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CORRUPTION IN MINING SECTOR AND THREAT TO ENVIRONMENTAL SUSTAINABILITY

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ABSTRACT
Indonesia has passed laws pertaining to mining, environmental protection, and a number of other topics pertaining to mining and the environment. Nevertheless, there has been no decrease in corruption cases or environmental degradation since the enactment of these multiple laws and regulations. In actuality, government representatives usually show leniency toward mining industry proprietors who disregard sound environmental guidelines. This is crucial because Indonesia has been working to address environmental issues and corruption for the past 20 years. This study details particular cases of conflict between mining and environmental laws as a result of unscrupulous behavior. This study also demonstrates how, at the implementation level, missing provisions result in a legal void. Uncertainty and divergent perspectives on how to carry out environmental management supervision in coal mining areas are brought about by inconsistent, ambiguous, and imprecise standards. The research employs a normative legal framework. Materials have been acquired by looking through environmental and mining laws and regulations as well as reports from various authorities that follow the same topic. The study illustrates how regional governments were recognized as mining authorities in previous Indonesian mining law policies. Widespread mining corruption has resulted from the policy, involving local political figures and the private sector, especially in the area of business permits. The environment and ecosystem are in danger due to the irresponsibility of the regional political elites. Additionally, it is reminiscent of conflicting laws and regulatory bodies in the mining and environmental industries.

KEY WORDS
Mining, corruption, environment, Indonesia.

According to Article 33 of the Republic of Indonesia's 1945 Constitution, the family system will serve as the foundation for the organization of the country's economy as a collective endeavor. This constitutional clause further states that the State shall have jurisdiction over sectors of production that are vital to the nation and have an impact on the lives of Indonesian citizens. This clause also stipulates that the state shall have jurisdiction over the land, the waters, and the natural resources therein, and that these resources shall be utilized for the maximum benefit of the populace. The 1945 Constitution also stipulates that the national economy must be organized on the basis of an economic democracy that upholds the values of unity, efficiency with justice, continuity, environmental perspective, self-sufficiency, and maintaining a balance in the growth and unity of the national economy in order to adhere to the values of democracy and the rule of law (Ahmed, 2020).

The 1945 Constitution stipulates that Indonesia's economy is based on its land, water, and other natural resources, including the mining industry's extraction of minerals. Indonesia maintains a prominent position in the global mining sector, producing substantial amounts of coal, copper, gold, tin, nickel, and bauxite. Additionally, Indonesia is still among the top exporters of thermal coal worldwide. However, the state of mining in Indonesia today does not appear to represent the founding fathers' intentions when they drafted the 1945 Constitution, which called for the fair and environmentally responsible exploitation of natural resources for the benefit of the Indonesian people as a whole. Corruption in the mining industry is one of the main problems affecting Indonesian mining (Sabani et al., 2019).

The issuance of mining business permits is the starting point of the mining process, and this is where corruption in the industry must be found. Permits for mining businesses are

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subject to Administrative Law, but they are closely related to matters of authority. Government representatives and business owners can meet and discuss a range of issues in the mining business licensing sector. Although mining permits are an administrative matter, incompetent management may result in criminal charges. According to maladministration is a particular kind of behavior in which an authorized official disobeys a court order (Ridzuan 2019),.

Maladministration is a personal mistake that debases the position and can be interpreted as an act of government. Consequently, criminal penalties could be applied and categorized as abuses of power leading to criminal corruption. The potential for such mismanagement to hurt the state has to be assessed. Consequently, the state mining industry's most important problem is mining business permits since it gives businesspeople and the government a chance to work together on mismanaged projects that lead to corruption (OCallaghan, 2010).

