

## The Impact of Illegal Mining on Environmental Conservation

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### Abstract

The legal issues in this paper are regarding mining activities that are not licensed and have various impacts on the community and life around the mining site, including; environmental damage, high levels of pollution (soil, water and air), also cause disruption to the wider community, especially as a result of blasting activities carried out to open mine sites and not re-doing reclamation. Disruption of aspects of people's lives, when viewed from the side of Human Rights (HAM), namely especially those related to economic, social and cultural rights, is of course very much in touch with the impact of this coal mining. Because human rights include aspects of the right to live and live a good, safe and healthy life which is the right to a good and healthy environment regulated in the 1945 Constitution of the Republic of Indonesia.

**Keywords:** Mining, Environment, Environmental Damage, Human Rights



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### UNTRDUCTION

Our country Indonesia is known as a country rich in abundant natural resources. The results of various natural wealth are scattered in various regions in Indonesia and one of them is resources in the mining sector. Natural wealth which can be referred to as mineral materials, is listed in Article 33 paragraph (3) of the 1945 Constitution as assets owned and controlled by the State to be used for the prosperity of the people. This part of the mandate of the 1945 Constitution is the foundation for mining and energy development to be able to utilize the potential natural wealth of natural resources owned by the state, especially in mineral and energy resources which can legally support sustainable national development.

Some people use the results of this natural wealth to fulfill their lives, not only people from the industrial sector also produce the results of this natural wealth by exporting these mining products which can later build foreign exchange. And this mining is also regulated in the law, concerning Mineral and Coal Mining and This law continues to change. Starting from post-reform thinking, Law no. 11 of 1967 was considered to be no longer in accordance with the political-economic conditions of the government that was being carried out at that time, especially in the mining sector, so that Law No. 4 of 2009 concerning Mineral and Coal Mining was enacted which was expected to improve the deficiencies of Law No. 11 of 1967 concerning Basic Provisions Principle of Mining, and being able to restore the function and authority of the state over the control of natural resources owned, but in fact this law actually reaps pros and cons. Because people think that the revision of the Minerba Law contains the interests of expanding investment and mining exploitation, and ignores people's rights. In the end, this law was revised to become Law no. 3 of 2020 concerning Amendments to Law No. 4 of 2009 concerning Mineral and Coal Mining on 12 May 2020.

### RESEARCH METHODS

The legal approach or research used in cases uses a normative approach. The case study being examined is a legal event that occurred. Data collection was carried out based on a

literature review by studying and collecting data, information and other readings related to this research. Regarding the types and sources of data that the author will use in writing this law, this refers to secondary data sources (secondary law material) originating from laws and regulations such as Law Number 3 of 2020 concerning Mineral and Coal Mining, and Law Number 32 of the year 2009 concerning Protection and Management of the Environment (UUPPLH).

## **RESEARCH RESULTS AND DISCUSSION**

### **Comparison of Laws Law no. 3 of 2020 concerning Amendments to Law No.4 of 2009 concerning Mineral and Coal Mining with Law No.4 of 2009 concerning Mineral and Coal Mining**

When compared with Law no. 3 of 2020 concerning Mineral and Coal Mining, the Minerba Law contains several fairly basic improvements. That is:

