

Community Participation in EIA Document Preparation for Cement Plant Construction by PT Semen Indonesia (Persero) Tbk.

Leony Fatmawati¹, Hufron²

¹Universitas 17 Agustus 1945 Surabaya, Indonesia

²Universitas 17 Agustus 1945 Surabaya, Indonesia

leonyfatmawati@gmail.com, hufron@untag-sby.ac.id

Abstract

Community participation is a vital aspect of the Open Government principle. These documents evaluate the environmental impacts of development projects and help ensure that their social and environmental impacts are mitigated. It provides the community with the opportunity to participate in a nation's development initiatives. Oneway communities can engage is through their involvement in the preparation of Environmental Impact Assessment Documents (EIA). For any mining and development undertaking, the EIA document is a mandatory requirement, which must be fulfilled by the individual responsible for overseeing the enterprise. This entails the community's participation at every juncture, from the decision-making phase to the assessment stage. To illustrate community engagement in preparing EIA documents for PT Semen Indonesia (Persero) Tbk's cement factory construction in Rembang Regency, Central Java Province, this study presents a case example.

The aim of this study is to elucidate the process of community involvement in the creation of EIA documents for the establishment of cement plants by PT Semen Indonesia (Persero) Tbk in Rembang Regency, Central Java Province. The research employs normative, statutory, conceptual, and case approaches. The purpose of this study is to explain the community's involvement in developing EIA documents for the Cement Plant Development by PT Semen Indonesia (Persero) Tbk in Rembang Regency, Central Java Province. Additionally, the study analyzes the conflict between PT Semen Indonesia (Persero) Tbk and the community in the cement plant construction area, which arose due to the Governor of Central Java's decree number 660.1/17 of 2012 regarding Environmental Permits for Mining Activities and Cement Plant Construction. The analysis aims to provide an objective evaluation of the situation.

Keywords: EIA; Participation; PT Semen Indonesia (Persero) Tbk.

Introduction

The 1945 Constitution of the Republic of Indonesia, hereafter referred to as the 1945 Constitution, establishes Indonesia as a sovereign state governed by the people and subject to constitutional provisions (UUD). Additionally, Indonesia is a democratic nation, with ultimate power lying in the hands of the people, as epitomized by the concept of government by the people, for the people, and of the people. The community should participate fully in planning, regulating, implementing, and monitoring government policies. The government should also adhere to the Open Government principle, which requires transparent and open governance throughout the process of managing public resources, from decision-making to evaluation (Handayani and Nur 2019). Applying the Open Government principle can create opportunities for the community to engage actively in a country's development efforts.

Community participation is a fundamental principle in governance, granting every community the right to participate in decision-making processes and the implementation of government policies, both directly and indirectly. The community has the authority to submit suggestions, opinions, and responses to regulations or agreements created by the Central and Regional Governments. Such participation is a crucial component of democratic governance. Participation involves planning, implementation, and evaluation to involve the community in development. Community involvement in designing development can take the form of preparing EIA. The implementation of community rights is determined by both the

community and the government (Abdel and Jazzar 2000). In industrial development contexts, community involvement is crucial in EIA document preparation. It helps ensure objectivity and a logical flow of information, with clear causal connections between statements. Technical abbreviations are explained at first use and precise vocabulary is employed. The document conforms to standard academic structure with consistent citation and footnote styles. Language remains formal and free from bias, figurative or ornamental language, and filler words. Sentences employ common structure and avoid run-on descriptions. The text is grammatically correct and adheres to American English spelling and grammar conventions. This adheres to the principles of sustainable development that underscore the significance of factoring in environmental and social aspects when making decisions. In building a cement factory in Rembang Regency, Central Java Province, community engagement in the EIA readiness procedure is crucial to guarantee proper accommodation of local interests and minimization of detrimental effects on the environment. Community participation in environmental protection and management is governed by Law No. 32 of 2009 on Environmental Protection and Management, also known as Law No. 32/2009, Government Regulation No. 22 of 2021 on the Implementation of Environmental Protection and Management, also known as PP No. 22/2021, and Law Number 2 of 2022 on Job Creation as amended by Law Number 6 of 2023, hereinafter referred to as Law No.6/2023.

