

Mining Companies' Responsibilities to the Environment and Affected Communities by Nickel Downstreaming: A Maslahah Perspective

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Abstract

Nickel downstreaming is part of the national development policy that is expected to have a significant positive impact on the country's economy. However, negative impacts such as environmental damage and the unfulfilled rights of communities around mining areas are crucial due to mining activities, so that the company's legal responsibility for these impacts needs to be studied more deeply. This study aims to examine the impact of nickel downstream mining on the environment and society and the company's legal responsibility viewed from a maslahah perspective. As a normative legal research, the approach used is a legislative and conceptual approach, data collection is carried out through document studies which are then processed and analyzed qualitatively. The results of the study indicate that the impact of nickel downstreaming on the environment causes a reduction in biodiversity, decreased soil fertility and air quality, and the occurrence of river and sea water pollution around the mining site. This also certainly has an impact on the community, both in terms of health, one of which is ISPA, from a socio-economic perspective such as loss of livelihood, as well as from the perspective of customs and culture that distorts traditional rules and norms. Based on the legislation, the company can be held accountable criminally, civilly, and even administratively. This aligns with the principle of maslahah, which requires companies to be responsible. Therefore, companies must provide compensation to the community and improve the environment.

INTRODUCTION

The nickel downstreaming policy has added value to the country's economy, driven by increasing nickel product exports to the global market. This policy has stimulated the growth of Indonesia's nickel mining industry. Indonesia is one of the world's largest nickel producers. In 2022, Indonesia was recorded as having 21% of the total global nickel reserves and supplied more than 48% of the global demand for nickel ore. Indonesia's abundant natural resources have made several regions designated as nickel mining centers, namely Southeast Sulawesi, South Sulawesi, North Maluku, Papua, West Papua, and Central Sulawesi. The implementation of the downstreaming policy for nickel commodities itself refers to Law Number 4 of 2009 concerning Minerals and Coal, which has been amended by Law Number 3 of 2020. Article 103 means that IUP/IUPK holders are obliged to carry out the management process from raw materials into processed products before being marketed abroad in order to increase the added value of exports for the country (Ibn Khaldun, 2024).

Mining activities have a significant positive impact on national economic development and increased regional revenue (PAD). Furthermore, the presence of mining companies in an area can provide significant employment opportunities for communities surrounding the mine. However,

behind these positive impacts lie social and environmental issues that can negatively impact the environment and communities surrounding the mining area (Irfan et al., 2021).

Communities around mining areas have lost their livelihoods, most of whom are farmers and fishermen, due to mining activities. Agricultural land has been converted to mining, and seawater and river pollution have also contributed to the changes in livelihoods for some communities around mining areas. Furthermore, the environmental impacts are closely related to the direct impacts felt by communities in mining areas. These include environmental pollution of water, air, and soil, resulting in health impacts, decreased water quality, decreased air and soil quality, and socio-economic changes in communities affected by nickel downstreaming (Henry Nadiansyah Agustin & Neni Ruhaeni, 2024).

Article 28 H paragraph 1 of the 1945 Constitution of the Republic of Indonesia regulates and guarantees the rights of every person in the territory of Indonesia to live a prosperous life and to have a good and healthy living environment (1945 Constitution of the Republic of Indonesia, 1945). However, mining companies have not yet optimally managed the social and environmental management of affected communities. This is in accordance with Articles 2 and 3 of Government Regulation of the Republic of Indonesia Number 47 of 2012 concerning the social and environmental responsibility of limited liability companies, which emphasizes that every limited liability company has social and environmental responsibilities, especially for those operating in relation to natural resources, and these obligations can be carried out outside the company's environment (President of the Republic of Indonesia, 2012).

Imam al-Ghazali believes that a benefit needs to be in harmony with sharia goals, even though it sometimes conflicts with human goals, because human benefit is not always based on sharia's will, but often follows personal desires. Therefore, according to Imam al-Ghazali, the reference in determining benefits is the will and goals of the *Sharia'*, not the will and goals of humans. If someone carries out an action with the aim of protecting the five aspects of sharia goals, then this is called *maslahah*. Apart from that, efforts to reject all forms of harm related to the five aspects of sharia goals are also called *maslahah* (Hidayatullah, 2018). Maintaining religion (*ad-din*), maintaining the soul (*an-nafsi*), maintaining reason (*al-aql*), maintaining descendants (*an-nasl*), and maintaining property (*al-mal*) are the five main points in *maslahah*, which are also known as *maqashid as-syari'ah*. The responsibility of nickel downstream mining companies towards the environment and affected communities can be examined through a *maslahah* perspective that prioritizes maintenance in five aspects, namely *maslahah dharuriyah*. *Maslahah dharuriyah* is used because the impacts caused by nickel downstreaming concern the main aspects of human life which if ignored can cause the neglect of *maslahah* in the form of environmental damage and threaten the survival of human life.

