Repositioning Administrative Sanctions for Deforestation due to Nickel Downstream Industry in Indonesia and Nigeria

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Abstract

Industrial downstreaming in the nickel sector is currently a national priority scale that is being intensively carried out by the government since 2020. The projection of processing by the state is intended as the main raw material in the manufacture of battery production as a renewable energy that is environmentally friendly. Unfortunately, uncontrolled damage is also exacerbated by the Job Creation Law which does not provide a clear picture of how administrative sanctions can realize environmental compliance, so that in fact to this day the downstream nickel industry is carried out recklessly. This research uses normative legal methods that refer to laws and regulations related to the environment with the nature of descriptive and explanatory research to analyze the phenomenon of forest destruction in Maluku and Sulawesi. The research is accompanied by literature studies in the form of books, journals, and other literature. Data analysis uses descriptive qualitative to describe ongoing legal phenomena through comparative studies of other countries. The reason for choosing this research is because the crucial nature of forest destruction that has led to environmental deforestation in Halmahera needs to be addressed immediately by examining the legal normativeness in the Job Creation Law and comparing it with the legal phenomenon in Nigeria. This research study also uses a comparative method to find legal symptoms and phenomena that occur in society, especially in other countries.The results show that downstream industries that have an impact on forest destruction, especially deforestation, require repositioning of the administrative sanctions reviewed which were removed in the Job Creation Law. The repositioning is constructed by the author as an effort to aggravate administrative sanctions without ignoring the concept of reparatoir in it like the Nigerian

state, so that administrative sanctions still embody environmental ethical values through the assessment of violations that prioritize the concept of real forest restoration.

Keywords: Administrative Sanctions; Downstream; Environment; Deforestation

Introduction

The government is currently aggressively encouraging economic growth while realizing welfare for all levels of society, one of its efforts is to downstream the nickel-based industry which is a national priority scale. Even this program had become a topic of conversation, when it was echoed by one of the candidate pairs in the 2024 general election. Progress in the nickel mining industry sector that prohibits exports is projected as the main raw material in the manufacture of battery production (Ion-Lithium) which is environmentally friendly. However, the progress of the program has in fact resulted in at least a significant impact on the environment. The program's sustainability efforts actually began in 2020, initially expecting a positive impact, but not accompanied by sustainable and environmentally sound environmental development values (Sood, 2021).

Such massive downstreaming seems to ignore environmental aspects, resulting in damage in the form of deforestation, reduced ecosystems in the forest, and further exacerbating the climate crisis. The processing of nickel ore in the process of industrial downstreaming is one of the causes of damage that sacrifices the living space of local residents in the Sulawesi Islands and Halmahera, North Maluku. The forest area is shrinking every year as a form of forest degradation due to land conversion and deforestation (Tsirwiyati, 2023). Simply put, the downstream industry that is being intensively carried out needs to be predicted, not only the economic aspects but also the environment that also needs full attention. The harmony between the two aspects will realize an environmental paradigm that is also intergenerationally sustainable (Khalisah Hayatuddin & Serlika Aprita, 2021). In terms of legal aspects, downstreaming began with the ratification of a policy by the government to ban exports of nickel as raw material. This is also an effort to protect smelters and the sustainable supply of raw materials in Indonesia (Makarao, 2011).

The nickel in question is actually nickel ore containing levels with a percentage below 1.7% as contained in the Minister of Energy and Mineral Resources Regulation Number 25 of 2018. Following up on the ban on nickel exports abroad, the government began to produce nickel from upstream to downstream levels, with the hope that it can be processed as renewable energy (BD et al., 2023). In fact, a concerning phenomenon is that the government has reached the stage of nickel rush, or nickel fever by exploring it on a large scale. Based on data from 2014-2023, the annual production of nickel ore rose dramatically by 395% or around 193 million tons, compared to only 39 million tons previously. Likewise, the construction of smelters has increased from 31 units to 116 units. The massive downstream nickel industry is not accompanied by an element of caution, causing uncontrolled deforestation. Nickel mining in the Sulawesi Islands and Halmahera, North Maluku, is evidence of forest cover loss (Allya, 2023). Walhi North Maluku also said so, that the destructive massive mining of nickel ore was caused by land clearing activities.

