

The Legal Liability of Dead Children Drowns in Coal Mine Pit on Human Rights Perspective

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Abstract. Children who live in Kalimantan, especially in Samarinda, East Kalimantan and Paser Regency, should be in an unsafe situation due to economic policies that based on extraction of coal mine since 2010 – 2011. From case 21 victims of children and 2 adult drowns in coal mine pit. However, the legal process of this case is unclear or far from the sense of justice for the victims and people. When the case was happening, the mining company approach to the victim's family for granting sum of money in return for a statement letter that it would not prosecute the drowning of children in the coal mine pit. Two cases were settled legally but those filed to the trial are field workers and residential rights. The legal liability has not reached the responsible person of the business. The case of children drowning in coal pit, under national and international human rights provisions/instruments is a violation of the child rights, especially the fundamental right of the child that is the right to life. The removal of a person's right to life is a crime against humanity. The rights of the child that being violated are (1) The Right to Life, (2) The Right to Live Safe, (3) The Right to Obtain the Legal Protection, (4) The Right to a Healthy Environment, (5) The Right to equal and Equitable Law. The fair and concrete steps must be taken by the state to provide the sense of justice and prevent further occurrence.

Keywords: Mining, Coal, Liability, Child, Human Rights

1 Introduction

Mining is a sector of business which is always considered to contribute to economic growth in a region. It is an assumption that drove many Governments that provide a variety of ease licensing for the mining business to be able to operate. Economic choices that rely on mining, often ignoring the fact that the resulting economic growth, unsustainable mining sector, and then result in environmental damage and result in bad for health and rob the community living space that constantly occur. The potential negative impact of mining caused the mining business characteristics taking the resources stored in the Earth, made by digging the soil to a depth of tens even hundreds of meters in the belly of the Earth, which causes a change in against the landscape, environment, and space of human living.

Mining permissions granted through regulation that is supposed to minimize damage to nature, the environment and people's lives due to mining. But the prerequisite set forth in the provisions of the law, in its implementation does not meet expected goals. As was the case in East Kalimantan province on the island of Kalimantan, Indonesia. There are 1,404 coal mining business license issued by the Central Government and the regions, with the mining area