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State Losses Due to Corruption of Tin Commodity Trade Area of PT Timah Tbk Mining Business License Area

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ABSTRACT

Mining as one of the largest natural resources in Indonesia has a positive impact on the country, especially as a source of income. Thus, losses incurred due to mining have a huge impact on the state treasury. This research focuses on one of the causes of losses in the mining business sector, namely corruption in the tin commodity trade system by PT Timah Tbk. The research results show that the mode of corruption by PT Timah Tbk which is suspected of causing environmental losses of 271 trillion was carried out by forming puppet companies to accommodate the collection of illegal tin ore from the Mining Business Permits granted. The Prosecutor's Office's efforts to restore state finances are not only by carrying out asset recovery, but also by rehabilitating the environmental damage that has arisen, including its ecological impact on society. Then, the concept of ideal mining management can be built by strengthening aspects of government supervision accompanied by transparency and community participation. Apart from that, law enforcement needs to be tightened to close the loopholes for fraud and mining business violations.

Keywords: corruption; mining; state losses.

INTRODUCTION

Indonesia is a country rich in mineral resources. These resources include tin, gold, silver, copper, oil and natural gas, coal, and others. These mineral resources are controlled by the state as national assets and managed for the greatest prosperity of the people.

National assets, as defined in the Draft Law on National Wealth, refer to tangible and intangible objects, whether movable or immovable, that possess value and are owned and/or controlled by the state. National wealth is broadly categorized into two main types: state-controlled wealth (*domein in public*) and

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state-owned wealth (*domein privat*).[1] Natural resources controlled by the state (as stated in Article 33, Paragraph 3 of the 1945 Constitution) include land, water, and the natural wealth contained therein, including mining resources found within the country.

In the management of mining activities, the government may carry out operations independently and/or appoint contractors when necessary to perform tasks that cannot yet be carried out by government agencies (legal mining). This can be done through mining service businesses, which may involve state-owned enterprises (SOEs), regional government-owned enterprises (ROEs), private companies, cooperatives, or individual businesses in accordance with the classifications and qualifications determined by the Minister.[2] Mining activities, whether conducted by the government, domestic mining companies, or foreign investors, have positive impacts on communities both within and outside the mining areas. These benefits include improving the quality of human resources, boosting the local economy, providing employment opportunities for local workers, and increasing infrastructure development. Additionally, they benefit both the central and regional governments, particularly through tax revenues and royalties, which serve as funding sources for development aimed at enhancing public welfare.[3]

The management of national Natural Resources (hereafter referred to as *SDA*) is currently heavily influenced by various management models adopted in countries adhering to liberal-capitalist principles. These models gradually erode and diminish the foundational values and noble principles of Indonesian society.[4] The management and utilization of natural resources (SDA) that focus solely on increasing foreign exchange and state revenue also lead to social and cultural implications. This condition has resulted in various conflicts over the rights to control and utilize natural resources, involving indigenous communities, the government, forest concession holders, and mining companies—conflicts that frequently occur across different regions in Indonesia.

The large-scale exploitation of natural resources (SDA) across various sectors, such as mining, forest mismanagement, and the commercialization of water resources, illustrates the problems in SDA management in Indonesia. Vital SDA assets are often controlled by private and foreign companies, leading to tendencies toward privatization and monopoly that result in the marginalization of the rights of the underprivileged.

[1] Direktorat Jenderal Kekayaan Negara, *Kekayaan yang Dikuasai Negara vs. Kekayaan yang Dimiliki Negara,* https://www.djkn.kemenkeu.go.id/kpknl-metro/baca-artikel/13760/Kekayaan-yang-Dikuasai-Negara-vs-Kekayaan-yang-Dimiliki-Negara.html [Accessed June 06, 2024]
[2] Salim HS, *Hukum Pertambangan di Indonesia*, vol. 2005 (Jakarta: PT Raja Grafindo Indonesia, 2005), p. 1.
[3] Salim HS, *Hukum Pertambangan Mineral & Batubara*, (Jakarta: Sinar Grafika, 2012), pp. 72-73
[4] I Nyoman Nurjaya, (2008). *Pengelolaan Sumber Daya Alam Dalam Perspektif Antropologi Hukum.* Jakarta, Pustaka Publisher, p. 38

