

## **COAL MINING COMPANY RESPONSIBILITY FOR ENVIRONMENTAL DAMAGE IN EAST BARITO DISTRICT, CENTRAL KALIMANTAN**

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### **Abstract**

Coal mining in Barito Timur Regency, Central Kalimantan, significantly contributes to the economy but also negatively impacts the environment. Mining activities have caused water pollution, landscape changes, land degradation, and disruptions to the surrounding communities. This study aims to analyze the accountability of coal mining companies for environmental damage based on criminal, civil, and administrative law aspects. The research employs a qualitative approach with a descriptive case study method. The findings indicate that regulations concerning corporate accountability are outlined in various legal frameworks, such as Law Number 32 of 2009 on Environmental Protection and Management and Law Number 3 of 2020 on Mineral and Coal Mining. Criminal liability allows companies and their management to be prosecuted for violations. Meanwhile, civil liability requires companies to compensate for damages and restore affected environments, while administrative liability includes sanctions such as warnings, fines, and business license revocations. Despite the existing regulations, law enforcement implementation remains weak due to insufficient supervision and corporate non-compliance. Therefore, enhanced government oversight and active community participation are necessary to ensure adherence to environmental regulations. With appropriate measures, a balance between resource exploitation and environmental preservation can be achieved, ensuring ecosystem sustainability and community well-being.

**Keywords:** Coal, Damage, Environment, Accountability, Company, Coal Mining.

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## 1. Introduction

One of the natural resources that contributes greatly to the economy and development in Indonesia is the mining sector. Mining business is an action in the framework of controlling mining materials which includes stages of general investigation activities, exploration, feasibility studies, construction, mining, processing and refining, transportation, and sales, and post-mining (Prapti Rahayu and Faisal, 2020).

The mining sector is the largest contributor to Indonesia's GDP. The mining sector is also able to increase state revenues and foreign exchange, increase and equalize development throughout the region, open up business and work opportunities as widely as possible, and improve people's welfare and quality of life. Estefania, (2021), "Analysis of Indonesia's GDP Growth Through Mining Sector Development", explains that: "Gross domestic product known as GDP is one of the benchmarks or economic measures of a country. It is recorded that BPS states that currently the largest contributors to Indonesia's GDP are still in the industrial, agricultural, trade, construction and mining sectors. Based on BPS, Indonesia's GDP as a whole in 2020 decreased to -2.97%".

The mining industry is one of the sectors that contributes to rapid growth in Indonesia's market capitalization. The total contribution to Growth Domestic Product (GDP) from the mining industry reached 7.2%. The GDP value generated from industrial mining in Indonesia reached \$ 13.8 million and is the highest in Southeast Asia (Nurim, 2020). In addition, Indonesian mining products have been exported to many countries from the Asian continent to the European continent since the New Order era to the current democratic era. Mining in Indonesia has always been in the top five as the highest contributor to GDP until now. Currently, the government continues to make efforts to increase the role of mining as one of the spearheads of Indonesia's exports to other countries.

The efforts to increase the role of mining as one of the spearheads of Indonesia's export results are of course also accompanied by attention to the sustainability of natural resources and the environment in Indonesia. This means, not only increasing income from the mining sector by exploiting natural resources, but also how to think about maintaining environmental sustainability. However, the current condition is that environmental crimes related to the exploitation of natural resources still occur in Indonesia. Initially, mining was carried out solely for the development of the State and the welfare of the people as stated in Article 33 paragraph (3) of the 1945 Constitution, but based on empirical facts, there are mining companies that only reap profits without paying attention to environmental sustainability.

This happens in all provinces in Indonesia, including Central Kalimantan Province which has a lot of natural resource potential and can be used as an energy source. The potential of these natural resources comes from rivers, mines to gas. Based on data from the Central Kalimantan Provincial Government, as quoted by detikcom (2017), there are several locations that have the potential for power plants. Its coal reserves reach 5.6 million tons which can be used for Mine Mouth Steam Power Plants. The distribution of the locations is in the Pangkalan Bun, Tamiang Layang, and Muara Teweh areas. Meanwhile, for natural gas reserves, Central Kalimantan Province has a potential of up to 31.9 mmboe (million barrels of equivalent) spread across North Barito, South Barito and Kapuas Regencies.

The existence of natural resource reserves from coal makes Central Kalimantan Province one of the provinces in Indonesia that is the investment destination for large companies to do business in the coal mining sector. In fact, currently there are several large companies that are active in coal mining activities in Central Kalimantan Province. Based on

the list of Mineral and Coal IUPs in Central Kalimantan Province in 2019, there were 1007 IUPs (EMR Service of Central Kalimantan Province, 2019).

