

# CHAPTER 1

## INTRODUCTION

### A. Background

Gunungkidul is one of the districts in Special Region of Yogyakarta, with Wonosari as its capital. Its total land area is about 1.485,36 km<sup>2</sup> or 46,63 % of Yogyakarta.<sup>1</sup> Administratively, this regency consists of 18 subdistricts and 139 villages. In 2012 the population of Gunungkidul was approximately 684.740 comprising of 331.220 males and 353.520 females. It has hot temperature with the highest rainfall occurs on January (499.78 mm) and the lowest one is on August and September (0.06 mm).<sup>2</sup>

More than half of Gunungkidul land are in the rocky area with karts sediment (757,13Km<sup>2</sup>). This zone covers 14 sub-districts namely;

1. Karangmojo
2. Nglipar
3. Paliyan
4. Panggang
5. Playen
6. Ponjong
7. Purwosari
8. Rongkop

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<sup>1</sup> Pemerintah Kabupaten Gunungkidul, Kondisi Umum, 2012, <http://www.gunungkidulkab.go.id/home.php?id=78&mode=content>, Accessed on November-06-2015 at 4.24 PM.

<sup>2</sup> Central Bureau of Statistics of Gunung Kidul Regency, "Profile of Regency of Gunungkidul", 13 Agust 2015, <http://regionalinvestment.bkpm.go.id/newsipid/en/displayprofil.php?ia=3403>, Accessed on November-06-2015 at 4.30 PM.

9. Girisubo
10. Saptosari
11. Semanu
12. Tanjungsari
13. Tepus
14. Wonosari

The Minister of Energy and Mineral Resources Decree Number 1456.K/20/MM/2000, stated that karst zone has some strategic values for the people and the nature it self such as:

- a. The economic values: related to agriculture, forestry, mining, water management and tourism.
- b. Scientific purposes: concerning geoscience, speleology, geology, archeology, paleontology .
- c. Humanity advantages: referring to the beauty, recreation, education, and spiritual elements of religion or belief.<sup>3</sup>

Karst zone has played very important role for sustaining natural environment with its several ecosystem functions as clean water reservoir, source of construction raw materials, and agent of climate-change controlling system. Moreover, the karst zone has some various potentials to be developed for future asset, e.g. underground resources, biological resources, and other things that can be used by the people. Karst zone also serves function as the ecosystem of the jungle which creates water reservoir, especially groundwater

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<sup>3</sup> Article 3, The Karst Region Value, The Decison of the Minister of Energy and Mineral Resources No. 1456 K/20/ MBM/2000 on Guidelines for the Management of Karts Area

and bedrock of carbon. Thus, when there is damage to the environmental in the karst zone like mining activities, the amount of underground water surely will decrease.<sup>4</sup>

Gunungsewu karst zone, part of Gunungkidul regency, has the most unique hydrogeologic structure since it is composed predominantly of reef limestone. Physically limestone can substitute karst and calcit layer as aquifers.<sup>5</sup> Gunungsewu karst zone also has unique geological component which functions as a natural regulator of the water reservoir and has scientific purposes.<sup>6</sup> It means that Karst zone is very important for the ecosystem and scientific research as well as for the tourism aspect of its outstanding scenic beauty.

Other karst zones also have highly economic value by exploiting their natural resources in a proper manner so as it brings benefit to mankind. Such view is in line with the idea proposed by David Ricardo that exploitation in perspective manner of the natural resources can make those resources become the engine of growth that are transforming resources into "*man-made capital*" which in turn will result higher productivity.<sup>7</sup> In this regard, the people around karst zone have chosen mining activity for supporting their family as the area is not fertile enough for agriculture, it is very dried and barren.

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<sup>4</sup> Eko Budiyanto, "Peran Penting Kawasan Karst"  
<http://geo.fis.unesa.ac.id/web/index.php/en/geomorfologi-karst/133-peran-penting-kawasan-karst>  
Accessed on November-06-2015 at 06.26 AM.