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This situation represents an irony for Indonesia, a country abundant in natural resources.[5]

In addition, violations in natural resource management have emerged, such as a recent case that has drawn public attention: the alleged corruption in the tin commodity trade within the Mining Business Permit Area (WIUP) of PT Timah Tbk from 2015 to 2022. As of April 29, 2024, the Attorney General's Office (AGO) has named 21 suspects in this case, an increase from the initial 16 suspects. The alleged corruption has the potential to cause environmental damage amounting to IDR 271 trillion. This figure differs from the financial losses to the state, which are still being calculated.

During the COVID-19 pandemic, PT Timah Tbk reported invalid data to the Ministry of Energy and Mineral Resources (ESDM) because direct supervision could not be carried out. Even when discrepancies were found within the company, a suspect is alleged to have obstructed the investigation by locking and sealing the doors of the objects to be searched and hiding several documents that were needed. The suspect is also accused of intentionally withholding information or providing false statements in their capacity as a witness. Additionally, the suspect is strongly suspected of destroying electronic evidence.[6]

The recent alleged corruption case has shocked the public and resulted in financial losses to the state that exceed those from other corruption cases, such as PT Asabri and Duta Palma. Moreover, this case has caused environmental damage due to illegal tin mining activities in the Bangka Belitung Islands Province.

In response to this case, the Coordinator of Political Corruption at Indonesia Corruption Watch (ICW), Egi Primayogha, stated that the government has been negligent in ensuring proper governance of extractive industries in the case of PT Timah. At least two ministries, namely the Ministry of State-Owned Enterprises (BUMN) and the Ministry of Energy and Mineral Resources (ESDM), have failed to carry out their duties in supervising PT Timah Tbk, as stipulated in Government Regulation No. 5 of 2010 on the Guidance and Supervision of Mineral and Coal Mining Business Management.[7] The cases of natural resource management in Indonesia that have resulted in financial losses to the state undoubtedly raise several public questions. For

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[5] Ilham Dwi, Rafiqi (2021). I Nyoman Nurjaya, (2008). *Pengelolaan Sumber Daya Alam Dalam Perspektif Antropologi Hukum.* Jakarta, Pustaka Publisher, p. 38. Pembaruan Politik Hukum Pembentukan Perundang-Undangan di Bidang Pengelolaan Sumber Daya Alam Perspektif Hukum Progresif. *Bina Hukum Lingkungan, 5(2),* p. 323.

[6] Kompas.id, *Penyidik Kumpulkan Fakta Baru Dugaan Korupsi Timah di Bangka.* Available from https://www.kompas.id/baca/nusantara/2024/04/23/penyidik-kumpulkan-fakta-baru-kasus-dugaan-korupsi-timah [Accessed May 29. 2024]

[7] Hukum Online, *4 Catatan ICW dalam Kasus Dugaan Korupsi PT Timah.* Available from https://www.hukumonline.com/berita/a/4-catatan-icw-dalam-kasus-dugaan-korupsi-pt-timah-lt66331f7acad94/?page=1. [Accessed Mei 29, 2024]

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instance, how could this happen when there had already been a process of application and issuance of permits? Or, who are the major players behind these cases, such as the powerful individuals or "mafias" involved in these issues?

Based on the background above, the author intends to further analyze the various legal issues found in the alleged corruption case related to the tin commodity trade of PT Timah Tbk, which will be outlined in this article. This research aims to explore a model of mining management in Indonesia through the case study of PT Timah Tbk, with the goal of preventing corruption and ensuring that mining management can benefit the welfare of the Indonesian people in accordance with the mandate of Article 33, Paragraph (3) of the 1945 Constitution.

