency, East Kalimantan Province, that the granting of this permit is because coal is the country's foreign exchange, is a regional income, and as a principle of benefit for the prosperity of the people.
2. There is no coordination between the Regional Government and the Central Government, because of the Mineral and Coal Law Number 4 of 2009 which gives full authority to the Regional Government (Bupati) to issue Mining Concessions (KP). The Provincial Government only handles permits for mining locations located on the border of the two provinces. Coal exports with unclear mining concession areas, especially data on the numbers, are increasingly difficult to control by the central government because regents do not send reports to the central government.
3. Optimization of Non-Tax State Revenues (PNBP) due to government efforts to increase and optimize Non-Tax State Revenues (PNBP) from General Mining Natural Resources Management and the implementation of Article 6 and Article 7 of Law Number 20 of 1997 concerning State Revenue Non-Tax (PNBP). Payment of general mining natural resources PNBP in the form of fixed fees and production fees (royalties) which the regional government wants to optimize to become foreign exchange for the state and regional income.

The expected contribution of this research is to provide input and alternative solutions to local and central governments in dealing with land overlapping conflicts in the mining sector which do not always have to be faced with solving problems at the green table (trial), but there is an alternative through the implementation of e-governance. The concept of e-governance will greatly help facilitate the solution of problems implicitly based on field conditions.

II. METHODS

This study uses a qualitative method. Qualitative research means the process of exploring and understanding the meaning of individual and group behavior, describing social problems or humanitarian problems [2]. The research process includes making research questions and procedures that are still provisional, collecting data on participant settings, inductive data analysis, building partial data into themes and then providing interpretations of the meaning of data. The final activity is to build reports into a flexible structure. Another method used is focus group discussion (FGD) as a medium to make it easier to get more data from various scientific and social perspectives because it involves various stakeholders in different fields. The observation method is a data collection technique used when the research is related to human behavior, work processes, natural phenomena and if the respondents to be observed are not too large. [4] Explains that the instrument in this observation technique has limitations when it comes to retrieving information in the form of opinions or perceptions of the subject under study. Therefore, to strengthen the information obtained, researchers will use tools that are in accordance with conditions in the field such as notebooks, check lists or cameras. As for the respondents in this study were 50 people from all government parties involved in coordinating the prevention of land use in Kutai Kartanegara Regency, consisting of:

1. 7 people from BKPRD Kutai Kartanegara Regency
2. 7 people from Bappeda Kutai Kartanegara Regency
3. 15 people from the Department of Energy and Mineral Resources of Kutai Kartanegara Regency
4. 7 people from the Forestry and Plantation Service of Kutai Kartanegara Regency
5. 7 people from the Agriculture Office of Kutai Kartanegara Regency
6. 7 people from the Environmental Agency of Kutai Kartanegara Regency

III. RESULT

If we look in more detail about the economic structure of East Kalimantan [4] it is still dominated by natural resource-based business fields, namely mining and processing industry (oil and gas), which can be seen from the large role of each of these business fields in the formation of East Kalimantan's GRDP. Economic growth in East Kalimantan 2019 is considered to have increased significantly according to information from the Central Statistics Agency (BPS) of East Kalimantan on the Regional Concurrent Consultation (Konserda) activity for Gross Regional Domestic Product (PDRB) according to Regency / City Business Fields in East Kalimantan 2020. The largest contribution was in 2020. Economic growth in 2019 for East Kalimantan reached 4.77 percent from the increase in added value between 2018 and 2019. Meanwhile, in the previous year it was only 2.7 percent. The source of economic growth in East Kalimantan Province 2019, the Mining and Excavation Business Field is a business field with the highest share of growth sources reaching 3.24 percent. This growth has tended

to be driven more by the mining sector. The amount of income depends on how the licensing process is carried out, we can see below in Fig. 1 and Fig. 2.