Most of the loss of forest cover is in operational areas where nickel ore mining occurs, especially locations surrounded by nickel Mining Business Licenses (IUP) (Kuhu, 2023). Mining carried out in both areas clearly has a significant impact on forests. For example, in forest areas where deforestation has occurred, there is a contradiction between the implementation and what is stated in the provisions of the Forest Area Borrowing and Use Permit (IPPKH), as well as damage to the pesisit ecosystem because there was no supervision and anticipation from the beginning of the Environmental Impact Analysis (AMDAL) which should have started since the implementation of nickel mining. Sadly, Law Number 6 of 2023 concerning Job Creation relaxes the AMDAL policy which should be fulfilled as the main requirement for business actors in the issuance of IUP. The threat to environmental pollution, especially the forest itself, is an irony, how the government perpetuates business actors by loosening AMDAL requirements, which essentially guarantees continuous mining activities (Siahaan, 2004). The nuances of development that are not environmentally sound are only centered on realizing ease of investment, but on the one hand damaging forest ecosystems that have an impact on living

things.(Sufrianto et al., 2023) Forest damage due to nickel downstreaming needs to be questioned from the aspect of government policy as a regulator. The policies contained should be able to pay attention to the complexity of various aspects in order to avoid threats and potential damage to the environment so that balance always accompanies the preservation of nature, thus the real policy needs to see ethical values in the environment (Maidina & Tamma, 2023).

The Job Creation Law that contains environmental administrative sanctions needs to be repositioned, as the primum remedium paradigm in the Ciptaker Law to continue to present administrative sanctions must first emphasize that sanctions must still be part of the deterrent effect and return the environment to its original state in order to realize the transition to renewable energy. As is known, the Ciptaker Law directly amends several articles of Law Number 32 of 2009 concerning Environmental Protection and Management, one of which is the addition of administrative sanctions in the form of fines. This fine is actually intended to penalize the slow implementation of force by the government. Unfortunately, the Job Creation Law does not really provide a clear picture of how administrative sanctions can realize environmental compliance, so in fact to this day the downstream nickel industry is uncontrolled to always damage forest ecosystems. Based on the above background, the author will reflect on the implications of the downstream nickel industry which has an impact on massive forest damage in the form of deforestation, loss of forest cover, and other pollution, especially in the Maluku and Sulawesi regions, to then connect this problem with the weak environmental administrative sanctions in the Ciptaker Law, so that the ideal repositioning of law enforcement is needed to stop the rate of environmental damage due to the downstream nickel industry.

The novelty of this research is seen from previous research references. Previous research conducted by Aviany Yanti and Winda Fitri from Batam International University entitled "Environmental Pollution Sanctions in the Job Creation Law: Comparative Study of Japan" with a discussion related to a comparative study of environmental law in Japan, where the regulation of the application of criminal sanctions, supervision, licensing and the application of the mechanism of proof with the concept of strict liability is stricter, in addition

to the high awareness and legal culture of the community regarding the importance of the environment itself which can be an example and learning for Indonesia.

Furthermore, previous research conducted by Alfikri from Gadjah Mada University entitled "Policy for the Elimination of Criminal Sanctions for Environmental Crimes in Law Number 11 of 2020 concerning Job Creation" with a discussion related to the elimination of criminal sanctions for environmental crimes replaced with administrative sanctions. The elimination of criminal sanctions for environmental crimes replaced with administrative sanctions signals the weakening of environmental law enforcement. While environmental problems are getting bigger, wider, and more serious

In addition, there is a study conducted by Nila Amania from Gadjah Mada University entitled Faculty of Sharia and Law UNSIQ Central Java in Wonosobo "Problems of the Job Creation Law in the Environmental Sector" by examining in depth the Job Creation Law has many errors in procedure and substance. Moreover, there are changes and deletions to Articles 24, 38, 39 paragraphs (2), 40, 76, 88 of Law No. 32 of 2009 concerning Environmental Protection and Management. Research conducted by Ainun Jiwanti from the Master of Law Study Program, Faculty of Law, Diponegoro University entitled "Criminal Law Policy in Efforts to Overcome Environmental Crimes in the Job Creation Law" which examines the UUCK which has not accommodated a number of important regulations, namely related to the system of formulating criminal threats, where there is no minimum limit for criminal threats, provisions for criminal substitutes for fines that are not paid by corporations and the obligation to impose sanctions for environmental improvement actions. Previous research by Rizki Zakariya from the KPK entitled "Questioning the Criminalization Aspects of the Environmental Cluster in the Job Creation Law Against the Direction of Sustainable Development" which one of them examines the need to strengthen the direction of sustainable development in the criminalization, including by optimizing the enforcement of environmental criminal law. While my research is more on examining the case that occurred in Halmahera to be the basis for repositioning environmental sanctions and comparing it with Nigeria.