Political-government, energy, food, and natural resources (SDA) are the four priority sectors for preventing and combating corruption, according to a 2011 study by the Corruption Eradication Commission. These four industries account for the majority of state losses and are vital to the livelihoods of many people. The mining industry can be categorized under the energy, natural resources, or political-government industries. This, of course, has to do with the government's jurisdiction over the mining industry, from issuance of business licenses to oversight and administration of mining profits. This fundamental government position makes it more difficult to engage in maladministration and mining corruption. It is more impacted by the unpredictability of public administration and bureaucratic services within the framework of political-government. State-captured corruption, driven by the narrow, vested interests of political forces, bureaucrats, and businessmen, is more likely to be responsible for significant corruption in the mining sector. This type of corruption typically involves big names, big money, and significant power. The lack of integrity in the private sector makes this worse (Nguyen et al., 2021).

Although research on corruption in the mining industry is not new, it is still relatively recent. Marshall, for instance, makes an effort to distinguish between public and private corruption when defining corruption in the mining industry. He also clarified how corruption is impacted by supply and demand levels (Marshall, 2001). In the corruption case "papa minta saham," Riyadi investigates the relationship between contract extensions and the culture of corruption present in the form of political elites abusing their positions of power.

Riyadi sees it from a criminological perspective (Riyadi & Mustofa, 2020). Hamidi produced the method that examines the relationship between corruption, environmental concerns, regional autonomy, and mining management. Hamidi found that during the decentralization era, there were many cases of maladministration in the practice of mining management. Mismanagement, according to him, dilutes the mining management sector's stellar government index. Maladministration also includes corruption in the licensing process for mining businesses (Hamidi, 2015).

The mining industry is a subset of natural resources in a larger sense. A study was conducted on the tracking of networks of corruption in the actor-based natural resource sector and the formation of relationships within the network. With an emphasis on forestry, gas, and oil, Cepri came to the conclusion that organized crime had become institutionalized in the natural resources sector, involving players with strong networks and vested interests. The reciprocal and ongoing resource transactions between the private sector and public authorities, specifically the government, are the primary cause of this culture of corruption (Ahmed, 2020). The mining and environmental sectors are the focus of Muslihudin's research. Muslihuddin outlined three distinct areas where environmental protection is threatened by corruption in the mining industry: (1) Environmental impact analysis manipulation; (2) regional heads granting mining business permits to entrepreneurs without considering environmental regulations and impacts; and (3) unlawful levies on entrepreneurs that push them to look for harmful schemes to cover the costs of such extortion (Muslihudin et al., 2018).

The aforementioned publications discuss the possibility of corruption in the mining

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industry. Nevertheless, no legal approach has examined mining corruption practices and environmental damage in any of those works. This is highly significant because, in an attempt to realize the goals of Indonesia's founding fathers, the government has issued numerous implementing regulations, including multiple amendments, since the Law on Mineral and Coal Mining No. 4/2009 (the "Mining Law") was enacted. The multiple derivative regulations have complicated corruption prevention in Indonesia by becoming barriers and overlapping regulations, rather than being effective and efficient. On the basis of that, this paper examines, from a legal perspective, the problems of environmental corruption and mining in Indonesia.

METHODS OF RESEARCH

Based on the identification of the problem as described above, this article is included in normative legal research using literature study. For this reason, this paper uses normative research methods. However, we will still use empirical research data as support. In this way the main problem is researched in a normative juridical manner. This article also uses a socio-legal approach, with the intention of looking further than just a doctrinal approach, so that it has a broader perspective by looking at law in its relationship with the social, political and economic systems of society.

RESULTS AND DISCUSSION

Environmental Protection and Mining Laws

By definition, the mining industry has an effect on the environment every time. Mining operations are two-fold. The primary goal is to improve the nation's still-far-from-ideal economic prosperity. However, the effects on the environment are starting to show. Because of this, mining companies have to go through rigorous licensing processes related to their environmental impact right away. As it turns out, this convoluted procedure is interpreted not as part of environmental protection but as a barrier to investment in this sector. Because mining business actors are always profit-driven without regard for the environment, the mining sector is vulnerable to widespread corruption. Corruption is widely regarded as the gateway to environmental degradation (Pellegrini & Gerlagh, 2006).