The list of IUPs above shows that Central Kalimantan Province is an area of interest to mining companies to invest in coal mining. With so many companies investing, in addition to providing positive impacts, on the other hand it also has negative impacts. The negative impact is environmental damage caused by coal mining activities by ignoring compliance with the AMDAL. As is the case in the East Barito Regency area as one of the regencies with quite a lot of large mining companies compared to other regencies in Central Kalimantan Province, it has experienced negative impacts from coal mining activities. Based on data obtained by the author, the number of mining companies in East Barito Regency is 105 companies with the following details:

**Table 1**  
**Number of Mining Companies in**  
**East Barito Regency**

No .	Form of Permit	Permit stages	Mining Materials	Amount Company
1	PKP2B	Production	Coal	1
2	KP	Exploitation	Coal	1
3	IUP	Production	Coal	38
4	IUP	Exploration	Coal	59
5	IUP	Exploration	Iron Ore	4
6	IUP	Production	Andesite	1
7	IUP	Exploration	Sand of Power	1
<b>Total</b>				<b>105</b>

(Data source: Dinas Lingkungan Hidup Kabupaten Bartim)

**Table 2**  
**Mining Companies in East Barito Regency that Already Have**  
**Principle Permit for Borrowing and Using Forest Areas for Activities**  
**Production Operations From the Minister of Forestry**

No .	Name Company	An area Borrow Use (ha)	Form of Permit	Mining Materials
1	PT. Indobara Niaga Adipratama	34,93	IUP Production Operation	Andesite
2	Koperasi Jenbatan Dua Mandiri	100,00	IUP Operation Production	Coal
3	PT. Sumber Surya Gemilang	500,00	IUP Operation Production	Coal
4	PT. Trisula Kencana Sakti	1.324,17	IUP Operation Production	Coal

(Data source: Dinas Lingknagan Hidup Kabupaten Bartim)

**Table 3**  
**Mining Companies in East Barito Regency that Already Have**

**Principle Permit for Borrowing and Using Forest Areas For Activities  
Exploration**

<b>No .</b>	<b>Name Company</b>	<b>An area Borrow Use (ha)</b>	<b>Form of Permit</b>	<b>Mining Materials</b>
1	PT. Putra Asyano Mutiara Timur	1.027,00	Exploration IUP	Coal

**(Data source: Dinas Lingkungan Hidup Kabupaten Bartim)**

Based on the data above, it appears that East Barito Regency is one of the areas in Central Kalimantan Province with quite a lot of coal mining companies. The existence of these coal mining companies has consequences for the environment in the mining area. In several online literatures, there are several environmental damages as an impact of mining activities in the East Barito Regency area, namely:

In 2019, five rivers in Awang District, East Barito Regency, were severely damaged. The five rivers are Paku River, Mako River, Garunggung River, Mabayoi River, and Banuang River. All five are sources of life for three villages, namely Apar Batu Village, Janah Mansiwui Village, and Danau Village, with a population of approximately 409 people. In early May 2017, water samples from the five rivers were tested and examined at the PT Analytical Laboratory Service (ALS) Indonesia laboratory. The results showed that all water samples contained heavy metals, such as iron (Fe), manganese (Mn), zinc (Zn), barium (Ba), and boron (B). Laboratory tests were carried out in less than 30 days according to international examination standards. Of the five rivers, the most severely polluted condition is in the upstream of the Mabayoi River in Karasik Hamlet which contains the highest Fe, namely 18.6 milligrams/liter (MG/L). The Mn content in this river is also the highest, namely 5,320 MG/L. The high content of heavy metals in the river flow has exceeded the limit set by Government Regulation Number 82 of 2001 concerning Water Quality Management and Water Pollution Control. In the regulation, Fe alone must not exceed 0.3 MG/L and Mn must not exceed 0.1 MG/L (<https://www.kompas.id>, 2019).

In 2021, residents' plantations were allegedly affected by open pit coal mining activities in Tange Landa Village, Paku District, East Barito Regency, Central Kalimantan Province. Alleged environmental pollution of residents' plantations located on the Mako River. The DLH explained that the mines in the area were too close to the Paku River and the Mako River, in addition, the company had not yet made drainage channels to prevent mud from entering due to land clearing when it rains. (<https://www.deliknews.com>, 2021).

In addition to the impact of declining water quality and pollution of residents' plantations, other impacts caused by coal mining activities include changes in the landscape, declining air quality and vibrations, increased soil erosion, the impact of acid mine water, even these impacts are not only on environmental damage but also have an impact on humans or communities in the coal mining area. The open cut mining system carried out by these companies has had a negative impact on the environment, including leaving large holes in the ground and land subsidence. Mining materials piled up on stock fillings will result in the danger of landslides and the washing of toxic compounds into downstream areas. The heavy metal content in these rivers will also be very dangerous if consumed by residents in the long term, and can even cause death. Lutfi Bakhtiar ([www.mongabay.co.id](http://www.mongabay.co.id)), explained that "If it exceeds the maximum threshold as a class I water category. That means that all rivers cannot be used as a source of water that can be consumed directly by the surrounding community".

