

Justice and Sustainability: Legal Perspectives on Mining and Tourism in Raja Ampat

Basri Mulyani¹, M. Helmi²

¹University of Gunung Rinjani, Indonesia, email: basri.mulyani@ugr.ac.id

²University of Gunung Rinjani, Indonesia, email: helminajam090694@gmail.com

Abstract

The centralization of mining management as stipulated in Law Number 2 of 2025 concerning Mineral and Coal Mining has created various problems in its implementation, including environmental damage, corruption of mining permits, and degradation of the existence of indigenous communities. In the context of the implementation of regulations on mining permit management in tourism areas, as occurred in Raja Ampat, it threatens the existence of sustainable tourism that depends on the natural beauty and diversity of marine biota. This research is a normative legal research that also orients the socio-legal aspects to assess the impact of mining exploration permits in the Raja Ampat tourism area. The approach used in this research is a statutory regulatory approach and a conceptual approach. The purpose of this study is to explain the urgency protection law to area tourism based natural from activity extractive mining. The results of this study confirm that mining activities in the Raja Ampat tourism area are contradictory and cannot go hand in hand because the existence of mining in the Raja Ampat tourism area degrades the environment that is the backbone of ecotourism-based tourism. Protection of sustainable tourism areas from mining activities is urgently carried out by including the Raja Ampat tourism area in a conservation area as regulated in Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands and the Constitutional Court Decision Number 35/PUU-XXI/2023, which affirms that small islands and coastal areas must be protected from extractive activities such as mining to preserve environmental sustainability and the rights of local communities.

Keywords: Conservation Areas; Mining Regulation; Sustainable Tourism Degradation;

1. INTRODUCTION

In Raja Ampat, Indonesia, lies an area that Media Tempo calls “The Last Paradise on Earth.”¹, due to its rich marine life, diverse coral reefs, and diverse marine species, making it a global ecotourism destination. This area is home to 75 % of all hard coral species found on the planet. National Geographic and the New York Times have named Raja Ampat as one of their top destinations for 2025.² On the one hand, Raja Ampat is home to the local indigenous Papuan community who have lived for centuries and depend on the sustainability of generations through marine ecosystems and coastal forests.

Raja Ampat’s complex life and natural beauty hold potential natural resources, boasting the world’s largest nickel reserves. The Ministry of Energy and Mineral

¹ Marta Warta Silaban, “Raja Ampat: Surga Terakhir Dunia Dan Geopark Unesco Yang Terancam Tambang Nikel” (Www.Tempo.Co, 2025), <https://Www.Tempo.Co/Lingkungan/Raja-Ampat-Surga-Terakhir-Dunia-Dan-Geopark-Unesco-Yang-Terancam-Tambang-Nikel-1674019> (Accessed On Date May 14, 2025)., n.d.

² Karen Carmichael, “The 25 Best Places in The World to Travel in 2025” (Www.Nationalgeographic.Com), 2025), <https://Www.Nationalgeographic.Com/Travel/Slideshow/Best-of-the-World-2025>, n.d.

Resources (ESDM) released national nickel reserves in 2023, estimating 5.3 billion tons and positioning Raja Ampat as a strategic location for nickel mineral exploitation.³

The existence of nature-based tourism in Raja Ampat, with its estimated contribution to the country's economy, is starting to be threatened by the emergence of the nickel mining industry expansion which carries a significant risk of environmental damage. Nickel mining exploration and extraction risks causing permanent damage to the environment. Greenpeace Indonesia mapped the location of all nickel mining exploration and extraction permits in Raja Ampat, which stated that there were 16 permits that had been issued by the Indonesian Government, and revoked 11 mining permits, leaving 5 nickel mining extraction permits that are still active to this day.⁴

Responding to the mining industry that is currently taking place in Raja Ampat, regulations are based on the mandate of Article 33 of the 1945 Constitution which states that the Earth, Water, and natural resources therein are controlled by the state and used for the greatest prosperity of the people. Derivatives of the constitution are regulated through Law Number 2 of 2025 concerning the Fourth Amendment to Law Number 4 of 2009 concerning Mineral and Coal Mining. However, the current situation of mineral mining management in Indonesia deviates from the vision of the nation's founders who formulated the exploitation of natural resources that are environmentally friendly and equitable for the greatest prosperity of the Indonesian people.

Legal scholars have identified the primary problem with mining management in Indonesia, which is the link between mining management and corruption. Government officials have failed to manage the mining industry effectively due to the involvement of many state officials in corruption, which has led to environmental damage. The ease of obtaining mining permits has led to environmental damage and rampant corruption in mining management.⁵ Rahmad Syafaat explained the second problem, oligarchy in mining management which causes social conflict as well as environmental pollution and damage.⁶

Basri Mulyani outlines various normative conflicts in the granting of mining permits in general, including: (1) The authority to grant business permits for the management of protected forests and production forests rests entirely with the central government, thus amputating some of the authority previously granted to regional governments. This is regulated in Article 26 paragraph (2) and Article 28 paragraph (2) of the Job Creation Law, which emphasizes that the management and utilization of protected forests and production forests, the mechanism and determination of business permits, are through the central government. Further details are regulated in Government Regulation Number 23 of 2021 concerning Forestry Implementation. Authorities such as area utilization, environmental services utilization, timber forest product

³ Press Release of the Ministry of Energy and Mineral Resources of the Republic of Indonesia Number 617. Pers/04/SJI/2024, <https://www.esdm.go.id/Id/Media-Center/Arsip-Berita/Pemilik-Cadangan-Nikel-Dan-Bauksit-Terbesar-Di-Dunia-Ini-Yang-Dilakukan-Indonesia>."

