

Preliminary Study on the Community Development in the Mining Industry in Indonesia

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Abstract. Community development (CD) in Indonesia's mining industry is a newly enforced concept with strict government regulations on programs and minimum expenses. This paper explores the complexity of CD, covering its history, regulations, global comparisons, and future developments. CD was first introduced in Law No. 4/2009 on Mineral and Coal Mining and has since evolved. The government now mandates eight pillars in CD programs: (1) education; (2) health; (3) employment and income levels; (4) economic independence; (5) social and cultural aspects; (6) local participation in mining management; (7) institutional support for CD; and (8) supporting infrastructure. These programs must align with regional blueprints. A key issue is determining the minimum CD expenditure for mining companies, balancing community benefits with industry attractiveness. While CD aims to improve local welfare, its rigid requirements challenge both companies and the government. Striking a balance between community needs and investor expectations remains a crucial and evolving challenge.

Keywords: Community Development, Mining Industry, Indonesia, Mining Policy, Regional Development.

1 Introduction

Community Development (CD) refers to initiatives and strategies carried out by mining companies to enhance the well-being of local communities affected by their operations [1]. In developing countries, investment in the mining sector is often seen as a catalyst for economic growth and poverty reduction. It is said that the mining industry positively impacts the economy by generating revenue for local governments, reducing poverty, encouraging corporate social investment, contributing to local infrastructure development, creating jobs, and spurring local economic development. CD involves efforts to address the socio-economic and environmental impacts of mining activities. This concept emphasizes the importance of engaging with local stakeholders, promoting sustainable practices, and ensuring that the

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benefits of mining are distributed relatively to improve the quality of life for communities around the mining areas [2].

On the other hand, Indonesian communities (especially local communities) demand mining companies recognize their 'local rights,' which sometimes leads to conflicts between companies and local communities. Since the early 2000s, conflicts between companies and communities have been increasing in frequency and scale, affecting Indonesia's mining sector's development and overall economic performance [3] [4]. Therefore, mining companies must promote better environmental and social responsibility activities to help host communities benefit from the mining sector's activities. National and regional governments need to improve their governance mechanisms and policies to optimize the benefits of the mining sector for the social, economic, and environmental development of the country and its citizens [3].

The CD concept in Indonesia is considered rigid and unique due to being heavily influenced by strict government regulations. One such regulation on CD is governed by Law No. 3 of 2020 concerning the Amendment to Law No. 4 of 2009 on Mineral and Coal Mining. Article 108 of Law No. 3 of 2020 states, "Holders of IUP (i.e., mining permit) and IUPK (i.e., special mining permit) are required to allocate funds for the implementation of CD and empowerment programs, with the minimum amount determined by the minister". [5] The government mandates the implementation of the programs, but mining companies have yet to require a minimum amount of money to support local CD. This top-down approach often hampers the flexibility of companies in tailoring CD programs to the specific needs of local communities. The CD program must also be integrated and aligned with the regional development blueprint, adding complexity to its implementation. Thus, while aiming to maximize the positive impact on local communities, this rigid policy can be challenging for companies in balancing the fulfillment of social obligations and the sustainability of business operations. In addition, notice that the CD in Indonesia for the mining sector has an additional term, which is "empowerment". This community development and empowerment (CDE) does not only focus on the development, but also empowerment of the people.

Nevertheless, the CD is not a new concept. The CD policy has been implemented by countries around the world. Each country, however, has their own uniqueness due to their own local communities involvement, the government regulation, and even the mining companies' approach [6]. In short, this paper discusses the CD policy in Indonesia generally. The discussion was arranged through the comparison analysis, national regulation analysis, and the conclusion was drawn accordingly.

1.1 Community Development Around the World

Currently, mining laws in more than fifty countries mandate a CD activity. This requirement emerged between 2000 and 2020 as awareness of mining operations' social and environmental impacts increased [6]. However, even though many countries have adopted CD frameworks, their implementation laws, regulations, and contexts vary significantly worldwide. Some countries, like Liberia, use a mining development agreement model that requires a Community Development Agreement (CDA), which obliges mining companies to negotiate and reach agreements with local communities regarding the social and economic benefits provided. This concept seeks to ensure that communities directly impacted by mining operations receive fair compensation regarding the exploitation of their natural resources.