With the adoption of Law No. 4/1982 on the Basic Provisions of the Management of the Living Environment (Law No. 4/1982 on Basic Provisions on Environmental Protection), which serves as an umbrella act for environmental protection, Indonesia's modern environmental law began to take shape in the early 1980s. A number of laws pertaining to the environment, including Law No. 5/990 and Law No. 24/1992, were passed after Law No. 4/1982. Since Law No. 4/1982 was an umbrella law, it needed implementing regulations in order to be effectively enforced. The government also passed a number of significant regulations, such as the Environmental Impact Analysis Regulation and the Prevention of Water Pollution Regulation, in addition to these laws (Appleby et al., 2021).

But these rules are thought to be insufficient and ineffectual in stopping pollution and environmental degradation. In order to solve the issue, the Government did not enforce the necessary regulations; instead, it replaced Law No. 4/1982 with Law No. 23/1997. Several laws and regulations were passed after Law No. 23/1997 was passed, including Law No. 41/1999 on forestry, Government Regulation No. 41/1999 on air pollution mitigation, Government Regulation No. 27/1999 on environmental impact analysis (EIA), and Government Regulation No. 4/2001 on the mitigation of damage or environmental pollution in relation to forest and/or land fires. Due to its lax treatment of environmental and other governmental officials who disregarded environmental laws, Law No. 23/1997 was unable to control the activities that were causing the environment to deteriorate and become polluted. Law No. 23/1997 was repealed on October 3, 2009, and replaced by Environmental Protection Law No. 32/2009. This law imposes criminal penalties on license issuers, including government employees and law enforcement officers, who violate environmental protection laws and regulations (Husin & Tegnan, 2017).

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Although the law has largely taken into account the fundamentals of environmental protection, these rules aren't always carried out in an efficient manner. Law No. 32/2009 can generally be used as a guide by law enforcement when pursuing those accountable for environmental damage. Destructive actions against the environment are defined as those that surpass the standard criteria for environmental damage, even in the first article of Law No. 32/2009. This standard has made reference to the existence of an environmental damage standard from the outset. Then, the foundation for penalizing those who cause environmental damage was laid down in Article 97 of this Law. This law designated ministers and local authorities (mayors, governors, and regents) to supervise all enterprises and operations pertaining to environmental management and protection (Husin & Tegnan, 2017).

Environmental protection and mining are viewed as components of natural resources on a larger scale. In order to complete the protection process, the Act established a number of legal tools for the prevention of pollution and/or environmental damage. Environmental Quality Standards, Environmental Damage Standard Criteria, AMDAL, Environmental Management Efforts and Environmental Monitoring Efforts (UKL-UPL), Licensing, Environmental Economical Instruments, Environmentally Based Laws and Regulations, Environmentally Based Budgets, and Environmental Risk Analysis are a few of these. Strategic Environmental Studies (KLHS) is another. With the use of these tools, KLHS is the pioneer in the prevention and control of environmental pollution. The two stages of permits that any individual, business actor, or activity involved in environmental management must fulfill—obtaining an environmental permit first, then obtaining a business and/or activity permit—indicate the importance placed on environmental protection. Law enforcement (criminal, civil, and administrative) instruments are regulated and used in addition to preventative measures. These instruments consist of restitution, administrative sanctions, and criminal sanctions (Zhang et al., 2016).

The legal tools available to law enforcement to combat pollution and environmental destruction offenders include civil, criminal, and administrative procedures. Administrative sanctions include written warnings, government coercion, environmental permit freezing, and environmental permit revocation, according to Law Number 32 of 2009. If a business entity is involved in an environmental crime, the business entity, the person who gave the order to commit the crime, and/or the person leading the activities in the crime will all face criminal charges and penalties. The Law on Environmental Protection and Management's standards obligate mining industry participants, whether directly or indirectly, to conduct their operations in a way that complies with the law. Administrative sanctions, such as the freezing or revocation of permits, may be used if it turns out that the mining entrepreneur is operating in violation of environmental laws and regulations. The company may even face criminal prosecution. At this point, mining permits and operations are inextricably linked to environmental protection legislation (Zhang et al., 2016).