⁴ Admin Greenpeace, "'Surga Yang Hilang'", (Www.Greenpeace.Org, 2025), <https://www.greenpeace.org/Indonesia/Laporan/63114/Surga-Yang-Hilang/> (Accessed May 15, 2025)."

⁵ Hilaire Tegnau, Lego Karjoko, Jaco Barkhuizen, and Anis H Bajrektare "'Mining Corruption and Environmental Degradation in Indonesia: Critical Legal Issues'", *Jurnal Bestuur* 9, No. 2 (2021): 96, <https://dx.doi.org/10.20961/Bestuur.V9i2.55219>, n.d.

⁶ Yazid Nurhuda Rahmad Syafaat, Indah Dwi Qurbani, Daru Adianto, *Karakteristik Dan Pertanggungjawaban Hukum Oligarki Dalam Tata Kelola Lingkungan Hidup Dan Sumber Daya Alam* (Intelegensia Media: Malang, 2023), 5-6. n.d.

utilization, and protected forest and production forest utilization are now held by the central government, whereas previously, based on Government Regulation Number 6 Year 2007 concerning Forestry Planning and the Preparation of Forest Management Plans and Forest Utilization is the authority of the Governor and Regent. (2) The authority of the Governor/Regent/Mayor in the preparation of AMDAL, UKL, and UPL as prerequisites for obtaining environmental permits is still given even though it is still weak because of its recommendatory nature as a consideration for the ministry. Article 86 paragraph (6) of Government Regulation Number 28 of 2025 concerning the Implementation of Risk-Based Business Licensing explains that in the case of a PL application, the minister/head of the agency that organizes government affairs in the field of environmental protection and management and government duties in the field of environmental control, the governor, or the regent/mayor in accordance with their authority through the Environmental Feasibility Test Team shall assess the PL application with the Amdal document. And Article 92 paragraph 2 states that the Recommendation of the results of the feasibility test as referred to in paragraph (1) shall be a consideration for the minister/head of the agency that organizes government affairs in the field of environmental protection and management and government duties in the field of environmental control, the governor, or the regent/mayor in accordance with their respective authorities in determining: a. Environmental Feasibility Decree, if the business plan is declared environmentally feasible; or b. Environmental Unfeasibility Decree, if the business plan is declared environmentally unfeasible.⁷

Law Number 11 of 2020 stipulates that determining the types of businesses and/or activities that require UKL and UPL falls under the authority of the central government. This provision is clarified in Article 77 of Government Regulation Number 22 of 2021 concerning the Implementation of Environmental Protection and Management, which states that environmental feasibility permits are determined by an environmental feasibility testing agency established by the Central Government.

Degradation The authority to manage natural resources mentioned above has caused various impacts, including massive corruption in natural resource management activities and has had a serious impact on environmental damage, as explained previously.

From a broader perspective, the mining sector is a part of natural resource extraction that is complex to manage and interconnected with other sectors, including tourism, which relies on nature as its main attraction. The study above focuses more on the power relations within mining management,⁸ environmental law enforcement⁹, corruption in the mining sector, overlapping regulations and the rights of indigenous peoples within the mining area.¹⁰

Of the various literatures that explain exploitation activities towards the environment, including mining, none has yet provided a comprehensive explanation regarding mining

⁷ Basri Mulyani, "Reconstruction of the Relationship between Central and Regional Authorities in Equitable Forestry Management", *Disertation Faculty of Law*, University of Mataram, 2025. n.d.

⁸ Rahmat Syafa'at, I Nyoman Nurjaya, Imam Koeswahyono, Eddy Susilo, dan Saafroedin, *Relasi Negara Dan Masyarakat Adat; Perebutan Kuasa Atas Hak Pengelolaan Sumber Daya Alam* (Intelegensia Media: Malang), 2023. n.d.

⁹ Yazid Nurhuda Rahmad Syafaat, Indah Dwi Qurbani, Daru Adianto, *Karakteristik Dan Pertanggungjawaban Hukum Oligarki Dalam Tata Kelola Lingkungan Hidup Dan Sumber Daya Alam*, n.d.

¹⁰ Rahmat Syafa'at, *Advokasi Dan Alternatif Penyelesaian Sengketa; Latar Belakang, Konsep Dan Implementasi* (Intelegensia Media: Malang), 2024., n.d.

management regulations and their relationship to the degradation of the sustainable tourism industry from a theoretical or legal perspective.

Previous studies on mining regulation and environmental sustainability in Indonesia, such as those by Rahmat Syafaat¹¹ and Hilaire Tegnán et al.¹², have primarily examined the correlation between mining governance and corruption as well as the weaknesses of environmental law enforcement. Other scholars, have discussed the imbalance of authority between the central and regional governments in forestry and mining management. However, these studies have not yet provided a comprehensive analysis that connects the regulatory aspects of mining management with the degradation of sustainable tourism areas, particularly in ecologically sensitive zones such as Raja Ampat. This research thus fills a crucial gap by linking mining regulation, environmental degradation, and the threat to ecotourism sustainability within one analytical framework.

The novelty of this study lies in its focus on the intersection between the centralization of mining governance and its direct implications for sustainable tourism ecosystems. Unlike previous works that merely evaluate legal or economic consequences, this research integrates a normative legal perspective with socio-legal analysis to highlight how mining permit policies can structurally threaten ecotourism and indigenous community rights. Furthermore, by referring to the Constitutional Court Decision Number 35/PUU-XXI/2023, this study contributes new insights into how constitutional interpretation can serve as a legal safeguard for small islands and tourism-based conservation regions from extractive activities.

