

Analysis of SLAPP Actions by The State Through Hegemonic Philosophy: Study of Rejection Gold Mining in Banyuwangi

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Abstract

This study seeks to identify the background and form of SLAPP actions carried out by the government against communities opposed to mining activities in Tumpang Pitu Banyuwangi. The research uses a qualitative description approach with a type of literature study. The data is obtained by reviewing literature sources, including books, journals, and relevant research results. The collected data is then classified based on primary and secondary data. It was then analyzed using Antonio Gramsci's theory of philosophy of hegemony. The results of the study stated that background related to the movement of community opposition over mining activities in Tumpang Pitu, Pesanggaran, Banyuwangi due to the transition of IUP from PT IMN to PT BSI through the Regent of Banyuwangi as stated in Decree Number 188/574/KEP/429.011/2012 and SK. 826/Menhut-II/2013. The form of SLAPP action from the government is identified in the repressive actions of POLRI officers and the punishment of one member of an environmental activist who is normatively protected by Article 66 of the PPLH Law. To create a good relationship between the Company and the community as a preventive effort to prevent a conflict, the formation of public policy must be bottom-up.

Keywords: SLAPP; Social Movement; Gold Mining in Banyuwangi; Hegemonic Philosophy

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INTRODUCTION

High natural resources (SDA) owned by Indonesia as an archipelagic country. These natural resources (SDA) include minerals and coal. Based on the study's results, the content of mineral natural resources (SDA) in Indonesia contains alluvial gold and alluvial tin. This provides potential as an effort to create mining activities, thus providing opportunities for businesses that can bring up added value. In Indonesia, alluvial gold deposits have a fairly large content that tends to be spread in several regions in Indonesia. Regarding this, mining business activities can be identified as mineral exploration activities in identifying natural resources, especially minerals. This is done based on several mechanism processes, ranging from rock sampling and subsoil drilling to satellite identification of mineral content in the soil. However, before implementing these stages, all mining activities need to have a mining business license or IUP. IUP (Mining Business License) is a regulation or rule that has been set by the government (Wandayati & Siregar, 2020). IUP is a very important document in carrying out industrial activities, especially in the mining sector. This aims to avoid activities from all complex problems that can occur. All mining activities can always cause a problem. Whether it is contrary to regulations or with the community around WIUP. In this case, the problem that is often faced by mining companies is the emergence of conflicts carried out by the community around WIUP (Mining Business Area). This problem is identical to the creation of social movements carried out by communities that are opposed to mining activities.

The movements implemented by the community are a demand for resistance as a representation of disappointment with the existence of companies that exploit the environment so that it has an impact on access to the lives of the surrounding community. In actualizing and organizing a movement, there is a method of communication carried out by an actor. This communication can be done through local actors in the local area as a symbol of the spirit of community solidarity. It is oriented to demand equal rights, increasingly poor conditions of society, loss of livelihoods, disappointment with the Company's promises, etc. (Lampe, 2018). By carrying out a social movement, people hope that social change will be created. In this case, an actor needs to mobilize participants and ideas to realize the movement's goals (Hikmawan, M Dian, & Hidayat, 2016). This series of movements is considered capable of being a postulate in welcoming change because it is fundamentally supported by participants in the alliance, to mobilize ideas of ability, and thoughts that are focused on the orientation of the movement created (Nagari, 2020). Definitely, a social movement is an action that views a movement as solidarity with someone who has a collective challenge in achieving certain goals. This challenge refers to the relationship between society and the state, regarding this there are at least some characteristics in a social movement. Social movements are identified as movements that have a disruptive nature to be anti-thesis for elite groups or states that are actualized based on mass demands so based on this it is manifested as a form of movement. Participation in a social movement is someone who is aligned or disillusioned, thus they carry out the movement as an attempt to demand the lives of marginalized or oppressed minority groups (Hikmawan, M Dian, & Hidayat, 2016).