Such conditions require the Central Kalimantan Provincial Government and the East Barito Regency Government to take various preventive and repressive mitigation efforts against coal mining companies that pay little attention to the consequences and impacts of

mining activities. One of the efforts is to implement Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining and Government Regulation Number 24 of 2012 concerning Amendments to Government Regulation Number 23 of 2010 concerning the Implementation of Mineral and Coal Mining Business Activities, the formulation of which also regulates the responsibility of mining companies for environmental damage. This step is taken so that investors are more orderly and can control negative impacts on environmental sustainability. However, empirical facts still find coal mining companies that ignore their responsibilities, so hard work and appropriate efforts are needed to improve compliance with the responsibility of coal mining companies for the impacts of mining.

Based on the statement of the Head of the Environmental Service on January 21, 2022 in the Antara Kalteng media, that there are still mining company activities that do not pay attention to their responsibilities as mandated in Law Number 3 of 2020 Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining and Government Regulation Number 24 of 2012 concerning Amendments to Government Regulation Number 23 of 2010 concerning the Implementation of Mineral and Coal Mining Business Activities, namely waste management. The environmental impact is also less considered by the Company, so that it will ultimately damage environmental sustainability. Because mining is usually carried out on land, soil/sand forms large holes and stretches of white sand which eventually become barren (critical) land that cannot be overgrown with grass and wood. Meanwhile, if waste from mining activities is discharged into rivers, the impact that occurs is water pollution and mercury, thus of course there is an impact related to society, the environment and regulations that burden the company to be responsible as a whole. Based on this, this research will focus on the responsibility of coal mining companies for environmental damage in East Barito Regency, Central Kalimantan Province.

## **2. Problem Formulation & Methode Research**

Problem formulation how is the coal mining company responsible for environmental damage in east barito regency, central kalimantan. The research design used in this study is descriptive qualitative which is descriptive, explaining, and describing the object being studied (Arikunto, 2012). Qualitative research, among others, is descriptive, the data collected is more in the form of words or pictures than numbers. Thus, qualitative descriptive research is research that intends to create a description or picture to understand the phenomenon of what is experienced by the research subject, for example behavior, perception, motivation, action, and others (Moleong, 2010).

This method is used in accordance with the purpose of studying natural research on the Responsibility of coal mining companies for violations of the Amdal and environmental damage in Central Kalimantan Province. In this study, the researcher used a qualitative approach with a descriptive case study method. According to Yin, (2006), a case study is an empirical inquiry that investigates phenomena in a real-life context, when the boundaries between phenomena and contexts are not clearly visible and where multiple sources of evidence are utilized.

## **3. Analysis and Discussion**

Companies in relation to legal responsibility will always be associated with a group of people as legal subjects or what is known as a corporation. The language of corporation comes from Latin, namely *corporatio* which originates from the word *corporare* which means to give a body or to constitute. In Dutch it is called *corporatie* and corporation in English which has

the same meaning, namely to constitute (Muladi, 2010: 22). Muladi who then quoted K. Malikoel Adil interpreted that a corporation or corporation is the result of the work of constituting or a body that is made into a person. A body obtained by human actions as opposed to a human body that occurs according to nature.

Quoting Satjipto Rahardjo's opinion, Muladi and Dwidja Priyatno also stated that a corporation as a legal creation body, consisting of corpus (which refers to its physical form) and animus (which is given by law to make the body have a personality). This is in line with the statement that the personality owned by a corporation is the same as the personality of the human being who runs it (Hiariej, 2016: 320).

Didik Endro in his book reveals that there are several expert views on corporations (Purwoleksono, 2014: 29). Utrech states that a corporation is a group of people who in legal relations act together as separate legal subjects, a personification that has its own rights separate from its members. AZ Abidin argues that a corporation is the reality of a group of people who are given rights as a unit by law and given status as a legal person for certain purposes. Meanwhile, Yan Pramadya Puspa explains that a corporation or legal entity is an association or organization that is treated like a human being (persona) in law, namely as a bearer of rights and obligations and has the right to sue or be sued in court.

Initially, lawmakers had the view that only individuals or individuals could be considered perpetrators in a criminal act. This can be seen through the history of the formation of Article 59 of the Criminal Code, especially from the use of the phrase "hij die" which literally means "whoever". However, over time, lawmakers began to consider the fact that humans sometimes also carry out actions through organizations, both in the context of civil law and outside of it. Therefore, regulations emerged that regulate legal entities or corporations as legal subjects in criminal law (Hiariej, 2016). With the change of the basis of Indonesian criminal law from the Criminal Code to Law Number 1 of 2023 concerning the Criminal Code (hereinafter abbreviated as the National Criminal Code), this chapter will discuss criminal liability based on the 2 (two) provisions.