Methodologically, this research is a normative legal study with a socio-legal orientation. The type of research used is qualitative descriptive, employing both statutory and conceptual approaches. The sources of legal materials consist of primary legal sources (laws and regulations, constitutional court decisions), secondary legal sources (academic literature, journals, and expert opinions), and tertiary legal materials (official reports and institutional documents). The analysis method uses a qualitative-analytical technique by interpreting laws and court decisions in relation to their practical implications for environmental protection and sustainable tourism governance in Raja Ampat.

2. ANALYSIS AND DISCUSSION

Exploration of nickel mining and extraction in Raja Ampat, as well as tourism, are equally dependent on the potential availability of natural resources. These two industries can be said to operate intertwined, or even compete with each other, to boost economic growth both regionally and nationally. However, on the other hand, the continued activity of both industries can cripple one or the other. This could lead to environmental damage caused by long-term mining activities, which empirically has implications for the existence of sustainable tourism. Theoretically, the coexistence of these two industries can be explained in terms of the contradictions that arise when they operate within the same ecological space, although this often leads to complex debates on resource management and sustainability.

¹¹ Rahmat Syafa'at

¹² Hilaire Tegnán, Lego Karjoko, Jaco Barkhuizen, "Mining Corruption and Environmental Degradation in Indonesia: Critical Legal Issues", *Jurnal Bestuur* 9, No. 2 (2021): 96, <https://Dx.Doi.Org/10.20961/Bestuur.V9i2.55219>.

To sharpen the analysis, this study employs several theoretical frameworks that clarify the complex relationship between mining and tourism in ecologically fragile regions such as Raja Ampat.

2.1 Sustainable Development Theory

The core idea of sustainable development, as formulated in the Brundtland Report (1987), emphasizes that “development must meet the needs of the present without compromising the ability of future generations to meet their own needs.”¹³

This theory integrates three interrelated pillars—economic, social, and environmental—that must remain in balance for development to be sustainable. In the context of Raja Ampat, mining activities in a tourism conservation area clearly violate this balance, as they prioritize short-term economic growth while undermining the environmental and social pillars of sustainability. The principle of sustainable development is also reflected in Article 33(4) of the 1945 Constitution and further operationalized through Law No. 32 of 2009 on Environmental Protection and Management, which mandates that every development activity must consider environmental carrying capacity and ecological integrity.¹⁴

2.2 Ecological Justice Theory

The concept of ecological justice expands the traditional notion of justice from an anthropocentric framework to an ecocentric one, emphasizing that justice is owed not only to humans but also to nature and future generations.¹⁵

This perspective asserts that the environment has intrinsic value and must be treated as a subject of justice, not merely an object of exploitation. In the case of Raja Ampat, nickel mining that damages coral reefs and pollutes marine ecosystems represents a violation of ecological justice, since it places economic profit above environmental rights and the welfare of indigenous communities. This principle finds legal recognition in Law No. 32 of 2009, which explicitly guarantees every citizen’s right to a good and healthy environment and obliges the state to uphold environmental justice as part of its constitutional duty.

2.3 Theory of Environmental Carrying Capacity

This theory argues that every ecosystem has a limit to the human activities it can sustain without losing its essential functions.¹⁶ Once these thresholds are exceeded, environmental degradation becomes irreversible. Mining operations in ecologically sensitive areas such as Raja Ampat surpass the region’s environmental carrying capacity—removing forest cover, disturbing marine biodiversity, and producing toxic waste that endangers coral reef systems. This degradation undermines the long-term sustainability of tourism, which depends on the pristine quality of the environment. Hence, integrating the concept of carrying capacity into policy and licensing decisions

¹³ World Commission on Environment and Development, *Our Common Future* (Oxford: Oxford University Press, 1987), 43. n.d.

¹⁴ Indonesia Law Number 32 of 2009 on Environmental Protection and Management, Article 3 and Article 6; See Also The 1945 Constitution of the Republic of Indonesia, Article 33 (4)., n.d.

¹⁵ Klaus Bosselmann, *The Principle of Sustainability: Transforming Law and Governance* (New York: Routledge, 2016), 121., n.d.

¹⁶ Indonesia Law Number 32 of 2009 on Environmental Protection and Management, Article 3 and Article 6; See Also The 1945 Constitution of the Republic of Indonesia, Article 33 (4).

is critical to prevent ecological collapse and ensure the continuity of tourism-based livelihoods.

Within these theoretical perspectives, the contradictions between the mining and tourism sectors in Raja Ampat become evident. Jukka Simila explains that under certain circumstances, the relationship between mining extraction and the tourism industry is not mutually beneficial when the mining industry generates environmental distortions or negative externalities.

These include pollution, illegal logging, destruction of marine habitats, conflicts over indigenous land, and overlapping authority among government actors. While the effects may not immediately disrupt tourism, prolonged mining operations inevitably erode environmental quality—degrading the very ecosystems upon which the tourism economy depends.

Substantively, the sustainability of tourism becomes fragile when this relationship loses its symmetry. Ecotourism is highly sensitive to environmental changes, and the concept of strong sustainability reinforces that natural capital cannot be substituted by economic or man-made capital.¹⁷

As Abrar Saleng observes, mining activities inherently cause ecological imbalance through land alteration, water and air pollution, and safety hazards such as landslides or mine collapses.¹⁸

Therefore, mining in Raja Ampat poses multidimensional risks—ecological, social, and legal—that are inconsistent with the goals of sustainable tourism and environmental justice. From another perspective, mining management and the tourism industry may coexist only under conditions of strict environmental governance and predictable policy frameworks. Sound environmental regulations can minimize damage while maintaining legal certainty for both sectors. Jukka Simila further notes that all industries, including mining and tourism, depend on consistent public policies to sustain stable economic and ecological conditions.¹⁹

Thus, the government must adopt an integrated approach that harmonizes economic growth with environmental conservation, ensuring that the development of one sector does not undermine the ecological foundations of another.