Participants involved in a social movement have special considerations for creating and realizing the movement. Thus, social movements are actions carried out massively, comprehensively, and systematically as an effort to create certain goals in order to bring about a social change that contains political, social, economic elements (Hasibuan, 2008). However, social movements carried out by the community have the potential to be carried out by SLAPP actions. SLAPP (Strategic Lawsuit Against Public Participation) is an act of silencing carried out by the state organizer in this case is the government. This is done by involving the TNI/POLRI security apparatus as an act of silencing public participation and community ideas in representing the right to defend their environment. Cases identified as SLAPP actions in Indonesia are getting higher, which then drives the evolution of the formation of regulations on Anti-SLAPP in an effort to provide guarantees and legal protection to environmental rights defenders. Provisions regarding Anti-SLAPP in Indonesia are based on Article 66 of the PPLH (Environmental



Protection and Management) Law and the Decree of the Chairman of the Supreme Court No. 36/KMA/SK/II/2013 concerning the Implementation of Guidelines for Handling Environmental Cases. Although regulations related to Anti-SLAPP have been enforced based on these regulations, SLAPP cases in Indonesia always occur and have proven to be able to silence community participation in defending environmental rights. The process in the Article on Anti-SLAPP in the PPLH Law has weaknesses and tends to be ineffective, this is both substantial and procedural. Thus, making it an obstacle in actualization of Anti-SLAPP regulations (Irawan Harahap, 2023).

Right in the context of the environment is an inherent right and recognized by the state through the constitution. In order to realize this right, it requires a procedure oriented to ensure its realization. This is related to the fulfillment of rights in the mechanism of public policy formation. Because basically, one of the problems that hinder society as a whole is the silencing of participation. This is commonly referred to as SLAPP (Afinnas et al., 2022). In general, there are several categorizations in SLAPP actions. The first is SLAPP Textbook which is in the realm of private law, for example defamation and slander. The second is SLAPP's covert action that is that the lawsuit is not explicitly related to public participation. The third is SLAPP which is done in a cunning way. Contains criminal charges against human rights defenders (Handayani et al., 2022). To overcome SLAPP, there is Anti-SLAPP. The concept was ratified by Indonesia in several provisions of the Law which are basically oriented towards the protection of public participation (Santia Elfina, 2023). The implementation of Anti-SLAPP is specifically regulated in Article 65 of the PPLH Law and then in Article 66 of the PPLH Law. This is based on Article 28D of the 1945 Constitution which explains that everyone has a right to a good living environment. Based on Article 66 of the PPLH Law, in detail, it has been regulated that everyone who defends the environment cannot be prosecuted either through criminal or civil (Supreme Court Decision Number 36/KM/SK/II/2013). However, Article 66 of the PPLH Law is unable to establish effective legal protection for environmental activists. There are several aspects behind the lack of effectiveness of article a quo in an effort to provide protection for environmental activists. There are at least four aspects that need to be contained to provide solutions to problems related to the environment in article a quo. The four aspects are the subject given protection, the type of SLAPP action, the provision of protection, and categories to identify SLAPP actions (Sembiring, 2019). Regarding SLAPP, the government should need to form and ratify the implementing provisions (Verordnung) of Article 66-PPLH Law as an effort to carry out specifications on Anti-SLAPP. This implementing regulation needs to contain the understanding, aspects, domains, proceedings of the case, consequences that are disentive on both parties who make SLAPP claims (Azuri et al., 2021).

According to the Indonesian Forum for the Environment (Walhi) during the period 2014 to 2019 on the island of Java there were 146 cases indicated as SLAPP. This is an act of criminalizing people who fight for environmental rights. These indications are in Jakarta (4 cases), West Java (5 cases), Yogyakarta (19 cases), Central Java (15 cases), and East Java (103 cases). Specifically, the most cases of SLAPP indications are found in the mining sector which reaches (56%), forestry (52%), infrastructure (13%), tourism industry (13%) and spatial planning (5%) (Yahya, 2019). The Eco-SLAPP case in Idonesia always has negative implications, namely related to the decreasing intensity of public participation, low public trust in the government, and the law (Thea, 2021). Basically, this kind of action is in line with the actions received by the community, especially people who reject mining activities in Tumpang Pitu, Pesanggaran, Banyuwangi. Thus, this study seeks to identify the background of community movements towards mining activities in Tumpang Pitu Banyuwangi, SLAPP actions carried out by the state on social movements of society toward mining activities in Banyuwangi, review of hegemony and deprivation of human rights by the state administrators by qualitative description using a literature study approach and data analysis implements the philosophy of hegemony which contains (Direzione, Eugemonia, and Demozasion).