Ecological Damage: Uncertainty In The Law and Insufficient Supervision

According to GR Nr. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Business Activities and the 2009 Mining Law (as amended by the 2020 Mining law), the licensing governance in the coal mining sector permits overlapping land use with other areas designated for plantations, agriculture, and settlements. Prior to starting mining operations, the permit holder is required by both regulations to make peace with any land title owners. The 2020 Mining Law's Article 134(3) even stipulates that mining operations may be carried out in locations that are forbidden (tempat yang dilarang) as long as a license from the relevant government agency is obtained and laws and regulations are followed. The phrase "forbidden areas" is ambiguous. Even in the article's elucidation, the meaning is not explained. According to the current laws, forests serving a conservation purpose are among the forbidden areas under the 1999 Forestry Law. Regarding agriculture, Law Nr. 41 of 2009 concerning The Protection of Sustainable Food Agriculture Land states that land designated for sustainable food agriculture is any area that could not be used for mining. According to MoE Nr. 4 of 2012, a mining pit must be at least 500 meters away from populated areas in order to avoid disturbing the peace. According to those laws, the 2009 Mining Law's Article

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134(3) provisions run counter to those of the other sectors, which specifically forbade any activity that could alter the area's function or landscape. We examine three cases in the Kutai Kartanegara district, namely Mulawarman, Kertabuana, and Sungai Nangka villages, to demonstrate how the absence of clear regulations can result in environmental degradation.

Mining and Environmental Corruption

In a region or area, mining operations have the potential to seriously harm the environment. Physical manifestations of these effects include deforestation, contaminated river water, altered soil structure, and more. The primary way that mining affects the environment is when it is extracted and converted into energy (coal, gas, and oil). Unfavorable changes in the soil, air, and water due to the presence of foreign objects (garbage, industrial waste, oil, hazardous metals, etc.) cause environmental pollution, which in turn damages and harms human, animal, and plant life. The impact area will increase with the size of mining operations.

Environmental changes due to mining activities can be permanent, or cannot be returned to their original state. There are some workers who understand the environment, but due to economic pressures, they are forced to make the decision to work in mining because they cannot find other jobs. From the results of observations at mining sites it was found that mining activities have the potential to increase the threat of landslides. According to the mining method, wherein miners excavate hills not in phases (trap-trap), but rather as long as they dig, it appears that the excavation openings are irregular and form straight, hanging walls that pose a serious risk to the miners' safety due to landslides. When mining is done without following environmental protection regulations, it can destroy the genetic makeup of the soil and harm its vegetation, turning once-fertile land into arid wasteland. A mining area's overall topography may be permanently altered by inappropriate land use, which increases the risk of landslides. The state of environmental degradation has become the greatest concern for all of humanity. The primary cause of environmental destruction is the insatiable human desire to exploit nature or the environment in order to raise the standard and quality of human existence. The process of causing damage to soil structure is different from that of destroying forest structure in that it transforms the soil from hills to flats and from tall mountains to hollows. The destruction of the forest cover, on the other hand, results in stands of trees or other vegetation that eventually become bare and arid, damaging the forest structure.

Despite decades of efforts to combat corruption in Indonesia, it appears that the problem is becoming more widespread and powerful in almost every important area of society, including environmental regulation and legislation. Recognizing this unfortunate state of affairs, the government enacted Law No. 30/2002, which authorized the establishment of the Corruption Eradication Commission (KPK). The fight against corruption in Indonesia has changed dramatically as a result of this law. Since its founding, the Commission has pursued corrupt officials wherever they may be, more than in the past (Duerrenberger & Warning, 2018).

There are four administrative tools available to stop environmental pollution. These consist of a licensing system, environmental quality standards, EIAs, and spatial planning. The likelihood of corruption in each of these instruments is discussed in this section. One tool for preventing conflicts of interest related to the environment is spatial planning. For instance, a mining concession may not be allowed in a national park or other protected forest or area, or an industry may not be allowed to be located in a residential area. In actuality, there are numerous instances where a mining concession is allowed to operate in a protected forest or where a plan is assigned to a residential area (Sovacool, 2021). For instance, Azirwan, the Secretary of Kepri's (Kepulauan Riau) Regional Government, desired to construct a government office complex in a protected area. He required the Parliament's and the Minister of Forests' approval. Azirwan bought off Al Amin Nur Nasution, a member of Parliament Commission IV, with Rp 3 billion in order to facilitate his scheme. Under Article 5 (1) of the Corruption Law, bribery charges were brought against Azirwan and Al Amin Nasution. Al Amin Nasution was sentenced to 8 years in prison, a Rp 250 million fine, and Rp

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2.957.000.000 in restitution. Azirwan was given a 2 ½ year sentence and a fine of Rp 100 million.