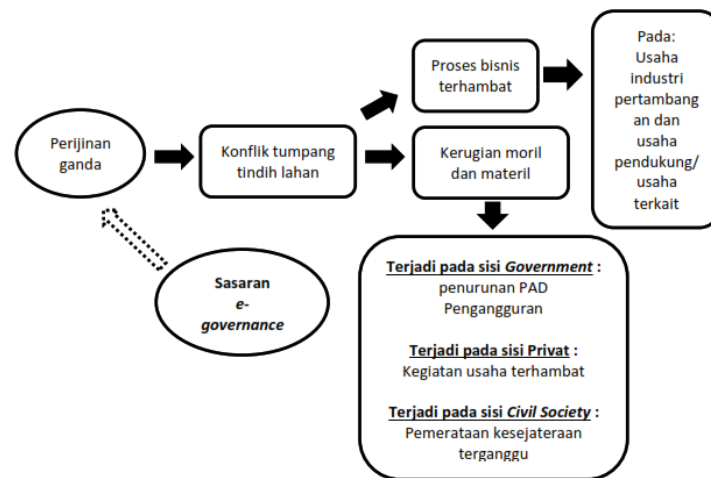


Fig 1. Private Approach

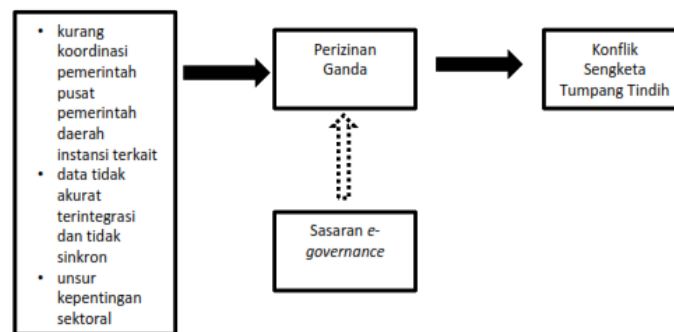


Fig 2. Public Approach

The condition of coal prices in the world market which has not been stable and is still below the East Kalimantan economy in 2019 has accelerated when compared to 2018 which grew only by 2.67 percent. This has also been exacerbated by the many conflicts over coal mining land that have made mining companies stop producing, investors have held back their investments and some have even discontinued their coal business in East Kalimantan. Although the contribution of the mining and quarrying business fields and the processing industry in forming a GDP per capita is quite large [5], their role has decreased compared to 2010. In that year, the roles of the two business fields were 48.24 percent and 23.46 percent respectively. These data indicate that during this period there was a sustained slowdown in GDP per capita growth. A signal that requires attention from economic development actors in East Kalimantan.

In the Mining and Excavation Category, the Business Fields that contributed the largest were Coal and Lignite Mining, which amounted to 68.45 percent in 2014, an increase from 54.01 percent in 2010. Thus, it is seen that the role of coal mining is very dominant in the economic sector. in East Kalimantan the range is above 50% of the East Kalimantan Regional Revenue between 54.01% to 68.45%. So it is only natural that the government's attention in finding solutions to conflicts over coal mining land disputes must be more serious, not only relying on conventional solutions that use a normative and juridical approach alone but looking for breakthroughs that are faster, more accurate and effective by using a socio-cultural approach and also the use of information technology or governance. electronic management (e-governance).As a business activity, the mineral and coal mining industry is an industry that is capital intensive (high capital), risk intensive (high risk), and technology intensive (high technology). In addition, mining business also depends on natural factors that will affect the location where the mineral reserves are. This causes mining business activities to be a specific industry that requires large capital, so that every party wishing to carry out mining activities really needs business certainty.

By not mentioning the mining sector as a (central) government affair, in principle, government affairs in the mining sector are a matter of the authority of the Regional Government. The authority of the Regional Government in obtaining authority in the field of issuing permits through attribution as part of the State administration service which has the task of realizing public welfare (*bestuurzorg*). The uniqueness of mining management means that the authority for mining affairs is not the absolute authority of the provincial and district / city governments, but rather an “optional” affair, namely an affair that actually exists and has the potential to improve the welfare of the community in accordance with the conditions, peculiarities and potentials. the superior region concerned.

Based on the above objectives, the implementation of mineral and coal mining business activities, besides being important to pay attention to the licensing system in the context of regional autonomy, is also related to environmental permits in the UUPPLH as a new development which is also a new development of AMDAL decentralization. In the decision process for the licensing system in the mineral and coal sector, part of the implementation rests with the regional government and if this permit is in the forestry sector it is also related to lease-to-use rights for land to be used as a mining business area (Fig. 3).