East Barito Regency is one of the administrative areas in Central Kalimantan Province which was formed based on Law Number 5 of 2002. This law includes the formation of several other regencies in Central Kalimantan, including Katingan, Seruyan, Sukamara, Lamandau, Gunung Mas, Pulang Pisau, Murung Raya, and East Barito Regency. With an area of 3,834 km<sup>2</sup>, East Barito contributes around 2.50% of the total area of Central Kalimantan Province which reaches 153,564 km<sup>2</sup>. This regency is ranked twelfth out of the fourteen largest regencies/cities in the province. The distance of East Barito Regency from Palangka Raya, the capital of Central Kalimantan Province, is around 418 km. Geographically, East Barito Regency has coordinates of 1°38'38.1" to 2°23'34.2" South Latitude and 114°56'15" to 115°26'31.3" East Longitude. The district capital is Tamiang Layang, which is the center of government as well as a strategic area (Bappeda Bartimurkab, 2023).

The topography of East Barito Regency is dominated by lowlands with an altitude of between 50 and 100 meters above sea level. Most of its areas have a low slope, which is between 0-2%. Areas with slopes of 2-15% and 15-40% are generally located in the central part of the regency which stretches from north to south, while areas with slopes above 40% are found on the northern side of the eastern part. On the western side, the East Barito Regency area consists more of plains with almost flat slopes. In contrast, the eastern and northern parts tend to have steeper hilly terrain, especially in Awang and Patangkep Tutui Districts. This topographic variation provides a unique geographical character for East Barito Regency.

Judging from its location in Central Kalimantan Province, East Barito is located in the easternmost part of the province. This regency also borders directly with the South Kalimantan Province, namely Tabalong Regency. This proximity provides the potential for strong cross-

regional economic relations. Administratively, East Barito Regency consists of 10 sub-districts covering 3 sub-districts and 101 villages. In addition, there is a Transmigration Settlement Unit (UPT) which is also part of the development of this regency.

The boundaries of East Barito Regency are as follows. In the north, this regency borders South Barito Regency in Central Kalimantan Province. In the east, East Barito directly borders Tabalong Regency in South Kalimantan Province. Meanwhile, in the south, East Barito Regency borders two regencies at once, namely South Barito Regency in Central Kalimantan and Tabalong Regency in South Kalimantan. While in the west, this area borders entirely with South Barito Regency.

The existence of East Barito as a region with a strategic geographical location makes it an important part of the dynamics of development in Central Kalimantan. As a transit area, this district has great potential to develop as a regional economic center. In addition, the varied geographical character of East Barito, ranging from lowlands to hills, provides challenges as well as opportunities in natural resource management and regional development. With good management, this region can become one of the growth centers in Central Kalimantan. Overall, East Barito Regency is a region rich in geographical and strategic potential. With a favorable location and diverse topography, this district has great opportunities to continue to develop in various sectors, both economic, social, and environmental.

### **Criminal Liability of Coal Mining Companies for Environmental Damage**

Criminal liability of coal mining companies for environmental damage in Indonesia is an issue that needs to be discussed thoroughly and is quite important, considering the significant impacts caused by mining activities on the ecosystem and surrounding communities. Although the traditional Criminal Code (KUHP) does not recognize corporations as subjects of criminal acts, legal developments in Indonesia have allowed for criminal liability for corporations, especially in the context of environmental protection.

The legal basis in the provisions of laws and regulations in Indonesia that regulates corporate criminal liability in cases of environmental damage is Law Number 32 of 2009 concerning Environmental Protection and Management (hereinafter abbreviated as the PPLH Law). Articles 116 to 120 of the PPLH Law explicitly state that corporations can be held criminally liable for actions that damage the environment. In addition, the PPLH Law applies the principle of strict liability, where corporations can be considered guilty without the need to prove the element of fault, as long as it is proven that environmental pollution or damage has occurred.

The Company's responsibility is in Article 116 of the PPLH Law in Paragraph (1) and Paragraph (2) with the following regulations:

Verse (1):

If an environmental crime is committed by, for, or on behalf of a business entity, criminal charges and criminal sanctions will be imposed on:

- a. Business entity; and/or
- b. The person who gives the order to commit the crime or the person who acts as the leader of the activities in the crime.

Verse (2):

If an environmental crime as referred to in paragraph (1) is committed by a person who, based on an employment relationship or other relationship, acts within the scope of the business entity's work, criminal sanctions will be imposed on the person giving the order or the leader of the crime without considering whether the crime was committed alone or together.

Article 119 of the PPLH Law stipulates the following rules:

Apart from the main criminal penalties referred to, business entities may also be subject to additional criminal penalties or disciplinary measures in the form of:

- a. Confiscation of profits obtained from criminal acts;
- b. Closure of all or part of business premises and/or activities;
- c. Correction due to criminal acts;
- d. Obligation to do what is neglected without right; and/or
- e. Placement of the company under guardianship for a maximum of 3 (three) years.

