

Legal Implications of Abuse of Authority in The Issuance of Nickel Mining Business Licenses in The Raja Ampat Islands

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Abstract: This article discusses the issuance of Nickel Mining Business Permits (IUPs) in the Raja Ampat Islands, which are known as a global biodiversity hotspot. However, the region has recently faced serious threats due to mining activities that are damaging the environment. The issuance of nickel IUPs on five small islands is suspected of violating various laws and regulations that protect the environment in coastal areas and on small islands, as well as spatial planning regulations. Based on the results of the analysis, it was found that the permits issued do not comply with spatial planning regulations, disregard environmental aspects, and contradict other applicable laws and regulations. The issuance of these IUPs constitutes an abuse of authority that involves unlawful acts. The legal implication of these unlawful acts stemming from the abuse of authority is that they are invalid. Furthermore, government officials involved in the issuance of the IUPs must be subject to both administrative and criminal sanctions. This article underscores the need for a comprehensive approach to law enforcement—encompassing both administrative and criminal measures—to ensure accountability and environmental protection in the Raja Ampat Islands.

Keywords: *Mining Business License, Abuse of Authority.*

Introduction

The Raja Ampat Islands in Southwest Papua are not just an ordinary archipelago. The Raja Ampat Islands are widely recognized as one of the world's marine biodiversity hotspots. A marine ecosystem rich in coral reefs, fish, and other marine life makes it a global biodiversity hotspot, while its pristine terrestrial ecosystem makes it a vital conservation area. As a result, it has become a world-class ecotourism destination and the backbone of the local economy, which relies heavily on the preservation of its natural environment.

Amid all this beauty, a serious issue has recently emerged regarding the discovery of mining activities on five small islands in the Raja Ampat archipelago. The five islands are Gag Island, Batang Pele Island, Manuran Island, Kawe Island, and Weigeo Island. Not only do these mining activities damage the natural environment of the Raja Ampat archipelago and violate the rights of

the surrounding indigenous communities, but the issuance of these nickel Mining Business Permits (IUPs) is also suspected of involving abuse of authority, as it violates laws and regulations that explicitly protect strategic areas such as Raja Ampat. This situation raises deep concerns about the sustainability of Raja Ampat and reflects practices that undermine the principles of good governance.

The issuance of mining permits in this ecologically highly vulnerable and strictly protected area is not merely a routine administrative violation; rather, the issuance of these IUPs constitutes a serious disregard for the constitutional mandate to protect the environment and citizens' rights to a healthy environment. Nickel mining activities in areas of high ecological value have the potential to cause serious environmental and social consequences. Research on nickel mining in Indonesia shows that the presence of nickel mining is associated with increased deforestation and a decline in the environmental well-being of communities in areas surrounding the mines. Lo et al. found that deforestation in villages with nickel mining activities in Sulawesi was nearly twice as high as in villages without mining, while the impact on environmental well-being continued to worsen during subsequent stages of production. Furthermore, this abuse of authority erodes public trust in government institutions and tarnishes Indonesia's image regarding its commitment to sustainable development and environmental protection.

The issuance of a nickel mining IUP in the Raja Ampat archipelago appears to have been highly forced, given that various laws and regulations do not permit the granting of mining business permits in that area—ranging from laws and regulations related to spatial planning, the management of coastal areas and small islands, environmental protection and management, mining, licensing, local government, and other laws and regulations—including even a Constitutional Court ruling. Therefore, it is necessary to examine the elements of an unlawful act (*onrechtmatig overheidsdaad/wederrechtelijk*) in the form of abuse of authority by government officials in the issuance of nickel mining permits in Raja Ampat. The objective of this study is to analyze and identify the elements of abuse of authority by the government in the issuance of nickel mining permits (IUP) in Raja Ampat, from both the perspectives of administrative law and criminal law.