RESEARCH METHOD

The method used in this research is normative juridical, which is a legal research method that focuses on examining bibliographic materials, or what is referred to as secondary data, as the primary data in the form of positive law. This approach is deductive, starting with an analysis of all laws and regulations related to the legal issues being addressed,[8] By examining various references, particularly the case of PT Timah Tbk, and analyzing the available data, legal interpretation is conducted to find a mining management model that can promote the welfare of the community. This research will also discuss a case study related to the first-level court decision in the criminal case involving PT Timah.

DISCUSSION

Details of State Losses

On Monday, February 19, 2024, a press conference was held at the Attorney General's Office of the Republic of Indonesia, inviting environmental experts from the Bogor Agricultural Institute. The environmental damage due to the corruption in the tin commodity trade in the IUP area of PT Timah Tbk from 2015-2022 was calculated. The damage to the forests in Bangka Belitung caused by this case amounts to IDR 271,069,688,018,700 or IDR 271 trillion. This total loss must be borne by the state.[9]

The total loss includes the environmental damage in both forest and non-forest areas. In the forest areas, the ecological damage amounts to IDR 157.83 trillion, the economic environmental loss is IDR 60.276 trillion, and the recovery cost is IDR 5.257

[8] Peter Mahmud Marzuki, (2005). *Penelitian Hukum*, Edisi Revisi, Jakarta: Prenamedamedia Group, p. 133.
[9] Menurut Pasal 1 angka (2) Peraturan Menteri Lingkungan Hidup Nomor 7 Tahun 2014 tentang Kerugian Lingkungan Hidup Akibat Pencemaran dan/atau Kerusakan Lingkungan Hidup, Kerugian Lingkungan Hidup adalah kerugian yang timbul akibat pencemaran dan/atau kerusakan lingkungan hidup yang bukan merupakan hak milik privat.

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trillion. The total loss in the forest areas is IDR 223,366,246,027,050. In non-forest areas, the ecological damage costs IDR 25.87 trillion, the economic environmental loss is IDR 15.2 trillion, and the recovery cost is IDR 6.629 trillion. Therefore, the total loss for the non-forest areas (APL) is IDR 47.703 trillion.[10]

The total mining area related to the PT Timah Tbk case in Bangka Belitung is approximately 170,363,064 hectares. However, the area with mining business permits (IUP) is only 88,900.462 hectares, meaning that the area without IUPs (illegal mining) is 81,462.602 hectares. The calculation of the loss amounting to IDR 271 trillion was made with reference to the Minister of Environment Regulation No. 7 of 2014 concerning Environmental Losses Due to Pollution and/or Environmental Damage.[11]

Modus Operandi of the PT Timah Tbk Case

On Monday, April 29, 2024, the Attorney General's Office named suspects in the alleged corruption case related to the tin commodity trade in the IUP area of PT Timah Tbk from 2015 to 2022. The modus operandi employed by the suspects involved owning companies that entered into a cooperation agreement with PT Timah Tbk in 2018 regarding the leasing of tin smelting processing equipment.[12]

The suspects signed cooperation contracts in which one party provided tin ore by establishing "shell companies" to facilitate the collection of illegal tin ore from the IUP of PT Timah Tbk. The tin ore produced by the suspects was obtained from the IUP of PT Timah Tbk with the company's approval. Both the ore and tin metal were then sold back to PT Timah Tbk. To collect the illegally mined tin ore, PT Timah Tbk spent a total of IDR 975,581,982,776 on smelting costs from 2019 to 2022, while the total payment for the tin ore amounted to IDR 1,729,090,391,448.[13]

To legalize the activities of the shell companies, PT Timah Tbk issued a Work Order for the Transport of Tin Ore Processing Residue (SHP), where the profits from the tin ore transactions were enjoyed by the suspects. In addition to forming shell companies, the suspects facilitated illegal tin miners within the IUP area of PT Timah Tbk. The tin ore obtained was then sent to a smelter owned by one of the suspects. Regarding this case, members of Commission VI of the Indonesian Parliament (DPR)

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[10] Detik News, *Memahami Kasus Korupsi Timah yang Timbulkan Kerugian Lingkungan Rp 271 T,* Available from https://news.detik.com/berita/d-7271875/memahami-kasus-korupsi-timah-yang-timbulkan-kerugian-lingkungan-rp-271-t [Accessed Juni 06, 2024].
[11] *Ibid*.
[12] CNBC Indonesia, *Update Terbaru dan Kronologi Korupsi Timah yang Jerat Helena Lim, Available from* https://www.cnbcindonesia.com/market/20240327101215-17-525836/update-terbaru-dan-kronologi-korupsi-timah-yang-jerat-helena-lim [Accessed Juni 06, 2024].
[13] *Ibid*.