Environmental quality standards are the second tool for preventing pollution. When a mining company generates waste that exceeds environmental quality standards, corruption can occur during the monitoring stage when an environmental inspector is bought off to keep quiet about the company's noncompliance. Environmental corruption can be applied to the director of the company and the environmental inspector's plot. EIA is the third tool used to stop pollution. The government mandates that any activity that has a significant and noteworthy impact on the environment have an environmental impact assessment (EIA). Before the Mining License is granted by the Environmental Impact Mitigation Board (BAPEDAL), the EIA must be approved by an EIA Commission. The majority of corruption occurs in EIA studies and the EIA Commission's approval procedure (Sabani et al., 2019). Typically, the activity's backer bribes the Environmental Impact Mitigation Board (BAPEDAL) officers and EIA commissioners.

Applications for and issuance of licenses to use natural resources and the environment serve as catalysts for corruption because obtaining a license entails financial gain for the issuing officer as well as the applicant. At this point, the project's backer is required to pay a certain sum of money in order to obtain an operating permit—rather than obtaining an environmental permit or meeting other prerequisites. A case study of beach reclamation in the Province of Kepri is Karimun. In that instance, the Karimun government requested that a company, Jaya Anurya Karimun Ltd., take on a beach reclamation project. The director of the company was not required to obtain the necessary environmental and EIA permits in order for the Government to grant an operational permit. This is currently being looked into by the police. Under the Corruption Eradication Law, the Director of Jaya Anurya Karimun Ltd. and the Head of the Regional Government may face bribery charges if found guilty. The Environmental Protection Law is the legal basis for this prosecution (Yanuardi et al., 2021).

Allegations of abuse of authority in the mining sector are exemplified by the uncontrolled issuance of IUPs. When regional elections are approaching, it is common for regional heads to start selling mining permits. KPK provided evidence of this in 2019. At least 10,000 new IUPs have been issued since regions were authorized to issue them in 2009. However, about 4,000 of those IUPs did not meet the administrative, regional, and EIA requirements, so they were not eligible for Clean and Clear (CnC) status. According to Petermann et al. (2007), one of the most prevalent areas of corruption up until now has been mining permits. The buying and selling of mining permits for private and collective interests, as well as the falsification of law enforcement and supervisory reports, are two examples of the many ways that corruption is pervasive in the mining and environmental sectors. These two approaches are intrinsically connected to a deficiency in political will, civil society, information disclosure about mining, and institutional coordination in mining governance (Petermann et al., 2007).

It goes without saying that one of the biggest sources of corruption is the mining licensing industry. Studies on corruption involving natural resources carried out by Transparency International Indonesia (2018), KPK (2017), and ICW (2016) corroborate this. The interplay between politicians, businesspeople, government officials, and law enforcement, as well as supply and demand, contribute to the ongoing corruption in the issuance of Mining Business Permits (IUP). The decentralization system, which grants regions the autonomy to manage their resources, particularly at the district and city levels, has been found to have unintended consequences for the intricacy of national mining governance. Mining Business Permits (IUP), which cover permits for construction, mining, processing, and refining activities as well as transportation and sales in the context of mining, were taken over by local government authorities following the enactment of Article 1 (7) of Law No. 4 of 2009 concerning Mineral and Coal Mining (OCallaghan, 2010). On December 11, 2020, the government will take control of all mining permits from the provincial government due to the pervasive corruption of Mining Business Permits. Law No. 3 of 2020 on Mineral and Coal Mining governs this. The executive's realization of the crooked status of Mining Business Permits in the decentralized era led to the takeover by the central

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government.