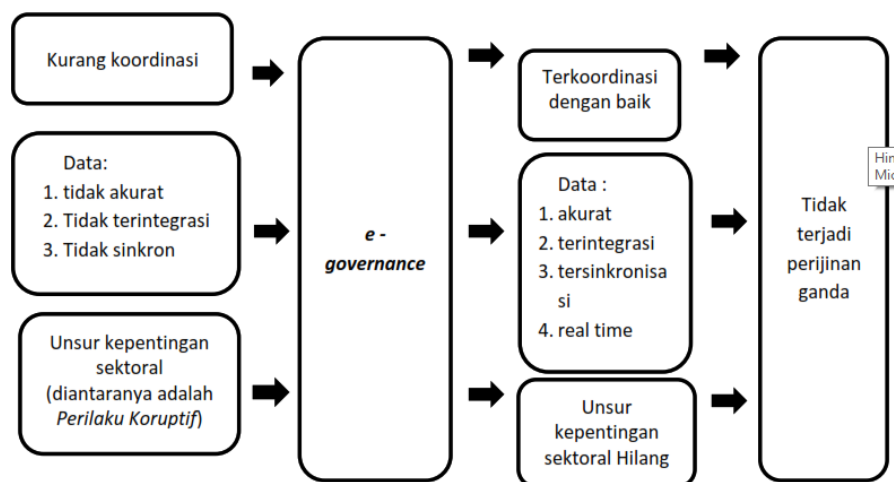


Fig 3. E-Governance Targets

If government policies are based on the same goals between stakeholders and society in general, then the licensing policy can be implemented optimally, as stated [6]: "While government and governance both refer to the system of rule, the notion of activities that are backed up. by formal authority and police powers to ensure the implementation of policies. Governance refreshes to activities backed by shared goals that do not necessarily rely on the exercise of the authority to attain compliance". The government actually has the authority to carry out an integrated policy in building a licensing system in the operation of mining activities in Indonesia. Another problem is decentralization. Decentralization itself focuses on the district / city level where the district / city governments themselves become the locus of growth and rampant corruption. Under the local government law, a regional head has full authority to grant permits and approvals for various forms of investment in his area [7]. It is in this context that there has been a shift in granting mining permits from the central government to regional governments.

The change in the authority for granting mining business permits to the local / city governments has resulted in more than 10,000 mining business permits since the enactment of Law Number 22 Year 1999 concerning Regional Government [8]. Changes in the policy of granting the authority to grant mining permits to regional / city governments have apparently encountered problems that have never been encountered during the centralization of licensing in the past. It is estimated that more than half of the number of permits that have been issued by local / municipal governments have experienced problems [8]. The central government, through the Ministry of Energy and Mineral Resources, realizes this so that it then carries out an inventory of all mining business permits based on Law Number 4 of 2009 concerning Mineral and Coal Mining (Currently it has been replaced by Law No. 2020), and Government Regulation No. 22/2010. The Ministry of Energy and Mineral Resources then conducts an evaluation / selection process which is entirely based on an administrative (desk-based) process for mining business permits that have been inventoried using two key categories.

First, there are no administrative problems and they do not overlap with other mining business permits (clear and clean). Second, there are administrative problems and they do not overlap with other mining business permits (non clear and clean). The objectives of giving a clear and clean status are: (1) For coordination, verification and coordination between mining business permits granted by governors and regents throughout Indonesia; (2) To attract investment and state revenue, and (3) To create an integrated central database [8]. As of February 26, 2013, mining business permits with a non-clear and clean status totaled 5,288 units. Meanwhile, mining business permits with clear and clean status totaled 5,502 [9]. Mining business permits with a non-clear and clean status based on the categorization of the Ministry of Energy and Mineral Resources can be divided into three, namely overlapping areas, overlapping with the same commodity, and overlapping with different commodities. However, one thing is certain is that the source of the occurrence of overlapping mining business licenses can be assumed to be multi-dimensional rather than the result of a single dimension (mono-dimensional). That is, it is very complex and interlocked with one another. Some important factors are falsification of the issuance date and issuance of mining business permits knowing that there are other mining business permits in the mining sector, border disputes between districts, lack of information system infrastructure and / or manual data systems, lack of skills and knowledge of local officials in Professional registration and management of permits, replacement of regional heads and inaccuracy in issuing mining business permits prior to the enactment of Law No. 4 of 2009 (currently replaced by Law No. 3 of 2020) to avoid the public tender process (10). The following is a diagram of the sources of the overlap:

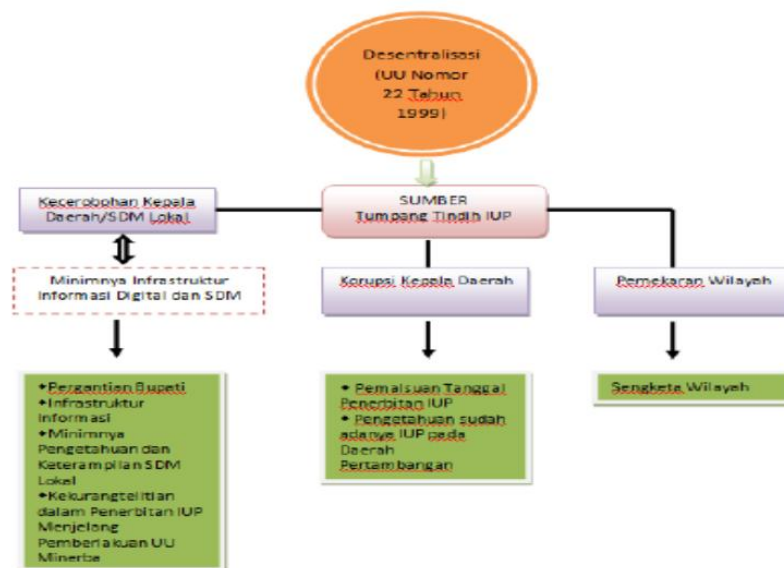


Fig. 4. The Root Problems of Multiple Land Use Licensing in the Land Mining Sector

In general, the source of the conflict is divided into two, namely intermediate sources (intervening / mediating causes), namely the factor of regional expansion, regional head corruption, carelessness of regional heads, and / or the lack of recording infrastructure for mining business permits (IUP) digitally, and sources. Root causes, namely territorial disputes, falsification of the issuance date of mining business permits (IUP), replacement of regional heads, and so on. Often the issuance of mining permits is carried out without coordination with other agencies and levels of government and does not comply with administrative standards, resulting in the emergence of several problems in mining, such as overlapping land and administrative incompleteness [8] and environmental damage. Socio-politically, these conditions can lead to the emergence of conflict and social disharmony, both between communities and between mining entrepreneurs as well as between communities and mining entrepreneurs and the lack of commitment and responsibility for post-mining reclamation mining entrepreneurs [11]. In this case, e-governance can play a role so that mismanagement of IUP issuance does not happen again. Mining problems that arise today, especially those related to overlapping lands, can be rooted in the corruption problem of regional heads [12]. It is known that mining business in the regions tends to benefit certain people more than the local community [11]. Mining is one of the strategic sources of profit sharing (pie distribution) for executives, political favors for winning certain candidates, and a source of collecting financial coffers in order to cover political costs during post-conflict local elections [11]. It is not surprising that there are many brokers who hold and manage mining business permits who are then traded to entrepreneurs.