Explanation of Article 119 of the Environmental Management Law which regulates additional criminal penalties or disciplinary actions that can be imposed on business entities that commit environmental crimes. This provision aims to provide a deterrent effect and ensure the restoration of the damaged environment. The following is an explanation of each point in the article:

1. Confiscation of profits obtained from criminal acts;  
Business entities that are proven to have committed environmental crimes can be subject to sanctions in the form of confiscation of profits obtained from the illegal activity. The goal is to eliminate financial incentives from illegal actions and ensure that perpetrators do not gain economic benefits from their actions. This step also encourages companies to comply with environmental regulations in order to avoid financial losses (Mahmud,, 2010).
2. Closure of all or part of business premises and/or activities;  
This sanction allows authorities to close all or part of the operations of companies involved in environmental crimes (Simalingkar et al., 2017). The closure can be temporary or permanent, depending on the level of violation committed. The goal is to stop activities that damage the environment and prevent further damage. However, the application of this sanction must consider the socio-economic impacts, such as job loss for employees.
3. Correction due to criminal acts;  
Business entities are required to make repairs or restore environmental damage caused by criminal acts they commit. This sanction emphasizes the company's responsibility to restore environmental conditions to their original state before the damage occurred. The implementation of repairs must be in accordance with the standards and procedures set by the relevant authorities to ensure the effectiveness of the restoration.
4. Obligation to do what is neglected without right;  
If a business entity neglects to fulfill its environmental obligations, this sanction requires the company to carry out tasks or actions that were previously neglected. The goal is to ensure that all environmental obligations are met, so that future damage or pollution can be prevented. This sanction also serves as a reminder for companies to always comply with applicable regulations.
5. Placement of the company under guardianship for a maximum of 3 (three) years;  
In cases of serious violations, the company can be placed under guardianship, where its operations are monitored or managed by a third party appointed by the government (Butar Butar, 2010). The maximum guardianship period is three years. The aim is to ensure that the company operates in accordance with established environmental standards and prevent similar violations from occurring in the future (Supriadi, 2006). This mechanism also provides an opportunity for the company to improve its environmental management system.

The application of additional criminal penalties or disciplinary actions is expected to increase business entity compliance with environmental regulations and encourage more responsible business practices. In addition, these sanctions provide a tool for law



enforcement to take firm action against violations that have a negative impact on the environment, so that environmental quality can be maintained for the welfare of the wider community (Hiariej, 2016).

In addition to the PPLH Law, Law Number 4 of 2009 concerning Mineral and Coal Mining (hereinafter abbreviated as the Minerba Law), which has been revised by Law Number 3 of 2020, also regulates the obligations of mining companies in preserving the environment. Article 161B of the Minerba Law stipulates criminal sanctions for business entities that carry out mining activities without a permit or violate the provisions of the permit granted, which can result in environmental damage.

Article 161B:

Verse (1):

Any person whose IUP or IUPK is revoked or expires and does not carry out:

- a. Reclamation and/or Post-mining; and/or
- b. Placement of Reclamation guarantee funds and/or Post-mining guarantee funds, shall be punished with imprisonment of a maximum of 5 (five) years and a maximum fine of Rp. 100.000.000,00 (one hundred billion rupiah).

Verse (2):

In addition to the criminal sanctions as referred to in paragraph (1), former IUP or IUPK holders may be subject to additional penalties in the form of payment of funds in the context of implementing the Reclamation and/or Post-mining obligations which are their obligations.

Article 161B explains the strict sanctions for holders of Mining Business Permits (IUP) or Special Mining Business Permits (IUPK) who do not fulfill their reclamation and post-mining obligations after their permits are revoked or expire. These obligations include the implementation of reclamation and/or post-mining and the placement of related guarantee funds.

If IUP or IUPK holders do not carry out reclamation and/or post-mining, or do not place the required guarantee funds, they can be subject to imprisonment of up to 5 years and a maximum fine of IDR100 billion. This sanction aims to ensure that mining companies are responsible for the environmental impacts caused by their activities.

In addition to the main criminal penalties, former IUP or IUPK holders who violate these provisions can also be subject to additional penalties in the form of payment of funds for the implementation of reclamation and/or post-mining obligations that they have not yet implemented (Nadapdap & Hutabarat, 2015). This ensures that environmental recovery is still carried out, even through legal mechanisms.

The application of criminal sanctions shows the government's commitment to enforcing regulations related to post-mining environmental management. With the existence of clear criminal threats, it is hoped that mining companies will be more disciplined in fulfilling reclamation and post-mining obligations, so that environmental damage can be minimized.