Research Method

This research uses normative legal methods that refer to laws and regulations related to the environment with the nature of descriptive and explanatory research to analyze the phenomenon of forest destruction in Maluku and Sulawesi. The research is accompanied by literature studies in the form of books, journals, and other literature (Ali, 2021). Data analysis uses descriptive qualitative to describe legal phenomena that occur in society and then concluded in general to specific. This research also uses a comparative study with the country of Nigeria to find a solution to the same problem of the presence of politicization of social assistance but the legal provisions have not fully accommodated it (Sugiyono, 2013). The reason for choosing this research is because the crucial nature of forest destruction that has led to environmental deforestation in Halmahera needs to be addressed immediately by examining the legal normativeness in the Job Creation Law and comparing it with the legal phenomenon in Nigeria. This research study also uses a comparative method to find legal symptoms and phenomena that occur in society, especially in other countries.

Results and Discussions

Dynamics of Nickel Industry Downstreaming in Forest Damage in North Maluku And Sulawesi in Indonesia

The theory of administrative sanctions is a milestone in the discussion described by Utrecht as a result of all actions or actions that are reactions from other parties, in this case a person, or institutionally representing a person's actions. The concept of administrative sanctions itself is nothing more than a doctrinal idea and there is no definitive explanation stated in the law as a normative manifestation. The doctrine shown in administrative law is nothing other than a negative consequence of violations related to legitimate duties or obligations. Sanctions in administrative law are tools of power that have a public legal scope with several types such as reparatory sanctions for reactions to

violations of norms such as dwangsom. Then there are punitive sanctions called punitive sanctions, as well as regressive sanctions that state their application for non-compliance related to the issuance of the provisions.

The downstreaming of nickel-based industries actually aims to create broad benefits in the mining industry, by no longer exporting raw nickel but producing and processing it starting from the form of nickel ore to produce semi-finished goods. The policy initiated by Mr. Jokowi Dodo in the 2019-2024 period was organized to encourage the industry towards electric vehicle batteries as renewable energy (Y. Yusuf et al., 2023). Indonesia itself does have abundant natural resources, no wonder it holds the status as one of the countries that produces the largest nickel on a global scale (Agussalim et al., 2023). Global demand supply alone reached a percentage of 48% in 2022. Such a large demand is actually due to the fact that many developed countries are aggressively processing nickel ore as an industrial material for various consumer products, including electric vehicle batteries (Bidul & Widowaty, 2023). However, the implementation has actually eroded the environment, causing damage to agricultural lands that have an impact on the livelihoods of local residents, not to mention the ecosystem of forest friends that affect the production and consumption space of residents.

At the very least, the current massive nickel industry downstream implementation has damaged forests equivalent to 6000 football fields, making the downstream imbalance for electric battery manufacturers and the resulting ecological damage (Hamzah, 2008). The threat caused by massive expansion is the main factor underlying the acceleration of deforestation, on the one hand because it is ambitious to produce raw materials for batteries. Auriga Nusantara Director Timur Manurung revealed that deforestation in various regions reached 200,000 hectares by the end of 2023, due to the government massively allowing nickel mining, although other factors were also caused by mining in the palm oil and coal sectors. This figure could easily change over time, as the possibility exists that there has been no countermeasures and enforcement of the nickel mining involved (Adji & Pariela, 2023).

Evaluatively, the expansion of deforestation in the last 22 years has reached an alarming 195,963 hectares. One of the most striking deforestations is in the North Maluku and Southeast Sulawesi regions, which are the basis of nickel mining areas. This is none other than due to the current government's ambitious project that started from 2020. Based on the author's analysis, at least we see the fluctuating acquisition of mining licenses for nickel in Indonesia has always experienced a drastic increase, recorded for one nickel mining license alone has succeeded in deforesting 10,681 hectares of forest. As reported by the US-based non-governmental organization (NGO) Reuters, one of the largest centers in the nickel smelter category, Weda Bay Industrial Park (IWIP), is evaluating the activities of one of the companies. Climate Rights International (CRI) reported that the company, which qualifies for an operational license, has logged 5300 hectares of tropical forest since 2018.

