

Environmental Law's Protection for The Victim of Post Mining Activity, Samarinda

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POINTS :

- Legal Protection
- Law 32/2009 (concerning Environmental Protection and Management)
- Coal Mining



Evacuation Process

Property of Tribun Kaltim News, Samarinda.



From top :
Children toy above coal;tug boat
sailing over Mahakan river;coal
activity and pond in post mining
area.

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Inside this issue:

- Labor Safety, Security 1
and Welfare
- Slow Contribution to 2
Economy Growth
- Overlapping Used- 3
Land and Property
- Prevention instruments of 4
ecology damage
- Mining permit and 5
Assessment
- High cost of social and 6
environment risks

Background

Living in good and healthy environment is a basic right of Indonesia civilian as guaranteed in article 28(H) Constitution of Republik Indonesia/UUD 1945. The protection of Environment Law towards the victim in used land operation of coal mining placed the State to respect and secure the basic right according Law 32/2009 concerning Environmental Protection and Management and Law Number 4/2009 concerning Mineral and Coal.

Mineral and coal within the region of Indonesia land shall wisely manageable lead to bring the economy and social welfare throughout basic needs of people. This also mean to bring secure life, law ought to protect every citizen in mining activity foremost post mining activities. In Samarinda, five children lose their live in abandoned pit area; show clearly how the protection of law run under expectation.

The purposes of this research are to understanding the Government of Samarinda City policies regarding the protection of the victim in coal mining and to comprehend the legal process of environmental law's enforcement. The selected method is empirical juridical, with the approach of statutory, concept and cases. The principality of environment law's protection in Samarinda is not well enforced due to the difference execution of *ultimum remedium* principal as mentioned in Law 32/2009.

SUMMARY

Activities of mining production with critical impacted are obligated to hold Environmental Impact Assessment/AMDAL. Refer to article 34 Law 32/2009, every production less than 100 ha wide is exclude form AMDAL but must have Environmental Management and Monitoring Plans (UKL-UPL) approval. AMDAL or UKL-UPL explains the reclamation as mandatory process after mining activity. These prove strong evidence during investigating the death of five children

Furthermore, there is a distraction of interpretation regarding the clause explanations which emphasize on administration and civil sanction, for the criminal sanction will be sentence as the final effort, counted as the material article for victim's protection in mining operation area. It is required three evaluations; substance law, human resource and infrastructures. It is also existed several resistances; human resources of law enforcer, executing regulation of Law 32/2009, lack sense of law and politicization inside mining.

The case also demand legal responsibility from Samarinda government because of weak supervision in post mining activities. Therefore, verification of the children's death addresses to Mining Permit holder and/or Government of Samarinda. The assessments of Law 32/2009 jurisdiction impose through the deviance of every obligation among two sides above.

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