

# The Fulfillment of People's Rights for Environmental Health at Donggala Mining Areas: The Perspective of Health Policies

*By Murniati Ruslan*



## The Fulfillment of People's Rights for Environmental Health at Donggala Mining Areas: The Perspective of Health Policies

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### Abstract

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**BACKGROUND:** Donggala Regional Government's policies that allow rock mining permits to 54 companies resulted in environmental destruction and health disturbances of society due to polluted air and water. Society has minimum participation due to a lack of knowledge because the access to data was restricted. It is hard for the environmental impact assessment commission to access the assessment data on rock mining activities, as such data can only be accessed by the Head of the Village or Non-Governmental Organizations.

**AIM:** This research aims to collect and analyze data, followed by drawing a conclusion, which are important steps to find the solution or policy to solve research problems, namely the fulfillment of the people's environmental health rights at Donggala mining areas based on the perspective of health policies.

**METHODS:** This sociojuridical research perceived law as an observable social symptom. It used the descriptive approach. The research type was descriptive and data collection was carried out through in-depth interviews, questionnaires from 100 villagers, and library data. After the data collection, the authors assessed the data and underwent content analysis to draw a conclusion.

**RESULTS:** The Donggala Regional Government gave permits without adequate environmental impact assessments nor consideration for green mining to prevent pollutions that may affect people's health. There is a lack of social participation as people lacked knowledge of mining and its effects.

**CONCLUSION:** The aim of the research was fulfilled and the authors have found the basis in finding and analyzing data. The authors found that the Donggala Regional Government have terrible mining policies as they do not analyze the process, waste management, and post-mining reclamation well. There is a lack of social participation as people do not know all mining processes and permits.

## Introduction

Every individual wishes for environmental sustainability. Environmental sustainability is a mutual interest that requires accountability, good governance, and social participation, as stipulated in Article 70 clause (3) of the Republic of Indonesia's Law No. 32 of 2009 on Environmental Protection and Management (EPM Law). This law states that social participation functions to a. increase awareness on EPM; b. increase social independence, empowerment, and partnership; c. develop social capabilities and pioneering; d. develop society's initiation in undergoing social monitoring; and e. develop and maintain cultures and local wisdom on environmental preservation. Unfortunately, none of these stipulations concern society's health rights.

The Donggala Regency government of Central Sulawesi Province, Indonesia, issued some rock mining business permits to companies.

Unfortunately, some companies caused conflicts, harmed society's health, and caused environmental destruction. The mining permits have been issued to companies with exploration and exploitation statuses (production operations), with a mining area of around 35 hectares [1]. The mining businesses should follow the right steps so that sustainable natural resource management on mineral and coal mining may be achieved. This is to create sustainable development in natural resource management according to the green mining principles [2].

Some issues occur due to the issuing of rock mining business permits. For instance, the presence of rock mining investors inhibits people's activities, as the traffic lanes are full of large mining vehicles. The fishermen's activities are also disturbed due to the many stone barges that pass through Palu Bay waters. In the health aspect, many people were infected with upper respiratory infection due to the polluted air [3].

Studies showed that the environment must be managed well as everyone is directly or indirectly responsible for creating a healthy environment [4]. Thus, to achieve sustainable development goals, the EPM Law Article 70 stipulates the fulfilment of people's rights for the protection and management of a healthy environment.

Society actually has the power to achieve their rights for a healthy environment by undergoing social monitoring; giving suggestions, opinions, and objections; and also filing information, reports, complaints, or filing a civil lawsuit. Thus, normatively, the EPM Law is already in line with the Rio Declaration of 10 Principles in 1992, which emphasized the importance of society's rights for a healthy environment [5].