The data was obtained based on analysis through satellite imagery based on geospatial analysis, and observations by researchers from the University of California. CRI itself has projected how much carbon dioxide emissions will pollute the air due to deforestation, which is equivalent to 450 thousand cars on an annual emission scale. Deforestation caused by the absence of serious government attention, resulting in tropical deforestation has reached 5331 hectares. Although the government has actually succeeded in reducing the rate of reckless deforestation for industrial activities, it is recorded that from 2020 to 2022 the success rate for preventing primary forest loss is 64 percent when compared to the 2015-2017 period. Unfortunately, deforestation control is only limited to primary forests, because CRI also reported additional tropical deforestation in the context of nickel mining concessions in North Maluku reaching at least 5,331 hectares.

Not only that, the threat of forest loss extends to access to clean water and land rights that should be owned by local residents. But again, the externality impacts resulting from downstreaming have actually never received recognition as part of the state's losses, and it is as if residents must be responsible for restoring the environment. In fact, the great damage has also resulted in a severe climate crisis that is not only felt by residents in North Maluku and Sulawesi, but also by

the government and related industries as stakeholders (Galela et al., n.d.). The following are some of the phenomena of the downstream nickel industry and its impact on the environment in North Maluku and Sulawesi, among others:

a. North Maluku

The implementation of downstream nickel-based industries can be found in a number of regions, one of which is North Maluku, which has three nickel ore processing areas. Based on its development, two of the three areas have been operating, including Harita Nickel on Obi Island, precisely in South Halmahera and PT Indonesia Weda Bay Industrial Park (IWIP) which integrates with PT Weda Bay Nickel, in Weda, Central Halmahera. Then for the Buli area, East Halmahera is also planned to be built as soon as 2024 as a factory that produces electric battery vehicle components with the initiative of the LG consortium and a consortium of BUMN and IBC. The three industrial estates have enough exclusivity from the government by making them a National Strategic Project (PSN).

Not only that, the exclusivity also given by the government is to determine it as one of the National Vital Objects (Obvitnas) so that the implementation of the project really has strict guarding by the apparatus from the police to the TNI. The implementation of the nickel industry as part of downstreaming is in fact quite devastating to the surrounding environment, making local residents lose their livelihoods, especially in the agricultural sector. In the midst of limited natural resource constraints, the government has prioritized the processing of nickel itself. The dredging that has occurred in Halmahera has had a significant impact on the destruction of tropical forests, eliminating forest cover that risks increasing the climate crisis. A report from Climate Rights International (CRI) released in early 2024 mapped some of the impacts of nickel mining in Halmahera, North Maluku.

CRI sampled several companies from one region, namely the Sulawesi islands, namely the Weda Bay Industrial Park (IWIP) and the surrounding small nickel mines. In a report entitled "Nickel Unearthed: The Human and Climate Costs of Indonesia's Nickel Industry", police and military officials coordinated with the company to forcibly seize customary land and then convert the existing

land into a nickel dredging industry for the Harita Group. Some residents were forced to move to new areas as their settlements, one resident who refused was criminalized just for trying to defend his land. (Prasetya & Hamka, 2023) The destructive power of the nickel industry downstream is quite given to the environment as seen from the number of bulldozers that erode forestry areas, starting from the last two decades, it has been observed to destroy Halmahera island quite a lot, the escalation of land conversion into industrial areas is significant in 2018.

Not only in Halmahera, this nickel ore mining has a negative impact on surrounding small islands such as those in the Obi Islands.(W. A. Yusuf et al., 2023) The exploitation of nature that targets ecologically vulnerable small islands when mining is carried out, again causes many affected local residents to lose the main source of meeting their needs. Environmental damage is no longer under control, one of which is forest deforestation due to nickel ore dredging activities in mining.(Putri et al., 2023) The following data shows the extent to which the Halmahera region has experienced deforestation of tree cover areas, among others as follows:

TABLE 1. Global Forest Watch Spatial Analysis Data (2001-2022)

No	Area	Extent of Tree Cover Loss (Hectare)	Percentage Loss	Megaton (Mt) of carbon dioxide equivalent emissions (CO2e).
1	Halmahera Timur	56,3 ribu	8,9%	44,5
2	Halmahera Tengah	26,1 ribu	12%	20,9

3	Halmahera Selatan	79,0 ribu	9,9%	62,9

Source : Global Forest Watch

Based on data obtained by the author from Global Forest Watch spatial analysis data in the last 21 years (2021-2022) shows the amount of tree cover loss in several Halmahera regions. Central Halmahera alone has lost an area of 26.1 thousand tree cover or in percentage equivalent to 12 percent of tree cover, when converted in Megaton (Mt) carbon dioxide equivalent emissions (CO2e) has reached 20.9 (Mt) (CO2e). Furthermore, it also occurred in East Halmahera which has reached the point of losing 56.3 thousand hectares of tree cover or a decrease equivalent to a percentage of 8.9 percent by converting 44.5 Megatons (Mt) of carbon dioxide equivalent emissions (CO2e).