RESEARCH METHODS

This research universally implements a qualitative description approach with a type of literature study. According to Nazir, this type of literature study research is a research conducted by constructing literature that will be applied and important to a research. Data collection is done by reading, studying, recording, paraphrasing, analyzed using Antonio Gramsci's philosophy of hegemony. Basically, hegemony can be identified as the relationship between classes and other social forces. Gramsci explicitly stated the terms *Direzione*, *Eugemonia* and *Demozasion* (Gramsci, 1971). Thus, the data collected will be analyzed by implementing three analytical tools, namely *Direzione*, *Eugemonia*, and *Demozasion*. The data in this study contains books, journals, news, and other relevant literature obtained through the internet (Nazir, 2014). In this case, the type of literature study can be interpreted as a way that is actualized comprehensively and systematically in an effort to identify, critique, evaluate, and solve previous research. Thus, researchers will study a case that will be analyzed as an effort to find out the space to be developed in a study and provide updated knowledge. Consideration of actualization of the literature study approach is that it can minimize bias and be able to strengthen the objectivity of research. The limitation of this study is related to the depth of research on the systematics of social movements of the Tumpang Pitu community, this is due to dynamic social changes that concern the relationship between companies and the community.

RESULTS AND DISCUSSION

Gramsci in the concept of hegemony, according to him the idea of the essence of his praxis-philosophical is tied to ideas and actions (Goodman, 2014). The concept of hegemony is a frame of mind initiated by Antonio Gramsci, an Italian from 1891-1937 (Gramsci, 2013). The term hegemony has its roots in Ancient Greek "Eugemonia" is a definition that refers to a dominating power of the state. Basically, Gramsci's thought refers to Karl Marx and Lenin. Gramsci included Marxist elements related to materialism, class, class struggle, awareness of social change. Gramsci developed Marx's views in terms of the concept of bourgeois hegemony in civil society (Arief, 2009). Gramsci tried to reorient the view of economic determinism, the base structure in this case is not only based on economics, but there are things that are trasendental, namely ideology. The essence of hegemony thinking Gramci describes three aspects of the concept of hegemony, namely economy, political society and civil society. Gramsci viewed the role of superstructures as having a central function in the process of social change (Siswati, 2017). Gramsci campaigned on the concept of hegemony with several various definitions. The concept of hegemony can thus be identified in aspects that have a correlation with the ruler and his power or between the government and the governed (Simon, 2004). Hegemony can be identified as the relationship between classes and other social forces. Gramsci explicitly stated the terms *Direzione* (leadership, direction), *Eugemonia* (hegemony) and *Demozasion* (domination) (Gramsci, 1971).

The Background of Community Movements Towards Mining Activities in Banyuwangi

Mining in Indonesia has a crucial role in the national development process, driving the potential of natural wealth that has not been fully utilized, and becoming a resource that has the potential to improve community welfare (Hartana, 2017). Mining activities, which generally involve the extraction of minerals such as coal and the like, are a process in order to obtain the necessary natural resources (Subekti, 2020). However, it is undeniable that the mining process not only brings economic benefits but also has a significant impact on the surrounding environment and the lives of local people. The number of protests and opposition from the community to mining activities indicates that the negative impact has reached an alarming level. Based on Article 1 point 1 of the Mining Law, it explains the definition of mining which is interpreted as a whole or sub-part of an activity actualized as an effort to explore, exploit, construct, mine and reclaim. Referring to this definition, it is universally identified because it covers all activities related to mining mechanisms or stages from before mining to post-mining



(Ennardrianita et al., 2018). In this case, related to the context of mineral and coal mining, in general, the area of mining land in East Java has increased at least from 2012 to 2016. In 2012, it reached an area of 86,904 hectares, this figure increased in 2016 which reached 551,649 hectares. This shows that at least in 4 years it can increase by 535%. Thus, the total area of mining land in East Java can reach 4,792,200 hectares. Thus, it can be clarified that at least 11.5% of the land area in East Java is transitioning to mining land (Walhi, 2018). The following is data on several IUP licensed mining areas in Banyuwangi;

