



Legal Protection Against Illegal Mining in the Deep Sea in Indonesian

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Abstract: This research aims to investigate the methods used by law enforcement to combat maritime illicit mining crimes. The main focus of this journal is on The purpose of this research is to investigate the implementation of the provisions of Law No. 32/2009 relating to the principles of environmental preservation in Indonesia as well as the role of the government in maintaining environmental sustainability in the country. The research methodology used is a normative juridical approach, and it makes use of primary legal materials like the 1945 Constitution, statutory rules, and other legal regulations, coupled with secondary data gathered from sources like academic literature, research papers, and other information. The results show that illegal coal mining activities cause degradation of Indonesia's aquatic ecosystems, This has to do with Law Number 3 of 2020's stipulations. This study highlights how crucial legal analysis is. of illegal coal mining that damages Indonesia's aquatic environment by considering Law No. 3/2020 and other relevant regulations that need to be updated.

Keywords: Coal; Sea; Illegal mining

1. Introduction

Indonesian illegal mining has grown to be a complicated problem that needs immediate attention. This activity has serious negative effects on the environment and nearby communities in addition to being economically harmful to the nation.¹ Natural resources, both minerals and coal, are one type of wealth, so that unwise and unwise management may cause these natural resources to eventually run out. Therefore, a mutual agreement is needed in managing and utilizing these natural resources to ensure their survival. Regulations concerning the development and management of mineral and energy resources (SDA) are outlined in several statutes:

1. Law Number 22 of 2001 concerning Oil and Natural Gas.
2. Law Number 27 of 2003 concerning Geothermal.
3. Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining²

Enforcing the law against illicit mining operations presents its own set of difficulties. Even while mining regulations are adequately defined, there are still a number of barriers to execution in the field, including a lack of infrastructure and human resources and the existence of those who engage in this illicit activity.

¹ <https://www.cnbcindonesia.com/news/20230208104634-4-412041/jokowi-sebut-tambang-ilegal-masih-ada-ini-bukti-datanya>

² Undang-undang (UU) Nomor 3 Tahun 2020 tentang Perubahan atas Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara



Coal in the sea is usually found on the seabed, and extracting it requires highly sophisticated technology and infrastructure to access and process these resources that are below the surface of the sea. However, in practice, the discovery of many illegal coal mines in the sea is a very dangerous and illegal practice that occurs in several regions in Indonesia. Illegal coal at sea is coal that is extracted illegally and not secured by proper regulations and oversight.

and proper oversight. This practice can result in environmental damage, air and water pollution, and significant economic losses. Illegal coal mining at sea can also impact public health, as the dust and pollution generated can spread widely and reach areas far from the mine site. In addition, the practice can also disrupt other activities such as shipping and fishing, and affect marine ecosystems that are critical to the livelihoods of communities.

Although the government and non-governmental organizations have attempted to stop practices that damage the marine environment through. Despite the passage of Law No. 32/2009 on Environmental Protection and Management, a lot of illicit operations persist without sufficient rules to ensure their safety. Based on this context, the author is interested in conducting an in-depth analysis of illegal coal mining cases that have damaged the environment, especially in Indonesian waters, with reference to Law Number 3 of 2020. Thus, the legal research described in this Scientific Work is entitled.³ Indonesia is also governed by a number of international treaties and conventions that regulate the use and preservation of the ocean on a global scale. The United Nations Convention on the Law of the Sea (UNCLOS), which was adopted in 1982 and offers nations a legal framework for managing their marine resources, is one of the most significant. UNCLOS offers guidelines to coastal governments on the management of mineral resources within their authority with regard to subsea mining.

Nonetheless, there are still a lot of obstacles in Indonesia's way of putting this rule into effect. One of them is the disarray amongst the different government departments in charge of managing the environment and maritime resources. Furthermore, there are still holes in the supervision of underwater mining operations and law enforcement. As a result, further work is required to enhance the institutional and legal framework that currently exists as well as the ability for monitoring and enforcement.⁴

2. Research Methode

By utilizing secondary data from a variety of sources, including academic journals, research papers, articles, and various current data collections, this publication is generated using a normative juridical method. The term "primary sources" refers to laws, government rules (such as the 1945 Constitution), regulations, and so on. The literature study method of data collecting in this study involves examining information from dependable sources, including books, papers, and legal journals that are pertinent to the research topic. A qualitative method is used in the data processing process, analyzing and presenting unstructured data in narrative

