



THE GOVERNMENT'S RESPONSIBILITY TO THE COMMUNITIES AFFECTED BY NICKEL MINING EXPLOITATION IN RAJA EMPAT

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ABSTRACT

The use of nickel resources as part of national development causes polemics when carried out in areas with high ecological value such as Raja Ampat, especially Gag Island. This study aims to analyze the impact of nickel mining on society and the environment and examine the form of government responsibility for these impacts. The research uses normative legal methods with a legislative and conceptual approach through literature studies. The results of the study show that nickel mining has the potential to cause environmental damage in the form of water pollution, marine sedimentation, and damage to coastal ecosystems and coral reefs which has an impact on declining people's livelihoods. Legally, the government has a preventive, repressive, and restorative responsibility to protect the community and the environment. However, the implementation of these responsibilities has not been optimal due to weak supervision and law enforcement. Therefore, it is necessary to strengthen the role of the government in order to realize environmental justice and sustainable development.

Keywords: Nickel Mining, Raja Ampat, Government Responsibility, Environment, Environmental Justice

INTRODUCTION

The use of natural resources is an integral part of national development which aims to improve the welfare of the community. Indonesia as a country that has a wealth of mineral resources,

including nickel, makes the mining sector one of the strategic sectors in encouraging national economic growth. Nickel has high economic value because it is the main raw material for the electric vehicle battery industry and new and renewable energy technologies. Therefore, the government encourages the acceleration of nickel exploitation and downstream in various regions of Indonesia¹.

One of the areas also affected by the policy is Raja Ampat Regency, Southwest Papua Province. Raja Ampat is known as the region with the highest level of marine biodiversity in the world and has very important ecological, social, and economic values². This area is also designated as a marine conservation area and an environment-based tourism destination. However, in recent years, the existence of nickel mining activities in the Raja Ampat area has caused a polemic in the community. The granting of mining business licenses in small islands and coastal areas raises concerns about the potential for environmental damage, especially to marine ecosystems and coral reefs which are the main source of livelihood for local communities³. The negative impact of nickel mining exploitation in Raja Ampat is not only ecological, but also social and economic. Environmentally, mining activities have the potential to cause soil and water pollution, marine sedimentation, and damage to forests and coastal ecosystems⁴. These impacts can reduce the quality of the environment and threaten the sustainability of natural resources. Socially, the communities around the mine, especially fishermen and tourism actors, have the potential to lose their livelihoods due to the deterioration of environmental quality and limited access to living space⁵. This condition shows that the uncontrolled exploitation of natural resources can cause inequality between economic interests and the protection of people's rights.

From the perspective of environmental law, this condition raises the question of the government's responsibility to the communities affected by mining exploitation. The government has an obligation to ensure the community's right to a good and healthy environment and ensure that mining activities do not exceed the carrying capacity and carrying capacity of the environment. According to Emil Salim, development that ignores the principle of environmental sustainability will ultimately cause ecological and social losses that are much

¹ Ministry of Energy and Mineral Resources, *Roadmap for Downstreaming Indonesian Minerals*, Jakarta, 2021.

² Conservation International Indonesia, *Raja Ampat Marine Biodiversity Report*, 2019.

³ Andri Gunawan, "Nickel Mining and Threats to Coastal Ecosystems", *Indonesian Journal of Environmental Law*, Vol. 7 No. 2, 2021.

⁴ Mas Achmad Santosa, *Environmental Law and Sustainable Development*, ICEL, Jakarta, 2018, p. 67.

⁵ Siti Sundari Rangkuti, *Environmental Law and National Environmental Policy*, Airlangga University Press, Surabaya, 2015, p. 112.

greater than the short-term economic benefits⁶. Therefore, mining management must be carried out carefully and oriented towards environmental justice.

Normatively, the government's responsibility in natural resource management has been regulated in various laws and regulations. Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia emphasizes that everyone has the right to a good and healthy environment⁷.

In addition, Article 33 paragraph (3) of the 1945 Constitution states that the earth, water, and natural resources contained in it are controlled by the state and used for the greatest prosperity of the people⁸. This provision places the state as the party fully responsible for the management of natural resources.