The public has been granted the right, under Law and Government Regulation, to take part in efforts aimed at protecting and managing the environment, based on the principle of openness. The principle of openness serves the purpose of enabling the community to identify issues related to environmental impact and provides a forum for accommodating community aspirations as a milestone in overcoming environmental impact problems that surface. Community involvement is also a critical aspect of EIA preparation. The regulations concerning the environment outline the participation of the community directly impacted, granting this group the right to provide suggestions, opinions, and/or responses pertaining to business activities or plans that will be undertaken by the responsible party. Environmental observers, researchers, or non-governmental organizations (NGOs) may only partake insofar as they are members of the said community. The community can contribute to the preparation of EIA documents through a process of public announcement, submission of suggestions, opinions, and responses (Meglian and others 2016). Community involvement occurs through the disclosure of business plans and public consultations, during which community members can offer feedback, opinions, and responses. These submissions are then evaluated by the individual responsible for the business or activity, as well as the Minister, Governor, Regent, or Mayor with the authority to evaluate EIA documents. It is important to note that any evaluations provided must be objective in nature. This study aims to provide an initial understanding of the significance of community involvement during EIA preparation for a cement plant construction in Rembang Regency, Central Java. The study will evaluate the level of community participation, the influencing factors, and the impact of such participation on the ultimate EIA Document outcome. The study's outcomes are anticipated to provide valuable insights for all stakeholders, such as PT Semen Indonesia (Persero) Tbk, the local government, and the community, in advancing a sustainable industry that aligns with communal interests.

This study refers to several previous studies, the first previous study entitled "Partisipasi Masyarakat dalam Proses Penyusunan Analisis Mengenai Dampak Lingkungan pada PT. SAIPEM INDONESIA KARIMUN BRANCH" (Elenna and others 2022) written by Ellena, Rumzi Samin and Adji Suradji Muhammad, in their writing researchers have explained the non-optimal participation of the community in the EIA preparation process in the development carried out by PT.SIKB because of the lack of suggestions, opinions and responses from the community that were realized. The second prior research reference is titled "Partisipasi Masyarakat dalam Penyusunan Analisis Mengenai Dampak Lingkungan

Berdasarkan UU No. 32 Tahun 2009” (Syaputri 2017) written by Martika Dini Syaputri. The research has provided an explanation of the mechanism of the EIA preparation process by involving community participation or involvement, which has experienced many obstacles in its implementation, therefore the need for legal reform related to community participation in the process of preparing EIA documents. The last reference is titled “*Meaningful Participation pada Pembuatan Peraturan Daerah di Indonesia: Sebuah Kajian Hukum Perundang-undangan*” (Rizqi 2022) written by Alda Rifada Rizki, the research provides an explanation of the importance of implementing the concept of Meaningful Participation in the formation of Regional Regulations.

Methods

The main objective of this research is to generate assumptions about the formulation of the research questions. The research employed normative legal research methodology to uncover legal rules and principles. Normative research entails collecting and analyzing legal materials, including legal norms, rules and principles (Marzuki 2005). The study employed statute, conceptual, and case approaches. The legal materials utilized for this research consist of primary legal sources, such as laws and regulations, as well as secondary legal sources, including books, theses, dissertations, and journals, which pertain to the relevant topics discussed in this study. The collection process for these materials involves utilizing procedural techniques such as categorization, inventory, identification, and literary analysis.

Result and Discussion

Case Chronology of Cement Plant Construction Activities by PT Semen Indonesia (Persero) Tbk in Rembang Regency, Central Java Province

EIA is a study of the significant and noteworthy effects of a proposed business or activity on the environment. It is a necessary tool for decision-making regarding the implementation of such projects in Indonesia (Butler 2020). This assessment is utilized in the preparation of EIA documents and conducted during the planning phase of projects that are expected to impact the surrounding environment. EIA emerged as a response to concerns about the potentially negative impacts of human activities on the environment. EIA delves into vital impacts of a proposed business or activity on the environment, providing necessary information for decision-making processes regarding its application (Rizqi 2022). One planned environmental activity is the construction of a cement factory by PT Semen Indonesia (Persero) Tbk in Tegaldowo Village, Gunem District, Rembang Regency, Central Java Province, specifically in the Kendeng mountain range. However, there are issues regarding the preparation of the EIA document, which is believed to have insufficient community involvement.