Jukka Simila explained that under certain circumstances, the relationship between mining extraction and the tourism industry is not mutually beneficial if the mining industry experiences environmental distortion (external impacts).²⁰ The impacts in question can take various forms, including environmental pollution, illegal logging, damage to river and marine ecosystems, conflicts over customary land in mining areas, and vertical conflicts over authority between stakeholders. In this context, the impacts of mining activities may not have a direct (short-term) impact on tourism, but long-term extraction by mining activities will impact the tourism industry in the long term due to environmental degradation. This can occur because the tourism sector,

¹⁷ Odum and Eugene P., *Ecology: The Link Between the Natural and Social Sciences* (New York: Holt, Rinehart and Winston, 1975), 55–57. n.d.

¹⁸ Herman Daly, *Beyond Growth: The Economics of Sustainable Development* (Boston: Beacon Press, 1996), 45–46.,” n.d.

¹⁹ Abrar Saleng, *Hukum Pertambangan* (Yogyakarta: UII Press, 2010), 77–80., n.d.

²⁰ Jukka Simila and Mikko Jokinen, “Governing Conflicts between Mining and Tourism in the Arctic”, *Arctic Review on Law and Politics* 9, (2018): 148–155. <http://Dx.Doi.Org/10.23865/Arctic.v9.1068>. n.d.

particularly in Raja Ampat, is highly dependent on natural beauty, environmental safety, and ease of access.

Substantively, the existence of tourism can be disrupted sustainably when the relationship between the two is no longer symmetrical. This means that eco-tourism tends to be sensitive to the environmental impacts of mining activities. Strengthening this argument, the concept of strong sustainability can be relevant, as understanding economic value is only a small part of the complexity of ecosystem diversity.²¹ Thus, natural capital must be a top priority for preservation and protection, because future generations should find a balanced environment, not the opposite, inheriting a degraded environment even though in an economic context it has been inherited for the continuation of development. Strong sustainability does not only view natural resource management activities as economic potential, but also prioritizes environmental sustainability for future generations. The argument for environmental losses due to mining activities was also put forward by Abrar Saleng, who divided the typology of mining activities into three scales. First, mining efforts in a short or long time have the potential to change the landscape of the land and the structure of the land surface (land impact), resulting in an imbalance in the ecological system for the surrounding area. Second, mining exploration and exploitation activities have the potential to trigger various disturbances including water and air pollution, waste disposal, and chemical discharges that can damage the ecology system systematically. Third, mining management activities carried out without attention to occupational safety aspects have the potential to cause landslides, mine explosions, mine collapses, and other damage.

From another perspective, the relationship between mining management and the tourism industry can work in tandem or independently of each other, provided that mining management is compliant with government environmental protection policies. Sound and strict policies regarding the management and oversight of mining activities can minimize environmental damage without significantly disrupting tourism activities.

Jukka Simila explained that the relationship between the tourism industry and mining activities, which is dependent on sound policies, is dependent on the public policy landscape. All industries, including mining and tourism management, require predictable public policies that create stable business conditions. Furthermore, the tourism industry clearly expects sound public policies to ensure no changes are detrimental to its sustainability, while the mining industry clearly expects sound public policies to enable necessary changes in the landscape

2.1 Regulation of Mining Management and Tourism Degradation

The management of natural resources, particularly mineral and coal mining, remains a significant contributor to state revenue each year. Contributions from mining management stem from non-tax state revenues (PNBP), including revenue from non-oil and gas natural resource management and from the oil and gas sector. While the mineral and coal sector's PNBP contribution is not significantly greater than that from oil and gas, state revenue from the mineral and coal subsector is significant and consistently increases annually.

²¹ Expert Testimony by Ahmad Santosa, *In Constitutional Court Decision Number 35/PUU-XXI/2023*, Pp. 364-368., n.d.

According to the Minister of Energy and Mineral Resources, Rahmad Syafaat, who was referred to in the research, stated that the performance achievements of the Energy and Mineral Resources sector in 2022, explained that the Non-Tax State Revenue of the Energy and Mineral Resources sector in 2022 reached 351 T or 138 percent of the target of 254 T. Of this figure, PNBP in the Mineral and Coal sector was 183.4 T, exceeding the target of 101.8 T.²²

From these data, the large potential and economic contribution of the mineral and coal resources sector to non-tax state revenue must be regulated with good regulations in mining governance to fulfill the aspects and objectives of the constitution for the greatest prosperity of the people, maintaining environmental sustainability for future generations.²³

Referring to the legal policy of managing mineral and coal mining, the benchmark for the formation of laws and regulations is based on Article 33 paragraphs (1), (2), (3) of the 1945 Constitution, which in principle prioritizes the people's economic aspect. The derivation of this constitution is the formation of Law Number 2 of 2025 concerning the Fourth Amendment to Law Number 4 of 2009 concerning Mineral and Coal Mining.