In the mining industry, falsified supervisory reports are another example of corruption. In their supervisory roles, the Attorney General's Office, local governments, the Ministry of Forestry, the Ministry of Energy and Mineral Resources, the Ministry of the Environment, and the Police frequently perform less than ideal. This is caused by a number of uncoordinated factors among related institutions; a small number of supervisors assigned by state agencies to carry out supervisory functions; and a lack of transparency in the supervisory system, which provides opportunities for illicit negotiations. For instance, the Ministry of Energy and Mineral Resources is responsible for overseeing multiple complex entities and employs about 27 Civil Servant Investigators (PPNS). The state loses out on a substantial amount of potential revenue due to the practice of illegal negotiations, which these supervisors are unable to enforce (Moisé, 2020).

Legal Enforcement Corruption

The environmental protection law allows for three different types of enforcement: civil, criminal, and administrative. Executive corruption may not arise from civil enforcement because it does not entail the use of executive power. There is a chance that defendants or polluters will bribe judges in civil enforcement to guarantee decisions absolving polluters of all liability. Even though the executive is not involved in this civil action, the integrity of the private sector determines how corrupt mining and environmental administration practices are. Corruption cases involving mining business licenses invariably involve the private sector acting as the bribers.

Transparency International's 2020 survey revealed some startling results, including the fact that the private sector is involved in 80% of corrupt practices in Indonesia. The 2019 data from the Indonesian Survey Institute further supports the notion that corrupt practices between public servants and private citizens are still rather common in the nation. 49 survey participants thought it was usual for businessmen to give gifts to government employees against official regulations, based on tracking data. Since a corrupt business environment is a reality due in part to a lack of business integrity, these surveys reflect reality. Several factors drive this pattern of transactions, including the need to win tenders, convince licensing officers to expedite the licensing process, and speed up complicated procedures. It seems that this practice of corrupting licenses goes beyond the mining industry to all sectors of the licensing industry that involve both business and government actors. The foundation of the natural resources industry is the mining sector, which annually generates large sums of money for the state but also carries the risk of irreversible environmental harm if regulation is inadequate (Lukito, 2016).

The fishermen sued Antam Ltd. (PT Antam) in a marine pollution case in Wacopek, Bintan Island, demanding payment for their waste of arsenic, which poisoned the sea and killed every fish. Tanjung Pinang Court found Antam Ltd guilty and fined them Rp 2 billion. Nonetheless, the defendant was cleared of all charges by the Pekanbaru Court of Appeals. The Court of Appeal stated that both parties' evidence was in conflict with one another and that the defendant's water sample did not contain arsenic. The plaintiff claimed that Antam Ltd. had bought off the judges of the Court of Appeal, making the ruling illegal. He based his allegation on information he had obtained, which stated that two weeks before the decision, all Appeal Court judges and registrar officers had received invitations to participate in a tennis competition in Jakarta, which was sponsored by and funded by Antam Ltd. Sadly, the plaintiff was unable to provide proof for this claim. Law enforcement officers, administrators, and businesspeople can all be involved in corruption when it comes to criminal and administrative enforcement. It occurs throughout the entire legal process, including the inspection, investigation, prosecution, trial, and execution. Environmental inspectors and police officers were involved in corruption during the inspection phase (Husin & Tegnan, 2017).

The Environmental Mitigation Board and the Police Office receive environmental complaints from the victims of pollution in every incident. It is the responsibility of the police and environmental inspectors to gather evidence regarding the existence of pollution. It is the

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responsibility of the police and environmental inspectors to make sure that the polluters are not exceeding the environmental standard. The polluters typically take the "scratch my back and I will scratch yours" tack. In order to avoid pursuing the legal process, the polluters engage in negotiations with police officers and environmental inspectors. The police officers and environmental inspectors get paid for wrapping up the case in exchange. For instance, NGO activist Jatam Kaltim has filed numerous environmental complaints with the East Kalimantan Police Office and Environmental Mitigation Board; however, corruption has prevented the legal process from proceeding. One of the primary causes of environmental lawsuits not being filed in court is corruption. Through bribing judges, prosecutors, and investigators, corruptors are able to get away with their crimes. A notable instance occurred in East Kalimantan, where the Supreme Court sentenced the Managing Director of Kideco Jaya Agung Ltd, a foreign company located in the Paser Region of East Kalimantan, to one year in prison. The attorney office has not carried out the Managing Director's sentence execution. Jatam Kaltim contended that Kideco Jaya Agung's director had bought off the execution officer (Tegnan, 2015).