Research Method

This study employs a normative legal research method, focusing on the analysis of positive legal norms, legal principles, and doctrines relevant to the issuance and revocation of Mining Business Permits (IUP) in Raja Ampat. The approaches used include the statutory approach to examine provisions in the 1945 Constitution, laws and regulations in the fields of mineral and coal mining, coastal zone management, environmental protection and management, government administration, and local regulations regarding the Regional Spatial Plan (RTRW). In addition, a conceptual approach was used to analyze the concept of abuse of authority (*détournement de pouvoir*), the principle of legality, the principle of specialty, and the principle of the rule of law (*rechtstaat*). A case-based approach was employed by examining Constitutional Court Decision No. 35/PUU-XXI/2023 as well as the practices of granting and revoking Mining Business Permits (IUPs) in Raja Ampat. A doctrinal approach was used to strengthen the analysis based on the doctrines of criminal law and administrative law.

The analysis of legal materials was conducted qualitatively using a juridical-normative analytical method. The analytical process consisted of several stages: identifying and cataloging relevant legal provisions; interpreting legal norms using grammatical, systematic, and conceptual approaches; and then relating those norms to relevant legal principles and doctrines. Furthermore, these legal provisions were interpreted to assess the consistency of the government's authority in granting or revoking IUPs with the principle of legality, the principle of specialty, the prohibition against abuse of authority, and the principle of the rule of law. The analysis also compares the applicable legal norms with the legal reasoning in Constitutional Court Decision No. 35/PUU-XXI/2023 and the practice of revoking IUPs in Raja Ampat. The results of the analysis are then presented in a descriptive-analytical manner to draw conclusions regarding the legal basis, the limits of authority, and the validity of the government's actions in granting and revoking IUPs in Raja Ampat.

Discussion and Analysis

1. Constitutional Basis

The management of natural resources is a constitutional mandate, as stipulated in Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which affirms that the earth, water, and the natural resources contained therein are controlled by the state and utilized for the greatest prosperity of the people. This provision provides the basis for the state to regulate and manage natural resources through governmental authority, the exercise of which must be based on the law. Thus, the issuance of an IUP as a form of governmental action must comply with the principle of legality and be directed toward realizing the public interest and environmental protection.

2. Analysis of the Legal Basis for Mining Business Permits

As a follow-up to the state's authority to regulate, determine, and administer the management of these natural resources, several interrelated sectoral laws and regulations were enacted. In the context of mining business permits, the issuance of such permits constitutes an exercise of the state's regulatory authority (*regelen*). With regard to the nickel mining business permit in Raja Ampat, it is necessary to examine several relevant laws and regulations.

Mining management is not only related to the utilization of mineral resources but also to the distribution and exercise of governmental authority. Kemalasari et al. (2025) point out that changes in mining law policy following the enactment of Law No. 3 of 2020 have raised issues regarding the harmonization of authority in mining management. These jurisdictional issues are particularly significant in the context of IUP issuance in the Raja Ampat Islands because the validity of a permit is determined not only by the formal existence of authority but must also align with the limits of that authority and the provisions of applicable laws and regulations.

1. Law No. 27 of 2007 on the Management of Coastal Areas and Small Islands

One of the laws that must be taken into account when designating mining areas in the Raja Ampat archipelago is Law No. 27 of 2007 on the Management of Coastal Areas and Small Islands. The term “small island” as defined in Article 1, point 3 of this law refers to an island with an area of 2,000 km² (two thousand square kilometers) or less, along with its ecosystem. Pursuant to Article 23(2), the use of these small islands is prioritized for conservation, education and training, research and development, marine aquaculture, tourism, sustainable fisheries and marine enterprises, organic agriculture, and/or livestock farming.

Meanwhile, the five islands designated as nickel mining areas in Raja Ampat fall into the category of small islands with an area of less than 2,000 km²; they are as follows:

No.	Island Name	Area (Hektar)	Area (km)
1	Pulau Gag	13.136 Hektar	131,26 Km ²
2	Pulau Batang Pele	2.193 Hektar	21,93 Km ²
3	Pulau Manuran	1.173 Hektar	11,73 Km ²
4	Pulau Kawe	5.922 Hektar	59,22 Km ²
5	Pulau Waigeo	3000 Hektar	30 Km ²

Based on the data above, it can be seen that all five islands designated as nickel mining areas have a total area of less than 2,000 km², thus falling into the category of small islands. Meanwhile, land-use priorities on small islands are not intended for mining activities but rather for sustainable development and the green economy. This is because mining has the potential to alter the landscape, change the function of the land, and cause long-term environmental damage. Thus, it can be concluded that the granting of mining permits in the Raja Ampat archipelago has violated the law.