PT Semen Gresik (Persero) Tbk, which became PT Semen Indonesia (Persero) Tbk on December 20, 2012, is a company that specializes in manufacturing construction materials. In 2010, PT Semen Indonesia (Persero) Tbk obtained a WIUP Mining Business License from the Regent of Rembang with Number 545/68/2010. In 2011, the Regent of Rembang issued two decrees for PT Semen Indonesia (Persero) Tbk: Number 545/4/2011, which concerns the Mining Business License (IUP), and Number 591/040/2011, which grants a Location Permit to PT Semen Indonesia (Persero) Tbk. The issuance of the mining business license and subsequent development had both benefits and drawbacks. Proponents of the cement factory construction, citing PT Semen Indonesia's permission to proceed, argued in favor. Meanwhile, opponents of the development claimed it would harm the Kendeng mountain region's natural environment.

On June 16, 2014, PT Semen Indonesia (Persero) Tbk performed groundbreaking to construct a cement factory in Rembang, leading to protests by local residents. In the course of the demonstrations, altercations ensued between the community and law enforcement

officials. Following the incident, the National Commission on Human Rights (KOMNAS HAM) initiated the issuance of a recommendation letter to the Regent of Rembang to cease development activities conducted by PT Semen Indonesia (Persero) Tbk. Moreover, members of the Kendeng Mountains Care Community Network (JMPPK) forwarded a letter to President Joko Widodo, requesting support. After the community's numerous efforts to reject the development, they pursued legal action because the Kendeng Mountains community believed that their participation in the process of granting environmental permits had been disregarded. They filed their first lawsuit at the State Administrative Court (PTUN).

The initial legal action taken by the residents of Rembang Regency was directed towards PT Semen Indonesia Tbk due to mistakes in the formulation of the EIA. On September 1, 2014, the case was filed with the registrar of the Semarang State Administrative Court, ultimately concluding on April 16, 2015. Through decision 064/G/2014/PTUN Smg, the judge rejected the lawsuit on the grounds that it did not meet the formal requirements, and the plaintiff's case was deemed expired due to filing the lawsuit after 90 days had elapsed. Following the ruling of the Semarang State Administrative Court, individuals who opposed the construction of the cement factory pursued efforts to protect their environment by appealing to the Surabaya State Administrative High Court (PT TUN) on April 27, 2015. In November 2015, the appeal decision was issued with the identifier Number 135/B/2015/PT.TUN.SBY. The appeal decision, released by PT TUN Surabaya, upheld the previous decision by PT TUN Semarang, which ruled that the community's lawsuit had expired. The Central Java Governor issued a decree (660.1/17/2012) that became the subject of dispute. The decree was communicated to the public during 2012-2013. However, the community resisted the construction of the cement factory only upon learning about the decree in 2014.

After the unsatisfactory verdicts of PT TUN Semarang and PT TUN Surabaya, the community filed an appeal. However, it was rejected as it exceeded the stipulated deadline. Consequently, the community, in collaboration with Walhi, pursued legal action by filing a Supreme Court Review on May 4, 2016. During the review, the community introduced new evidence in the form of an attendance list for socialization activities conducted on June 22, 2013. However, it was deemed inappropriate as there was no evidence of socialization attendance. Upon review of the evidence presented, it was determined that the Semarang State Administrative Court and Surabaya State Administrative Court had made errors in their considerations. As a result, it is necessary for the Supreme Court to conduct a review. On October 5th, 2016, the review verdict with Number 99/PK/TUN/2016 was announced (Zainuri 2017). The verdict explained that the Decree of the Governor of Central Java Number 660.1/2017/2012 was canceled and invalidated. Furthermore, the Governor of Central Java was obliged to revoke the environmental permit that was granted to PT Semen Indonesia (Persero) Tbk. However, the people of Rembang Regency continued their efforts after the verdict was revoked. The Governor of Central Java issued a new decree, numbered 660.1/6/2017, which granted PT Semen Indonesia (Persero) Tbk permits for mining and construction activities in Rembang Regency, located in the Central Java Province. The rejected decree is deemed invalid due to its noncompliance with the Supreme Court decision and lack of reference to the Environmental Assessment results.