Law Number 2 of 2025 concerning the Fourth Amendment to Law Number 4 of 2009 concerning Mineral and Coal Mining detects centralistic elements in legal policymaking regarding the issuance of mining permits. The core elements referred to include:

1. The issuance of Law Number 2 of 2025 concerning the Fourth Amendment to Law Number 4 of 2009 is a form of adjustment and follow-up to the Constitutional Court Decision Number 64/PUU-XVIII/2020 and the Constitutional Court Decision Number 37/PUU-XIX/2021.
2. In the regulation of Mining Business Permit Areas (WIUP) for Metal Minerals and Coal, priority is given to cooperatives, small and medium enterprises, and business entities owned by religious community organizations that carry out economic functions to improve the regional economy.
3. Meanwhile, in granting Metal Mineral Mining Business Permit Areas (WIUP), Coal Mining Business Permit Areas (WIUP) and Special Mining Permit Areas (WIUPK), with priority for the interests of Universities, to State-Owned Enterprises (BUMN), Private Business Entities by considering the area of Metal Mineral Mining Business Permit Areas (WIUP), Coal Mining Business Permit Areas (WIUP) or Special Mining Permit Areas (WIUPK), by looking at the Accreditation of Universities and to improve access and educational services for the community.
4. Mining Business Permit Areas (WIUP) for metal minerals or coal for downstreaming purposes can be granted to BUMN and private business entities on a priority basis.
5. IUPKs are granted with priority to state-owned enterprises (BUMN), regionally-owned enterprises (BUMN), cooperatives, small and medium-sized enterprises (SMEs), and businesses owned by religious organizations. IUPKs for private businesses are awarded through an auction.

The centralization of mineral and coal mining management has degraded several aspects, including the potential for weak government supervision of the realization of

²² Rahmad Syafaat, Indah Dwi Qurbani, Daru Adianto, *Karakteristik Dan Pertanggungjawaban Hukum Oligarki Dalam Tata Kelola Lingkungan Hidup Dan Sumber Daya Alam* (Intelegensia Media: Malang, 2023), 61-65.

²³ "Article 33 of the 1945 Constitution," n.d.

mining business activities and eliminating the function of community supervision of the impact of environmental damage, because the authority to supervise mining by the Regional Government has been eliminated, as well as the elimination of supervision of other activities in the mining business sector that concern the public interest, management of IUP or IUPK which results in the absence of supervision of the resolution of land disputes, as well as the reduction of the authority of mining inspectors in terms of temporarily stopping mining business activities and the right for the community to submit a request for temporary suspension of mining business activities.²⁴

The ease of managing Mining Permit Areas has a crucial impact on the existence of Indigenous Peoples and the inseparable unity of Indigenous Territories. The Minerba Law provides an escalation that the mining legal area covers land, sea, and underground space in the Indonesian archipelago. This entire scope encompasses the living space for the existence of indigenous peoples that has the potential for conflict. This further legitimizes the degradation of the existence of indigenous peoples. On the one hand, the Minerba Law Articles 162 and 164 regulate criminal sanctions for anyone who obstructs or disrupts mining business activities which are often used to criminalize communities who reject mining. This Minerba Law provides privileges to mining business actors through the provisions of Article 169 B paragraph (5) which stipulates that holders of Work Contracts and BKP2B in submitting permit applications as a continuation of the Production Operation Contract/Agreement can submit areas outside the Special Mining Business Permit Area (WIUPK) for the production activity stage to the Minister to support mining business activities.

The reality above, Iin Ratna Sumirat et al. storm it as “autocratic legalism” in how policies are formalized. This regulation undermines the principle of regional autonomy, which supports significant local government involvement in implementing the power through decentralization and co-administration.²⁵ The negative impact of the centralization of mining regulations in reality gives rise to various problems related to environmental damage, licensing corruption, and social conflicts between communities and mining business actors.²⁶

Various research report provides a factual description that environmental degradation and seawater pollution caused by natural resource extraction, particularly in Raja Ampat, have caused significant harm to the sustainability of the natural environment. Mongabay explains: that all forms of extractive activities with the potential to cause significant damage to small islands must be prohibited and eliminated. However, these extractive activities still exist, and despite the fact that, with an area of only around 6,030.53 hectares, the GN concession area is over 13,136 hectares. Thus, mining

²⁴ Riya Maya Sari and Muhammad Arman, “Examining the Threat of Seizing Indigenous Peoples Territories in Law Number 3 of 2020 Concerning Amendments to Law Number 4 of 2009 Concerning Minerals and Coal and Law Number 11 of 2020 Concerning Job Creation,” in *Policy Paper*, Indigenous Peoples Alliance of the Archipelago, (2021): 8-9.

²⁵ Iin Ratna Sumirat, Arif Rahman, Dhika Tabrozi, and Wazin Wazin, “Constitutional Framework for Mining Regulation: Regional Autonomy and State Authority,” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* VIII, no. 40 (2025): 415–29, <https://doi.org/10.24090/volksgeist.v8i2.12616>.

²⁶ Rahmad Syafa’at, *Reconstruction of Legal Politics of Mineral and Coal Mining Governance Based on Social Justice and Environmental Sustainability*, in *Citizens’ Rights and State Obligations in Environmental and Natural Resource Management* (Malang: Media Intelligence, 2022), 204-205. n.d.

activities not only risk causing damage to the island's land but have also moved towards the sea.²⁷

Indonesia's abundance of mineral and coal resources, in reality, does not align with the essential welfare of the people and the right to a healthy and good environment, as outlined in Article 28H of the 1945 Constitution. Normally, the government designs a Strategic Environmental Assessment to ensure that its policies, plans, and development programs consider long-term environmental impacts. However, the reality on the ground shows that many development decisions in Indonesia, especially those related to large projects, do not comply with the recommendations of Strategic Environmental Assessment.²⁸ Firdaus Arifin found that law enforcement related to SEA is ineffective in protecting citizens' constitutional rights in a healthy environment. For example, in the Raja Ampat mining case, permits were issued despite SEA warnings, and were only revoked after public pressure.²⁹

A study by Hilaire Tegnán et al. found that 80 percent of corrupt practices involve the private sector, confirming the prevalence of corruption between government officials and mining businesses.³⁰ The pattern of corrupt transactions involving mining entrepreneurs and stakeholders is the desire to speed up complicated procedures, win tenders, and bribe licensing officers to speed up the licensing process.³¹