Likewise in South Halmahera, that from 2001 to 2022 the area of loss has reached 79.0 thousand hectares of tree cover area or equivalent to 9.9 percent reduction, converted in units of Megaton (Mt) carbon dioxide equivalent emissions (CO2e) amounted to 62.9.21(Arsyad & Hajar, 2023) The potential loss of forest cover is projected to be very large in 2023-2024 considering that the nickel ore mining process first clears the area, especially in the three areas where there is a nickel Mining Business License (IUP). The following data on the IUP concession area of nickel ore mining companies in Halmahera include the following:

TABLE 2. Data on the Concession Area and IUP in Nickel Ore Mining in Halmahera

No	Area	Mining Business License (IUP)	Concession Area (Hectares)
1	Halmahera Timur	19	101.047,21
2	Halmahera Tengah	13	10.390

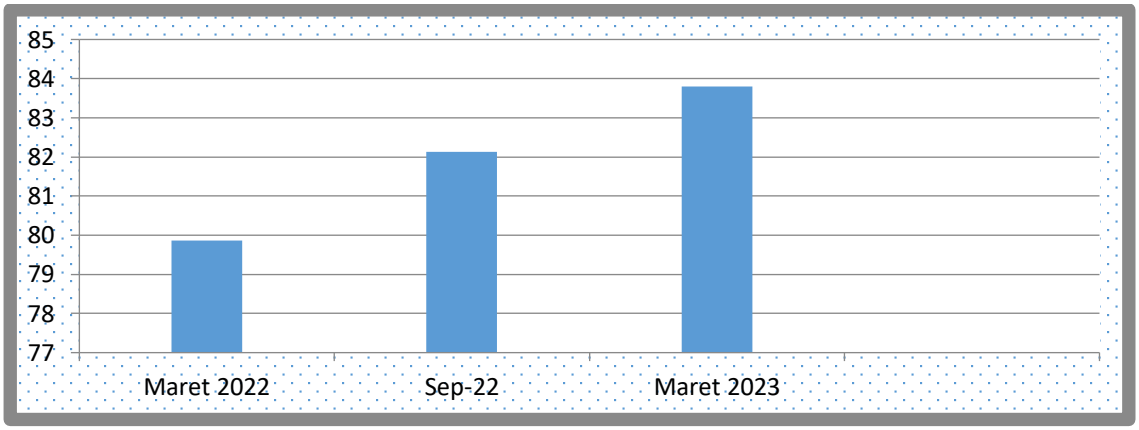
3	Halmahera Selatan	15	32.236

Source: Climate Rights International

Based on the data above, the distribution of IUPs and concession areas in Halmahera is getting higher, it can be seen from East Halmahera alone that there are 19 IUPs with a total concession area of 101,047.21 hectares, then in Central Halmahera there are 13 IUPs with a total concession area of 10,390 hectares, as well as South Halmahera which amounts to 15 IUPs with a total concession area of 32,236 hectares. Especially for IUPs in the nickel sector, the author found two areas in Central Halmahera and East Halmahera totaling 4 IUPs with a total concession area of 70,287 hectares. We can see that the dominance of forest cover loss occurs in nickel ore mining areas as a place of operation. Some of the facts that became this dark record actually began with the presence of the nickel industry in 2015, which became the forerunner of the government's downstream policy.

The nickel industry was initially believed to be able to grow the economy in North Maluku, for example, from statistics in 2023 in the second quarter showing economic fluctuations reaching 23.89 percent, thus earning an award as the region with the highest economic growth in all provinces, even said to exceed national economic growth itself. However, this success is quite questionable when it is inconsistent with the high poverty rate. As data from the North Maluku Central Statistics Agency (BPS) in 2022 recorded, among others, as follows:

FIGURE 1: Graph of the Increase in Poverty Rate in North Maluku (2022-2023)



Source: Badan Pusat Statistik (BPS)

Based on the graph above, it is enough to illustrate the significant increase in the poverty rate of residents around the nickel mining industry area, starting from March 200 totaling 79.87 thousand people, then in September 2022 which increased to 8213 thousand people. Then recorded in March 2023 which rose slightly to 83.80 thousand people. When connected to the implementation of the nickel industry, it is actually through a process that is so massive in its operations but does not provide any benefits to the economy of local residents who live around the area.

