



Juridical Analysis of the Effectiveness of Law Enforcement in Handling Nickel Mining Violations in North Maluku: Dispute Cases Between Companies and Affected Communities

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Abstract: This study examines the effectiveness of the legal system in addressing nickel mining violations in North Maluku, particularly focusing on conflicts between mining companies and affected communities. Although regulations such as the Mineral and Coal Mining Law (UU Minerba) and the Environmental Protection and Management Law (UU PPLH) exist, law enforcement in practice remains ineffective. Disputes in Central Halmahera and East Halmahera highlight the negative impacts of mining activities, such as land encroachment and environmental degradation, which harm local communities. Moreover, companies are often not held accountable for the resulting damage, while communities opposing mining face criminalization. The study concludes that the existing legal system has not effectively protected the rights of communities and the environment from the negative impacts of mining activities. Weak law enforcement, lack of supervision, and the absence of corporate accountability are the main factors contributing to the imbalance in the protection of both communities and the environment. Therefore, improvements are needed in law enforcement, stricter monitoring of mining activities, and stronger protection of the rights of affected communities to create a fairer and more effective legal system.

Keywords: Law Enforcement, Nickel Mining, Disputes, Affected Communities, North Maluku, Environmental Protection

Introduction

Law enforcement in the mining sector, especially in the context of violations that occurred in North Maluku, is a very important and complex issue. Nickel mining in this area does not only concern economic aspects, but also involves the rights of affected communities. In this context, a juridical analysis of the effectiveness of law enforcement is crucial to understand how the law can function as a tool to protect the interests of society and the environment. Effective law enforcement is expected to prevent violations that harm society and the environment, as well as ensure that mining companies are held accountable for the impacts caused by their activities.

Disputes between mining companies and affected communities in North Maluku often stem from community dissatisfaction with the social and environmental impacts of mining activities. Previous research has shown that many companies do not comply with existing regulations, causing losses to local communities (Muskibah et al., 2021). This creates a tension between the economic interests represented by companies and the rights of people who seek to protect the environment and their natural resources. Therefore, it is important to conduct an in-depth analysis of how the law is applied in this context and the extent to which it is able to provide adequate protection for the community.

In the context of Indonesian law, Law Number 4 of 2009 concerning Mineral and Coal Mining provides a legal framework that is supposed to protect the interests of the community and the environment (Roring, 2020). However, the implementation of these laws often does not go as expected. Many reports show that violations of legal provisions often occur, and the sanctions applied are not enough to provide a deterrent effect to violators (Maulana & Firmansyah, 2023). This weak law enforcement raises questions about the effectiveness of the existing legal system and how it can be improved to achieve justice for all parties involved.

The role of the government and regulatory agencies is also very important to ensure that mining companies comply with applicable laws. Research shows that a lack of coordination between various government agencies is often a barrier to effective law enforcement (Prahesti, 2022). Therefore, an analysis of the structure and functions of these institutions is essential to understand how they can contribute to creating a better law enforcement system.

Another aspect that needs to be considered is community participation in the decision-making process related to mining. Local communities are often not involved in the licensing and management of natural resources, resulting in dissatisfaction and conflict (Sorik, 2023). Therefore, it is important to explore how the law can be changed to make room for community participation in decision-making that impacts their lives.

The case of a dispute between a mining company and a community in North Maluku is a clear example of conflicts arising from nickel mining activities. These disputes involve various issues, such as land grabs, the impact of environmental pollution, and the criminalization of local communities who defend their land rights. In Central Halmahera, for example, the Sawai tribe is disturbed by PT Weda Bay Nickel's activities due to land grabbing and environmental damage that interferes with their survival (TanahKita, 2023). In addition, several South Wasile residents in East Halmahera are suspected because they are considered to obstruct mining activities, a move that is touted as a form of criminalization of indigenous peoples (Tempo, 2023). These cases show weaknesses in law

enforcement, especially in protecting people's rights and ensuring corporate responsibility for environmental impacts.