1. Regarding the control of minerals and coal. In the discussions it was agreed that control over minerals and coal would be held by the central government through the functions of policy, regulation, administration, management and supervision.
2. Agreed on the mining area as part of the legal mining area.
3. There is a guarantee from the central government and regional governments (Pemda) not to make changes to the use of space and areas of the mining business permit area (WIUP). Including community mining areas (WPR) and special mining permit areas (WIUPK) that have been stipulated, as well as guaranteeing the issuance of other permits needed in the implementation of mining business activities.
4. Regarding the WPR, if previously it was given a maximum area of 25 hectares and a maximum depth of 25 meters, through the revision of the Minerba Law it is given a maximum area of 100 hectares. Then it has metal mineral reserves with a maximum depth of 100 meters.
5. Mining business is carried out based on a business license from the central government. The types of permits in the revised Minerba Law consist of mining business permits (IUP) and special mining business permits (IUPK). Regarding the granting of permits, the central government can delegate the authority to issue business permits to the Governor.
6. With regard to the regional government's share of the results of mining activities, if previously the provincial government only received a 1 percent share, through the revised Minerba Law it has increased to 1.5 percent.
7. There is an obligation for the Minister to provide mining data and information to support the preparation of mining areas (WP); develop science and technology; and transferring mining technology.
8. There is an obligation for IUP and IUPK holders to use mining roads in carrying out mining business activities.
9. There is an obligation for IUP and IUPK holders to allocate funds in the implementation of community development and empowerment programs, the minimum amount of which is determined by the Minister.
10. The obligation for business entities holding Production Operation IUP or Production Operation IUPK whose shares are owned by foreigners to divest shares of 51 percent.
11. Obligations for holders of Production Operation IUP and Production Operation IUPK to provide mineral and coal reserve resilience funds used for discovery of new reserves.
12. Regarding reclamation and post-mining activities, the holder of a Production Operation IUP or Production Operation IUPK before reducing or returning their WIUP or WIUPK is required to carry out reclamation and post-mining until a 100 percent success rate is achieved.

Likewise, ex-IUP or IUPK holders who have expired are required to carry out reclamation and post-mining until they achieve a 100 percent success rate, and place post-mining guarantee funds.

13. The responsibility for managing the budget, infrastructure and operations of mine inspectors in carrying out supervision is borne by the Minister.
14. Mining activities without permits, which were previously subject to a maximum prison sentence of 10 years and a maximum fine of IDR 10 billion, are changed to a maximum penalty of 5 years and a maximum fine of IDR 100 billion. Or reduce the corporal punishment, but increase the maximum value of fines.
15. Since the law was enacted, there have been several things, such as IUP, IUPK, IPR, IUP Production Operations specifically for transportation and sales, and IUPJ (Mining Service Business Permits) that existed prior to the enactment of this law, which are declared to remain valid until the expiration of the permits.

### **What are the Environmental Impacts of Areas Affected by Illegal Mining or Illegal Mining**

Mining activities can cause serious environmental damage in an area or region. These impacts can be seen physically, such as deforestation, river water contamination, changes in soil structure, and so on. The main environmental impact of mining is when it is exploited and used for energy (oil, gas and coal). Environmental pollution is a condition that occurs due to unfavorable changes in environmental conditions (soil, air and water) (damages and harms human, animal and plant life) caused by the presence of foreign objects (such as garbage, industrial waste, oil, hazardous metals, etc.) The larger the scale of mining activities, the larger the impact area will be.

Environmental changes due to mining activities can be permanent, or cannot be returned to their original state. There are some workers who understand the environment, but due to economic pressures, they are forced to make the decision to work in mining because they cannot find other jobs. From the results of observations at mining sites it was found that mining activities have the potential to increase the threat of landslides. Judging from the mining technique, where miners dig hills not in stages (trap-trap), but just as long as they dig and it appears that the excavation openings are irregular and form straight and hanging walls which are very prone to collapse (landslides) and can threaten safety of miners. Mining that is not carried out according to environmental protection standards can damage soil vegetation and the existing soil genetic profile, so that previously fertile land can turn dry and barren. Inappropriate land use can also permanently change the general topography of the mining area which can result in landslides. Destruction of nature or the environment has now reached the most worrying point for all mankind. Destruction of the environment is mainly caused by the unstoppable human desire to take advantage of the environment or nature for the sake of increasing the level and quality of human life. The difference between destroying soil structure and forest structure is that soil structure damage is a process that changes the soil structure from hills to flat, from towering mountains to hollow. While the damage to the forest structure is destroying the forest cover, meaning that there are stands of wood or trees which then become arid and bare, so that this damages the forest structure.