On the other hand, Mongolia has developed a standard CDA template that can be tailored to the specific needs of local communities, providing more explicit guidance for mining companies in designing and implementing CD programs. Additionally, some governments have integrated CDA requirements into their national or regional laws, with variations

ranging from general guidelines to highly detailed regulations. For example, in Ghana, the law requires mining companies to set aside a certain percentage of their revenue for CD initiatives agreed upon with local communities [7]. However, the main challenges faced in implementing CD across different countries are the variations in institutional capacity, government oversight, and community participation, which often lead to inconsistent outcomes and dissatisfaction at the local level [8]. Thus, although many countries have adopted CD frameworks, their successful implementation depends mainly on how the regulations are applied and adapted to the local context [9].

The growing use of CDA as a tool for local development is crucial because communities affected by mining have historically been excluded or marginalized from the benefits of the mining sector, even though they bear the social and environmental costs. Some studies suggest that CDA provides a framework for mining companies to treat communities as critical stakeholders, recognizing that they should directly benefit from mineral extraction. However, others argue that CDA is merely used by governments and mining companies to exploit rural communities while securing substantial profits for mining investors [10].

Each country's unique cultural, historical, and political contexts often influence the implementation of CD in various countries. For example, Australia's approach integrates governance and decision-making influenced by specific historical, cultural, and political relationships. According to research by [11], CD in Australia is heavily influenced by the family histories and governance structures of specific communities and a set of communities that are regionally connected. These relationships are central features in the dynamics and governance arrangements of communities in Australia. A successful governance-building process must be based on local realities, meaning that this process must be able to define culturally relevant governance boundaries and relationships aligned with traditional jurisdictions, laws, customs, relationships, and specific histories. Therefore, locally adapted institutions and practical processes must form the basis of effective governance among the diverse Indigenous peoples in any region. In Australia, community governance is not only regulated by the government. However, it must also consider the involvement and consent of Indigenous communities with traditional rights over the land and natural resources in the region. This process is often complex, given Australia's vast cultural diversity with varying customary legal systems. As a result, CD in Australia is not only a tool for economic development but also a means to preserve and strengthen the cultural identity and traditional rights of Indigenous communities. This culturally sensitive approach highlights the importance of incorporating local perspectives in the planning and implementation of CD programs.

In addition to Australia, Canada has a unique CD approach, with federal and provincial England actions and levels involving direct agreements with local communities. One of Canada's key regulations is The Minerals and Metal Policy of the Government of Canada, which regulates sectors such as health and environmental issues related to minerals and metals. This policy document emphasizes the principle of safe use as a guideline for managing minerals, metals, and related products. The Canadian government not only encourages the application of this principle domestically but also promotes its adoption internationally as a comprehensive policy approach to natural resource management [12]. Regulations in Canada cover technical and environmental aspects and involve active participation from local communities, including Indigenous communities with particular rights in managing their land and resources. Direct agreements with local communities, often including compensation, benefit-sharing, and participation in resource management decisions, demonstrate Canada's commitment to involving communities in CD. This is an example of how a country with a decentralized governance system can implement CD while considering the needs and rights of local communities, ensuring that industrial operations do not harm the environment and the well-being of local populations [13]. Thus, the

implementation of CD in Australia and Canada shows that the success of these initiatives depends mainly on how healthy policies and regulations can be adapted to local communities, actively involve affected communities, and respect their traditional rights and the environment in which they live. This emphasizes the importance of an approach that is not only normative but also adaptive and participatory in implementing CD in various countries.

In contrast to Australia and Canada, which have structured and specific regulatory approaches to CD, other major mining commodity-producing countries like the United States, China, and Russia have more varied and less specific approaches to CD implementation. Although there are no national regulations in the mining sector in the United States, CD is still applied through environmental regulations, labor laws, and more general corporate social responsibility (CSR) policies. For example, mining companies in the United States are often bound by federal and state regulations that require them to reclaim post-mining land and comply with strict environmental protection regulations. However, this approach focuses more on mitigating negative impacts rather than proactively developing communities [14].

In China, the government's primary focus in the mining sector is more on controlling environmental impacts and improving the economy through comprehensive industrial policies. Meanwhile, CSR, including CD, is primarily driven by top-down government policies rather than local or regional initiatives [10]. Although CD is not explicitly regulated, mining companies in China are still encouraged to contribute to local development through infrastructure, education, and healthcare investments, particularly in remote areas affected by mining activities. However, this approach is often reactive and closely linked to political pressure rather than strategically planned CD efforts [15].