The Mining Advocacy Network identified 23 cases of corruption in the mining sector between 2014 and 2018, resulting in state losses of approximately Rp 210 trillion. These corrupt practices involved corporate or mining company leaders, as well as local and national political elites.³² In another case, regarding mining management on Wawoni Island, JATAM in May 2025 analyzed state losses due to illegal mining by PT. Gema Kreasi Perdana (Tbk), which had no legal basis for conducting mining activities because its Forest Area Borrow-to-Use Permit (IPPKH) was revoked by Supreme Court Decision No. 403 K/TUN/TF/2024 which was then strengthened by Constitutional Court Decision No. 35/PUU-XXI/2023, which stated that small islands must be protected from exploitation. Mining is essential for ecosystem sustainability and public welfare. State losses from these mining activities amount to Rp 261,276 trillion.³³

The reality of mining management and the existence of nature-based tourism in Raja Ampat can be considered counterproductive. The negative impacts of nickel mining exploitation can be dangerous and have a detrimental impact on the environment. Greenpeace has identified that the opening of nickel mines in Raja Ampat has removed 500 hectares of forest and natural vegetation. This situation has triggered soil structure damage in coastal areas and has led to water pollution that has the potential to damage coral reefs. Therefore, it is crucial to design regulations that protect special nature-based

²⁷ A. Asnawi dan Riza Salman, "Tambang Nikel Raja Ampat, Kerusakan Tak Bakal Pulih", (<https://Mongabay.Co.Id>, 2025), <https://Mongabay.Co.Id/2025/06/08/Tambang-Nikel-Raja-Ampat-Kerusakan-Tak-Bakal-Pulih/> (Accessed June 20, 2025)." n.d.

²⁸ Firdaus Arifin, Mella Ismelina Farma Rahayu, Ihsanul Maarif, Anthon F Susanto, and Anastasia Wahyu Murbani, "Legal and Constitutional Gaps in Strategic Environmental Assessment: Between Formality and Substantive Environmental Protection in Indonesia," *Jurnal IUS Kajian Hukum Dan Keadilan* 9, no. 3 (2021): 45–53.

²⁹ Firdaus Arifin et.al.

³⁰ Hilaire Tegnán, Lego Karjoko, Jaco Barkhuizen, "Mining Corruption and Environmental Degradation in Indonesia: Critical Legal Issues", *Jurnal Bestuur* 9, no.2 (2021): 96, <https://Dx.Doi.Org/10.20961/Bestuur.V9i2.55219>.

³¹ Hilaire Tegnán, Lego Karjoko, Jaco Barkhuizen.

³² Hilaire Tegnán, Lego Karjoko, Jaco Barkhuizen.

³³ Kartika, 2012, 60., n.d.

tourism areas and prevent the issuance of mining permits that threaten the existence of nature and tourism.³⁴

In the specific context of Raja Ampat, the coexistence between mining expansion and nature-based tourism has become counterproductive. While the government frames mining as a driver of national growth, the ecological cost far outweighs its short-term economic benefits. According to Greenpeace Indonesia (2025), the opening of nickel mining areas in Raja Ampat has cleared more than 500 hectares of forest and vegetation, resulting in severe soil erosion, water pollution, and the destruction of coral reefs that sustain tourism and fisheries livelihoods.³⁵

This evidence supports Greennetwork (2024), which warns that extractive industries in small islands create irreversible environmental damage that undermines sustainable economic models like ecotourism.³⁶

As a result, the tourism sector—once the primary economic backbone of Raja Ampat—faces long-term risks due to deteriorating environmental quality. From a legal standpoint, Indonesia's current mining regulatory framework remains misaligned with sustainable development principles. Jaelani, Kusumaningtyas, and Orsantinutsakul found that post-mining restoration policies in Indonesia lack measurable sustainability indicators and clear enforcement mechanisms.³⁷

Furthermore, the centralization of mining authority under Law No. 3 of 2020 and Law No. 2 of 2025 has significantly weakened the supervisory role of local governments, preventing them from acting against environmental violations in their territories. This pattern reflects what Nugraha et al. identify as systemic deficiencies in mining supervision within protected forest areas, where enforcement agencies often lack independence and resources to ensure compliance with environmental law.³⁸

In Raja Ampat, these institutional weaknesses translate into unchecked ecological damage and delayed restoration efforts. The environmental and social consequences of nickel mining in Raja Ampat illustrate the unsustainable trajectory of extractive governance. Beyond deforestation and water contamination, mining operations disrupt marine biodiversity, alter local hydrology, and threaten the cultural survival of indigenous communities. The Mining Advocacy Network (JATAM, 2023) has documented how inadequate environmental impact assessments (AMDAL) and corporate impunity exacerbate ecological loss across Indonesia's small islands. Similarly, Saepudin et al. (2022) argue that Indonesia's mining industry has yet to fully embrace the concept of "green mining," where environmental protection and community welfare are treated as integral components of industrial development rather than secondary considerations.³⁹

³⁴ Andi Batara, "Tambang Nikel Raja Ampat Dan Dampak Eksploitasi Sumber Daya Alam", (<https://Greennetwork.Id>, 2025), <https://Greennetwork.Id/Publik/Kabar/Tambang-Nikel-Raja-Ampat-Dan-Dampak-Eksploitasi-Sumber-Daya-Alam/> (Access Date June 23, 2024), n.d.

³⁵ Congge and Gohwong, "Local Development and Environmental Governance: Experience from Extractive Industry in East Luwu, Indonesia", *Otoritas: Jurnal Ilmu Pemerintahan* 13, no. 1 (2024): 44–55., n.d.