Large-scale mining causes even more serious environmental damage because in doing so they need to clear vast tracts of land, dig deep pits and tunnels underground and move enormous amounts of excavated earth. Damaging soil construction is a condition in which one or many chemical, physical or biological substances enter the soil where these objects can damage the soil structure and make it difficult for plants to adapt. And soil damage is also caused by mineral exploitation (mining activities) which has also contributed to soil damage.

Mining as an industry that has a high environmental risk has always received special attention from the public. Environmental factors remain a crucial issue that needs intensive monitoring with almost unsupervised mining activities. Environmental damage will have long-term impacts in the form of landscape changes, landslides and erosion, as well as water and agricultural land pollution. This impact will be felt not only by the current generation, but also by generations of our children and grandchildren. As the mountainous land in the Bakan Village area is believed to contain abundant gold, for the people in Bakan Village, mining is a field of fortune. Mining business activity is an activity that is certain to cause damage and pollution to the environment is something that cannot be denied. Therefore, to take or obtain certain minerals, it is certain that by excavation, it means that there will be an overhaul or change in the earth's surface, in accordance with the characteristics of the formation and presence of minerals, which are geologically or geologically in their formation or occurrence must meet certain geological conditions and must be under the earth's surface, sea and or the earth's surface, especially as secondary or alluvial deposits. But on the other hand, it must be realized that mining activities are industries that provide basic raw materials for downstream industries.

### **Negative Impacts of Mining Activities**

According to Abrar Saleng, the negative impacts of mining activities are:

1. Mining business in a relatively short time can change the shape of the topography of the land and the state of the land surface (land impact) so that it can change the balance of the ecological system for the surrounding area.
2. The mining business can cause various kinds of disturbances, including pollution due to dust and smoke which pollutes the air and water, waste water, tailings, and mine waste containing toxic substances.
3. Mining that is carried out without regard to work safety and field geological conditions can cause landslides, mine explosions, mine collapses, and earthquakes.

The negative impact of this illegal mining is the disruption of aspects of people's lives, when viewed from the side of Human Rights (HAM), as stipulated in Law Number 39 of 1999 concerning Human Rights, namely especially those related to economic, social and cultural rights, of course it is very much in touch with the impacts of mining because human rights include aspects of the right to live and have a good, safe and healthy life which is the right to a good healthy environment regulated in the 1945 Constitution of the Republic of Indonesia.

The values of human life can be disrupted or diminished, moreover what is worst is bringing disaster of death which is indirectly "programmed" and carried out through existing business activities. Efforts have indeed been made, but they still have to be carried out because the existing efforts seem to be far away and there is still much to be done.

### **How is Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH)**

With the regulation of environmental issues in Law Number 32 of 2009 concerning the UUPPLH, the environment has become a determining factor in the decision-making process for the utilization and processing of Natural Resources (SDA). Development no longer places natural resources as capital, but as an integrated ecosystem which contains humans, the natural environment and/or the built environment that forms a functional unit, interrelated and interdependent in a specific order, different from one type of ecosystem to another. other. Therefore, environmental protection and management is specific, integrated, holistic and has a

spatial dimension. According to UUPPLH Number 32 of 2009 article 1 number 1, the environment is: "the unity of space with all objects, forces, conditions, and living things, including humans and their behavior, which affect nature itself, the continuity of life, and the welfare of humans and living things other." While environmental protection and management is defined as "a systematic and integrated effort made to preserve environmental functions and prevent environmental pollution and/or damage which includes planning, utilization, control, maintenance, supervision and law enforcement".

## **CONCLUSION**

The impact of Illegal Mining on causing long-term environmental damage in the form of landscape changes, landslides and erosion, as well as water pollution in environmental sustainability mining locations. Suggestion: Miners should apply for a Mining Business Permit (IUP). In (IUP) miners have work safety standards supported by work facilities. While legal gold mines have a Standard Operating Procedure (SOP) in which it is stated clearly, concerning safety standards for mines and adequate mining facilities. And reinforces the law for mining without a permit, a criminal maximum of 5 years and a maximum fine of IDR 100 billion. Or reduce the corporal punishment, but increase the maximum value of fines.

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