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have indicated the presence of a major "mafia" behind the corruption in the tin commodity trade at PT Timah Tbk, which resulted in a state loss of IDR 271 trillion.

The suspects are charged under Article 2, Paragraph (1) and Article 3 in conjunction with Article 18 of Law No. 31 of 1999, as amended by Law No. 20 of 2001 concerning the Amendment to Law No. 31 of 1999 on the Eradication of Corruption Crimes, in conjunction with Article 56 of the Criminal Code (KUHP). Based on these provisions, the Attorney General's Office (Kejagung) has detained the suspects.[14]

The Attorney General's Office revealed that between 2018 and 2019, one of the suspects allegedly contacted the President Director of PT Timah at that time to facilitate illegal mining activities within the IUP area of PT Timah. After several meetings, a leasing agreement was made for tin smelting processing equipment within the IUP area of PT Timah Tbk. One of the suspects arranged for the smelter companies to participate in these activities. Another suspect is alleged to have instructed smelter owners to set aside a portion of their profits, which was then shared among the other suspects.

The Attorney General's Office suspects that the money provided was disguised as Corporate Social Responsibility (CSR) funds. These funds were channeled through a limited liability company that was facilitated by one of the other suspects.[15] The funds that were channeled into the personal pockets of each suspect should have been allocated for reclamation guarantees.[16] This situation has led to the potential for environmental damage.

How to Recover State Wealth as a Result of PT Timah Corruption

The Attorney General's Office has been very aggressive in asset tracing related to the corruption case within the IUP area of PT Timah, which has caused a loss of IDR 271 trillion to the state. Currently, the investigation team has seized several assets from companies involved in the case.[17] The actions of the Attorney General's Office are not solely aimed at halting tin exploration activities by the community, which could lead to the loss of jobs for local workers. However, it is important to understand that the law enforcement process is essential for improving the management of the tin industry

[14] Detik News, *Op. Cit*, *Memahami Kasus Korupsi Timah…*
[15] CNCB Indonesia, *Update Terbaru Kronologi Kasus Timah Suami Sandra Dewi Harvey Moeis*, Available from https://www.cnbcindonesia.com/market/20240404091917-17-528173/update-terbaru-kronologi-kasus-timah-suami-sandra-dewi-harvey-moeis [Accessed April 28, 2024].
[16] Jaminan Reklamasi adalah dana yang disediakan oleh Pemegang Izin Usaha Pertambangan atau Izin Usaha Pertambangan Khusus sebagai jaminan untuk melakukan kegiatan Reklamasi (kegiatan yang dilakukan sepanjang tahapan usaha pertambangan untuk menata, memulihkan memperbaiki kualitas lingkungan dan ekosistem agar dapat berfungsi kembali sesuai peruntukkannya).
[17] Kompas, Kejagung Masukkan Kerugian Lingkungan Rp 271 T Jadi Kerugian Negara Kasus Timah, https://nasional.kompas.com/read/2024/05/29/18450791/kejagung-masukkan-kerugian-lingkungan-rp-271-t-jadi-kerugian-negara-kasus?page=all [Accessed June 06, 2024].

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moving forward. Although some steps in the process may have negative impacts on the community and workers, the Attorney General's Office has been collaborating with the Asset Recovery Agency and gathering relevant stakeholders, including local governments, to restore state revenues and help the community return to work.