Furthermore, Law Number 32 of 2009 concerning Environmental Protection and Management regulates the government's obligation to prevent, control, and recover from environmental pollution and damage⁹. Meanwhile, Law Number 3 of 2020 concerning Mining and Coal requires the government to supervise mining activities and ensure that permit holders carry out reclamation and post-mining obligations¹⁰. However, in practice, the implementation of these legal provisions still faces various obstacles, especially weak supervision, inconsistency in licensing policies, and suboptimal enforcement of environmental laws.

Based on these conditions, it can be seen that although a legal framework regarding environmental protection and mining management is available, the communities affected by nickel mining in Raja Ampat have not fully obtained environmental protection and justice. Therefore, a study of the government's responsibility to the community and the environment affected by nickel mining exploitation in Raja Ampat is important to be carried out to assess the extent of the state's role in realizing environmental justice and sustainable development.

PROBLEM FORMULATION

1. What is the impact of nickel mining on the community and the environment on Gag Island, West Waigeo District, Raja Ampat Regency?
2. What is the government's responsibility to the community and the environment affected by the exploitation of natural resources, nickel in mining activities in Raja Ampat?

⁶ Emil Salim, *Sustainable Development and Environment*, LP3ES, Jakarta, 2010, p. 45.

⁷ Constitution of the Republic of Indonesia of 1945, Article 28H paragraph (1).

⁸ Constitution of the Republic of Indonesia of 1945, Article 33 paragraph (3).

⁹ Law Number 32 of 2009 concerning Environmental Protection and Management.

¹⁰ Law Number 3 of 2020 concerning Mineral and Coal Mining.

RESEARCH OBJECTIVES

1. To describe the impact of nickel mining on the community and the environment in Raja Ampat.
2. To describe the government's responsibility to the community and the environment affected by nickel mining exploitation in Raja Ampat.

RESEARCH METHODS

This research uses normative legal research methods with a regulatory approach and a conceptual approach¹¹. The approach to laws and regulations is carried out by reviewing the 1945 Constitution of the Republic of Indonesia¹². Law Number 32 of 2009 concerning Environmental Protection and Management¹³. and Law Number 3 of 2020 concerning Mineral and Coal Mining¹⁴. A conceptual approach is used to analyze the concepts of government responsibility and environmental justice in natural resource management¹⁵. The legal materials in this study consist of primary, secondary, and tertiary legal materials collected through library research, All of these legal materials are analyzed qualitatively through legal interpretation to produce prescriptive conclusions related to the government's responsibility for the impact of nickel mining in Raja Ampat.

RESULTS AND DISCUSSION

1. The Impact of Nickel Mining on the Community and Environment on Gag Island, West Waigeo District, Raja Ampat Regency.

Based on normative legal analysis of laws and regulations, legal literature, and scientific studies, nickel mining on Gag Island, Raja Ampat Regency, has a significant impact on **the environment and the lives of local communities**¹⁶. Gag Island is part of a small island area

¹¹ Soerjono Soekanto and Sri Mamudji, *Normative Legal Research: A Brief Review*, RajaGrafindo Persada, Jakarta, 2015, p. 13.

¹² Constitution of the Republic of Indonesia in 1945.

¹³ Law Number 32 of 2009 concerning Environmental Protection and Management.

¹⁴ Law Number 3 of 2020 concerning Mineral and Coal Mining.

¹⁵ Emil Salim, *Sustainable Development and Environment*, LP3ES, Jakarta, 2010, p. 45.

¹⁶ Salim HS, *Mining Law in Indonesia*, RajaGrafindo Persada, Jakarta, 2018, p. 112.

that has limited environmental carrying capacity, so ecologically it is very vulnerable to large-scale natural resource exploitation activities¹⁷. In this context, nickel mining activities cannot be separated from the potential for systemic and long-term environmental damage.

From an environmental aspect, nickel mining activities have the potential to cause **pollution of soil, surface water, and marine waters** due to mining waste and land clearing activities¹⁸. The process of stripping the top layer (land clearing) and transporting mining materials can trigger erosion and sedimentation that spills into coastal and marine areas¹⁹. This condition is very dangerous for the coral reef ecosystem which is a characteristic of the waters of Raja Ampat and serves as the main habitat of marine life. Coral reef damage not only degrades the quality of marine ecosystems, but also disrupts the ecological balance of aquatic conservation areas²⁰.

Normatively, this condition is contrary to the principle of environmental protection as stipulated in Article 65 paragraph (1) of Law Number 32 of 2009 which guarantees everyone's right to a good and healthy environment²¹. If mining activities cause pollution and environmental damage, it can be qualified as a violation of the community's right to the environment and contrary to the goals of sustainable development.