Table 1. Mining Areas in Banyuwangi

No	Location	Information
1	Tamansuruh Village, Glagah District	Clay Mine
2	Wongsorejo Village/Sub-District	Andesite Mine
3	Tambong Village, Kabat District	Andesite Mine
4	Paspan Village, Glagah District	Clay Mine
5	Tambong Village, Kabat District	Andesite Mine
6	Wonosobo Village, Srono District	Sirtu Mine
7	Sumberagung Village, Pesanggaran District	Gold Mine
8	Bedewang Village, Balak, Songgon District	Sirtu Mine
9	Tegalarum Village, Sempu District	Andesite Mine

Source. www.suaraindo.co.id, 2021

The abundance of natural resources (SDA) will create mining business activities in an area that has natural resource potential (SDA) both on a large and small scale. Gold mining is one of four actualized mining sectors in Indonesia. Gold mining activities in general grow a lot in the economic aspects of the community, but that does not mean it has no consequences. The most fundamental thing in a mining activity is its implications for the environment (Hasanah, 2022). Historically, since the Colonial era, the mountainous area of Tumpang Pitu has contained natural resources (SDA) that have the potential for gold, so that this has triggered the Company to exploit. Around 2002 illegal mining activities were increasingly rampant in the area, but after the existence of PT IMN illegal mining has been prohibited to be carried out in the area. Mining operations in Tumpang Pitu Banyuwangi began in 2004 by PT IMN (Pratiwi, 2013).

Mining activities in Indonesia are not new, gold farms in Indonesia can be identified from Papua to Banyuwangi. In the area of Banyuwangi, there is one largest mining activity, namely mining operated by PT. Bumi Suksesindo (BSI) or a subsidiary of PT Merdeka Copper Gold Tbk which is specifically located in Tumpang Pitu Banyuwangi. Basically, mining activities operated by BSI have been running since 2017. In general, BSI has a mining business license (IUP) document. The IUP obtained by BSI is a transition from PT IMN's IUP. In this case, PT IMN made a request to the Regent of Banyuwangi at that time to make the IUP transfer to PT. BSI. The IUP transition application was verified by the Regent of Banyuwangi through Decree Number 188/574/KEP/429.011/2012 concerning Approval of Production Operation Mining Business License to PT. Sukseindo Earth. Initially, the aquaculture area in the Tumpang Pitu Area was a protected forest area, which was later transformed into a production forest based on the Decree of the Minister of Forestry of the Republic of Indonesia Number SK. 826/Menhut-II/2013 with an area of 1,942 ha. This Decree was the result of a request from the Regent of Banyuwangi at that time regarding the transformation of protected forests into production which the day after tomorrow reached 9,743 ha. After that, based on the Decree of the Minister of Energy and Mineral Resources Number 651k/30/MEM/206 this area was ratified as a national vital object.

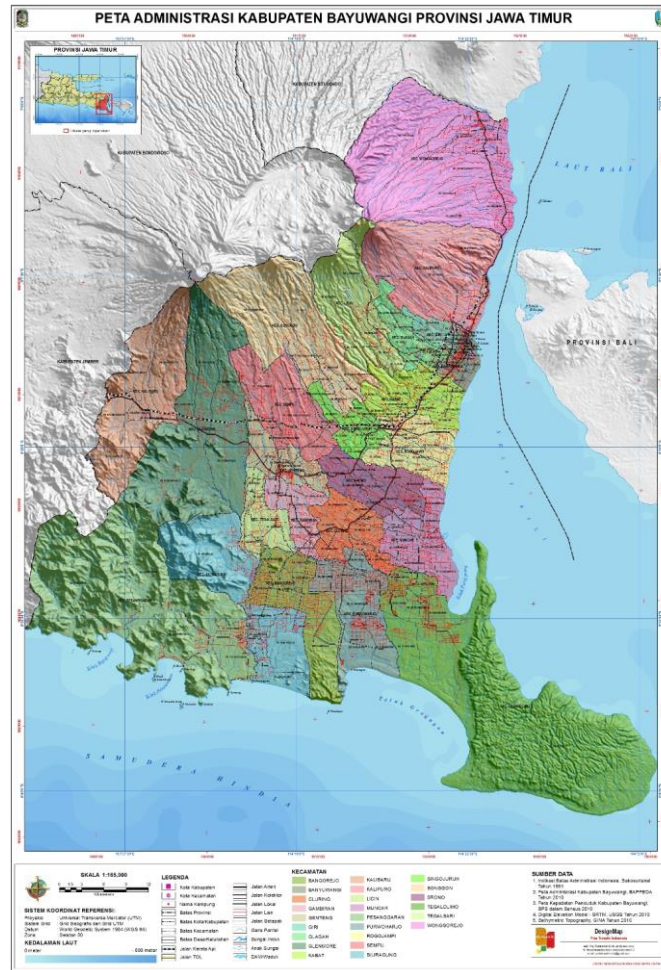


Figure 1. Map of Banyuwangi Regency, Source: petatematikindo.files.wordpress.com/2014/01/administrasi-banyuwangi-a11.