2. Law No. 4 of 2009 on Mineral and Coal Mining, as last amended by Law No. 2 of 2025

This law stipulates that Mining Areas are part of the national spatial plan, which serves as the basis for the government’s designation of mining activities following a process of coordination with local governments and consultation with the People’s Representative Council. Thus, before a mining enterprise obtains a permit, it must be ensured that the area where mining activities will take place is included within a mining area that has been designated in accordance with the regional spatial plan. Therefore, to determine whether a mining activity falls within a Mining Area or not, it is necessary to refer to the Raja Ampat Regency Local Regulation on the Regional Spatial Plan.

3. Law No. 26 of 2009 on Spatial Planning

Whether an area is designated as part of a mining zone is regulated in the Regional Regulation on Spatial Planning for each province and regency/city, which is based on Law

No. 26 of 2009 on Spatial Planning. This is because national spatial planning is an integral system, so regulations at the regional level must align with national spatial planning policies. The consequences of land use that does not comply with the spatial plan are punishable by imprisonment. Similarly, government officials who grant permits for land use that does not comply with the spatial plan are also subject to imprisonment.

In implementing regional spatial planning, local governments must take into account the principles of integration, sustainability, democracy, legal certainty, and justice. This is important for preserving the environment. This is because spatial planning serves as an instrument for controlling and monitoring development and the environment to prevent pollution and environmental damage. Therefore, when designating a Mining Area within a region's spatial plan, it is necessary to take into account other laws and regulations related to land use and management, such as the Law on the Management of Coastal Areas and Small Islands and the Law on the Environment. In other words, spatial planning law can be considered environmental law in the broadest sense.

4. Law No. 32 of 2009 on Environmental Protection and Management

Article 19 of Law No. 32 of 2009 on Environmental Protection and Management explicitly states that, to preserve the functions of the environment and ensure public safety, all regional spatial planning must be based on a Strategic Environmental Assessment, taking into account the environment's carrying capacity and capacity to sustain life. This means that the Law on Environmental Protection and Management also underscores the importance of spatial planning as an integral part of efforts to achieve the objectives of environmental protection and management.

5. Government Regulation No. 5 of 2021 on the Implementation of Risk-Based Business Licensing

The licensing process under this law begins with the basic licensing process, which includes approval of compliance with Spatial Utilization Activities (PKKPR), Environmental Approval, and Building and Construction Approval. This is followed by the business licensing process, specifically the Mining Business License. Under the Job Creation Law, the mining licensing process is carried out with reference to the mining areas designated in the Regional Regulation on the Regional Spatial Plan. Based on the RTRW, the Mining Business Permit Area (WIUP) is designated, followed by an auction and the issuance of an exploration IUP by the Minister of Energy and Mineral Resources, followed by an Environmental Impact Analysis (Amdal), and finally the issuance of a Production Operation IUP. Thus, the permitting aspects in the mining sector are inextricably linked to spatial planning.

6. Raja Ampat Regency Local Regulation No. 3 of 2012 on the Raja Ampat Regency Spatial Plan for 2011–2030

Article 33(2) of the Raja Ampat Regency Spatial Plan Regulation stipulates that areas designated for mineral mining consist of:

- a. areas designated for nickel and cobalt mining on Waigeo Island and Gag Island;
- b. areas designated for copper mining on Misool Island, Waigeo Island, Batanta Island, and Salawati Island.
- c. areas designated for coal mining on Misool Island, Batanta Island, and Salawati Island.