³ Dewi. et all. "Analisis Hukum Terkait Pertambangan Batu Bara Ilegal di Wilayah Laut Indonesia Dikaitkan dengan UU Nomor 32 Tahun 2009 dan Konsep Lingkungan Hidup Berkelanjutan." *Kultura: Jurnal Ilmu Hukum, Sosial, dan Humaniora* 2, no. 7 (2024): 373–381. <https://doi.org/10.572349/kultura.v2i7.1923>

⁴ Dhiana Puspitawati, Teddy Minahasa Putra, dan Rangga Vandy Wardana, "Reformulasi Pengaturan Penambangan Bawah Laut Di Wilayah Perairan Indonesia," *Jurnal Magister Hukum Udayana* 10, no. 4 (2021): 716–39, <https://doi.org/10.24843/JMHU.2021.v10.i04.p05>.

form. Qualitative data is obtained through observation or documentation, then analyzed to gain useful insights. Qualitative data analysis involves the steps of data reduction, data presentation, and data verification. The results of this research are in the form of words, sentences, or paragraphs generated through the analysis conducted.

3. 1 Legal Analysis of Illegal Coal Mining in Indonesian Waters in Relation to Law No. 32/2009 and the Principles of Environmental Sustainability

The investigation of illegal coal mining in Indonesian waters is a very complicated issue that requires serious handling. Law No. 4/2009 on Mining of Minerals and Coal states that businesses must first apply for a government-issued license before beginning any mining operations. Mining business licenses are issued by the government. Law enforcement against illegal mining crimes in Indonesian waters must be carried out in accordance with applicable legal provisions, including Article 158 of the Minerba Law which stipulates that the authorities must enforce the law against mining companies that do not have a license. However, if a company does not have a license, its mining activities go undetected and many companies suspected of illegal practices feel no obligation to carry out environmental restoration or reclamation⁵. The Republic of Indonesia's 1945 Constitution, which upholds everyone's human right to a clean and healthy environment, serves as the foundation for Indonesia's Environmental Protection and Management Law No. 32/2009. This rule establishes thorough and systematic environmental protection and management in order to maintain the sustainability of environmental functions and prevent the negative consequences of environmental pollution and deterioration. Planning, implementation, and follow-through are the stages in a comprehensive and coordinated approach to environmental management. exploitation, control, maintenance, monitoring, and legal implementation. The innate principle of sustainable development integrates environmental, social and economic dimensions into the development framework. Any company or activity that may have a large environmental impact is obliged to do an environmental risk assessment, which entails risk management, risk communication, and risk assessment. The government mandates that companies and/or high-risk operations do environmental audits, and those in charge who do not comply with laws and regulations. Violation of Law No. 32/2009 on Protection and Management. The act of breaking Law Number 32 of 2009 pertaining to Environmental Protection and Management violates legal provisions relating to indonesia's environmental management and preservati on here are some examples of violations that can occur:

1. Environmental pollution is a major change in the state of the environment caused by uncontrolled human and industrial activities 2. by uncontrolled human and industrial activities, as well as natural processes. This pollution can be in the form of population increase, uncontrolled exploitation of nature, and poorly managed industrialization. Environmental pollution can have a negative impact on human health, damage ecosystems, and reduce the aesthetic value of the environment. aesthetic value of the environment. For example, a company that discharges industrial waste into a river

⁵ Sri Rahayu dan Dheny Wahyudhi, "Penegakan Hukum, Ketentuan Pidana Pasal 158 UU No. 4 Tahun 2009. 121," *Jurnal Hukum* 6, no. 2 (2013): 121–38.

without proper through the correct procedures can be considered a violation of Law No. 32 of 2009.