In order to evaluate and protect natural resources, the KPK, the Ministry of Energy and Mineral Resources, the Ministry of the Environment, and the Ministry of Forestry worked together on a thorough study in 2018. 6,000 of the 10,000 mining business permits found by the study were deemed to be problematic. Both have to do with the openness of tax payments, the rights of the surrounding community, which is still being held captive at the mine site, and the devastation of the natural ecosystem brought on by unchecked mining exploration. Given that over half of Indonesia's mining companies have faced challenges since the licensing stage, the KPK research team's findings are definitely unexpected (Widojoko, 2017). In response to the study's conclusions, the KPK also formed the "Minerba Korsup," which started implementing several interventions and policy advocacy campaigns to enhance national mining governance. The goal of this special attention policy is to optimize the mining industry's GDP contribution, which stands at the highest level when compared to other natural resource sectors (Agarwal et al., 2020).

Resolving Mining Corruption Issue

Research by the Corruption Eradication Commission (KPK) in 2020, Transparency International in 2021, and Indonesia Corruption Watch in 2020 indicates that "informal governance," which has more power than official political and legal authority, dominated the country's mining industry. A cross-interest group of political power brokers, public servants, law enforcement officers, and mining industry participants is referred to as "informal power." They create a separate work system that has the ability to override any official or legitimate government decision or work mechanism (Isra et al., 2021).

According to the findings of a study conducted by the Mining Advocacy Network (Jatam) between 2016 and 2020, there were about 23 cases of corruption in the mining industry, resulting in losses for the state of about Rp 210 trillion, or eight times the cost of the 2020 election. 8; Indonesian media It is suspected that corrupt practices in the mining industry involve local and national political elites, including candidates running for regional heads and executives of mining companies or corporations. Up until now, it's believed that a number of dishonest activities involving significant losses are still taking place in Sulawesi, Kalimantan, Papua, and other regions. It appears as though this omission and silence permit, even encourage, the corrupt process to continue because sadly, signs of this corrupt practice are not taken seriously by the government or law enforcement officials (Umam et al., 2020).

Data and information from KPK in 2020, which stated that there were roughly 10,000 mining permits, of which 60% were illegal, supported this (Alfada, 2020). In actuality, legally classified corporations frequently engage in illegal collusive and corrupt practices. As a result, they are released from their duty to cover reclamation guarantees and seal off former mining holes following exploration. The Ministry of Energy and Mineral Resources has received the KPK findings data and is tasked with reviewing the Mining Business Permit (IUP), the Coal Mining Concession Work Agreement (PKP2B), and the Contract of Work. But because the local government in the decentralized political system controls the licensing

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regime for the mining sector, the Ministry of Energy and Mineral Resources itself feels as though it has lost its authority. The Ministry of Energy and Mineral Resources at the mid-level lacks the authority to enter licensing jurisdiction areas run by local governments, despite having a Civil Servant Investigator (PPNS) authorized to look into suspected criminal acts (Irsan & Utama, 2019).

Since all systems have been centralized and are under the jurisdiction of local governments, regional control mechanisms are currently ineffective. Consequently, field-level action steps such as enforcement and investigations are essentially nonexistent. Furthermore, practically all stakeholders seem to be ignoring reform initiatives meant to improve the accountability and transparency of the mining industry. Under President Joko Widodo's "One Map Policy," problems pertaining to the unlawful licensing or possession of corporate right-to-use documents (HGU) that frequently overlap should be easily resolved. The One Map Policy, which is still closed to the public, and the HGU documents have not yet been made public by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), suggesting that the issue of mining corporations' overlapping land use is still unresolved. Consequently, the state has tailored its legislative and political decisions concerning national mining governance to the limited objectives of the network (Duerrenberger & Warning, 2020).