Based on the above provisions, it can be seen that of the five islands (Gag Island, Batang Pele Island, Manuran Island, Kawe Island, and Waigeo Island) in the Raja Ampat archipelago, only two (2) islands have been designated as Mining Areas, namely Gag Island and Waigeo Island. The other three islands, however, are not included in the Mining Area. Thus, it can be concluded that the Mining Business Permits granted to the three mining companies conducting mining activities on Batang Pele Island, Manuran Island, and Kawe Island are invalid and are strongly suspected of having been issued through an abuse of authority (*detournement de pouvoir*).

From a regulatory standpoint, there are already guidelines and directives on how mining activities should be conducted. Furthermore, according to Law No. 27 of 2007 on the Management of Coastal Areas and Small Islands, Gag Island and Waigeo Island do not meet the requirements to be designated as a Mining Area, as their combined area does not reach 2,000 km². This means that from the very beginning, the designation of Gag Island and Waigeo Island as Mining Areas in the Raja Ampat Regency Spatial Planning Regulation (RTRW) has violated the law. There is a conflict between spatial planning regulations and higher-level laws and regulations. In fact, the prohibition on mining activities in coastal areas and on small islands was reaffirmed in Constitutional Court Decision No. 35/PUU-XXI/2023.

3. Abuse of Authority in the Issuance of Mining Business Permits

The issues surrounding the issuance of nickel mining business permits to PT Anugerah Surya Pratama, PT Mulia Raymond Perkasa, PT Kawei Sejahtera Mining, PT Nurham, and PT Gag Nikel stem from the fact that, from the outset, the regulations were inconsistent, and numerous legal provisions were violated—ranging from the Mineral and Coal Mining Law, the Coastal Zone and Small Islands Management Act, the Environmental Protection and Management Act, and the Raja Ampat Regency Regional Regulation on Spatial Planning.

Violations of the requirements and procedures for issuing Mining Business Permits as stipulated in these laws and regulations have deviated from the very purpose of the permitting system itself. The purpose of the licensing system is to guide and control certain activities in order to prevent hazards and damage to the environment. In addition, the licensing system is also intended to

protect certain objects and regulate the allocation, supply, and use of resources. Mining involves the management of non-renewable resources and has long-term damaging effects.

Given the discovery of violations of laws and regulations in the issuance of permits, it is clear that the government—in this case, the authorized officials—has used its authority for purposes other than those for which it was granted. Doctrinally, such actions are categorized as an abuse of authority (*detournement de pouvoir*). The criteria or parameters of the “purpose and intent” behind the grant of authority in determining whether an abuse of authority has occurred are not sufficient under the principle of legality alone; rather, the principle of specialty (*specialitets beginsel*)—also known as the principle of purpose—must be applied.

In the case of the Nickel Mining Business Permit in the Raja Ampat archipelago, there have been conflicts between different laws and regulations from the very beginning—for example, a discrepancy between the Raja Ampat Regency Spatial Planning Regulation and the Law on the Management of Coastal Areas and Small Islands. Similarly, the issuance of the permit failed to take into account the land-use functions outlined in the spatial plan. Consequently, the permit issued does not fall within the area designated as a Mining Zone. In this context, the principle of legality has lost its meaning. The principle of legality can no longer be used as a parameter to measure the occurrence of abuse of authority, because it does not account for the specific purpose of a particular authority in the issuance of Mining Business Permits. Therefore, in such situations, the principle of specialty serves as the benchmark.

This understanding aligns with the concept of “*detournement de pouvoir*” in administrative law, which identifies the purpose for which authority is granted as one of the key parameters for determining whether an abuse of authority has occurred. Baihaki explains that an assessment of the elements of abuse of authority must take into account the limits and purposes of the authority granted to government officials. Thus, a deviation from the purpose for which authority was granted can be assessed not only by the formal existence or absence of a legal basis for the authority but also by whether the exercise of that authority aligns with the underlying legal purpose.