2. Licensing delays can occur when a business or environmental activity is not carried out with the correct procedures, such as not meeting the requirements before it is run. This can lead to environmental damage and violations of Law No. 32/2009.
3. Lack of supervision of environmental activities can lead to violations of Law No. 32 of 2009. Such as, government officials who do not monitor industrial activities that dispose of waste can be considered a violation.
4. Low public awareness of the importance of environmental protection can lead to violations of Law No. 32 of 2009.
5. According to Law No. 32/2009, violations can result in consequences in the form of administrative and criminal sanctions. Administrative sanctions include warnings, orders, and other penalties given by authorized officials. Meanwhile, criminal sanctions include prison sentences and fines set by the court.⁶

Therefore, violations of Law No. 32/2009 may occur if mining companies do not comply with a number of obligations described in the law. To address this situation, the government must conduct strict supervision of coal mining activities in the waters. The government must ensure that each mining company has a valid license and complies with all applicable regulations. In addition, the authority must carry out law enforcement against mining businesses that do not fulfill the provisions of the license.⁷

3.2 The government's role in addressing marine pollution caused by illegal mining activities

In accordance with Article 63 paragraph (1) letter i The following are the authorities and responsibilities in environmental protection and management as per Law Number 32 of 2009 concerning Environmental Protection and Management: "Develop and carry out policies concerning biodiversity, genetic resources, biological and Natural resources that are not biological and the security of genetically engineered goods." Water pollution is defined as the introduction or inclusion of living organisms, substances, energy, and/or other components into water by human activity, to the extent that water quality falls to a point where water can no longer function as intended. This definition is based on Article 1 Point 11 of Government Regulation No. 82 of 2001.⁸ Law No. 32 of 2009 explicitly authorizes the government to impose sanctions on perpetrators of environmental damage and pollution in industrial business activities. Industrial business activities that are carried out. Article 76 of Law No. 32 of 2009 UUPPLH explains that⁹: The minister, governor, or regent/mayor has the authority to impose administrative sanctions on companies and/or other entities. activity responsibility holder if the supervision process reveals violations of environmental licensing. This administrative sanction consists of:

⁶ Dairse, "PASAL 76 ANGKA 1&2 UNDANG-UNDANG REPUBLIK INDONESIA NOMOR 32 TAHUN 2009 TENTANG PERLINDUNGAN DAN PENGELOLAAN LINGKUNGAN HIDUP," *Экономика Региона*, no. Kolisch 1996 (2009): 49–56.

⁷ Dewi

⁸ Heriamariaty. "Upaya Pencegahan dan Penanggulangan Pencemaran Air Akibat Penambangan Emas di Sungai Kahayan." *Mimbar Hukum – Fakultas Hukum Universitas Gadjah Mada* **23, no. 3 (2012): 532–545. <https://doi.org/10.22146/jmh.16175>

⁹ Dairse

1. written warning letter;
2. forced action from the government;
3. the revocation of an environmental permit;
4. The environmental license being revoked.

Government Regulation No. 55/2010 on the Guidance and Supervision of Mineral and Coal Mining Business lays forth the duties of the government. When overseeing and managing the execution of mining activities managed by holders of a Mining Business License (IUP), People's Mining License (IPR), or Small Mining Business License (IUPK), this supervision is divided into three areas, which include:¹⁰

1. General supervision (as per Article 13) is carried out by the government or local government in accordance with their authority.
2. Supervision of the implementation of mining business management (as referred to in Article 14) includes:
 - a. Determination of WPR;
 - b. Determination and granting of Mining Business License Area (WIUP) for non-metallic minerals and rocks;
 - c. Provision of metal mineral WIUP and coal;
 - d. Issuance of IPR;
 - e. Issuance of IUP; and
 - f. Implementation of guidance and supervision of activities carried out by IPR and IUP holders.

Governmental Approaches to Policy Implementation The Ministry of Energy and Mineral Resources, as the central policy makers in this issue, described several tactics for putting mining environmental management policies into practice, including:

1. Efficiency of Resources
Since mining operations affect a wide range of natural resources, they must be utilized as sparingly as feasible. Water and energy, for instance, can be used efficiently to recycle materials. Maintaining ecological equilibrium requires related parties to work toward biodiversity protection as well. This plan also addresses the management of mine waste and greenhouse gas emissions.
2. Creating a Study of Feasibility
Making environmental documentation and feasibility assessments is the second tactic. A feasibility study evaluates a project's viability by taking into account a number of variables, including social, legal, economic, and so on.
3. Risk Evaluation and Control
In a mining environmental management system, integrated environmental risk assessment and risk management are required. This system includes all hazards determined by benchmarks for ecological balance, among other things. Moreover, mitigation measures are taken as part of this mining environmental management plan

¹⁰ Peraturan Pemerintah Republik Indonesia Nomor 55 Tahun 2010 tentang Pembinaan dan Pengawasan Penyelenggaraan Pengelolaan Usaha Pertambangan Mineral dan Batubara. *Lembaran Negara Republik Indonesia Tahun 2010 Nomor 85*.

to lessen ecological issues. This evaluation also functions as an appraisal of mining operations going forward.