In practice, law enforcement against mining companies that damage the environment faces various challenges. One of them is proving a causal relationship between mining activities and the environmental damage that occurs. In addition, the complexity of corporate structures often makes it difficult to determine the party responsible criminally. However, with the provisions in the PPLH Law and the Minerba Law, law enforcement officers have a strong basis to take action against companies that violate environmental regulations (Harris & Ramadhan, 2022).

The application of criminal sanctions against mining companies that cause environmental damage is expected to provide a deterrent effect and encourage other companies to comply with applicable regulations. In addition to criminal sanctions, companies can also be subject to administrative sanctions, such as revocation of business licenses, and civil sanctions in the form of obligations to pay compensation and carry out environmental restoration.

The importance of strict law enforcement in cases of environmental damage by mining companies is not only to protect the environment, but also to protect the rights of affected communities. Communities have the right to live in a healthy environment, and the state is obliged to ensure that this right is fulfilled through effective regulation and law enforcement.

### **Civil Liability of Coal Mining Companies for Environmental Damage**

Civil liability of coal mining companies for environmental damage in Indonesia is a complex and crucial issue, considering the significant impacts caused by mining activities on the ecosystem and surrounding communities. In general, civil liability can be divided into two forms, namely contractual liability and liability for unlawful acts. The main difference between the two lies in the existence of an agreement or contract between the parties. If there is an agreement, then the liability is contractual; conversely, if there is no agreement but a loss occurs due to the actions of one of the parties, then the liability is based on unlawful acts (Julyano & Sulistyawan, 2021).

In coal mining, companies have an obligation to maintain environmental sustainability in accordance with applicable laws and regulations. If a company is negligent or commits an act that damages the environment, it can be held civilly liable based on Article 1365 of the Civil Code (hereinafter abbreviated as KUHPerdara), which states that every unlawful act that causes harm to another person requires the perpetrator to compensate for the loss. Thus, a company that causes environmental damage can be sued to pay compensation to the injured party (Harahap, 2008).

In addition, the PPLH Law also regulates civil liability for companies that pollute or damage the environment. Article 87 of the PPLH Law states that the person responsible for a business or activity that commits an unlawful act in the form of environmental pollution or damage that causes harm to other people or the environment is required to pay compensation and/or take certain actions. The regulation reads as follows.

Article 87:

Verse (1):

Every person responsible for a business and/or activity who commits an unlawful act in the form of environmental pollution and/or destruction that causes harm to other people or the environment is obliged to pay compensation and/or take certain actions.

Verse (2):

Any person who transfers, changes the nature and form of a business, and/or activities of a business entity in violation of the law does not release himself from the legal responsibility and/or obligations of the business entity.

Verse (3):

The court may order the payment of a fine for each day of delay in the implementation of the court decision.

Verse (4):

The amount of the fine is decided based on statutory regulations.

This confirms that coal mining companies that cause environmental damage are civilly liable to recover the losses incurred. Civil liability in cases of environmental damage can be applied through two approaches: fault liability and strict liability. In fault liability, the plaintiff must prove that there is an element of error or negligence on the part of the company. Meanwhile, in strict liability, the company can be held liable without having to prove fault, as long as it is proven that their business activities have caused environmental damage. This strict liability approach is applied in certain cases regulated in laws and regulations, as stated in Article 88 of the Environmental Management Law.

Because the implementation of civil liability for coal mining companies that damage the environment faces various challenges. One of them is proving the causal relationship between mining activities and environmental damage that occurs (Butar Butar, 2010). In addition, the long and complex litigation process is often an obstacle for affected communities to demand the rights of the affected parties. Therefore, alternative dispute resolution mechanisms, such as mediation and arbitration, can be a more effective and efficient solution in resolving conflicts between companies and communities related to environmental damage.

The importance of strict law enforcement in cases of environmental damage by coal mining companies is not only to protect the environment, but also to protect the rights of affected communities. Communities have the right to live in a healthy environment, and the state is obliged to ensure that these rights are fulfilled through effective regulation and law enforcement. In addition, companies are also expected to carry out their social and environmental responsibilities as part of their commitment to sustainable development.

In addition, Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) is also relevant in the context of civil liability of coal mining companies for environmental damage. UUPT requires every company to carry out social and environmental responsibilities as a form of commitment to sustainable development. Failure to fulfill this obligation can have implications for legal liability for the Company (Siagian et al., 2023).

In some cases, coal mining companies that are proven to have polluted the environment can be subject to civil sanctions in the form of compensation to the affected community. Legal protection for communities around coal mining companies affected by pollution is regulated in various laws and regulations, including the PPLH Law and the PT Law. Effective law enforcement and coordination between the government, the community, and companies are essential to ensure that civil liability for environmental damage can be implemented properly.

Civil liability of coal mining companies for environmental damage in Indonesia is regulated by two main principles: liability based on fault and strict liability. The fundamental difference between the two lies in the need to prove fault or negligence on the part of the company.