Environmental issues occur in the rock mining locations due to the ineffective application of the green mining program and a lack of control management. Corporations put aside public health to save money. The EPM Law (Law No. 32 of 2009) that was the amendment for Law No. 23 of 1997 explained the right for a good and healthy environment as follows, "Everyone has the right to obtain environmental education, access to information, participation, and justice to fulfil their rights for a good and healthy environment." The 8, according to Article 65 clause (1) of the EPM Law, the right to a good and healthy environment is part of human rights.

## Methods

This paper used the socio-jurisprudence method which viewed the law as an observable social symptom that may be observed in society. It research type was descriptive-analytic [6]. The data collection was carried out through in-depth interviews, questionnaires from 100 villagers at Loli Saturan Village and Benawa Village in the Donggala Regency, as well as library data. After the data collection, the authors assessed the data and underwent content analysis to draw a conclusion. The population of this research are people around the rock mining area and non-governmental organizations in the environmental sector who were impacted by the rock mining activities.

## Results

### *The policy on environmental health*

The Donggala Regency Government utilizes the natural resource potentials in the area, including rock mining potentials, to increase its original regional income. Thus, it welcomed rock mining investors

and issued 54 mining business permits to various companies [7].

Some issues occurred due to these mining activities, such as the opening of forests, the decrease of land productivity, the change of topography, pollution, and the disturbance of hydrology cycles around the location. This implies the loss of people's sources of living. It lowered health standards and disturbed the life of marine biota and wild animals. Some social issues or criminalities also occur around the mining areas.

The occurrence of environmental issues may be caused by the lack of governmental environmental planning, management, and monitoring. This violates people's rights for environmental health as stipulated in EPM Law, Article 65, clause (2) [8]. The Donggala Regency Government should have strict policies to protect people's environmental health rights, such as by managing the environment through environmental impact assessments (Syafrullah Lukman, personal communication, August 14, 2020).

The documents required for 9 green mining include Reference Framework-Environmental Impact Assessment, Environmental Impact Assessment, Environmental Management Planning, and Environmental Monitoring Plan. They must be submitted to the Environmental Impact Assessor Commission of Donggala Regency, as stipulated in Law No. 4 of 2009 on Mineral and Coal Mining. In undergoing its job, the Environmental Impact Assessor Commission is aided by a technical team that provides 12 technical considerations on the reference framework, environmental impact assessment, environmental management planning, environmental monitoring plan, and ex-mining reclamation (Alimuddin, personal communication, August 15, 2020).

The Donggala Regency Environmental Impact Assessors for mining permits consist of the representatives of the Donggala Regency Environmental, Burial, Open Space and Cleanliness Departments; Forestry Service; Mining and Energy Service; Regional Development Planning, Research and Development Agency; Inspectorate; Head of Banawa District; and the Donggala Head of the Police Department.

The less-than-strict mining policies allowed companies to undergo mining activities without enough consideration for people's environmental health rights and safety standards, for instance by disposing of mining waste carelessly, causing water pollution. Instead, it should be managed in waste management installations. The mines spread dust that causes upper respiratory infection. After the mining activities, the quarries should be reclaimed rather than abandoned, to prevent them from endangering people [9].

Companies disturb waterways and dig in mountains – increasing the risk of landslides. They undergo deforestation, to make production lanes. There



**Table 1 : Society's participation in evaluating and monitoring environmental management in the Donggala regency rock mine areas**

Environmental management evaluation and monitoring based on environmental management plans and environmental monitoring plans (environmental impact assessment documents)	Society and NGO	Percentage
Evaluating and monitoring the environment in the rock mining areas based on the environmental impact documents	18	36
Not evaluating nor monitoring the environment in the rock mining areas based on the environmental impact documents	32	64
Total	50	100

Source: Primary data, 2019. Processed from field research. NGO: Non-governmental organizations.

are disturbances to tens of river branches. Companies ignore environmental health rights, as they leave infertile lands with quarries and pollute the environment. The government should give sanctions to these companies that sacrifice environmental health for mere profit.