4. Making Use of Environmental Documents

Environmental documents compile policies that have been established by the government. As a result, in order to conduct business, mining implementers must also refer to these documents.

5. Planning for Reclamation and Post-Mining

The process of restoring former mining sites following the extraction of minerals and coal is known as reclamation. Post-mining reclamation must be carried out in compliance with particular planning that makes use of environmental documents. Similarly, the document is consulted while preparing the national spatial planning. Related parties must also make room for input from stakeholders.¹¹

Marine and coastal waters serve a variety of purposes, including providing the world's water supplies, regulating the climate globally, providing habitat for a wide range of biological groups, and supporting human livelihoods, particularly those of those who live near the coast. sourcing food from many kinds of aquatic life. Marine animals like mullet, snapper, shrimp, mangrove crabs, and sea cucumbers are raised in aquaculture. Indonesia has enough marine resources to suit its own demands as well as those of the world. Fish catches can be increased to raise selling prices as one method of managing aquatic resources. resources for mining and energy. The oceans around Indonesia also include a wealth of potential resources: building material aggregates, iron sand, quartz sand, monazite and zircon, chromite, tin, gold, and silver. additional minerals. Preserving the sea to prevent mining-related pollution is one method of managing energy resources and mining. The government aims to safeguard marine ecosystems and guarantee the sustainable management of marine resources for the benefit of society through the implementation of this all-encompassing strategy. Thus, practically all of the government's initiatives to combat illegal underwater mining have been put into action.¹²

2.3 the relationship between illegal underwater mining and environmental management laws and internasional Regulations of the International Seabed Authority (SAI)

Illegal mining at sea has a significant impact on the environment and often violates various laws governing environmental management. In Law No. 32 of 2009 concerning environmental protection and management (UUPPLH). One of the impacts of illegal mining at sea is that it can damage marine ecosystems. Illegal mining in the sea can cause

¹¹ Agincourt Resources. "Upaya Pemerintah dalam Pengelolaan Lingkungan Pertambangan." Agincourt Resources, 10 Desember 2021. <https://agincourtresources.com/id/2021/12/10/begini-upaya-pemerintah-dalam-pengelolaan-lingkungan-pertambangan/>

¹² Dwiki Sultan and Muhammad Fauzan Ramadhan, "Peran Kebijakan Pemerintah Dalam Mengelola Sumber Daya Laut Indonesia," *Riset Sains Dan Teknologi Kelautan* 7, no. 1 (2024): 34–40, <https://doi.org/10.62012/sensistek.v7i1.31635>.

damage to marine ecosystems, including water pollution, damage to coral reefs, and can eliminate shelter for fish.

Therefore in (UUPPLH) it is also explained the authority of environmental supervisory officials (PPLH) which is listed in article 74, namely: environmental supervisory officials as described paragraph (3) of Article 71 has the power to:

- a) conduct arrangement
 - b) submitting a request for information
 - c) copying documents and recording necessary information
 - d) enter into certain areas
 - e) taking photos
 - f) recording video/audio
 - g) taking samples
 - h) inspect equipment
 - i) inspecting installations or vehicles
 - j) stopping special offenses
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- 1) When performing their duties, environmental supervisory officers may cooperate with civil servants..
 - 2) The person in charge of the enterprise and/or activity shall not obstruct the environmental supervision official's performance of their duties.¹³
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1. Considering that mining marine sand A comprehensive and integrated approach to law enforcement is required in coastal areas and tiny islands, encompassing aspects of the environment, mineral and coal mining, and these places. In this situation, law enforcement should be based on the principles contained in the Environmental Law as a foundation for other laws and regulations. In addition, law enforcement must also consider the provisions contained in the WP3K Law as a clear, firm, and comprehensive legal framework to ensure legal certainty. Based on this, it is necessary to synchronize the three legislative regimes related to sea sand mining activities in Coastal areas and small islands must be adapted to the principle of sustainability. When it comes to subsea mining, breaking the terms of (UUPPLH) might result in penalties that are determined by the relevant laws and regulations Therefore, the relationship between underwater mining in Indonesian waters and (UUPPLH) is very close because (UUPPLH) is the legal basis that regulates all underwater mining activities in compliance with Indonesia's natural resource sustainability and environmental protection standards.¹⁴ The International Seabed Authority (ISA) has regulations that govern seabed mining as well. The International Seabed Association (ISA) was founded with the goal of promoting sustainable and responsible methods of seabed mineral resource exploration and development. The foundation of ISA is the idea that the seafloor and its resources belong to all of humanity as a "common heritage" and should be protected