### **Administrative Responsibility of Coal Mining Companies for Environmental Damage**

In Law Number 40 of 2007 concerning Limited Liability Companies (UU PT), the regulations regulate the provisions for social and environmental accountability as follows.

Article 74:

Verse (1):

Companies that carry out their business activities in the field of and/or related to natural resources are required to implement Social and Environmental Responsibility.

Verse (2):

Social and Environmental Responsibility as referred to in paragraph (1) is the Company's obligation which is budgeted and calculated as the Company's costs, the implementation of which is carried out with due regard to propriety and fairness.

Verse (3):

Companies that do not fulfill the obligations as referred to in paragraph (1) shall be subject to sanctions in accordance with the provisions of statutory regulations.

Verse (4):

Further provisions regarding Social and Environmental Responsibility are regulated by Government Regulation.

Article 74 paragraph (1) stipulates that companies that carry out their business activities in the field of or related to natural resources are required to carry out social and environmental responsibilities (or better known as Corporate Social Responsibility or CSR). Paragraph (3) emphasizes that companies that do not carry out these obligations will be subject to sanctions in accordance with the provisions of laws and regulations. This shows the administrative obligation that binds companies to prioritize environmental sustainability as part of their operations.

In imposing sanctions, administrative sanctions are regulated through the provisions of Government Regulation Number 78 of 2010 concerning Reclamation and Post-Mining (hereinafter abbreviated as PP 78/2010) specifically in Article 50, namely:

Verse (1):

Holders of IUP, IUPK, or IPR who violate the provisions as referred to in Article 2 paragraph (1) or paragraph (2), Article 3 paragraph (1) or paragraph (2), Article 4 paragraph (4), Article 5 paragraph (1), Article 14 paragraph (1), Article 17 paragraph (1), Article 20 paragraph (1), Article 21, Article 22 paragraph (1), Article 25 paragraph (1), paragraph (2), or paragraph (3), Article 26 paragraph (1), Article 29 paragraph (1), Article 41, Article 45 paragraph (2), Article 47 paragraph (1), or Article 48 shall be subject to administrative sanctions.

Verse (2):

Administrative sanctions as referred to in paragraph (1) may include:

- a. written warning;
- b. temporary suspension of activities; and/or
- c. revocation of IUP, IUPK, or IPR.

Verse (3):

Holders of IUP, IUPK or IPR who are subject to administrative sanctions in the form of revocation of their IUP, IUPK or IPR as referred to in paragraph (2) letter c, do not eliminate their obligation to carry out reclamation and post-mining.

Verse (4):

Administrative sanctions as referred to in paragraph (1) are imposed by the Minister, governor, or regent/mayor in accordance with their authority.

PP 78/2010 also clarifies this obligation. Article 50 paragraph (1) states that holders of Mining Business Permits (IUP), Special Mining Business Permits (IUPK), or People's Mining Permits (IPR) who violate reclamation and post-mining provisions are subject to administrative sanctions. These sanctions, as regulated in Article 50 paragraph (2), include:

1. Written warning;
2. Temporary suspension of activities; and/or
3. Revocation of mining business permits.

Article 50 paragraph (3) adds that revocation of a permit does not eliminate the company's obligation to continue reclamation and post-mining. This sanction is given by

the authorities, such as the Minister, governor, or regent/mayor, as explained in Article 50 paragraph (4).

Although this legal framework has been established, its implementation is often considered weak by legal experts. Many mining companies and officials who are authorized to issue permits do not heed these rules. As a result, administrative sanctions have not been fully effective in preventing violations or remediating environmental damage caused by mining activities.

Law Number 32 of 2009 concerning Environmental Protection and Management emphasizes the obligation to restore the environment (PPLH Law).

Article 54:

Verse (1):

Every person who pollutes and/or damages the environment is obliged to restore the environmental function.

Verse (2):

Restoration of environmental functions as referred to in paragraph (1) is carried out in stages:

- a. stopping sources of pollution and cleaning up polluting elements;
- b. remediation;
- c. rehabilitation;
- d. restoration; and/or
- e. other ways that are in line with developments in science and technology.

Verse (3):

Further provisions regarding the procedures for restoring environmental functions as referred to in paragraph (2) are regulated in Government Regulations.

Article 54 states that anyone who pollutes or damages the environment is required to restore environmental functions through stages of stopping the source of pollution, remediation, rehabilitation, restoration, and other methods in accordance with developments in science and technology. This provision shows the importance of concrete steps from companies to repair the negative impacts that have been caused. However, even though there are administrative sanctions, many companies still ignore this responsibility for economic gain. In practice, this causes severe environmental damage, such as land degradation, water pollution, and loss of biodiversity.