**Table 2: The respondents' access to information on the environmental management in the rock mining area**

Information and access to environmental management in the rock mining area	Number of respondents	Know from	Percentage
Obtained information and access to environmental management in the rock mining area	24	17 from NGOs, 7 family members	48
Did not obtain information and access to environmental management in the rock mining area	26	-	52
Total	50		100

Primary data, 2019. Processed from respondents. NGO: Non-governmental organizations.

### Community participation

Environmental management is a systematic and integrated effort to preserve the environment while preventing pollution and environmental destruction. To achieve this, community participation is crucial, as society has great rights and opportunities to undergo activities for environmental management and protection. It includes monitoring; expressing opinions, suggestions, objections, complaints; and/or giving information and/or reports, as stipulated in Article 70 clauses (1) and (2) of the EPM Law [10].

Society must actively participate in environmental management, as environmental health is everyone's basic need. Everyone is physically in a changing – or depleting – environment. Social participation is absolute to create a healthy environment. Participation is an end itself. Society cannot let themselves be trampled by corporations, as they have rights that are acknowledged by the constitution [11].

People's role in contributing to environmental preservation may be carried out from the planning and decision-making processes; policy assessment and formulation; evaluation and monitoring; obtaining the right for information and access in making ecoregion decisions; and formulating EPM plans. Before the Reference Framework-Environmental Impact Assessment document is filled, there must be a public consultation to society on the mining activity plans

that may potentially influence the environment and the society. There must also be published through mass media [12].

The society's lack of participation (54%) in the environmental management activity plans in the rock mining areas is due to their lack of knowledge. They lack knowledge of society's roles and rights to a good and healthy environment and also, not many understand the activity plans in the rock mining areas. In such a condition, society should participate in the environmental management plans in the rock mining areas through the environmental impact assessment. This is so that they can give contributions, suggestions, critiques, or opinions. Then, they can accept or reject these mining activity plans [13].

Then, the draft of the mining activity plan in the Reference Framework-Environmental Impact Assessment is submitted to the Regional Environmental Impact Assessment Commission to be discussed as material to make decisions. It is discussed with concerning elements, such as the Pioneer and the Donggala Regency governmental apparatus that consists of the Environmental, Burial, Open Space, and Cleanliness Departments [14].

Every business and/or activity with environmental impacts must have environmental impact assessments, as regulated in Article 22 clause (1) of Law No. 32 of 2009. Crucial impacts are based on criteria that are stipulated in Article 22 clause (2); Article 23 clause (1) that was amended into Article 3 clause (1); and Article 5 clause (1) of the Governmental Decree No. 27 of 1999 [15].

The analysis of environmental impacts is the process of formulating policies for policymakers to consider the environmental impacts that may occur from business and/or activity plans. It is to prepare steps to handle the negative impacts and to develop the positive impacts that may occur.

In the case of community participation, not many Donggala Regency people understand environmental health. They also do not know how to participate in the policy formulation process. They can actually submit written opinions or suggestions to accountable institutions or even file a civil lawsuit. Unfortunately, most people do not know about their rights and their roles in the management of a good and healthy environment (Alimuddin, personal communication, August 15, 2020).

The monitoring activity of ex-rock mining activity is not only carried out by institutions that are responsible for the activity or business but also it is also carried out by society as shown in Table 1.

The society that was crucially impacted by the mining activities and the non-governmental organizations that have concerns for the environment filed complaints gave information and/or reports (36%). However, the rest of the respondent samples did not undergo evaluation or monitoring as they were not severely impacted [15].

In the environmental sector, the right to information has a crucial role as one of the pillars that maintain the sustainability of a good and healthy environment. Transparency will lead to the opening of access to information. This will ease society undergoing social control to the authorities in making decisions concerning the environment and the management of natural resources.

In the environmental management principle and the participative principle, it is stated that every member of the society is encouraged to directly or indirectly have an active role in the decision-making process in undergoing EPM (Explanation of Law No. 32 of 2009 Article 2 letter k).