<sup>5</sup> Kusumayudha SB, 2004, *Intriduction to Karst Hydrogeology*, Karts Study Center UPN "Veteran" Yogyakarta, UPN "Veteran" Yogyakarta Publisher, Yogyakarta, p137<sup>5</sup>

<sup>6</sup> The consideration point a Regulation of the Minister of Energy and Mineral Resources of the Republic of Indonesia number 17 of 2012 on The Determination of Karst Landform Area.

<sup>7</sup> Akhmad Fauzi, 2004, *Ekonomi Sumber Daya Alam dan Lingkungan: Teori dan Aplikasi*, Jakarta, PT Gramedia Pustaka Utama, hlm. 5

Based on the data from the Department of Industrial, Trade, Cooperative and Mining of Gunungkidul, there were more than 1884 people who work in karst mining sector.<sup>8</sup>This figure would be much higher if the government registered those of illegal miners. Officially, there are 19 mining companies registered in the local government while other companies remain illegal.<sup>9</sup> This data proved that the mining sector in Gunungkidul has been the main sources of income for the people who live surrounding the karst zone and there is lack of law enforcement to the illegal mining companies.

The main threat in the conservation of karst zone is wrong mind-set of the people. They view the karst zone as “money maker”.<sup>10</sup> The economic reasons have led them to exploit the area without considering its impact to the nature. They believe that the natural resources should be utilized for the benefit of mankind.<sup>11</sup>As the results the conflict between economic interest and conservation purpose cannot be avoided. There should be serious effort to synchronize the economic interest and human life with the earth and the environment conservation.<sup>12</sup>

The protection and management of environment need to be developed with an integrated system, in the form of national protection policy and natural resources management which supported by legal enforcement form central

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<sup>8</sup> Departement of Industry, trade, cooperatives and mining energy and mineral resousces Gunungkidul region, 2013, the number of people dependent on the mining sector in Gunungkidul.

<sup>9</sup> Ibid,

<sup>10</sup>Ning Fitri, “Darurat Air dan Terancamnya Kawasan Karst WALHI Jawa Tengah Menolak”, <http://www.walhi.or.id/darurat-air-dan-terancamnya-kawasan-karst-walhi-jawa-tengah-menolak.html>. Accessed on November-06-2015 06.02 AM.

<sup>11</sup> Samsul Wahidin, 2014, *Dimensi Hukum Perlindungan & Pengelolaan Lingkungan Hidup*, Yogyakarta, Pustaka Pelajar p.18.

<sup>12</sup> Ibid,

government and local authorities. Karst zone must be protected because karst has not only economic function as mining material but also plays the role as ecosystem chain for today and the future.

Through some efforts to conserve the karst zone has been made by local government and NGO, the impact of legal and illegal mining at Gunungkidul still can be avoided.

The followings are the regulations issued by central government regarding the karst zone mining activities:

1. The Decision of Minister of Energy and Mineral Resources No. 1456 of 2000 on the Guideline for The Management of Karst zone.
2. The Government Regulation No. 26 of 2008 on National Spatial Plan.
3. The Regulation of Minister of Energy and Natural Resources No. 17 of 2012 concerning The Determination of Karst Landform Area
4. The Decision of Minister of Energy and Mineral Resources No.3045 k/40/MEM/2014 on The Determination of Gunungsewu Karst Landform Area

In the decision of the Minister Energy and Mineral Resources No. 1456 of 2000 on the Guideline for The Management of Karst zone, it can be seen that karst zone is divided into three classifications. First, the protected area where all mining activities are strictly prohibited except non-mining activities which do not cause any damage to the karst. Second, the mining area where mining activity is allowed as long as the companies fulfil some prerequisites such as AMDAL, UKL, UPL analysis. The third is called main

karst zonemining activities where legal companies are allowed to do their mining as long as it is in accordance with prevailing legislation.<sup>13</sup>

The decrees No.1456 of 2000 can create multiple and different interpretation among the people and local authorities in which the protected area can be easily transferred into mining zone. It means local authorities can issue new mining permit on their own. This authority can be abused by shifting the classification types of mining zone from protected area into non protected/mining area.

The Government Regulation No. 26 of 2008 on National Spatial Plan supports the conservation of karst zone, because it has deleted the classification of karst zone. In this regulation the cave and karst zone are included into the geological natural preservation.<sup>14</sup> The impact of this regulation makes karst zone become prohibited area to be mined.