Mining activities also cause environmental pollution, such as alleged damage to rivers that are the main source of water for the community (Tempo, 2023). This raises questions about the effectiveness of the legal system in preventing negative impacts on the environment and ensuring justice for affected communities. Therefore, analysis of regulations and their implementation is important to identify weaknesses in the existing legal system and provide recommendations for improvement in order to create harmony between economic, social, and environmental interests.

In this study, the author will conduct a juridical analysis of the effectiveness of law enforcement in dealing with nickel mining violations in North Maluku, focusing on dispute cases between companies and affected communities. This research aims to identify weaknesses in the existing legal system, as well as provide recommendations for improvements that can improve protection for society and the environment. Thus, it is hoped that this research can make a meaningful contribution in efforts to create social and environmental justice in the mining sector in Indonesia.

In summary, this article discusses a juridical analysis of the effectiveness of law enforcement in cases of nickel mining violations in North Maluku. This article ultimately seeks to answer the question: "Is the existing legal system effective in protecting the public and the environment from the negative impacts of mining activities, as well as ensuring the responsibility of companies for violations that occur?"

Methodology

This study uses a qualitative approach with a normative juridical analysis method to evaluate the effectiveness of law enforcement in dealing with nickel mining violations in North Maluku. The main focus of the research is on the analysis of relevant laws and regulations, especially Law Number 4 of 2009 concerning Mineral and Coal Mining and its amendments through Law Number 3 of 2020. These changes are important to analyze because they include strengthening regulations, corporate obligations to the community and the environment, and supervision in mining activities. In addition, this research also includes an analysis of Law Number 32 of 2009 concerning Environmental Protection and Management to understand the legal framework in protecting ecosystems from the impact of mining activities.

The data collection method involves the study of legal documents and literature, which includes primary legal materials, such as laws, government regulations, and ministerial regulations, as well as secondary legal materials in the form of previous research results, legal journals, and reports on dispute cases between mining companies and affected

communities. The analysis was carried out by comparing the applicable legal provisions with practices in the field based on reports and related case studies.

This study aims to identify weaknesses in the implementation of regulations, especially after the revision through Law Number 3 of 2020, as well as obstacles in law enforcement. Thus, this research can provide recommendations to improve legal protection for affected communities and ensure environmental sustainability in the midst of mining activities.

Result and Discussion

A juridical analysis of the effectiveness of law enforcement in dealing with nickel mining violations in North Maluku, especially in the case of disputes between companies and affected communities, requires an in-depth study of the relevant articles in the applicable laws and regulations. The following is an analysis of some important articles in Law Number 4 of 2009 concerning Mineral and Coal Mining (Mineral and Coal Mining Law) and Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH Law):

1. Law Number 4 of 2009 concerning Mineral and Coal Mining (Mineral and Coal Law):

- Article 35: Stipulates that every mining business activity must have a Mining Business Permit (IUP), People's Mining Permit (IPR), or Special Mining Business Permit (IUPK). The absence of this permit makes mining activities illegal.
- Article 158: Stipulates criminal sanctions for every person who conducts a mining business without an IUP, IPR, or IUPK, with a maximum penalty of 5 years in prison and a maximum fine of Rp100 billion.
- Article 161B: Provides that officials who issue mining permits without meeting the requirements may be subject to criminal sanctions. This aims to prevent abuse of authority in the licensing process.

2. Law Number 3 of 2020 concerning Mineral and Coal Mining (Mineral and Coal Mining Law) is a revision of Law Number 4 of 2009 with the aim of increasing the effectiveness of mineral and coal resource management in Indonesia. The following is an analysis of some important articles in the new Mineral and Mineral Law:

a. Article 1 Numbers 1, 2, and 3: Definition of Mining, Minerals, and Coal

- Article 1 Number 1: "Mining is part or all of the stages of activities in the context of the management and exploitation of minerals or coal which include general investigation, exploration, feasibility studies, construction, mining, processing and refining, transportation, and sales."

- Article 1 Number 2: "Minerals are elements, compounds, or complex compounds contained in rocks that can be utilized to meet human needs."
- Article 1 Number 3: "Coal is a sedimentary deposit consisting mostly of plant remains that undergo a process of metamorphosis."