What actually happened was the fact that residents lost many sources of production due to eroded agricultural land and gardens, on the contrary, migrants actually got the results of nickel downstreaming.(Muhimat, 2024) CRI researcher Krista Shennum said that while the government's efforts to make a massive transition from fossil fuels to renewable energy is an important step for private vehicles that contribute the most emissions, the government should also pay attention to the nickel industry process by not harming the constitutional rights of citizens. In this way, forest destruction will always be a problem without a solution that guarantees certainty.

Even though we all know that the downstreaming of the nickel industry is included in the green economy agenda as a solution to the climate crisis, in practice it relies on coal-fired power plants (PLTU) as a contributor to industrial energy. To this day, coal-fired power plants continue to operate without stopping for the nickel industry, namely the Harita Group in the Obi area and PT IWIP in the Weda area. The coal power plant itself in its chimney emits quite a lot of air combustion emissions, worsening the quality of the surrounding air and potentially causing ARI disease in the community. Evidently in 2020 ARI cases in the area reached 434 cases, and 2 years later experienced a drastic increase of 1,100 cases.

This increase is accompanied by ongoing production, for example at PT IWIP it was found that the capacity of coal-fired power plant electricity production was 6,560 MW and it is projected that another 760 MW will be added, so that the development calculation is 7,320 MW. A number of residents

who reject industrial downstreaming have actually received repressive actions from the police, as if repression is the only way to reduce conflict. Residents who reject Obvitnas in Central Halmahera, for example, tell stories about police officers who always use violent methods in dealing with rejection. The increasingly complicated polemics are clear evidence that the government no longer guarantees the protection of the rights of local residents, instead prioritizing excessive use of force methods that seem to justify every action of the nickel industry without controlling for the sake of the environment.

b. Sulawesi

Nickel-based industrial downstream projects are also found in the Sulawesi region with significant tropical forest destruction. The impact of the massive nickel industry externality can be seen from PT Indonesia Morowali Industrial Park (IMIP), whose operations convert land on a fairly large scale. As stated by Sunardi Katli as Director of Walhi Central Sulawesi, there are at least 200,000 hectares of land turned into PT IMIP mining. Land conversion into nickel ore mining is the biggest contributor to deforestation in Central Sulawesi, which currently reaches 722,624.05 hectares. The high rate of forest destruction certainly had an impact on the occurrence of flash floods that submerged 3662 hectares of rice fields located in 8 villages in Morowali Regency, North Sulawesi.

Meanwhile, in South Sulawesi, there is one of the nickel mining companies with the largest concession, which is certainly a threat to the archipelago's pepper barns in the Lumereo-Lengkona Mountains with a total concession area of 17,776.78 hectares. In mapping the concession area, the author found pepper plantations owned by thousands of local residents since long ago with a land area of 4239.8 hectares, so the impact of industrial operations threatens the community's livelihood space due to conversion and pollution due to waste. Forest destruction will change the landscape due to mining techniques that use the "open pit" method, which flattens small and large hills that have an impact on river flow and become lost, resulting in the drought of the community's own agricultural land.

North Maluku and Sulawesi are examples of how ambitious the government is to play the role of producer for the electric vehicle ecosystem,

underlying the implementation of downstreaming for nickel processed as batteries in electric vehicles. So actually the spirit of the government needs to be questioned when how Indonesia can become a developed country, when the process ignores environmental protection which should threaten the lives of the wider community. One important thing that needs to be underlined is that nickel processing needs to be accompanied by how the licensing of each mining company must be reviewed, and optimally monitored for implementation.

In terms of sanctions contained in the Job Creation Law, the author notes the elimination of several environmental administrative sanctions previously stipulated in Law Number 32 of 2009 concerning Environmental Protection and Management, namely sanctions in the form of freezing and revoking licenses that are weakened by first fulfilling material acts so that it is difficult to ensnare related mining companies.

Weakening and Contradiction of Administrative Sanctions in The Job Creation Law

The cruciality of enforcing administrative sanctions can actually be observed from the aspects of economic management that are not in accordance with the environmental principles in the 1945 Constitution Article 33, so that the land use base often ignores the fulfillment of environmental aspects, not only in terms of implementation but also reviewing the regulations applied, for example in the Job Creation Law. Several articles previously listed in the Environmental Law were deleted in the Job Creation Law, for example Article 79 of the Environmental Law regarding administrative sanctions in the form of revocation and suspension of environmental permits. The government in applying administrative sanctions in the form of license revocation and suspension can no longer be carried out directly against cases of business actors who are reluctant to comply and carry out coercion from the government as their responsibility as regulated in the PPLH Law.