Normatively, according to Law No. 30 of 2014 on Government Administration, abuse of authority encompasses three (3) aspects: exceeding one’s authority, mixing or blurring the boundaries of authority, and acting arbitrarily. Exceeding one’s authority takes three (3) forms: exceeding the term or duration of the authority or position; exceeding the geographical scope of the authority; and/or acting in violation of laws and regulations. Meanwhile, commingling of authority consists of two forms: taking actions outside the scope of the field or subject matter of the granted authority, and acting contrary to the purpose for which the authority was granted (the principle of specialty). As for acting arbitrarily (*daad van willekeur*), this consists of two forms: acting without a legal basis, and/or acting in violation of a court decision that has become final and binding.

Based on these forms of abuse, it can be concluded that the issuance of Nickel Mining Business Permits to PT Anugerah Surya Pratama, PT Mulia Raymond Perkasa, PT Kawei Sejahtera Mining, PT Nurham, and PT Gag Nikel in Raja Ampat Regency constitutes an abuse of authority

(*detournement de pouvoir*), consisting of: First, an act exceeding authority, as it contradicts applicable laws and regulations—specifically the Law on the Management of Coastal Areas and Small Islands—which prohibits other activities (including mining) in small island areas except for those explicitly authorized by the law. Second, the act of commingling authority, as it violates the principle of specialty—whereby the granting of authority in the field of licensing is intended to regulate community activities to prevent environmental hazards and damage—yet the opposite has occurred: the authority was used for purposes other than preserving the environment. Third, arbitrary action (*daad van willekeur/abus de droit*), which includes unfounded action (*niet geëgrond*), because the Nickel Mining Business Permit was granted in an area that is not designated as a Mining Area. Furthermore, this action contradicts a court ruling—specifically, Constitutional Court Decision No. 35/PUU-XXI/2023—which prohibits mining activities in island regions.

Administratively, the legal consequences of this abuse of authority render all Nickel Mining Business Permits previously granted to PT Anugerah Surya Pratama, PT Mulia Raymond Perkasa, PT Kawei Sejahtera Mining, PT Nurham, and PT Gag Nikel invalid. The decision to declare the permits invalid means that the effects of these invalid business permits are retroactive, effective from the moment the decision declaring them invalid was made; the permits are deemed to have never existed, thereby restoring the situation to the state it was in prior to their issuance. However, according to the Government Administration Law, a permit is deemed invalid once it has been reviewed by a court and has attained final and binding legal force (*inkracht van gewijsde*). Given the complexity of the judicial process, the simplest way to correct an error that has already occurred in the issuance of the permit is through its revocation. To revoke a permit that has already been issued, the process must be carried out via *contrarius actus*. This means that if the permit was granted in the form of a State Administrative Decision (KTUN) or an Administrative Decision, its revocation must also be issued via a KTUN.

To date, the government has revoked 4 (four) of the 5 (five) Mining Business Permits in the Raja Ampat archipelago. This means there is still 1 (one) mining operation in operation, namely PT Gag Nikel. However, the administrative actions the government must take should not stop here (the revocation of permits) alone; rather, the government must take concrete actions that fall under other administrative measures, namely conducting an in-depth legal audit in the areas of permitting and the environment, including: compliance with regional spatial planning, an audit of administrative documentation requirements, feasibility studies, and Environmental Impact Assessments (EIA), other relevant permits, other obligations such as taxes, fixed fees, royalties, guarantees for post-mining reclamation that meet standards, the obligation to report mining activities periodically, and so on.

Furthermore, if the current Regional Spatial Plan (RTRW) permits mining in Raja Ampat—which should not be the case given its conservation status—then the local government must revise the RTRW to exclude the area from the mining zone and strengthen conservation zoning. Another administrative measure needed to regulate these mines is to conduct an audit of state losses resulting from mining activities that have depleted Raja Ampat's natural resources. It seems that (material losses) may not be comparable to the immaterial losses resulting from environmental

impacts, social impacts, and so on. The revocation of permits by the government remains a half-hearted measure. The government must ensure the existence of a comprehensive environmental rehabilitation and restoration plan if damage has occurred, and require the mining companies in question to carry out land rehabilitation, such as post-mining reclamation and reforestation. If a company fails to comply with a government decision—for example, by continuing to operate a mine—the government may impose coercive measures (*bestuurdwang*) and fines (*dwangsom*). Meanwhile, all officials involved in such abuse of authority must be subject to severe administrative sanctions in the form of permanent dismissal from their positions without entitlement to financial benefits or other perks.