Fundamentally, mining activities carried out by a Company are not allowed to have implications identified as losses to the people. Mining activities are also required to always maintain the preservation of natural resources as an effort to avoid damage to environmental ecosystems. But factually, mining business activities tend to have negative consequences for the environment and surrounding communities (Swari & Cahyani, 2022). The provisions of the PEMDA (Local Government) Law explicitly give a form of authority to the PEMDA in order to create a mining business license by transferring it to the PEMPROV (Provincial Government). Meanwhile, based on the Mineral and Coal Law, the authority is owned by the PEMDA with a background related to a deeper understanding of the relevance between the PEMDA and the conditions of the mining site. However, this authority was revoked with the enactment of Law Number 23 of 2014 concerning Regional Government. This makes it a problem, to eliminate the cultural side of the mining location community that can be better understood by the local government than the provincial government (Nafsiatun et al., 2016).

In this case, the source of the conflict phenomenon that occurred in the Tumpang Pitu Mining Area was related to IUP verification from the Banyuwangi Regional Government, especially carried out by the Regent of Banyuwangi at that time. This is because previously there was no decree from the Ministry of Forestry, consolation with the community around WIUP and has implications regarding the environment in mining activities carried out by PT IMN and PT



BSI. This conflict also occurs because of the existence of a community group that is against mining which can be called AMAN (Anti-Mining Community Alliance) which seeks to oppose mining activities. This is motivated by not being realized. Gold mining planned by the Banyuwangi Regional Government and PT BSI in the Tumpang Pitu area continues to experience social problems, one of which is the conflict in Sumberagung Village, Pesanggaran, Banyuwangi that for several years could not find a common thread (Yunita, 2018). The sustainability of the mining business is in the spotlight of the community because of concerns about environmental damage and other negative impacts received by the community around the mine. The inevitable impacts of mining activities, such as loss of life and environmental damage, have led to public distrust of the government and the private sector in ensuring community welfare (Rahayu & Faisal, 2021).

SLAPP Actions Carried out by The State on Social Movements of Society Toward Mining Activities in Banyuwangi

A social movement is a scheme carried out as an attempt to represent an aspiration through factual efforts through the movement. This movement is always implemented collectively by the people in a region, in order to demand the principles of justice, egalitarianism, and can reflect the spirit of struggle for cultural identity of the community. In carrying out a social movement, it is necessary to contain arguments or public opinion that are abash and strong related to problems and conditions that are being experienced by the community (Singh, 2010). Further to the conception of social movements, the existence of a movement will not be created when it is not accompanied by public communication. In addition, it must also be through community mobilization in an organization that creates communication methods that have certain characteristics. Basically, social movements can be defined as social actions that are transformed by a collective movement by a high number of people by raising social, political issues and promoting social change (Sukmana, 2016).

Regarding social movements, movements carried out by communities included in the AMAN alliance (Aksi Masyarakat Anti Tambang) as an effort to oppose mining in Tumpang Pitu. This movement was identified as running for a period of about twenty years, this was done with a variety of complex problems. However, this conflict reached its climax at the time of the emergence of gold mining managed by a company. The orientation of the movement is a manifestation of demanding the Government to revoke mining business licenses. However, based on the structure of the movement map carried out by AMAN, it is still categorized as weak, so it is necessary to construct a more massive and systematic movement so that the main goal can be achieved (Saputra & Setiyono, 2021). Social movements carried out against mining activities tend to be weak, because basically the community is divided into two camps. That is the camp that is pro to mining and the community that is against mining. Related to this, counter communities will be recruited as mining workers or otherwise criminalized. Thus, this problem is what makes AMAN weaker. Community conflict in mining activities in Tumpang Pitu has been running since 1997 until now. The most fundamental reason for this community zero movement is about the implications that may occur when the Tumpang Pitu Area is transformed into WIUP. This is supported by the transformation of status from protected forest to production forest, so that the community firmly rejects the mining company's IUP. In addition to conflicts, mining activities in the Tumpang Pitu Area also have the potential for animal habitat, in this case it has been identified based on the results of PT IMN's Amdal intervention. Thus, there is also the potential for animal migration to the community environment (Riski, 2016).