³⁶ Greenpeace Indonesia, "Tambang Nikel Raja Ampat: Surga Yang Hilang", *Greenpeace Report*, May 2025., n.d.

³⁷ Jaelani A.K., Kusumaningtyas R.O., Orsantinutsakul, "The Model of Mining Environment Restoration Regulation Based on Sustainable Development Goals," *Legality: Jurnal Ilmiah Hukum* 2, no. 1 (2022), 131-146, <http://doi:10.22437/V2i1.34291>.

³⁸ Nugraha R. P., Sebianto H., Ginting V., & Ramadhan M. G., "Mining Supervision in Protected Forest Areas in Indonesia," *Commune* 2, no. 1 (2023), doi:10.22437/commune.v2i1.34291.

³⁹ Saepudin A., Rachmawati I., Kuncoro H. R., Angretnowati Y., "Indonesia Green Mining Industry", *European Journal of Development Studies* 2, no. 5 (2022), [Doi:10.24018/Ejdevelop.2022.2.5.169](https://doi.org/10.24018/Ejdevelop.2022.2.5.169), n.d.

These findings reinforce that the ongoing mining model in Raja Ampat prioritizes resource extraction over sustainability and justice. Given these realities, urgent regulatory reform is required to protect nature-based tourism zones like Raja Ampat. The region must be designated as a conservation area under Law No. 1 of 2014 on the Management of Coastal Areas and Small Islands, effectively banning extractive industries. Kartikasari (2025) stresses that existing mining laws in Indonesia remain insufficiently integrated with environmental protection regimes, often resulting in overlapping authorities and weak accountability.⁴⁰

Therefore, strengthening environmental governance requires a multi-layered approach: harmonizing laws and there needs to be a shift toward a more participatory legal policy prioritizing vulnerable groups, such as indigenous communities, traditional fishermen, and society in coastal areas, to create a more democratic and equitable spatial planning framework.⁴¹, empowering local governments. Only through such integrated governance can Indonesia balance its economic ambitions with ecological justice and the constitutional mandate to protect its natural heritage for future generations.

2.2 Construction of Tourism Area Protection Law in Raja Ampat Based on Ecological Sustainability

The economic impact of nature-based tourism in Raja Ampat significantly impacts local revenue. The Raja Ampat Tourism Office estimates that the tourism sector will generate Rp 150 billion in revenue by 2024, with 30,000 tourist visits per year. This also includes indirect economic impacts, including the growth of micro, small, and medium enterprises (MSMEs), the increase in the number of homestays, restaurants, and other activities, all of which depend on the natural ecosystem.⁴² Although the economic impact of tourism is still smaller than that of nickel mining, the damage caused by mining activities significantly impacts environmental degradation, which in the long term undermines ecological sustainability—the backbone of tourism.

Environmental protection is an integral part of natural resource management. Equitable management practices must consider and ensure sustainability for future generations. This vision implies that natural resource management is not merely about social justice, but also about legal justice and environmental justice for intergenerational sustainability.⁴³ Regulation arrange that the scope of the Coastal Area and Small Islands includes area transition between Ecosystem land and sea influenced by changes in land and sea, to direction land covers the administrative area sub-district and to direction sea as far as 12 (two) twelve nautical miles measured from line beach. With meaning that No may done activities of a nature extractive in the specified zone.⁴⁴

⁴⁰ Kartikasari F. I., "Assessing Environmental Protection in Indonesian Mining Laws," *Arena Hukum* 18, no. 2 (2025), Doi:10.21776/Ub.Arenahukum2025.01802.4, n.d.

⁴¹ Muhammad Shohibul Itmam, Sirajul Munir, Lukman Santoso, Taufikin, and Abdelmalek Aouich, "Legal Politics of Mining Spatial Planning in Indonesia: Maqāsid Syarī'ah Overview," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 25, no. 1 (2025): 1–27, <https://doi.org/10.18326/ijtihad.v25i1.1-27>.

⁴² Auditor Redaksi Daerah, "Menakar Potensi Keuntungan Dari Sektor Pariwisata vs Tambang Di Raja Ampat", (Www.Sumatrankin i.Com, 2025), (<https://Www.Sumatrankini.Com/Read/Menakar-Potensi-Keuntungan-Dari-Sektor-Pariwisata-vs-Tambang-Di-Raja-Ampat>), (Assessed on June 23, 2025),.n.d.

⁴³ Basri Mulyani, *Forest Resource Management Law: The Relationship between the Authority of the Central and Regional Governments* (Yogyakarta: Genta Publishing, 2025). n.d.

⁴⁴ Materi Pokok Undang-Undang Nomor 27 Tahun 2007 tentang Pengelolaan Wilayah Pesisir Dan Pulau-Pulau Kecil.

In the case of mining in Raja Ampat, mining activities are degrading long-term tourism, essentially “killing” intergenerational sustainability. The danger is that environmental damage caused by mining activities will lead to widespread conflict between indigenous communities and those conducting exploration. The counterproductive relationship between mining and tourism in the region must be reviewed, as regulated.

A regulatory perspective that can overcome the counterproductive relationship between mining and tourism is the return of the Raja Ampat region to a conservation area to protect the ecosystem as a whole. Article 23 paragraph (2) of Law Number 1 of 2014 states that “the utilization of small islands and the surrounding waters is prioritized for one or more of the following interests;

- a) Conservation;
- b) Education and training;
- c) Research and development;
- d) Mariculture;
- e) Tourist;
- f) Sustainable fisheries and marine businesses and fisheries industry;
- g) Organic farming; and/or
- h) Farm;
- i) National defense and security.