This definition provides a more comprehensive understanding of the scope of mining activities and the types of resources that are managed.

b. Article 8A: National Mineral and Coal Management Plan

- This article regulates the government's obligation to prepare a national mineral and coal management plan that must be adjusted to national and regional development plans.
- The plan must contain strategies and policies in the mining sector, including the amount of mineral resources and/or reserves, as well as the availability of facilities and infrastructure.

The preparation of this plan aims to ensure planned and sustainable management of natural resources.

c. Article 8B: Assignment to State Research Institutes, SOEs, BUMDs, or Business Entities

- This article gives the government the authority to assign state research institutions, SOEs, BUMDs, or business entities to conduct investigations and research in the context of the preparation of Mining Business Permit Areas (WIUP).
- This assignment aims to improve the quality of geological data and available mineral or coal reserves.

This step is expected to strengthen the database in natural resource management.

d. Article 8C: Determination of Mining Business License Areas (WIUP)

- This article stipulates that WIUP is determined by the government based on the results of investigations and research that have been carried out.
- WIUP can be assigned for exploration activities and/or production operations.

The establishment of a clear and structured WIUP is important to avoid overlapping interests and ensure efficient management.

e. Article 8D: Mining Business License (IUP) and Special Mining Business License (IUPK)

- This article regulates the granting of IUP and IUPK that can be given to business entities, cooperatives, or individuals who meet the requirements.
- IUP is given for exploration activities and/or production operations, while IUPK is given to areas that were previously managed based on a work contract or coal mining concession work agreement.

This arrangement aims to provide legal certainty for business actors in mining activities.

f. Article 8E: Obligations of IUP and IUPK Holders

- This article stipulates the obligation of IUP and IUPK holders to carry out mining activities in accordance with the approved work plan, fulfill reclamation and post-mining obligations, and pay taxes and non-tax state revenues.

This obligation is important to ensure that mining activities do not damage the environment and provide economic benefits to the country.

g. Article 8F: Supervision and Control

- This article stipulates that the government supervises and controls the implementation of mining activities to ensure compliance with laws and regulations.
- Supervision is carried out through periodic inspections, audits, and evaluations.

Effective supervision is needed to prevent violations and environmental damage due to mining activities.

h. Article 8G: Sanctions

- This article stipulates administrative sanctions, criminal sanctions, and civil sanctions for parties who violate the provisions of the Mineral and Mineral Law.
- Sanctions can be in the form of revocation of permits, fines, or imprisonment according to the level of violation.

Strict enforcement of sanctions is expected to encourage compliance with regulations and protect the interests of the community and the environment.

3. Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH Law):

- Article 88: Stipulates that every person who commits an unlawful act in the form of pollution and/or destruction of the environment that causes harm to other persons or the environment, is obliged to pay compensation and/or take certain actions. This article affirms the principle of strict liability for environmental polluters.
- Article 98: Regulates criminal sanctions for any person who deliberately commits an act that results in the excession of environmental quality standards, with the threat of imprisonment and significant fines.
- Article 99: Establish criminal sanctions for every person who, due to their negligence, results in the exceedance of environmental quality standards, with the threat of imprisonment and fines.

The case of disputes between mining companies and communities in North Maluku shows the tension between economic interests and social and environmental rights. One example that has emerged is a dispute involving PT Weda Bay Nickel in Central Halmahera, which triggered a conflict with the Sawai tribe over land grabbing and environmental

damage that threatens their survival. These disputes reflect structural problems in mining management, where often the rights of indigenous peoples and the affected environment do not receive adequate protection. Weak law enforcement in regulating mining activities makes the community vulnerable to exploitation, both in the form of land grabbing and in the form of environmental damage that is detrimental to their lives.

The importance of the role of Law Number 4 of 2009 concerning Mineral and Coal Mining (Mineral and Coal Law) in this case cannot be underestimated. Article 35 of the Mineral and Mineral Law regulates the obligation for every mining activity to have a Mining Business License (IUP), which should be the basis for the legality of mining operations. However, the reality is that many mining activities run without a clear permit, or with permits issued illegally, as stipulated in Article 158 which mentions criminal sanctions for those who carry out mining businesses without an IUP. In addition, Article 161B which regulates sanctions against officials who issue permits without meeting the requirements must also be strictly enforced to avoid abuse of authority in the licensing process. However, in practice, the enforcement of these articles is often hampered by weak supervision and insufficient efforts to crack down on these violations, which leads to losses for the affected communities.