The conflict that occurred over the rejection of mining activities resulted in several communities who carried out the action suffering gunshot wounds as a consequence by POLRI officials. The conflict was caused by demonstrations carried out related to the community's rejection of mining activities by PT BSI. Chronologically, around 300 people took action at PT BSI's warehouse by implementing acts of burning and destroying facilities. This was also motivated by the failure of mediation or consolidation between PT BSI management



accompanied by the National Police and the surrounding community. Substantially, the community is firm in its demands, namely against mining carried out by PT BSI, besides that the conflict was also triggered by a statement from the Banyuwangi Police which gave a statement that "The people of Banyuwangi have no ethics", so that the community's conflict led to November 25, 2015. The community action created a conflict that made the POLRI officials shoot rubber bullets at the community. However, this action of the POLRI was then responded by the community by throwing stones at the POLRI. For this action, the National Police hunted down the perpetrators to residents' homes. The response of residents to the police made the police finally hunt for the perpetrators of stone throwing at residents' homes. The conflict that occurred in Tumpang Pitu was carried out comprehensively, so that on April 13-15, 2016 the community took action at the Regent Office in the hope of consolidating with the Regent of Banyuwangi. However, this movement did not get a response, so the community went on hunger strike and walked from the Banyuwangi District Court to the Banyuwangi Regent Office (Walhi, 2018).

In a period of five years starting from 2012 to 2017, the emergence of mining industry activities in the Tumpang Pitu area created several traditions of increasing the intensity of repressive actions from the National Police against the community. Based on data from Walhi (Forum for the Environment) 2018, there are five cases of criminalization to the community for actions to save the environment from mining activities carried out by PT BSI. In 2017, one of the five cases was related to the determination of four suspects from Sumberagung. This began with the "Reject Mining" action carried out by communities opposed to mining activities. During the action, there was a statement from the TNI (Indonesian National Army)/POLRI (Indonesian National Police) aparat confirming that there was allegedly a hammer and sickle symbol (Communism) on the banner "Reject Mine". However, factually, based on community clarification and field identification, there are no symbols alleged by the TNI (Indonesian National Army)/POLRI (Indonesian National Police) aparat. For this incident, at least four citizens were charged with Article 107 letter a of Law Number 27 of 1999 concerning Amendments to the Criminal Code related to Crimes Against State Security. Thus, one of the four suspects was sentenced to 10 years in prison by a panel of judges of PN Banyuwangi (Walhi, 2018).

Based on the Hakin Verdict, the Banyuwangi PN and the Surabaya High Court at the appeal stage validly declared that guilty of violating the provisions of Article 107 letter a of Law No. 27 of 1999 concerning Amendments to the Criminal Code. The judge expressly stated that the defendant was proven to have committed acts that threatened state security through the teachings of communism/Leninism. This involved an item of evidence, namely a pickup unit and keys, and eight split banners (Not hammer and sickle), one init flashdict. In this case there are some irregularities, the hammer and sickle banner is not presented as evidence, but there is only a video of it appearing in the flashdict. So that this made the defendant appeal to the Supreme Court (Supreme Court), based on the Supreme Court Decision, the defendant was sentenced to four years. Then proceed to PK (Judicial Review), but a copy of the Supreme Court cassation decision that is required in the PK has not been received (Jatimnet, 2020).

Review of Hegemony and Deprivation of Human Rights by State Administrators

Basically, hegemony can be identified as the relationship between classes and other social forces. Gramsci explicitly stated the terms *Direzione* (leadership, direction), *Eugemonia* (hegemony) and *Demozasion* (domination) (Gramsci, 1971). Factually speaking, the global political economy at this time is able to influence social change in society. This means that the polarization of power structures in aspects of the world economy and the global system is able to develop rapidly to the consequence of creating a new civilization. After the completion of colonialism and imperialism, in general, at this time it has entered the stage of neo-colonialism and imperialism. Where oppression carried out by superiors is not always implemented by applying authoritarian methods, but actualizes ideological suppression (Fakih, 2002).