The government's revocation of four Mining Business Permits in Raja Ampat does not automatically resolve the ongoing social and environmental issues. The threat of environmental damage caused by nickel mining in Raja Ampat has not been completely eliminated by the revocation of these permits, and the damage that has already occurred will not be immediately reversed. There are concerns that the revocation of the permits is merely intended to quell public outcry and demands. This is because there has already been a precedent in Raja Ampat of revoked Mining Business Permits (IUPs) being reactivated. Therefore, it is understandable that the public doubts the government's sincerity in this matter. The government must commit to protecting the entire Raja Ampat archipelago and halting all plans for nickel mining as well as plans to build a smelter.

4. Implications of Abuse of Authority in Criminal Law

Mining companies that have benefited from mining operations based on Mining Business Permits (IUPs) that violate applicable laws and regulations—even though they formally hold such permits—are in fact highly vulnerable to criminal charges. This is because such Mining Business Permits (IUPs) are legally flawed—for example, if they were issued without meeting the established requirements, did not follow proper procedures, violate zoning regulations, or conflict with environmental regulations—they may be deemed invalid or null and void. This means that mining activities conducted under such IUPs carry a high risk of being classified as illegal mining. The parties involved in the issuance of such IUPs must be held criminally liable.

This situation is described by the Latin adage “*in cauda venenum*,” which literally means “there is poison in the tail.” In the case of the issuance of the nickel mining permit (IUP) in Raja Ampat, this adage illustrates that dangers or harmful consequences often emerge later on or at the end of a process that violates the law. At first, it seemed safe; both the officials who issued the permit and the mining company assumed that the issuance of the IUP gave the mining operations formal legal standing, allowing them to make massive investments, hire workers, and begin production operations.

The parties involved in issuing the IUP may not have anticipated that their actions to deceive the public would eventually come to light. When the legality of the IUP is questioned or found to contain legal defects, the consequences—ranging from the suspension of operations, hefty fines,

to prison sentences for company executives and officials who issued the IUP—are already waiting. This is what later becomes the “poison”—or the criminal problem—that surfaces down the road. In other words, the legally flawed IUP is a “poison” that brings ruin, even though it initially appears legitimate.

Criminal penalties await all parties involved in the issuance and use of problematic IUPs; these penalties apply not only to the corporations holding the IUP, but also applies to company executives and government officials who issued the IUP. In fact, the threat of criminal penalties applies not only to a single aspect of the offense—such as criminal violations of regional spatial planning regulations—but also to other acts related to the permit, such as environmental crimes, corruption, mining-related crimes, and so on.

In this article, the discussion of criminal liability focuses on government officials, as only government officials have the opportunity to commit abuse of authority. In acts of abuse of authority that involve unlawful conduct (*wederrechtelijk*), there are several criminal acts that violate various criminal provisions. In criminal law doctrine, this is referred to as a combination of criminal offenses (*meerdaadsche samenlop*) or, more commonly, by its Latin term, *concursum realis*. The penalty that may be imposed for *concursum realis* is determined based on the most severe penalty, increased by one-third.

Based on the discussion and analysis above, the issuance of the Nickel Mining Business Permit in the Raja Ampat Islands was carried out by government officials through an abuse of authority (*detournement de pouvoir*). Such an act of abuse of authority should fall within the scope of administrative law. However, when such an abuse of authority involves an unlawful act (*wederrechtelijk*), the administrative official who committed the abuse may face not only administrative sanctions but also criminal penalties. For example, in the mining sector, corruption can take the form of “state capture.” This occurs when political elites who are decision-makers manipulate mining policies to benefit themselves or others.