Furthermore, the Minister of Energy and Mineral Resources issued the Minister of Energy and Mineral Resources Regulation No. 17 of 2012 that stated the karst zone as the National conservation area.<sup>15</sup> To strengthen the regulation, The Minister of Energy and Mineral Resources also issued the Decision of Minister of Energy and Mineral Resources No. 3045/K/40/MEM/2014 which established Gunungsewu areas as national conservation of karst zone as well as other karst zones in 14 subdistricts of

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<sup>13</sup> The decision of ministry energy and Mineral Resources no. 1456 of 2000 on the Guideline for The Management of Karst Area section. 12

<sup>14</sup> Government Regulation No. 26 of 2008 on National spatial land plan Article 60 paragraph 2 points C and F.

<sup>15</sup> The Regulation of Ministry of Energy and Natural Resources No. 17 of 2012 on The Determination of Karst Landform Area, Article 3, Status and criteria of Karst Landform.

Gunungkidul. By this time, the struggle to protect or conserve the karst has come true.<sup>16</sup>

The environmental management does not mean to maintain the entire nature as natural circumstances but to control, save, and preserve the environment.<sup>17</sup> With some consideration especially the highest regulation and the condition of mining activity that has been conducted from a long time and referring to the damage of karst zone, the Governor of Yogyakarta special region then issued the Governor Regulation No. 31 of 2015 regarding the Procedures for Giving Regional Mining Permit Mineral Metal, non-metal and Rocks.

The regulation above is clarified by the head of Energy and Mineral Resources and Public Work Service of Special Region of Yogyakarta Mr. Yunan (ESDM DPU DIY) that the legal basis for karst mining activities at Gunungkidul is the special Region Yogyakarta Regulation.<sup>18</sup> The addendum of Ministry Regulation made by Governor/Local authorities then become interesting issue since both regulations deal with conservation area of mining zone.

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<sup>16</sup> The Decision of Ministry of Energy and Mineral Resources No.3045 k/40/MEM/2014 on The Determination of Gunungsewu Karst Landform Area.

<sup>17</sup> Djanius Djamin, 2007, *Pengawasan & Pelaksanaan Undang-Undang Lingkungan Hidup*, suatu analisis social.

<sup>18</sup> Tujuh anggota dewan tagih janji, <http://www.sorotgunungkidul.com/berita-gunungkidul-12532-tujuh-anggota-dewan-tagih-janji.html> accessed on 11-16-2015 at 12.48 AM

## **B. Research Questions**

Based on the above background the research problem are formulated as follow;

1. What are the regulations of karst mining activities at Gunungkidul and how those regulation applied?
2. What are the obstacles in applying the conservation regulations on karst area in Gunungkidul?

## **C. The Objective of Study**

The research objectives are;

1. To know what regulations have been issued in related to karts mining activities.
2. To find out the way how karst mining regulations are applied.
3. To analyze the obstacles in applying the karst conservation regulations.

## **D. The Advantages of Research**

Among the advantages which could be reached from this research are:

### **1. Theoretical Advantages**

This research provides depth information on the conformity of the regulation of karst protection with the regulation of karst mining at Gunungkidul Regency. It also evaluates all regulations related to legal issue that is being applied.<sup>19</sup>

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<sup>19</sup> ibid



It is also expected to produce an argument that will be used to resolve the related issue, and contribute some suggestions to the government for revising regulations on a related issue.

## **2. Practical Advantages**

The research provides *ratio legis* and *ontological basis* of the regulation issues. By studying the *ratio legis* and *ontological basis*, the philosophical basis of a regulation will be found. Through reasoning and ontological treasuring, a clash between the philosophical basis of legislation and other regulations or with an issue that is being faced can be identified.<sup>20</sup> In this research there are two kinds of contradictory matters; the conservation and mining activity which occur at the same place.

This research develops the understanding on how the impact of karst mining regulation to the effort of the Indonesian government to establish the karst zone as a geological conservation area. This research also shares and improves the knowledge on the principle of management and protection of karst zone.

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<sup>20</sup> Peter Mahmud Marzuki, 2005, *Penelitian Hukum*, Edisi Revisi, Jakarta, Prenadamadia Group, p.134.