The right for information and access to environmental management in the rock mine area is relatively limited (48%) and they are generally only limited to non-governmental organizations (Table 2). This is because the information is commonly delivered through mass media or socialization activities by initiators (companies).

In the feasibility study to create the environmental impact assessment documents, the activity initiator usually gives a public announcement through mass media. Unfortunately, not all members of society can access information that is accessed from newspapers (printed media) [3]. Furthermore, there is only minimum community participation in the environmental impact assessments of rock mining activities by the environmental impact assessment commission, as it only involves the Head of the Village or Non-Governmental Organizations [16].

Environmental permits must contain requirements stated in the decision on environmental feasibility, namely the recommendation on Environmental Management Efforts-Environmental Monitoring Efforts (EME-EME). These environmental permits are issued by administrative officers according to their authorities. In this case, it is the Donggala Regent (Zulkarnain Ilham, personal communication, August 22, 2020).

The environmental permits that are issued by administrative officers may be revoked if: a. the requirements submitted in the permit application contain legal errors, errors, untruth and/or data, document, and/or information fraud; b. the issuing did not fulfil requirements as stipulated in the commission decree on environmental feasibility or EME-EME recommendation; and c. the requirements stipulated in environmental impact assessment or EME-EME documents were not carried out by business and/or activity person in charge (the EPM Law, Article 37 clause [2]).

Apart from the stipulations above, environmental permits may be revoked through the decree of the State Administrative Court (the EPM Law, Article 38). Then, Article 65 clause (2) stipulated that every person has the right to obtain environmental education, access

to information, access to participation, and access to justice in fulfilling the rights for a good and healthy environment. Citizens also have the right to sue policies issued by the government to the State Administrative Court in the effort to obtain rights for a good and healthy environment. This may be carried out if they sense that the policies of the Donggala Regency government are not according to the constitutional regulations on mining, if they do not implement green mining, or if they bring loss to society's health rights [17].

## Discussion

The Donggala Regency government's policies do not give enough attention to the preservation of a good and healthy environment, by carelessly issuing 54 mining permits in a relatively small regency. The green mining requirements were not implemented even though the law stipulates that people have the right to a good and healthy environment. Apart from destroying the environment, this wrong policy brings health issues. Rock mining activities bring geological, physical, chemical, biological, and even socio-cultural impacts to Donggala Regency.

From the research results, it can be concluded that the mineral and coal mining management is not yet according to the green mining concept. Worse, it tends to be reckless. Such a condition is shown by the research results. There are some issues, for example, the Mining Business Permits issued by the Donggala Regent through the Energy and Mineral Resource Service to companies that work at the C-Category Mining Material Sector (gravel) at the Banawa Regency were given out recklessly without any auditing processes nor a guarantee of post-mining reclamation [18]. Another issue is that many mining permits were given out without the analysis results of Environmental Management Effort and Environmental Monitoring Effort permits. Another issue concerns the workforce absorbance from the villages whose areas are impacted by the companies' Mining Business Permits. Then, there is a lack of communication on the impacts of these mines, especially in villages whose areas are impacted by the companies' Mining Business Permits, thus causing riots [19].

The irresponsible implementation of this policy harms society as the mines pollute people's sources of water. They also pollute the air, making many people suffer from an upper respiratory infection. As a society are experiencing the most harm, they must make efforts to protect their rights for a good and healthy environment [20]. They must be involved in the permit application process. If the mining permit does not comprehensively involve green mining, society has the right to reject the mines. If the Donggala Regency

government still issue the permit, society may file a civil lawsuit to the State Administrative Court. Society must actively strive for their rights to a good and healthy environment.

## Conclusion

The Donggala Regency government's mining policies have little regard for environmental health and the fulfilment of society's rights for a good and healthy environment. Society has the right to strive for their rights for environmental health by being involved in community participation. If the Donggala Regency government ignore green mining, society may file a civil lawsuit against it.

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