Protection of the use of coastal areas and small islands is strengthened by the addition of Article 26A in Constitution Number 1 of 2014 concerning Changes to the Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands explains that;

- (1) The use of small islands and the use of the surrounding waters for foreign investment must obtain permission from the Minister.
- (2) Foreign investment as referred to in paragraph (1) must prioritize national interests.
- (3) The permit as referred to in paragraph (1) is granted after receiving a recommendation from the regent/mayor.
- (4) The permit as referred to in paragraph (1) must meet the following requirements:
 - a. legal entity in the form of a limited liability company;
 - b. ensure public access;
 - c. uninhabited;
 - d. there has been no utilization by the local community;
 - e. in collaboration with Indonesian participants;
 - f. carry out gradual transfer of shares to Indonesian participants;
 - g. carry out technology transfer; and
 - h. paying attention to ecological, social and economic aspects of land area.
- (5) Further provisions regarding the transfer of shares and land area as referred to in paragraph (4) letters f and h are regulated by Presidential Regulation.

Then strengthened return in Decision Court Constitution Number 35/PUU-XXI/2023 which prohibits activities extractive in coastal and islands areas small. Referring to the regulation, in principle, it does not provide space for extractive activities that have the potential to cause environmental damage. However, the regulation emphasizes prioritized activities so that they can be carried out in coastal areas and small islands. Therefore, the necessity of including the Raja Ampat region as a conservation area is an effort to protect the natural ecosystem and the existence of sustainable nature-based

tourism. Mining activities in coastal areas and small islands are a form of neglect and conflict with legal norms. This is in line with the interpretation of Article 35 letter k which states that in the utilization of Coastal Areas and Small Islands, every person is directly or indirectly prohibited from carrying out mineral mining activities which, if technically and/or ecologically and/or socially and/or culturally, cause environmental pollution and/or harm the surrounding community.⁴⁵

Extractive activities such as mining on small islands, particularly Raja Ampat, can be considered Abnormally Dangerous Activities. This is because the islands of Raja Ampat—a world-renowned nature-based tourism destination—are vulnerable and require special protection. Therefore, the prohibition on mining activities, as stipulated in Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands, does not apply to mining. Threatened ecosystems within these areas will pose a high risk to the environment and human life in the long term.

The principles of preventing environmental damage caused by mining activities in Raja Ampat do not mean eliminating the economic aspects of natural resource wealth, but rather protecting and caring for the environment for the sustainability of a sustainable tourism ecosystem.

Diversity geographic and ecological characteristics of Raja Ampat present distinct challenges. Therefore, equity in nature management and protection recognizes the importance of understanding and accounting for the diversity of ecosystems and natural conditions in each region when making decisions related to mining exploration and sustainable tourism. For example, in regions with highly diverse tropical rainforests like Papua, the government needs to pay greater attention to managing these areas with a more flexible and adaptive approach tailored to local needs. On the other hand, in regions with more fragmented ecosystems, such as Sulawesi, mining and tourism management require a more coordinated and integrated approach between local governments, local communities, and the private sector to maintain ecological balance and minimize management conflicts. By taking these differences into account, attention to destructive equity can create a more responsive and locally tailored framework for the sustainable and efficient management of tourism areas.⁴⁶ Deni Yusup Permana et.al in his study find that problem management environment lies in the lack of integration between state policy with wisdom local. Gap in confession rights public local to access source Power natural Still become crucial aspects for discussed.⁴⁷

Steps to ensure social and cultural justice in the context of sustainable mining and nature-based tourism management are crucial, taking into account the aspirations and needs of local communities and ensuring recognition of their customary rights to affected areas. Empowering local communities in decision-making is a key step to ensuring their active and inclusive participation in the management process of these areas. This can be done through the establishment of public consultation forums, participatory mechanisms such as village deliberations or community meetings, and community involvement in

⁴⁵ Basri Mulyani

⁴⁶ Basri Mulyani

⁴⁷ Deni Yusup Permana, Imamulhadi, and Montisa Mariana “Integrating Indigenous Wisdom and Village Authority in Environmental Protection: A Case Study of Indonesia”, *Jambura Law Review* 7, no.2 (2025). <https://doi.org/10.33756/Jlr.V7i2>, n.d.

planning and policy implementation processes. Furthermore, it is crucial to recognize and respect local communities' customary rights to affected areas, which are often integral to their identity, culture, and environmental sustainability. This can be done through formal recognition of customary rights, the development of policies that take into account the needs and aspirations of indigenous communities, and providing support for community-based management of mining areas and tourism that integrates local and traditional knowledge. Furthermore, adapting mining and nature-based tourism policies and programs to local needs and aspirations is key to ensuring the success of both industries. This includes developing policies that are responsive to local conditions and challenges, and adopting an inclusive and sustainable management approach. This requires open and ongoing dialogue between local governments, local communities, the private sector, and civil society organizations to reach a common understanding of the objectives and priorities for managing mining and nature-based tourism. These steps aim to ensure that social and cultural equity are fundamental to the sustainability of both industries, which in turn will lead to more sustainable, inclusive, and beneficial management of the areas for all parties involved.

3. CONCLUSION

Centralization Permission Management Mineral and Coal Mining has cause various problem ecology and damage environment. This impact significant to damage environment in the area tourist-based nature, area coast and islands small like Raja Ampat.

The existence of Raja Ampat as destination tour nautical number 1 in the world, which has dependence direct with natural its existence threatened. Therefore, the regulation of mining permits in the Raja Ampat natural tourism area needs to be reviewed by stipulating that the Raja Ampat area must be included in a conservation area in accordance with Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands and Constitutional Court Decision Number 35/PUU-XXI/2023. This as a form of intergenerational justice protection and protection of the existence of tourism based on ecological justice and the sustainability of a sustainable tourism ecosystem.

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