¹³ Undang-Undang Republik Indonesia Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup. Pasal 71 ayat (3).

¹⁴ Fakultas Hukum dan Universitas Padjadjaran. "Sanksi Terhadap Kegiatan Penambangan Pasir Laut Ilegal dalam Mewujudkan Pembangunan Wilayah Pesisir dan Pulau Kecil yang Berkelanjutan." Jurnal Fakultas Hukum Universitas Padjadjaran no. 32 (2020): 53–68.

and used for the good of all, particularly developing nations. In order to guarantee that seabed mining operations are carried out in a manner that does not negatively impact the environment, the ISA lays down a number of rules and guidelines. Among the important rules are :

- a. Environmental Impact Assessment (EIA): To identify and reduce any adverse effects on the environment, every contractor planning to explore or use the seabed must carry out an extensive EIA.
- b. Environmental Management Plan: In order to safeguard the marine ecology, the contractor must create an environmental management plan that includes mitigating measures.
- c. Monitoring and Reporting: Contractors must keep an eye on the environment at all times and report any findings to ISA. This is to make sure that mining operations don't result in permanent damage.¹⁵

permits may be granted by Indonesia, but only under certain circumstances. These must be regulated, such as:

- 1) An analysis of the site of mining in the International Seabed Area in compliance with ISA regulations.
- 2) The applicant's capacity to conduct mining operations, including the availability of finance and technology; these prerequisites serve to assess the applicant's sincerity and suitability for conducting mining operations in the region.
- 3) Environmental Impact Assessments (AMDAL) are used to prevent contamination of the environment or to take action in the event that pollution does occur to stop more extensive and severe environmental harm.
- 4) Applicants' and State Sponsors' rights and obligations, such as collecting royalties and overseeing mining operations¹⁶

There are many obstacles facing subsea mining, most of them have to do with the environment. Mining operations have the potential to alter biodiversity and harm delicate deep-sea ecosystems. In order to solve these problems and guarantee that mining is carried out in a way that causes the least amount of environmental harm possible, the ISA therefore keeps creating and updating its regulations.

3. Conclusion

Illegal mining in Indonesia's marine areas has a negative impact on the environment and society, this activity damages the marine ecosystem and can threaten rare fish species extinction and damage the natural habitat of these fish. The government needs to increase supervision to stop the practice of underwater mining. Therefore, there are already laws that regulate, namely. Law Number 22 of 2001 concerning Oil and Gas, Law Number 27 of 2003 concerning Geothermal, Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining and also Law 32 of 2009 concerning Protection and

¹⁵ The Ocean Foundation. "Penambangan Dasar Laut Dalam." The Ocean Foundation. Diakses tanggal Anda membaca sumber tersebut. <https://oceanfdn.org/id/pertambangan-dasar-laut/>

¹⁶ Ilham Putuhena, "Urgensi Pengaturan Mengenai Eksplorasi Dan Eksploitasi Pertambangan Di Area Dasar Laut Internasional (International Sea Bed Area)," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 8, no. 2 (2019): 167, <https://doi.org/10.33331/rechtsvinding.v8i2.316>.

management of the environment. The sustainability and preservation of the environment depend on this rule.

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Republik Indonesia. 2020. Undang-Undang Nomor 3 Tahun 2020 tentang Perubahan atas Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara.

Sri Rahayu, dan Dheny Wahyudhi. 2013. "Penegakan Hukum Ketentuan Pidana Pasal 158 UU No. 4 Tahun 2009." Jurnal Hukum 6 (2): 121–138.