In Russia, there are no national regulations specifically governing CD in the mining sector. Like China, CD initiatives in Russia are primarily driven by external and internal pressures, such as the need to maintain social license to operate (SLO) or meet international standards set by foreign investors. In many cases, Russian mining companies carry out CD programs to reduce potential social conflicts and maintain good relations with local governments and communities. However, the lack of transparent and integrated regulations often leads to consistent and complete CD implementation across different regions [16]. Thus, although the United States, China, and Russia are among the largest mining commodity-producing countries [17], their approaches to CD tend to be more fragmented and less structured than those of Australia and Canada. This suggests that clear regulations and policies, as well as active participation from all stakeholders, are essential for achieving success in CD initiatives in the mining sector.

In addition to varying regulations in each country, some countries have specific rules regarding the budget allocated for Community Development programs. One example is India. According to The Companies Act (2013) in Chapter XI: Appointment and Qualifications of Directors, the Board of every company referred to in sub-section. shall ensure that the company spends, in every financial year, at least 2% of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy, of which Community Development is a part.

1.2 Community Development in Indonesia

In Indonesia, CD or from now is called CDE, plays a vital role across various industrial sectors, including the mining industry. The obligation for CDE within the mining industry in Indonesia is regulated by several government regulations, including Mining Law No. 3 of 2020 and the Minister of Energy and Mineral Resources Decree No. 1806 K/MEM/2018. These regulations stipulate that mining companies in Indonesia must develop CDE programs to enhance communities' capacity, both individually and collectively, to improve their quality

of life. Through CDE, mining companies are expected to make significant contributions to local communities and utilize the area's natural resources.

Essentially, the constitution guarantees that the state has the authority to establish policies, regulations, management, administration, and supervision over mineral and coal resources for the welfare of the people. Furthermore, According to Badan Pembinaan Hukum Nasional Indonesia (2008), the constitution states that the mining sector is one of the drivers of the national economy. Therefore, efforts are needed to empower and develop communities surrounding mining sites.

In implementing CDE, the government mandated that every mining company must follow the regional development blueprint or master plan. This blueprint is a document that outlines an integrated strategic development plan at the provincial level. The governor prepares the blueprint with transparency, responsiveness, efficiency, effectiveness, accountability, participation, precise measurement, fairness, environmental concern, and alignment with local wisdom and cultural norms. The CDE must align with the blueprint. These CDE objectives must also align with the mine closure objectives to balance the environment and community empowerment. The Minister of Energy and Mineral Resources Decree No. 1824/MEM/2018 on Guidelines for the Implementation of CDE further regulated the blueprint. The problem is that not every province in Indonesia has the blueprint already.

Not only aligning with the blueprint, the CDE must consist of 8 pillars for metal and coal mine projects (e.g., gold, tin, and nickel): (1) education, (2) health, (3) income levels or employment, (4) economic independence, (5) social and cultural aspects, (6) enhancing local participation in the management of mining areas, (7) the formation of institutions supporting community development, and (8) infrastructure that supports community development; and three pillars for non-metal and stones mine projects (e.g., limestone, andesite, and sand): (1) education, (2) health, (3) income levels or employment.

Furthermore, according to Law No. 3 of 2020, Article 108, paragraph 2, "Business entities are required to allocate funds for the implementation of CDE programs, with the minimum amount determined by the minister." Moreover, the Minister of Energy and Mineral Resources Decree No. 1824 K/30/MEM/2018 on Guidelines for the Implementation of CDE states that (a) CDE financing comes from the operational costs of mining business entities as stated in the Work Plan and Budget (RKAB), (b) annual CDE program financing must be managed directly by the mining business entity, (c) if there is a surplus in annual CDE program financing at the end of the current year, the remaining funds may be added for the following year's CDE program, and (d) annual CDE financing is prohibited from overlapping with financing from the national budget (APBN) or regional budget (APBD). However, these regulations still need more clarity regarding the minimum and maximum budget allocations. Criticisms of CDE implementation and its contribution to regional development include deficiencies in the planning phase and alignment with global regulations such as the Millennium Development Goals (MDGs) and ISO development goals [18] [19], the lack of objective parameters related to appropriate CDE programs, unclear community involvement in planning the form and type of CDE activities [20] [21], unclear government oversight mechanisms [22] [23] [19] regarding appropriate sanctions and penalties if companies fail to meet their CDE obligations [24] [21].

Criticisms of CDE also raise issues of cross-sectoral coordination (government, companies, and communities) and the need for integration and alignment with corporate regulations [22]. Strategies to improve CDE governance can be driven to make CDE implementation more targeted by involving effective collaboration between stakeholders and synchronizing CDE with the Regional Medium-Term Development Plan.