The community that opposed the cement factory's construction erected a tent in front of the Merdeka Palace and requested a meeting with President Joko Widodo. On August 2, 2016, the community successfully met with the President and urged the implementation of SEA. The Phase 1 SEA results indicated that the CAT Watuputih area in Rembang Regency is a geological protected area and performs the role of a water catchment zone. Therefore, the area is not suitable for mining activities. Despite these findings, the Governor of Central Java chose not to repeal the decree (Wahyuni and others 2021).

Implementation of Community Participation in Cement Plant Development Activities by PT Semen Indonesia (Persero) Tbk in Rembang Regency, Central Java Province

Participation derives from the Latin word *participare*, which in Indonesian translates to taking part or participating. Alastraire White defines participation as the active inclusion of local communities in decision-making or development project implementation (Sibarani 2017). From this perspective, participation entails actively engaging in every step of the process. To facilitate public participation in providing oral and/or written input, each draft legislation should be readily accessible. The community comprises individuals or groups with an interest in the substance of the proposed law and agreement-making. Additionally, public aspiration refers to a series of systematic and organized activities demanding or resisting policies (Prastyo 2022). The objective is to impact policy formation or modification by conveying community interests.

Community participation is one of the manifestations of the implementation of the Open Government principle. The principle of Open Government means the implementation of a transparent and open government in the entire process of managing public resources from decision making, implementation to evaluation (Hanafiah 2022). This is what provides space for the community to participate in state development efforts because community participation has an important influence in Good Governance, which is the concept of government in running its government by involving the community. Good Governance as the foundation or foundation of government values. The principle of participation means that every member of society has the right to play an active role in the decision-making process and the implementation of government policies directly or indirectly. The public is given the right to provide suggestions, opinions and/or responses to regulations or agreements that will be made by the central and local governments. Community participation is an integral part of efforts to implement democratic governance. Participation starts from planning to implementation and evaluation (Muhiddin 2013). This effort is made so that the community is involved in development, not just enjoying it, but participating in designing and organizing where the final development is directed. One form of community participation in designing development is their involvement in the preparation of Environmental Impact Assessment documents or what is known as EIA (Yakin 2017). The implementation of community rights is determined by both parties, namely the community and the government.

In participating, there are stages of the community's role in influencing the final outcome of policies made by the government, these stages include Manipulation, Therapy, Information, Consultation, Mitigation, Partnership, Delegation of Power, Community Delegation. Based on these stages, three levels of participation can be classified. First, non-participation, which is the level of manipulation and therapy; Second, the so-called degree of tokenism, which is the level of appeasement, consultation and information. In the second level, people are listened to and allowed to have their say, but have no power and no guarantee that their views will be seriously considered by policy makers. The third is the degree of citizen power, which is the level of partnership, delegation of power and control. At this level, the community has influence in the policy-making process (Riskiyono 2015).

The preparation of EIA Documents is a form of policy made by the Government in the form of approval, in this case it can be said that in the process of preparing EIA Documents there is community participation that must be fulfilled starting from policy formulation to its evaluation. Community involvement in the EIA preparation process is always needed from the initial to the final stage. The people involved are people who live and / or have activities around the location of the activity plan, referred to as the affected community and people who do not live and / or have activities around the location of the activity plan, but are concerned about the activity plan and its impacts, referred to as the environmental community (Mukono 2005). Community involvement is realized by applying the principles of transparency and openness, where the community has a position as a receiver, which means that the community

has the right to receive information related to the regulation or approval that will be given and the community also has a position as a giver, which means the willingness of the community to provide input or refutation to legislators.