In addition to the ecological impact, nickel mining on Gag Island also brings real social and economic impacts to the local community. Coastal communities, most of whom make a living as fishermen, are highly dependent on the quality of marine waters²². The decline in the quality of the marine environment due to sedimentation and pollution has a direct impact on the decline in fish catches, thus threatening the economic sustainability of the fishing community²³. On the other hand, the environment-based tourism sector, which has been the backbone of Raja Ampat's economy, also has the potential to decline due to the degradation of the coastal and marine environment.

Furthermore, the existence of mining in small island areas has the potential to cause **social inequality and conflicts of interest**, especially related to land tenure, access to natural

¹⁷ Deddy Supriadi, "Management of Small Islands in Environmental Law Perspective," *Indonesian Environmental Law Journal*, Vol. 6 No. 2, 2020, p. 145.

¹⁸ Rachmad Safa'at, "The Impact of Mining on the Environment," *Journal of the Legal Pulpit*, Vol. 29 No. 3, 2017, p. 410.

¹⁹ *Ibid.*, p. 412.

²⁰ A. H. Tobing, "Coral Reef Damage Due to Mining Activities," *National Marine Journal*, Vol. 15 No. 1, 2020, p. 22.

²¹ Article 65 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management.

²² hmad Redi, "Mining and the Rights of Local Communities," *Journal of the Constitution*, Vol. 17 No. 2, 2020, p. 289.

²³ *Ibid.*, p. 292.

resources, and distribution of economic benefits²⁴. In many cases, local communities bear the brunt of environmental damage and social risks, while the economic benefits of mining are enjoyed more by business actors and the state²⁵. This condition reflects the lack of realization of the principle of environmental justice in natural resource management.

Juridically, Law Number 1 of 2014 concerning the Management of Coastal Areas and Small Islands emphasizes that the use of small islands must prioritize environmental sustainability and the sustainability of people²⁶'s lives. Article 35 of the law expressly prohibits mining activities on small islands if they cause environmental damage and threaten the ecosystem. Therefore, the impact of nickel mining on Gag Island shows that there is a discrepancy between the practice of using natural resources and the applicable legal provisions.

Based on this description, it can be concluded that nickel mining on Gag Island not only has an impact on environmental damage, but also has social and economic impacts that are detrimental to the local community. This condition shows that the exploitation of natural resources that does not pay attention to the carrying capacity of the environment and the interests of the community has the potential to harm the human right to a good and healthy environment, and is contrary to the principles of sustainable development that are the basis for natural resource management in Indonesia.

2. Forms of Government Responsibility for the Community and Environment Affected by Nickel Mining Exploitation in Raja Ampat.

From the perspective of constitutional law and environmental law, the government's responsibility to the community and environment affected by the exploitation of nickel mining in Raja Ampat is a direct consequence of the principle of **the right to control the state over natural resources**. Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia emphasizes that state control is not only interpreted as the authority to regulate and manage, but also contains an obligation to **protect the people and the environment**²⁷. Therefore, any mining policy that has a social and ecological impact places the government as the legally and morally responsible party.

The normative form of government responsibility can be classified into **preventive**,

²⁴ I Nyoman Nurjaya, *Natural Resources Management in the Perspective of Legal Anthropology*, Prestasi Pustaka, Jakarta, 2016, p. 98.

²⁵ Emil Salim, *Sustainable Development and the Environment*, LP3ES, Jakarta, 2010, p. 67.

²⁶ Article 35 of Law Number 1 of 2014 concerning the Management of Coastal Areas and Small Islands.

²⁷ Maria Farida Indrati Soeprapto, *Jurisprudence*, Kanisius, Yogyakarta, 2017, p. 214.

repressive, and restorative responsibility²⁸. Preventive responsibility is realized through the formulation of strict licensing policies, the determination of mining areas in accordance with spatial planning, and the obligation to prepare and assess Environmental Impact Analysis (EIA). In the context of Raja Ampat as a small island area and a marine conservation area, the application of the precautionary principle is very important²⁹. This principle requires the government to prevent potential environmental damage even though the impact has not been fully scientifically proven.

However, various academic studies show that the practice of mining licensing in small island areas still faces serious problems, especially the weak coordination between agencies and the dominance of economic interests over environmental protection³⁰. This shows that the government's preventive responsibilities have not been carried out optimally and have the potential to violate the provisions of Law Number 1 of 2014 concerning the Management of Coastal Areas and Small Islands which emphasizes ecosystem sustainability and the protection of local communities³¹.