1.3 The problems with the Community Development Regulation in Indonesia

Today, the minimum fund allocation for the CD program for each mining company is not fully decided yet. This unfinished policy must be addressed through Ministry level regulation as stated in the Law No. 3/2020. Formulating the minimum fund allocation is a complex task due to the various characteristics of the mining companies. One company might have more production than the other. One company might have more revenue than the others, regardless of its production. And even one company might not generate revenue at all [25].

Another problem is regarding the development programs under eight and three pillars for metal/coal mine projects and non-metal/stone mine projects, respectively. The explanation of each pillar, somehow, is not clear yet. For example, building a school might be categorized as an “infrastructure that supports community development” pillar and/or “education” pillar. Other examples, hiring local people to work as heavy equipment might fulfill the “income level or employment” pillar and/or “enhancing local participation in the management of mining areas” pillar. Then, regarding these mandatory pillars, the blueprint might go with development areas that are out of the pillars. Thus, the mining companies should go with the blueprint or insist on the pillars.

Going deeper on the blueprint aspect, the national or regional budget usually has included the development based on the blueprint. This national or regional development can be another source of problem if the CDE program of the mining companies does not consider the national or regional development plan. Scrutinizing and working together with the government to avoid the overlapping development plant might be an extra work for the mining companies.

2 Result and Discussion

The development of the CD concept globally has undergone significant evolution, with increasing attention to social and environmental sustainability in various countries. The CD implementation in some of the world's largest mining countries, such as the United States, China, Russia, Canada, and Australia, is governed by more straightforward CD regulations. Australia regulates CD implementation by considering the country's historical and cultural relationships. On the other hand, other major mining countries like the United States, China, Russia, and Canada do not have specific regulations governing CD.

The CD has become integral to national development strategies in many developed countries, supported by solid policies and transparent regulatory frameworks. For example, in countries like the United States and Canada, CD has developed with a community-based approach, where local communities are given a significant role in the planning and executing of development projects.

The history of CD development in Indonesia began in 2009 with the enactment of Law No. 4 of 2009 on Mineral and Coal Mining. This law was important and became a fundamental regulation in the mining sector in Indonesia. The CD was also introduced as early as 2009 and a term “empowerment” was added. The law requires mining companies to actively participate in the development of communities around their operational areas. The CD or CDE concept in Indonesia was further strengthened with the 2020 revision of the law, that the minimum amount of cost is incurred. In Indonesia, the development of CDEs is also a unique trend. CDE implementation in Indonesia is often linked to corporate social responsibility (CSR) as regulated by various regulations.

When comparing CDE development in Indonesia with the rest of the world, it can be seen that although Indonesia has adopted various international regulatory frameworks, field implementation often differs. In developed countries, CD is more structured with clear indicators and strict oversight, whereas in Indonesia, despite regulations, implementation is often hindered by a lack of resources and coordination. CDE development in Indonesia tends to be more reactive and project-based compared to the more holistic and integrated approach

seen in many developed countries [4]. This highlights significant gaps in CDE implementation in Indonesia, particularly in terms of community involvement and the sustainability of the programs implemented.

However, unlike in developed countries, CDE implementation in Indonesia still faces various challenges, including the undetermined minimum CDE fund allocation and the lack of coordination between central and regional governments (i.e., the pillars, blueprint matching, and avoiding overlapping programs). Forcing mining companies to expense a specific amount of money is, however, problematic. First, how to fairly decide the minimum CDE expense for each company. Second, what if the mine project happens in the middle of a forest where there are no local communities living nearby, but the companies are still obliged to spend the fund. To date, regulations regarding the minimum amount of funds that mining companies must allocate for CDE programs remain debated and have not been firmly established by the government, creating challenges for both companies and the government in balancing local needs with investor expectations. These problems must be addressed carefully.

3 Conclusion

The CD policy varies for each country and has evolved around the world, including Indonesia. Some countries developed CDA to match the companies obligation and the local needs. Australia and Canada, which are relatively developed and considered as commodity-producing countries, have decentralized CD policies. The decentralized policy let the mining companies build their own agreement with local communities. On the other hand, the US and China have no specific CD policy. Instead, the CD policy in both countries rely on strict regulation in environment protection, labor regulation, and CSR policies.

In Indonesia, the CD or CDE is quite rigid and is not mature yet. The CDE in Indonesia must fulfill three or eight pillars depending on the commodity, the CDE program must follow the provincial blueprint and forbid an overlap, and the minimum CDE expense that is determined by the government (i.e., the minister) must be obeyed. These boundaries raise complex problems in implementing CDE in Indonesia. In the future, the CDE policies in Indonesia still need to be simplified and the minimum CDE monetary allocation must be formulated carefully.

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