In order to dominate society, Gramsci in his theory of hegemony stated that the governed should not intimidate the moral value of government. Rather it is on the basis of the consent of the sub-ordinate. Hegemony can be defined as a scheme of domination implemented through moral leadership and science as a form of superior supremacy over inferior supported by physical power (Sugiono, 1999). Before Antonio Gramsci's concept of hegemony, the concept had previously been introduced by Karl Marx to the theory of alienation. In alienation, Marx declared that the developed science of economics was referred to by Marx as political economy. Marx made the statement regarding alienation that political economy brings man a case where man is unable to know himself (Suseno, 1999).

In the context of government pressure or commonly referred to as SLAPP on communities opposed to mining activities, in more detail SLAPP is an action carried out in order to silence ideas, aspirations, and public participation. In this case, SLAPP actions are implemented through several stages of mechanisms by actualizing ways to criminalize communities or activists who defend the environment. Regarding this, Anti Eco-SLAPP is an Anti-SLAPP concept applied to the environmental sector. Basically, Anti-Eco-SLAPP has been contained in the Law on PPLH and KMA Number 36/KM/SK/II/2013. However, the implementation of the Anti-Eco-SLAPP concept contained in the Law and KMA was unable to provide answers to environmental activists. Thus, the many consequences of Eco-SLAPP cases in Indonesia are consequences of this (Aulia et al., 2021). As an activity in order to protect and defend environmental ecosystems, law enforcement authorities should be able to look at the context of environmental protection and safety of citizens' rights (Listiyani, 2017).

In this case, the conflict activities carried out by activists as an effort to protect their environment are representatives of democratic principles. As a state of law and democracy, Indonesia needs to implement the values that lie in this conception. This has been stated in Article 28E paragraph (3) of the 1945 Constitution which explains the freedom of association, assembly, and opinion for everyone (Explanation article 28E paragraph 3 UUD 1945). Then more specifically stated in Article 1 paragraph (1) of Law Number 9 of 1998 concerning Freedom to Express Opinions in Public which explains independence in terms of expressing ideas, thoughts through oral or written which is carried out responsibly in accordance with applicable regulations (Explanation article 1 paragraph 1 UU No. 9 Tahun 1998). Both regulations state that freedom of opinion is a fundamental right possessed by everyone guaranteed by law so that it must be protected by the state. Regarding this, the public has legal guarantees in order to represent their ideas or thoughts in the public sphere as an agenda to criticize public policy. In the context of democracy, a democratic state is required to maintain the security and comfort of citizens based on its authority as a government to implement law enforcement as one of the instruments of democratic principles (Ningsih et al., 202).

Democracy is one of the rights protected by law, thus the principle of democracy is a human right owned by every citizen. Human rights are rights that man has just because he is a human being. Man has this right not on the basis of the gift of society or the state, play because he is a human being (Donnelly, 2003). Human rights are fundamental aspects possessed by humans from birth and by nature that cannot be deprived in the slightest by humans or the state. In this case, human rights are something bestowed from God Almighty to humans. The concept of human rights was first proposed by John Locke who stated that there is a postulate that all individuals are endowed with inherent rights by nature, this includes freedom and property (Locke, 1964). In general, Human Rights is classified into five parts. These include the First Generation of Human Rights, the Second Generation of Human Rights, the Third Generation of Human Rights, Indivisibility, and Interdependence. In this case, civil and political rights are classified in the first generation of human rights. This right was created as a demand to relinquish the absolute power of the state as in the revolutions of the United States and France in the 17th century and 18. First-generation human rights have always been identified as negative human rights. This refers to the concept of human rights that does not allow the role of the state

in intervening in people's sovereignty so that it is referred to as negative (Rhona K.M Smith et al., 2008).