In addition to preventive responsibilities, the government also has a **repressive responsibility**, namely supervising and enforcing the law against mining business actors who violate environmental and mining regulations. Law Number 32 of 2009 requires the central and regional governments to supervise the compliance of environmental permit holders and impose administrative, civil, and criminal sanctions in the event of pollution and environmental damage³². Research in environmental law journals shows that weak supervision and enforcement are often the main factors in environmental damage caused by mining³³. Furthermore, the government's responsibility also includes **restorative responsibility**, which is the obligation to ensure environmental restoration and protection of affected communities. Law Number 3 of 2020 concerning Mineral and Coal Mining regulates reclamation and post-mining obligations for mining business license holders³⁴. However, empirical studies show that reclamation implementation is often not effective, so the government remains responsible for

²⁸ Takdir Rahmadi, *Environmental Law in Indonesia*, RajaGrafindo Persada, Jakarta, 2015, p. 98.

²⁹ Philippe Sands & Jacqueline Peel, *Principles of International Environmental Law*, Cambridge University Press, 2018, p. 233.

³⁰ Deddy Supriadi, "The Legal Politics of Small Islands Management in Indonesia," *Indonesian Environmental Law Journal*, Vol. 6 No. 2, 2020, pp. 150–152.

³¹ Article 35 of Law Number 1 of 2014 concerning the Management of Coastal Areas and Small Islands.

³² Article 71 of Law Number 32 of 2009 concerning Environmental Protection and Management.

³³ Rachmad Safa'at, "Environmental Law Enforcement in Mining Activities," *Journal of the Legal Pulpit*, Vol. 29 No. 3, 2017, p. 418.

³⁴ Article 96C of Law Number 3 of 2020 concerning Mineral and Coal Mining.

ensuring comprehensive environmental recovery³⁵.

From a human rights perspective, Article 28H paragraph (1) of the 1945 Constitution guarantees everyone's right to a good and healthy environment³⁶. Therefore, when nickel mining activities cause people to lose their livelihoods, deteriorate environmental quality, or social conflicts occur, the government is obliged to provide **legal protection, restoration of rights, and fair compensation**³⁷. This concept is in line with the principle of **environmental justice** which places local communities as a group that must be protected from the negative impacts of development based on the exploitation of natural resources³⁸. The government's responsibility to the community and the environment affected by nickel mining in Raja Ampat is not only administrative, but also substantive, including the obligation to **prevent environmental damage, strictly enforce the law, and ensure environmental restoration and protection of community rights**. The government's failure to carry out these responsibilities can be seen as a form of neglect of the constitutional mandate and the principles of sustainable development.

CONCLUSION

Nickel mining in Raja Ampat, especially on Gag Island, has been proven to have a negative impact on the environment and socio-economic life of the community, especially through the destruction of coastal and marine ecosystems and the reduction of local people's livelihoods. Legally, the government has a constitutional and juridical responsibility to ensure people's rights to a good and healthy environment through supervision, control, law enforcement, and environmental restoration. However, the implementation of these responsibilities has not been running optimally, so it is necessary to strengthen the government's role and commitment so that the management of nickel mining is in line with the principles of environmental justice and sustainable development.

ADVICE

The government needs to strengthen supervision and enforcement of environmental laws on nickel mining activities in Raja Ampat, especially in small islands and coastal areas that have

³⁵ Ahmad Redi, "Post-Mining Reclamation and State Responsibility," *Constitutional Journal*, Vol. 17 No. 1, 2020, pp. 67–69.

³⁶ Article 28H paragraph (1) of the Constitution of the Republic of Indonesia in 1945.

³⁷ Salim HS, *Mining Law in Indonesia*, RajaGrafindo Persada, Jakarta, 2018, p. 162.

³⁸ David Schlosberg, "The Justice of Environmental Justice," *Environmental Politics*, Vol. 13 No. 3, 2004, pp. 517–540.

high ecological value. In addition, the evaluation and review of mining business licenses must be carried out in a transparent and participatory manner by involving local communities. The government is also advised to ensure the effective implementation of reclamation and post-mining obligations and prioritize the protection of people's rights to a good and healthy environment in order to realize environmental justice and sustainable development.

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