The implementation of Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH) is also in the spotlight in this case, especially related to pollution and environmental damage due to mining activities. Article 88 of the PPLH Law emphasizes that every person who commits an unlawful act that causes pollution or destruction of the environment is obliged to pay compensation and recover for the damage that occurs. However, in the context of nickel mining in North Maluku, the impact of pollution such as damage to rivers that are a source of water for the community is often not taken seriously by the competent authorities. Measures that emphasize more on environmental recovery and corporate responsibility for the damage that occur have not been implemented optimally. This is exacerbated by the absence of sufficient efforts to conduct a thorough environmental audit of the companies involved.

Cases of criminalization of communities defending their land rights are also a major issue in the context of effective law enforcement. As happened in South Washile, East Halmahera, several local residents were made suspects because they were considered obstructing mining activities. This shows the potential for abuse of the law, where people who try to protect their rights are charged with criminal charges. The Mineral and Mineral Law and the PPLH Law should be able to protect the rights of indigenous and local peoples, but in practice, the interests of companies often take precedence over the protection of the rights of these communities. Dispute resolution between companies and communities must

prioritize the principle of social justice, which includes the right to land, the environment, and the opportunity to obtain justice before the law.

In this case, the role of the government and law enforcement agencies is very important. Strict law enforcement against violations that occur in the mining sector needs to be improved, both in terms of granting permits, supervising mining operations, and handling disputes between companies and the community. Articles 98 and 99 of the PPLH Law, which regulate criminal sanctions for violations of environmental quality standards, must be applied consistently. This can be an important step to provide a deterrent effect to companies that damage the environment and neglect their social responsibility. In addition, increasing the capacity of law enforcement agencies to conduct independent investigations and supervision is also a key factor in ensuring that the law can be enforced without any intervention that benefits certain parties.

An analysis of the effectiveness of law enforcement in nickel mining dispute cases in North Maluku shows that there are various weaknesses in the existing legal system. This weakness is reflected in the inability of the law to provide fair protection for affected communities and in the indecisiveness in dealing with the environmental impacts caused. For this reason, improvements are needed in terms of the implementation of existing regulations, stricter law enforcement, and greater attention to the rights of local communities and environmental protection.

The current legal system in Indonesia, especially in the context of nickel mining, shows many weaknesses in protecting the community and the environment from the negative impacts caused by mining activities. Although there are clear regulations in the Mineral and Mineral Law and the Environmental Protection and Management Law (PPLH), the implementation of law enforcement in the field is often ineffective. This is due to the weak supervision and protection of indigenous peoples' rights, which are often overlooked in the decision-making process related to mining. The dispute cases in Central Halmahera and East Halmahera reflect the conflict between the economic interests of companies and the social needs of local communities, which shows that the legal system has not been able to create the right balance between the two interests (Jamin et al., 2023).

In this context, although the Mineral and Mineral Law has provided for sanctions for violations, weak law enforcement often does not provide a deterrent effect for companies that damage the environment. The lack of effective supervision and potential abuse in the licensing process means that companies are rarely subject to strict sanctions. For example, research shows that many companies operate without complying with applicable environmental regulations, and local communities are often victims of environmental damage and violations of their land rights without adequate justice (Suatmiati et al., 2022).

This shows that there is an urgent need to strengthen the supervision and enforcement mechanisms in the mining sector.

Reform in the legal system is urgently needed to overcome these weaknesses. Strengthening supervision of mining activities, the application of stricter sanctions against environmental violations, and better protection of the rights of indigenous peoples must be top priorities. The government needs to ensure the implementation of sustainable mining management plans and involve the active participation of affected communities in the decision-making process. Thus, law enforcement in the nickel mining sector in North Maluku can be more effective and fair for all parties involved (Tarmizi, 2024).