This enforcement action is solely for the purpose of restoring and rehabilitating the environment to its original state, despite its wide-ranging impact and significant costs. It is also an effort to improve the management of the tin industry as part of better governance in state-owned enterprises (BUMN), so that good governance can create a favorable investment climate and make state revenues or rights more measurable. The handling of the PT Timah Tbk corruption case not only focuses on asset recovery or returning state assets that were illegally taken, but also on repairing or rehabilitating the damage caused by the corruption, including its ecological impact on the surrounding communities. Therefore, these losses should not be solely borne by the state. Asset recovery and environmental recovery must be imposed on the perpetrators, including corporate actors, in the future.[18]

The first step in realizing the eradication of corruption in the mining sector is to update the foundation for imposing sanctions on offenders. The root issue here refers to the regulations or laws that govern sanctions for those involved in natural resource corruption in Indonesia. The concretization of this plan can begin with the ratification of the Draft Law on Asset Forfeiture, which would include sanctions for corruption offenders, such as stripping them of their wealth or even imposing the death penalty. This approach would not only create a deterrent effect for perpetrators but also serve as a clear indication of the state's seriousness in combating corruption and assisting in the recovery of state losses resulting from corrupt acts.[19] The criminal ruling at the first-instance court in the PT Timah case is considered by many to not reflect the sense of justice of the public, especially in comparison to the extent of the damages caused by the case. This perception highlights concerns that the penalties imposed do not sufficiently address the scale of the harm caused, including the significant environmental damage and financial losses to the state.

[18] Kejaksaan RI, *Ungkap Korupsi Timah, JAM-PIDSUS: Kerugian Rp 271 Triliun Bukan Soal Besarnya, tapi Bagaimana Cara Mengembalikannya,* Avaiable from https://story.kejaksaan.go.id/hot-issue/ungkap-korupsi-timah-rp271-triliun-jam-pidsus-bukan-soal-besarnya-tapi-bagaimana-cara-mengembalikannya-116856-mvk.html?screen=1 [Accessed April 28, 2024]

[19] Loanna Yohanes, Lengkong (2023). Urgensi Penerapan Perampasan Aset Dalam Tindak Pidana Pencucian Uang. *Jurnal Hukum to-ra: Hukum Untuk Mengatur dan Melindungi Masyarakat*, *9*(3), p. 358

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Mining Management Model in Indonesia to Promote Public Welfare and Prevent Corruption in the Mining Sector

State losses can be defined as the loss of money, securities, and goods, which are real and definite in amount as a result of unlawful acts, either intentional or negligent, while state financial losses refer to losses that have been quantified based on findings from the relevant authorities or appointed public accountants.[20]

In relation to corruption in the mining sector, enforcement of the law against the perpetrators of corruption should not only be carried out, but environmental restoration must also be undertaken due to the environmental damage caused by mining activities. Environmental restoration due to destruction and pollution, along with compensation and recovery efforts, are part of the legal enforcement in environmental matters. This aims to ensure legal certainty and provide protection for everyone's right to a good and healthy environment, as part of the overall protection of the entire environmental ecosystem.[21]

Law No. 32 of 2009 on Environmental Protection and Management regulates the restoration process. Article 54 states: (1) Any person who causes pollution and/or environmental damage is required to restore the functions of the environment. (2) Environmental function restoration as referred to in paragraph (1) shall be carried out through the following stages: a. cessation of the pollution source and removal of pollutant elements; b. remediation; c. rehabilitation; d. restoration; and/or e. other methods in accordance with the development of science and technology. The Mining Advocacy Network (JATAM) emphasizes that the key to addressing the corruption issues in the mining sector must start with law enforcement agencies (APH), as the suspects currently identified are still small players, such as company management or operators in the corporate hierarchy.[22]

JATAM outlines four potential gaps that could serve as entry points for corrupt actors in the mining sector: the first, **Pre-permitting stage**: This includes administrative, technical, financial, and environmental matters, where corruption can take root early in the process. Secondly, **Permitting gaps**: Issues in the acquisition of areas, such as the issuance of Mining Business License Areas (WIUP), Special Mining Business License Areas (WIUPK), and Mining Areas (WP), as well as in the tendering process for mineral