At various stages of the Cement Plant Development carried out by PT Semen Indonesia (Persero) Tbk, there are levels of community participation that should be fulfilled by the community and the person in charge of the business / activity, namely, among others (Syaputri 2017):

1. **Initial planning:** At this stage, the person in charge of the business provides an understanding and explanation to the community regarding the development project that will be carried out. In addition, the person in charge of the business also provides space for the community to consult and convey ideas or suggestions given at the forum.
2. **Construction Development:** at this stage, the physical development project that has been carried out should involve the community in the construction process either by participating in the construction work or providing information related to the construction progress.
3. **Plant Operationalization:** The evaluation at this stage covers the extent to which the community is involved in monitoring and supervising the operations of the plant. Whether there is a mechanism to involve the community in monitoring environmental impacts and whether they have access to information related to plant operations.
4. **Impact Monitoring:** Provides an opportunity for the community to provide input or feedback on the impacts of the development.
5. **Joint Evaluation and Improvement:** Communities are involved in evaluating the effectiveness of their participation and providing input for improvement. Active involvement in the evaluation and learning process is an indicator of the level of participation.
6. **Sustainable Development and Empowerment:** Communities are involved in sustainable development programs, such as skills training, education, or economic empowerment initiatives. Community participation in planning and implementing these programs reflects a high level of participation.

The various stages provide an illustration to those responsible for the business/activity that community participation can be realized if the stages are also carried out together with the community. In practice PT Semen Indonesia (Persero) Tbk involves the community in project planning, implementation and evaluation in accordance with the stages described above, then the development has implemented community participation in accordance with the theory of participation. However, when viewed from the chronology of the Cement Plant Development case by PT Semen Indonesia (Persero) Tbk in Rembang Regency, Central Java Province, the person in charge of the business did not implement the initial planning stage properly. This is because the decisions addressed to PT Semen Indonesia (Persero) Tbk in Rembang Regency have clearly contained community rejection of the Cement Plant Development, but the suggestions and input submitted by the community were ignored and the development was carried out despite the rejection by the community.

Conclusion

In the construction of the Cement Plant by PT Semen Indonesia (Persero) Tbk, the community felt that the advice and input that had been given to the business manager and the Governor of Central Java who had issued a Decree on the granting of environmental permits granted to PT Semen Indonesia (Persero) Tbk had been ignored so that the community in the development area filed a lawsuit through the Administrative Court. In the legal process, the community's lawsuit was rejected many times until finally the community filed a PK by the Supreme Court with Number 99/PK/TUN/2016, the results of which explained the cancellation and invalidity of the Decree of the Governor of Central Java Number

660.1/2017/2012 and obliged the Governor of Central Java to revoke the environmental permit granted to PT Semen Indonesia (Persero) Tbk. However, this was not implemented, the Governor of Central Java did not revoke the decree that he had issued.

Thus, it can be concluded that the implementation of community participation in the EIA preparation process is not carried out in accordance with the laws and regulations and the concept of good participation. This can have a detrimental impact on the sustainability of the development project and the welfare of the community. Therefore, it is important for both the Government and the business responsible to ensure community participation as part of the decision-making process related to the preparation of EIA documents. Based on the conclusions that have been described, the author provides several suggestions, which are as follows:

1. There is a need for more in-depth regulations related to community participation, both in efforts to form laws and regulations and approvals issued by authorized officials, such as the Approval of EIA Documents.
2. Development or mining is an activity that will have an impact on the environment and society. So in the process of granting a development permit, an EIA document is required in accordance with statutory provisions.
3. Conflicts in the environmental sector between the government, the community and PT Semen Indonesia (Persero) Tbk must be resolved openly to find a win-win solution.

Acknowledgments

The author would like to thank the Universitas 17 Agustus 1945 Surabaya for helping with this research and thanks to the author's colleagues and relatives who have provided support and input into this research.

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