The Job Creation Law seems to weaken administrative sanctions by regulating them in technical rules in PP No. 22/2021, and even then to enforce sanctions must go through a series of stages and additional elements of actions

that are fulfilled. The rules that are then separated will actually have implications for the difficulty of applying sanctions for license revocation and suspension. Unlike the provisions in the PPLH Law which also directly accommodates the provisions of administrative sanctions explicitly.(Yanti & Fitri, 2022) Changes related to these rules can be examined in the content of Articles 521 and 522 of PP No. 22/2021, which in imposing sanctions for freezing and revoking licenses, first the relevant business actors do not carry out government directives that are compelling in nature, do not pay administrative fines based on the stipulated time, or are unwilling to pay fines for delays. Continued in Article 522 of PP No. 22/2021 is how license suspension can be applied through suppression of business actors (mining companies) who have the responsibility of not wanting to carry out their obligations, then directly revocation of new licenses can be enforced.(Amania, 2020)

However, what needs to be considered is that the revocation or suspension of a license must also meet the requirement that the person in charge has done damage to the environment in the form of pollution and others that on a value calculation scale it is impossible to recover. The things that were later changed in the PP can also be observed from the presence of government compulsion provisions as the responsibility of related business actors, namely preparing Environmental Evaluation Documents and Environmental Management Documents. If not implemented, the government can impose sanctions in the form of administrative fines as a form of new types of sanctions in the Job Creation Law. New points that have never existed before in the PPLH Law are seen grammatically.(Lubis, 2021)

The presence of administrative sanctions, the author believes, is a form of weakening the imposition of sanctions on related business actors, moreover, some grammatical errors have the impact of confusion over contradictory interpretations if not understood and analyzed before being applied carefully. For example, the phrase "fine" in Articles 513 and 514 of PP No. 22/2021 which results in dualism of meaning regarding the use of the fine itself. Article 513 of GR No. 22/2021 explains the fines that are emphasized to be applied will be borne by all related business actors who are late to carry out the compulsion

according to the time set by the government, then Article 514 of GR No. 22/2021 also states that administrative fines due to delays in carrying out the compulsion must also be applied together with the previous fines. What creates ambiguity is that both articles use the words fines and administrative fines so that the definition should be different from the general provisions in GR No. 22/2021.

The potentially dual interpretation will lead to a long discussion, because the word administrative fine is also used in Permen LH 2/2013 concerning Guidelines for the Application of Administrative Sanctions in the Field of Environmental Protection and Management. This Permen LH defines administrative fines that are only emphasized (not an obligation) as a form of thing that is imposed on every business actor related to his delay in implementing coercion from the government. Meanwhile, in the Job Creation Law itself, administrative fines are an absolute obligation that must be paid even though there have been corrective efforts by the person in charge of the business itself.

Comparative Study of Deforestation Case and Environmental Administrative Sanctions in Nigeria

Deforestation is a serious problem in Nigeria with a rate of forest loss of 3.3% per year since 1990, the country has lost more than 36% of its forest cover. As the ecosystem with the greatest biodiversity, old-growth forests disappeared at an even faster rate between 1990 and 2005, 79% of primary forests were lost and since 2000, Nigeria has lost an average of 11% of primary forests annually. these figures make Nigeria the country with the highest rate of natural forest deforestation in the world. Nigeria has the highest rate of primary forest deforestation in the world according to revised figures from the UN food and agriculture organization (FAO), between 2000 and 2005 the country has lost more than 55% of its primary forests, this can lead to desertification, global warming, food chain depletion, soil structure damage, wildlife extinction, drought and bush burning Mining is a common practice in Nigeria, however the problem with the activity in the country is the lack of attention by miners and the government to proper mining practices making life difficult for the people.

And many people, due to their low levels of education, are unaware of their obligations to the environment under the Minerals and Mining Act, and that adherence to global best practices in mining is an important tool for promoting sustainable growth of the industry.