[20] Karel Antonius Paeh (2017). Pengembalian Kerugian Keuangan Negara Berdasarkan Rekomendasi Badan Pemeriksaan Keuangan (BPK) Hubungan Dengan Unsur Kerugian Negara Dalam Tindak Pidana Korupsi, *Jurnal Katalogis*, 5(2), p. 49-56
[21] Marcelino Mandae Patoding, Josina E. Londa, Suriyono Soewikromo (2021). Pemulihan Lingkungan Hidup Akibat Terjadinya Perusakan dan Penemaran, *Jurnal Lex Privatum*, 9(11), p. 56-66.
[22] CNN Indonesia, *Menguak Modus Tikus Tambang Rugikan Rp271 T di Kasus Korupsi Timah*. Available from https://www.cnnindonesia.com/ekonomi/20240402063035-85-1081545/menguak-modus-tikus-tambang-rugikan-rp271-t-di-kasus-korupsi-timah, [Accessed June 06, 2024].

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metal and coal areas, requests for non-metal minerals, rocks, and even permits for people's mining operations. Third **Supervision and guidance**: This involves the approval of work plans and budgets (RKAB), the approval of reclamation and post-mining plans, and the supervision of mining operations, including production activities such as mining, transportation, sale, processing, and refining. Forth **Law enforcement**: There is evidence of bias in terms of protecting and ensuring the security of companies' interests, allowing for further corruption in the enforcement of laws. Corruption can also occur in the process of drafting and approving spatial plans and regional regulations (RTRW) that allow mining operations in certain areas. Furthermore, corruption can occur during the permit process for forest area use (IPPKH), especially when a company's operational area overlaps with forested regions.[23]

Meanwhile, the Indonesian Environmental Forum (WALHI) of East Java has advised the government to uncover the involvement of those who issue mining permits and supervise the mining sector. The Corruption Eradication Commission (KPK) has highlighted that there are 3,772 problematic permits out of the 11,000 mining permits in Indonesia. Moreover, the issue of mining permits is suspected to involve regional heads who are responsible for granting these permits.[24] A fundamental change in the regulations of the mineral and coal (minerba) sector is crucial if the country truly wants to rid itself of illegal mining practices. In order to create effective legal systems, it is necessary to have solid legal substance, an adequate legal structure, and a just legal culture. However, the Minerba Law has actually undermined the effectiveness of the law by centralizing responsibilities to the central government. Former Coordinating Minister for Political, Legal, and Security Affairs (Menko Polhukam) Mahfud MD has also touched upon mining corruption that harms the Indonesian people. According to Mahfud MD, based on official data announced by former KPK Chairman Abraham Samad (2011-2015) as the basis for his statement, if corruption in the mining sector could be eradicated, every Indonesian citizen could receive IDR 20 million every month for free, not as a loan, but as a direct handout.[25]

The Minerba Law is considered one of the factors behind the poor governance of mining in Indonesia, providing a loophole for corruption to emerge as a result of the failure in supervision from the law. The centralization of mining authority to the central government has made supervision ineffective. The central government's reach is too vast, and it is impossible for it to monitor every region. There is no clear institutional

[23] *Ibid.*
[24] *Ibid.*
[25] Kompas, *Mahfud: Bila Korupsi Tambang Diberantas, Tiap Orang Dapat Rp 20 Juta Sebulan*. Available from https://nasional.kompas.com/read/2023/12/20/06474021/mahfud-bila-korupsi-tambang-diberantas-tiap-orang-dapat-rp-20-juta-sebulan [Accessed June 06. 2024]

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structure for supervision and law enforcement from the central government down to the local level. As a result, responsibility for supervision and enforcement of mining management is passed back and forth, causing a lack of accountability.[26] This law also neglects the sociological aspects related to environmental impacts, such as flooding, air pollution, deforestation, and even deaths caused by the government's negligence in addressing the abandoned mine holes.[27]