As of right now, corruption in the mining industry is still largely comparable to that in the natural resources industry as a whole. Corruption in the mining industry is typically "grand" or "state-captured." Big names, big money, and serious abuse of power are all involved. Corruption in the mining industry is typically "structural" as opposed to "institutional." As a result, issues with the administrative structure, bureaucratic restraints, and regulatory framework are not the only issues raised by the identification of the study of corruption in the mining industry. The forces of national and local power elites, who are able to control and mislead laws and systems, are also contributing factors to the political-economic structure (Umam et al., 2020). Because of this structural factor, corrupt practices in the mining industry have a tendency to persist and may continue despite numerous attempts at reform (immunity to change).

There are certain challenges in applying the Corruption Eradication Law to environmental cases. The first disadvantage stems from the legal maxim lex specialis derogaat legi genaralli, which states that special laws are superseded by general laws. The Indonesian Penal Code's lex specialis includes both the anti-corruption and environmental protection laws. The question of which law should be applied in the event that corruption is involved in an environmental violation gives rise to the problem of conflicting regulations. The second handicap has to do with the criminal law doctrine of subsidiarity. This principle prioritizes the enforcement of functional laws, such as environmental law, over criminal law. As a result, the Environmental Protection Law's administrative sanctions which address violations of environmental law should be applied first.

Neither the Environmental Protection Law nor the Corruption Eradication Law grant law enforcement officials the authority to apply criminal penalties. The final disadvantage is found in the sentence of Article 14 of the Corruption Eradication Law, which states that anyone who violates another law (like the Environmental Law) cannot be prosecuted under the Corruption Eradication Law's provisions without first classifying their actions as corruption. In a similar vein, there is no clause in the Environmental Protection Law that says violating environmental laws constitutes corruption. The Environmental Protection Law should be updated in a way that facilitates the Corruption Eradication Law's implementation in order to prevent corruption in environmental management and protection.

The subsidiarity principle, which is only stated in the Environmental Protection Law's Preamble, needs to be strengthened first. It is recommended that the Environmental Protection Law include a provision allowing criminal law to take precedence over other laws when implementing the ultimum remedium principle. The exceptions should also state that criminal law may take precedence over other remedies in cases where corruption is a factor in the environmental standard violation. The second action is to comply with the Corruption Eradication Law's Article 14 ruling. The Environmental Protection Law's Chapter XV needs to

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have a new clause added. This new article needs to make it very clear that any illegal payment or breach of environmental laws and regulations should be considered corruption. It should also resolve the issue of the lex specialis derogaat legi generally principle by determining which law will take precedence in the event of environmental management and protection corruption. The Environmental Protection Law should be amended to declare that misusing international funds will be considered a crime of corruption in order to stop the corruption that arises when using funds from abroad for the REDD+ Program.

CONCLUSION AND SUGGESTIONS

Law No. 32/2009 on environmental protection outlines a number of conditions that must be fulfilled prior to obtaining a license and starting any activity related to the environment in order to reduce mining corruption and environmental pollution in Indonesia. These specifications relate to EIAs, licensing, environmental quality standards, and spatial planning. Pollution and many other forms of environmental degradation do, however, still occur in Indonesia despite the existence of such mechanisms as well as a plethora of laws and regulations on the protection of the environment and the eradication of corruption. Lex specialis derogaat legi genaralli, which states that the rules of special laws are subordinate to those of a general law, and subsidiarity in criminal law are two of the principles that impede the fight against corruption in environmental protection. It is necessary to amend Article 14 of the Corruption Eradication Law and reinforce the subsidiarity principle in order to reform the environmental law. Any violation of environmental law involving bribery or any illegal payment must be classified as an act of corruption under the Environmental Protection Law in order to comply with the ruling of Article 14 of the Corruption Eradication Law. The lex specialis derogaat legi genaralli problem ought to be resolved by the new clause as well.

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