IV. DISCUSSION

Land use has changed more than half of the planet's terrestrial ecosystems, primarily to increase the provision of several ecosystem services, such as food production [13] [14]. As not all services can be maximized simultaneously, every land use decision involves trade-offs, often resulting in competing interests and substantial conflicts about desired land use among stakeholders [15] [16]. Economic land use theory suggests that markets resolve these conflicts through land rent differentials which will lead to the most profitable land use allocation [17]. The problem is that ecosystem services are often difficult to value economically and remain externalities. Degradation of these services can lead to conflicts among land users [18]. Surface mining is an extreme example of land use practices that can lead to such conflicts. Conflicts over the extraction of coal and gas resources have increased rapidly in communities around the world. Using the lens of environmental justice, this multidisciplinary book explores cases of land use conflicts through the life experiences of communities struggling with these disputes. Based on the theory of justice and fairness in environmental decision making, this shows how land use conflicts related to resource use can become deep-rooted social problems, resilient to policy and legal intervention [19]. There are 3 main target groups in the e-governance concept, namely: government, citizens and the business sector / interest groups. The external strategy in this e-governance model focuses on citizens and the business sector / interest groups. Meanwhile, the internal targets focus on the government itself. Nomenclatures such as B2B (Business to Business) and B2C (Business to Consumer) are used as in e-commerce, to simplify illustrations of interactions between these groups. In summary, the interactions of the main groups in e-governance can be seen in the following model:

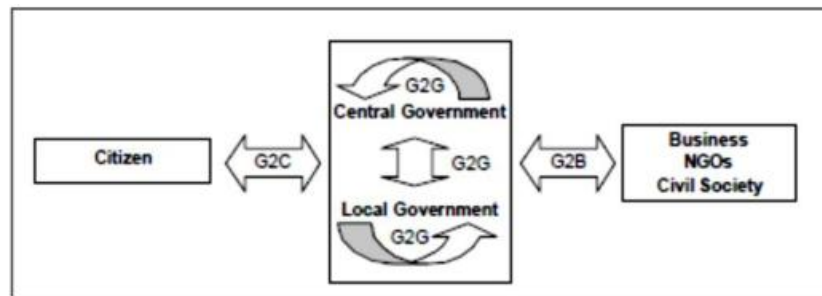


Fig. 5. Interactions among major e-governance groups

Concretely, the interaction on e-governance in the issuance of Mining Business Permits (IUP) towards good governance in the mining sector with one of the final objectives of reducing conflict over land overlapping conflicts is as follows:

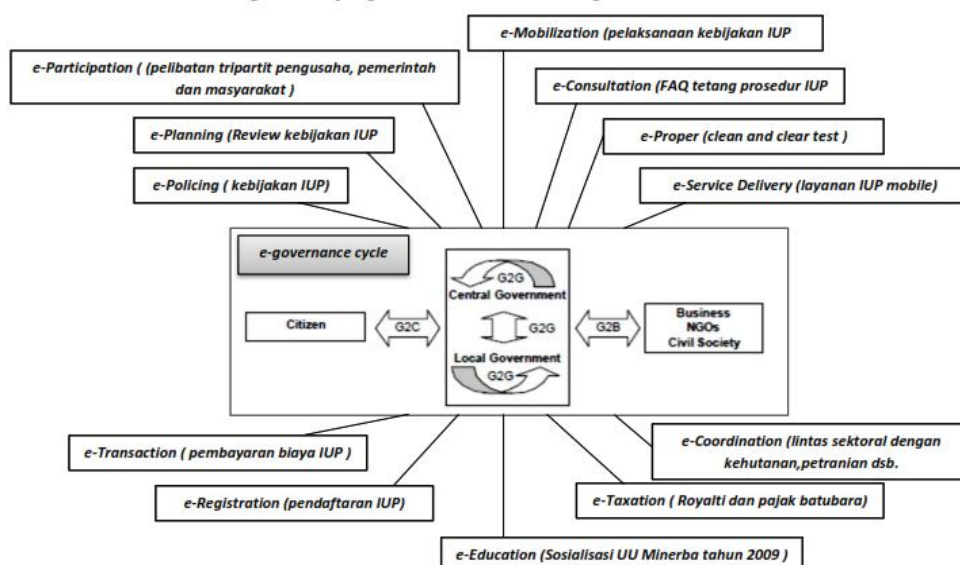


Figure 6. The e-mining governance model for the Mining Sector [21]

V. CONCLUSION

This e-governance model is expected to have good governance in the mining sector, especially in Kutai Kartanegara Regency and generally in East Kalimantan Province. The main indicators of the success of this e-governance system are not the issuance of multiple Mining Business Permits (IUP) on the same land, the creation of good governance and well management in the mining sector as well as the reduction and loss of conflicts over overlapping land disputes that have been calculated since this e-governance system. in effect.

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