This can be seen in several provisions of the laws and regulations, including, among others:

Law No. 26 of 2007 on Spatial Planning.

Article 73, which reads:

- (1) Any authorized government official who issues a permit that does not comply with the spatial plan as referred to in Article 37, paragraph (7), shall be punished by imprisonment for a maximum of 5 (five) years and a fine of up to Rp500,000,000.00 (five hundred million rupiah).
- (2) In addition to the criminal penalties referred to in paragraph (1), the offender may be subject to an additional penalty in the form of dishonorable discharge from office.

1. Law No. 31 of 1999 on the Eradication of Corruption

Article 3, which reads:

Any person who, for the purpose of benefiting themselves, another person, or a corporation, abuses the authority, opportunity, or resources available to them by virtue of their office or position in a manner that may cause financial loss to the state or harm the national economy shall be punished by life imprisonment or imprisonment for a minimum of 1 (one) year and not more than 20 (twenty) years and/or a fine of not less than Rp. 50,000,000.00 (fifty million rupiah) and not more than Rp. 1,000,000,000.00 (one billion rupiah).

Law No. 4 of 2009 on Mineral and Coal Mining

Article 165, which reads:

Any person who issues an IUP, IPR, or IUPK in violation of this Act and abuses their authority shall be subject to criminal penalties of imprisonment for a maximum of 2 (two) years and a fine of up to Rp200,000,000.00 (two hundred million rupiah).

2. Law No. 32 of 2009 on Environmental Protection and Management

Article 111, which reads:

- (1) An environmental permit-issuing official who issues an environmental permit without an Environmental Impact Assessment (EIA) or an Environmental Management Plan and Environmental Monitoring Plan (UKL-UPL) as referred to in Article 37(1) shall be punished by imprisonment for a maximum of 3 (three) years and a fine of up to Rp3,000,000,000.00 (three billion rupiah).
- (2) Any official responsible for issuing business and/or activity permits who issues such permits without the environmental permit referred to in Article 40(1) shall be punished by imprisonment for a maximum of 3 (three) years and a fine of up to Rp3,000,000,000.00 (three billion rupiah).

Article 112, which reads:

Any authorized official who intentionally fails to monitor the compliance of the person in charge of a business and/or activity with the regulations and environmental permits as referred to in Articles 71 and 72, resulting in environmental pollution and/or damage that causes the loss of human life, shall be punished by imprisonment for a maximum of 1 (one) year or a fine of up to Rp500,000,000.00 (five hundred million rupiah).

Under these provisions, a government official who abuses their authority is highly vulnerable to being implicated in a criminal case. The defining element of abuse of authority in the context of administrative law and criminal law is the intent to commit an unlawful act (*wederrechtelijk*). In criminal law, such an unlawful act involves the element of criminal intent (*mens rea*), as evidenced by the commission of a criminal act (*actus reus*)—for example, bribery, gratuities, conflicts of interest, and so on. Therefore, if a government official commits an abuse of authority but does not do so with the intent to benefit themselves, another person, or a corporation, the sanction that

may be imposed is an administrative sanction. This was affirmed by the Supreme Court in its jurisprudence, which states that: “an act or action may generally lose its character as an unlawful act (*wederrechtelijk*) not only based on a specific provision of law, but also based on principles of justice or unwritten and general legal principles, such as when the state suffers no harm, the public interest is served, and the defendant himself derives no benefit.”

Conclusion

The abuse of authority in the issuance of nickel mining permits (IUPs) in the Raja Ampat Islands took the form of actions that exceeded authority, blurred the lines of authority, and were arbitrary. These acts of abuse of authority, which constitute unlawful conduct, are not merely administrative violations but also carry criminal implications. Therefore, addressing cases of abuse of authority in the issuance of nickel mining permits (IUPs) in Raja Ampat requires a comprehensive approach—not only through administrative legal measures but also through the enforcement of criminal law—to ensure full accountability and sustainable environmental restoration. The government’s commitment to fully protecting Raja Ampat and halting all nickel mining plans is crucial for preserving the environment and maintaining public trust.

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