The concept of human rights needs to be accompanied by the implementation of human rights enforcement. Upholding human rights is a fact that is always upheld. Indonesia as a country that was once colonized by the Netherlands understands the existence of human rights, this is evident in the content of the 1945 Constitution which was born before the UDHR (Universal Declaration of Human Rights) (Aswandi & Roisah, 2019). However, violations of human rights law in Indonesia often occur and there are many deviations in its implementation. This is reduced by the existence of institutions that specifically handle cases related to human rights, namely KOMNAS HAM and ad hoc human rights courts. Basically, human rights protection has two normative references in the form of the Constitution, the Law, Komnas HAM, and the ad hoc Human Rights Court. However, even though there are institutions that function in organizing and providing human rights law protection. The role of the community at large is needed, this is an effort to oversee the actions and actualization of law enforcement and human rights in Indonesia. Human rights are regulated in the 1945 Constitution and Law 39 of 1999 concerning Human Rights in addition to national regulations, there are also international regulations, namely ICCPR (International Covenant on Civil and Political Rights) and IESCR (International Economy Social and Cultural Rights).

CONCLUSION

Based on the results and wetting, it can be concluded that the background related to the community opposition movement over mining activities in Tumpang Pitu, Pesanggaran, Banyuwangi was caused by the transition of IUP from PT IMN to PT BSI through the Regent of Banyuwangi listed in Decree Number 188/574/KEP/429.011/2012 concerning Approval of Production Operation Mining Business License to PT. Sukseindo Earth. In addition, it also refers to the conversion of the status of protected forests into production huts through the Decree of the Minister of Forestry of the Republic of Indonesia Number SK. 826/Menhut-II/2013 with an area of 1,942 ha. Which is done without any form of consolidation with the surrounding community. This was then responded by the community with various demonstrations ranging from destruction of facilities, hunger strikes, etc. However, the action was responded negatively and repressively by the POLRI aparat. Not stopping there, the demonstration carried out by the community caused consequences, namely the determination of four suspects who allegedly used banners bearing the symbol (hammer and sickle) emblem of communism. One of the four suspects was sentenced to 10 years by the Banyuwangi PN assembly, In fact, in the evidence, there is only a flashdict allegedly in which there is a video of him appearing and there is no evidence related to the banner bearing the symbol (hammer and sickle) as the first accusation. Then the defendant appealed to the Surabaya High Court, made a cassation to the Supreme Court, the Supreme Court rejected the cassation and changed the verdict with 4 years in prison, until PK (Judicial Review). So that the response indicates SLAPP action from the government, because basically it is based on Article 66 of the PPLH Law which explains that attackers who protect the environment cannot be prosecuted both criminally and civilly.

Through the analysis of the philosophy of hegemony, which states that in order to dominate society, Gramsci in his theory of hegemony states that the governed do not have to intimidate the moral value of the government. Rather it is on the basis of the consent of the subordinate. Hegemony can be defined as a scheme of domination implemented through moral leadership and science as a form of superior supremacy over inferior supported by physical power. Indeed, the tactics of PT BSI and the Banyuwangi Regional Government have been carried out in order to dominate the ideological side of the community. This is related to compensation offered by PT BSI and PEMDA Banyuwangi and consolidation carried out by management of PT BSI and POLRES (Resort Police) Banyuwangi. However, this did not meet a bright spot and even unrealized compensation so that the strategy to dominate society failed and created a conflict. To respond to the repressive actions of the POLRI aparat, demonstration is a principle that is firmly



held by the Indonesian state. This is stated in Article 28E paragraph (3) of the 1945 Constitution and Law No. 9 of 1998. Democracy is one aspect contained in the concept of Human Rights. Thus, the human rights of the community need to be protected and guaranteed by a state, the rules regarding human rights have been stated in the 1945 Constitution, Law No. 39 of 1999, ICCPR and IESCR. Therefore, there is no reason for the POLRI aparat to take repressive actions that lead to justification for SLAPP actions by the state against the community.

In order to create a good relationship between the Company and the community as a preventive effort to prevent a conflict, the formation of public policy must be bottom-up. Regarding this, there is a need for consolidation and socialization between the government, the Company, and the community to form the principle of win-win solution. So that consolidation actions taken against the community are not carried out after the Ministry of Forestry Decree regarding the transition of protected forests to production forests, but this concept needs to be implemented before the transition of the decree is ratified. In addition, the Company is required to actualize CSR and TJSI as an agenda in maintaining its social and environmental responsibility. Thus, in the future period of time, it is expected to conduct research related to the implementation of CSR or TJSI as a moral responsibility to the community.

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