Administrative sanctions in Government Regulation Number 78 of 2010 and the PPLH Law are considered to still not provide a deterrent effect. This is because its nature tends to be non-punitive, so that mining companies often continue to operate without fulfilling reclamation and post-mining obligations. In this context, there needs to be strengthening of regulations that include stricter sanctions, including the imposition of larger administrative fines and strict supervision of their implementation.

Administrative accountability of coal mining companies for environmental damage is part of environmental protection efforts regulated in various regulations. However, the implementation of administrative sanctions still faces challenges in creating consistent compliance. Therefore, a stronger commitment is needed from the government and companies, including increased supervision and law enforcement, to ensure that mining activities are no longer a threat to environmental sustainability.

After the issuance of this Government Regulation (PP), a number of legal experts criticized the effectiveness and implementation of administrative sanctions regulated in it. They argued that although the PP aims to provide a clear legal framework, several weaknesses in the implementation of administrative sanctions still need to be fixed. Legal

experts highlighted that administrative sanctions often do not provide a deterrent effect on violators. This is due to the nature of administrative sanctions which tend to be light and oriented towards procedural aspects compared to criminal sanctions which have more severe legal impacts.

Based on this, it is necessary to be accompanied by criminal sanctions because it is related to companies that take advantage of natural resources. As we know, companies can be subject to criminal sanctions based on the provisions of the PPLH Law. This law provides a legal basis for prosecuting companies that violate regulations related to environmental protection.

If mining companies do not carry out their reclamation and post-mining responsibilities, then criminal sanctions should be imposed. These sanctions aim to provide a deterrent effect, improve the behavior of violators, and prevent similar violations in the future. However, the implementation of these sanctions is often hampered by weaknesses in existing regulations.

One of the weaknesses highlighted is the absence of criminal provisions in Government Regulation Number 78 concerning Reclamation and Post-Mining, as well as in Law Number 4 of 2009 concerning Mineral and Coal Mining. Both regulations do not explicitly regulate criminal sanctions for companies that ignore reclamation and post-mining responsibilities.

The accountability of coal mining companies for environmental damage in East Barito Regency includes the application of criminal, civil, and administrative sanctions as firm legal measures. Criminal sanctions aim to provide a deterrent effect on companies proven to have committed violations. In cases of serious environmental damage, perpetrators can be subject to penalties in the form of significant fines, imprisonment for those responsible for the company, or revocation of operational permits. This step is an implementation of Articles 98 and 99 of Law Number 32 of 2009 concerning Environmental Protection and Management which regulates criminal threats against perpetrators of environmental pollution and destruction.

On the other hand, civil sanctions are a mechanism to ensure the restoration of the environment that has been damaged by mining activities. Civil lawsuits can be filed by affected communities, non-governmental organizations, or local governments, with the aim of demanding compensation for the losses experienced. The funds obtained from this compensation are expected to be used to rehabilitate damaged ecosystems. Legal instruments such as class action lawsuits or citizen lawsuits can be an effective means of putting pressure on companies to be more environmentally responsible.

Administrative sanctions also play an important role in encouraging mining companies to comply with applicable regulations. These sanctions include written warnings, freezing of permits, and revocation of operating permits of companies that violate environmental provisions. Local governments and related agencies need to increase supervision of the implementation of mining activities to ensure compliance with environmental regulations. In addition, periodic environmental audits are a preventive measure to identify potential violations early on.

With the implementation of these three types of sanctions consistently and firmly, environmental damage caused by mining activities can be minimized, while increasing company awareness of the importance of environmental sustainability. Synergy between the government, the community, and companies is needed to create a sustainable mining management mechanism. Restoring the damaged environment must be a top priority, so that the sustainability of the ecosystem in East Barito Regency can be maintained for the welfare of the community and future generations.

#### 4. Conclusion

Coal mining in East Barito Regency, Central Kalimantan, has made significant economic contributions but has also caused various negative impacts on the environment, such as water pollution, land damage, and ecosystem disruption. There are several forms of accountability that can be applied to mining companies that cause environmental damage, namely criminal, civil, and administrative liability.

Criminal liability under Law Number 32 of 2009 concerning Environmental Protection and Management allows companies and their managers to be subject to legal sanctions if proven to have polluted or damaged the environment. In addition, civil liability requires companies to pay compensation and restore the affected environment. Meanwhile, administrative liability can be in the form of warnings, fines, and even revocation of business licenses if the company does not fulfill its environmental obligations.

Although regulations already exist, the implementation of law enforcement against mining companies that damage the environment still faces various obstacles, including weak supervision and non-compliance of companies with applicable regulations. Therefore, more assertive efforts are needed from the regional and central governments, including increased supervision, stricter law enforcement, and collaboration with communities and environmental organizations. Thus, the sustainability of the ecosystem in East Barito Regency can be maintained, so that mining activities can continue without sacrificing environmental sustainability and the welfare of the local community.

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