Nigeria has strong laws to protect its environment, Nigeria is one of the signatory countries to the environmental law act and to some extent has domesticated certain laws. It was found that the making of some of our environmental laws are guided by some provisions of some international environmental instruments. It was also found that some of our national environmental laws adopted some theories, concepts and principles of international environmental law to varying degrees. However, the dominant approach is the command and control or sanction management style. Therefore, many of these laws are penal in nature and riddled with internal inconsistencies that render them ineffective.(Ezeabasili, 2009)

In Nigeria today, realizing laws to safeguard the environment mainly depends on agencies such as the National Environmental Standards Enforcement and Regulatory Agency, the Ministry of Environment, the Ministry of Petroleum Resources Department of Petroleum, Courts, Tribunals and the Police. In violation of the environment, offenders should and must be tried in a court of competent jurisdiction. Some states believe that environmental law enforcement matters cannot be entrusted to ordinary courts so they set up special courts with special powers to enforce environmental law violations Administrative enforcement fines originate from regulated enforcement bodies in principle, which exercise independence without outside interference, these fines specify the offense committed, with a factual description of the act and demand the offender to correct the act within a certain period of time. Therefore, the Hazardous Waste Law leaves the administrative system to the Minister in charge of Works and Housing, as well as the Police.(Noah et al., 2021)

The Nesrea Act provides the agency it establishes with wide-ranging law enforcement powers. These include the authority to enter and search any premises, inspect vehicles, seize and detain any goods or articles if there is a suspicion that its components fall within the limits restricted by the Act. Unlike

what was obtained under the repealed FEPA Act, these powers of entry for search or inspection can only be exercised after obtaining a warrant from the court. This is a clear impediment given that before such a warrant can be obtained, company officials may have already concealed the offense or taken other steps to impede the efforts of law enforcement agencies (Nelson et al., 2021). There is also provision for the Minister responsible for the environment in the process of bringing existing articles of the Act to life, may specify the procedure for expungement as well as the cost implications for the offender. However, this power of Nesrea has important limitations. The provisions in Sections 7 and 8 pertain to the authority of the mandate and the determination of its scope of operation (Ijaiya & Joseph, 2014).

The principle of access to Justice under the Principle 10 of Rio Declaration can be incorporated in National Laws and Polices through constitutional, statutory and institutional frameworks. Since Rio, a number of African countries have, in their national constitutions and legislations, provided for access to courts and administrative appeals for effective remedies in environmental cases. For example, In South Africa, the right to a healthy environment and wellbeing of an individual is constitutionally guaranteed of the South African Constitution which was promulgated in December 1996 and came into effect in 1997 grants right of action in environmental cases. The Nigerian constitution does not have such a provision which specifically grants a right of action in environmental cases. It is proposed that opportunity should be taken of the current constitutional review process to provide for a justiciable right to healthy environment to bring the Nigerian law in line with international standards, more so that other African countries have done so (Amokaye, 2012).

Conclusion

The implementation of the nickel industry as part of downstreaming is in fact quite devastating to the surrounding environment, making local residents lose their livelihoods, especially in the agricultural sector. In the midst of limited natural resource constraints, the government has prioritized the processing of nickel itself. The dredging that has occurred in Halmahera has had a significant

impact on the destruction of tropical forests, eliminating forest cover that risks increasing the climate crisis. Based on a report from Climate Rights International (CRI), land conversion from nickel mining to nickel ore mining is the biggest contributor to deforestation in Central Halmahera alone, resulting in the loss of 26.1 thousand hectares of tree cover. Likewise, East Halmahera which has reached a loss point of 56.3 thousand hectares and South Halmahera which reached 79.0 thousand hectares of forest cover loss. Meanwhile, in Central Sulawesi, the destructive power of nickel downstreaming has caused the loss of tropical forests, which currently reaches 722,624.05 hectares.

Industrial downstreaming that has an impact on forest destruction, especially deforestation, requires the government to reposition administrative sanctions that were previously removed in the Job Creation Law, although the removal only moved it to a more technical regulation in PP No. 22/2021, the change is quite felt when it is difficult to impose sanctions for freezing and revoking permits, because it must first fulfill other elements of action. Repositioning is constructed by the author as an effort to aggravate administrative sanctions without ignoring the concept of reparatoir in it, as in Nigeria. Nigeria's strategy in the field of environmental protection needs to be analyzed at the federal and state levels through the Commonwealth Department of Environment, Water, Cultural Heritage and the Arts, which is authorized to impose sanctions for traffic violations, non-compliance with residence and occupancy requirements, and environmental pollution. In addition to the government imposing penalties and measures, it also conducts compliance assessments for violations.

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Declaration of Generative AI Use

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Competing Interest

We declare that there are no competing interests among the authors regarding this research article.