One of the important steps in this reform is to increase the capacity and quality of supervision of mining activities. Research shows that increasing the number and quality of mining supervisors should be a priority in efforts to prevent violations of the law (Suatmiati et al., 2022). In addition, there needs to be efforts to improve the licensing process to be more transparent and accountable, so that the potential for abuse can be minimized. This is in line with findings that show that many companies operate without valid permits, and this must be handled seriously by the government (Cahyanti, 2024).

It is important to create a harmonious and consistent legal framework that regulates mining activities and environmental protection. Research shows that inconsistencies between various existing regulations and laws are often a barrier to effective law enforcement (Basuki, 2024). Therefore, harmonization of regulations and laws governing mining and environmental protection must be carried out to create a more cohesive and effective legal framework.

In addition, community participation in the decision-making process related to mining must be increased. Research shows that the involvement of local communities in natural resource planning and management can increase accountability and transparency, as well as ensure that community interests are taken care of (Cole & Broadhurst, 2022). By involving the community in the decision-making process, the government can create a sense of ownership and shared responsibility in natural resource management.

In the context of protecting the rights of indigenous peoples, it is important to ensure that mining policies do not neglect their rights. Research shows that many indigenous peoples have lost access to their land and natural resources due to unplanned mining activities (Jamin et al., 2023). Therefore, the protection of indigenous peoples' rights should be an integral part of mining policy, and the government should ensure that adequate consultation is carried out before mining permits are granted.

Furthermore, the application of stricter sanctions against environmental violations must also be the main focus. Research shows that current sanctions are often not enough to provide a deterrent effect for companies that violate environmental provisions (Redi &

Marfungah, 2021). Therefore, there needs to be a revision to the regulations that regulate sanctions for environmental violations, so that companies proven to damage the environment can be subject to heavier and more effective sanctions.

In order to achieve this goal, governments need to work closely with various stakeholders, including civil society, non-governmental organizations, and the private sector. This collaboration is important to create a more holistic approach to natural resource management and environmental protection. Research shows that collaboration between the government and civil society can improve the effectiveness of policies and programs related to mining and environmental protection (Cole & Broadhurst, 2022).

Finally, it is important to develop effective monitoring and evaluation mechanisms to assess the impact of implemented policies and programs. Research shows that without a good monitoring system, it is difficult to know the extent to which the policies implemented have succeeded in achieving the desired goals (Akhmaddhian, 2023). Therefore, the government must develop clear and measurable indicators to evaluate the effectiveness of mining policies and environmental protection.

With these steps, it is hoped that the legal system in Indonesia can be more effective in protecting the community and the environment from the negative impact of nickel mining activities. Comprehensive and integrated reforms in the legal system and mining policy will help create a better balance between the economic interests of companies and the social needs of local communities. Only in this way can law enforcement in the nickel mining sector in North Maluku become fairer and more sustainable for all parties involved.

Conclusion

The current legal system is not effective in protecting the public and the environment from the negative impact of nickel mining activities, as well as ensuring the responsibility of companies for violations that occur. Although there are clear regulations in the Mineral and Mineral Law and the PPLH Law, the implementation of law enforcement in the field faces major challenges, especially related to the weak supervision and protection of indigenous peoples' rights. The dispute cases in Central and East Halmahera show a conflict between the economic interests of companies and the social needs of local communities, indicating that the legal system has not been able to create the right balance.

In addition, although the Mineral and Mineral Law has provided for sanctions for violations, weak law enforcement often does not provide a deterrent effect for companies that damage the environment. The lack of effective supervision and potential abuse in the licensing process means that companies are rarely subject to strict sanctions. As a result, local communities are often victims of environmental damage and violations of their land rights without adequate justice.

To address these weaknesses, reforms in the legal system are needed, including strengthening oversight of mining activities, the application of stricter sanctions against environmental violations, and better protection of the rights of indigenous peoples. The government must ensure the implementation of sustainable mining management plans and involve the active participation of affected communities in the decision-making process. Only with these efforts, law enforcement in the nickel mining sector in North Maluku can become more effective and fair for all parties involved.

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