There is a clear connection to be drawn regarding the model of mining management in Indonesia to prevent corruption practices. First, tightening the stages of pre-licensing and licensing. The legalization of a business entity to start and conduct mining activities under Law No. 3 of 2020 on Amendments to Law No. 4 of 2009 on Mineral and Coal Mining is divided into several types, including Mining Business License (IUP), People's Mining License (IPR), Special Mining Business License (IUPK), Mining Stone Permit (SIPB), Mining Business License for Contract or Agreement Operations, Transportation and Sales Permit, Mining Services Business License (IUJP), Assignment Permit, and Mining Business License for Sales. Among these nine types of permits, IUP is the dominant licensing form that often becomes the target of bribery cases, and IUP itself is a key factor in the occurrence of bribery practices in the mining sector. The inability of the company to meet the requirements for IUP also becomes the reason companies resort to bribing regional heads, state officials, or civil servants who have the authority to issue the IUP,[28] To prevent such negative outcomes, the process should start by requiring companies applying for an IUP to conduct a strategic study, calculating the environmental damage caused by the mining activity. If the cost of the damage exceeds the mining profits, the permit should not be granted. Furthermore, the government needs to ensure that companies carry out reclamation (post-mining recovery) by requiring an initial deposit (in the form of a financial guarantee to the government). Additionally, the government should implement preventive legal protection in mining concessions under its jurisdiction, according to applicable laws, to ensure that the permits issued do not result in negative consequences, such as abandoned mining pits filled with toxic water that remain unrehabilitated. Moreover, when there are no efforts to prevent the neglect of reclamation obligations and Corporate Social Responsibility (CSR) programs at former mining sites, such situations can be exploited by local communities without regard to the risks to their lives. In fact, CSR

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[26] Op.cit, CNN Indonesia, *Menguak Tikus Tambang…*
[27] Imas Novita Juaningsih, (2020). Polemik Revisi Undang-Undang Minerba dalam Dinamika Tata Negara Indonesia. *Adalah*, *4*(3), p. 106.
[28] R Halimatu Hira, Yolanda Savvira, and Yunika Tresia, (2022). Pemberantasan Tindak Pidana Suap di Sektor Pertambangan Melalui Penguatan Kerja Sama Lembaga Penegak Hukum di Indonesia. *Jurnal Anti Korupsi*, *11*(2), pp. 8-10.

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programs should be one of the ways to empower local communities around the mining areas, enabling them to develop their potential and strengthening their capabilities (empowering).[29]

Second, strengthening the oversight aspect is crucial. Given the increasing diversity and complexity of environmental issues, the burden of environmental law enforcement can no longer be solely placed on the government. There is a need to empower the role of communities in monitoring and enforcing environmental laws. The provisions of Article 70 of Law No. 32 of 2009 on Environmental Protection and Management (UU-PPLH) need to be elaborated and further explained, outlining how communities can play an active role in environmental protection and management, and how the social oversight mechanism should be implemented.

Transparency regarding mining business areas can be established by providing information/data that is accessible to the public. In this case, the public, including Non-Governmental Organizations (NGOs), can monitor whether a company is mining outside the area granted by the IUP (Mining Business License). This will enable active community and NGO participation in ensuring that mining activities comply with regulations and are conducted within designated areas, preventing illegal mining practices.

Another reason for strengthening the role of the community as part of the monitoring instrument is that environmental law enforcement has not yet had a deterrent effect. This is partly due to the lack of transparency in monitoring law enforcement, such as in the regulation of business operators whose activities impact the quality of the environment. To date, the government has not been able to provide a database that is easily accessible to the public to monitor the granting of permits to entrepreneurs, especially those that may have significant and important impacts on the environment. This lack of transparency makes it difficult for the community to actively engage in ensuring that environmental regulations are properly implemented and followed.

Third, strengthening the aspect of law enforcement. Environmental law enforcement is the most crucial part of environmental law itself, as it reflects the level of compliance by the community and business operators in implementing the applicable provisions and policies (permitting) through monitoring instruments and the application of sanctions, whether administrative, criminal, or civil sanctions. In environmental law enforcement, administrative law becomes one of the dominant elements, containing principles of authority, orders, prohibitions, permits, and

[29] M. J. Dewa, Sinapoy, M. S., Haris, O. K., Tatawu, G., & Sensu, L. (2023). Kebijakan Hukum Pengelolaan Pertambangan Berbasis Kesejahteraan Masyarakat. *Halu Oleo Legal Research*, *5*(1), p. 162.

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dispensations. These principles bind the government to regulate compliance and enforce environmental laws, while also binding the community and/or business operators to protect and preserve the environment. Strengthening enforcement ensures that violations are effectively addressed, and that environmental sustainability is prioritized in every aspect of business operations.[30]

The primary law enforcement institutions in environmental law enforcement in Indonesia are divided into three: the Attorney General's Office of the Republic of Indonesia, the National Police of the Republic of Indonesia, and the Corruption Eradication Commission (KPK). In terms of supervision over mining and reflecting on the case of corruption in tin trading by PT Timah Tbk, the author believes that the mining management model/concept in Indonesia should be implemented through strict law enforcement. The National Police must directly prevent and close any opportunities for fraud and violations that could be carried out by companies (illegal mining). Similarly, the Ministry of Energy and Mineral Resources (ESDM), particularly the Mining Inspectorate, needs to tighten the monitoring system and implement it coordinatively, actively reporting their findings to the Police to close the loopholes that may allow illegal mining activities. This coordinated approach will ensure that the mining sector operates transparently, legally, and sustainably, reducing the opportunities for corruption and illegal activities.

In an ideal situation, mining companies, including PT Timah Tbk, should not be allowed to purchase illegal tin in order to prevent the execution of illegal mining activities. If a company violates this regulation, its business license should be revoked as a strict penalty, as this constitutes a serious violation. This means that the Izin Usaha Pertambangan (IUP) granted to the company would be terminated, no longer valid, and declared revoked by the authorized officials. Such a policy would ensure that mining companies comply with legal and environmental standards, thereby promoting a more transparent, accountable, and sustainable mining industry.

A collaborative institutional design is a strategic step to realize the enforcement of environmental law, with the main approach being to conduct a thorough review of regulations, followed by comprehensive monitoring. This approach ensures that all relevant institutions, such as government agencies, law enforcement bodies, and non-governmental organizations, work together effectively to ensure that environmental laws are properly implemented. The process should focus on improving regulations, enhancing transparency, and ensuring accountability through continuous oversight and enforcement to address violations, especially in sectors like mining. This collaborative

[30] Ida Nurlinda (2016). Kebijakan Pengelolaan Sumber Daya Alam dan Dampaknya Terhadap Penegakan Hukum Lingkungan Indonesia. *Bina Hukum Lingkungan*, pp. 4-6.

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effort will ultimately contribute to better environmental protection and sustainable development.

CONCLUSION

The modus operandi of the PT Timah Tbk case involved the misappropriation of reclamation guarantee funds or Corporate Social Responsibility (CSR) funds by establishing dummy companies and legalizing their activities using residual mineral processing of tin. Another tactic involved accommodating illegal tin miners within PT Timah Tbk's Mining Business Permit (IUP) areas, with the minerals being sent to a smelter owned by the suspect. In efforts to recover the financial losses to the state (asset recovery and environmental recovery), the Attorney General's investigators have seized several company assets involved.

The mining management model in Indonesia should begin with a review of regulations, strengthening and clarifying the pre-permit and permit stages, as well as reinforcing internal and external oversight. Since the issuance of the Omnibus Law (UUCK), there seems to have been a "regression" in oversight, especially with the requirement for Environmental Impact Assessments (AMDAL) no longer mandating public participation and limiting the ability of those not directly impacted by environmental damage from filing lawsuits. Efforts to recover state assets also involve strengthening law enforcement, as part of efforts to prevent corruption in the mining sector.

The government needs to conduct strict and regular supervision of mining companies to ensure that mining activities comply with applicable regulations. The government should not tolerate violations committed by mining companies. Clear sanctions, such as the revocation of mining licenses and other civil or criminal penalties, should be imposed depending on the type and nature of the violation. There is also a need for the ratification of the Asset Forfeiture Bill as a deterrent for corruption in natural resource management in Indonesia. State-owned mining companies (BUMN) should have more efficient coordination with the government and must comply with the applicable laws and regulations.

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