Several previous studies have highlighted similar issues to this study. The first article, entitled "*Civil Law Enforcement Against Environmental Pollution Due to Mining Activities*" by Henry Nadiansyah Agustin et al. (2024), discusses the need for law enforcement against mining companies to provide environmental protection. Then, a study by Lian Julviani Wangu (2024) entitled "*Company Legal Responsibility for Environmental Damage Caused by Mining Activities in the Tontowea Village Area, North Morowali Regency*" discusses the form of liability of mining companies in the form of environmental protection for damaged areas. In a study by Francis Maryanne Pattynama (2024) entitled "*Mining Company Legal Responsibility in Post-Mining Reclamation in Indonesia*", which discusses the consequences of negligence in post-mining reclamation by companies causing

negative impacts on the environment and society, so that corporate responsibility for reclamation is important to ensure environmental sustainability and the welfare of communities around the mine.

Several previous studies have shown a gap in the legal concepts used, as none have yet employed a *maslahah* perspective. Previous studies have primarily used positive law as a supporting variable. This study, however, employs a *maslahah* perspective to emphasize the environment and public welfare, while also linking it to national regulations. Furthermore, previous studies focused solely on environmental aspects, while this study addresses both aspects: the environment and the communities affected by nickel downstreaming.

Thus, the complexity of environmental problems and the resulting social conflicts make it important for this study to examine the extent to which nickel downstream mining companies are responsible for the environment and society. Various issues related to the resulting impacts indicate that mining practices are not yet optimal in terms of sustainability principles. The *maslahah* perspective is used to examine responsibilities that are not only oriented towards economic profit alone, but also include protecting the public interest (*maslahah al-ammah*), by ensuring benefits and avoiding harm (*mafsadah*) that arise. Therefore, the relevant problem formulation to be studied is what impact nickel downstream mining activities have on the environment and affected communities and how mining companies are responsible for the environment and affected communities from the *maslahah* perspective.

METHODS

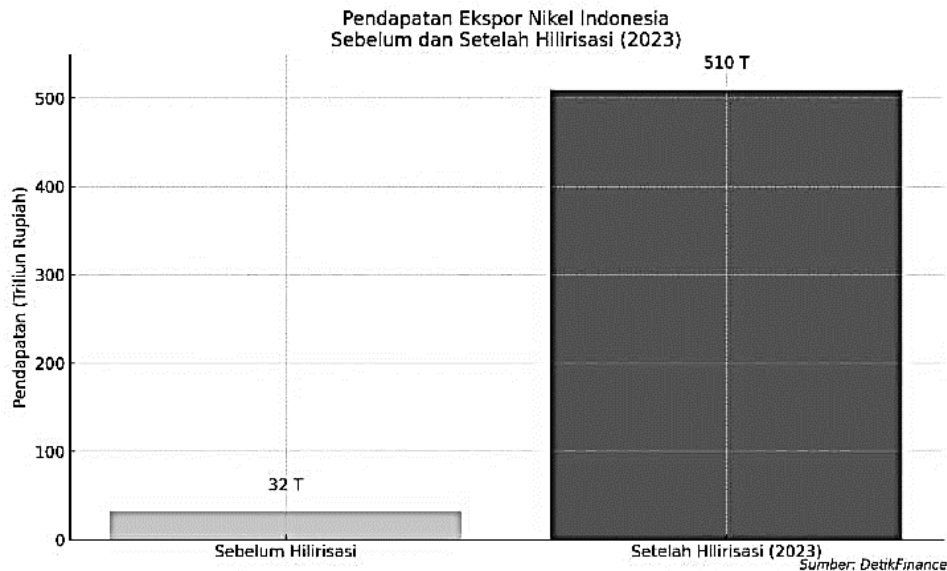
The type of research used is normative law (doctrinal research), with a statute approach and a conceptual approach. The statute approach is used to identify national regulations that align with the research topic. The conceptual approach is used because it is analyzed through the concepts of corporate accountability and responsibility in the context of *maslahah*. The data sources used were secondary data, consisting of primary and secondary legal materials. Primary legal materials were obtained through legislation, while secondary legal materials were obtained through legal books and various studies relevant to the research topic. Data collection techniques were then conducted through document studies and processed qualitatively.

RESULTS AND DISCUSSION

A. Nickel Downstream Policy

The nickel downstreaming policy is an effort undertaken by the Indonesian government to increase the added value of mineral commodities, particularly nickel. Downstreaming is the process of processing products from raw materials into products with higher value and ready to be marketed to end consumers. Law No. 3 of 2020 concerning Amendments to Law No. 4 of 2009 concerning Mineral and Coal Mining is the regulation that regulates the nickel downstreaming policy. This law strictly prohibits the export of raw nickel ore and requires mining companies to refine it domestically. The main objective of this policy is to build a strong downstream industry, improve the country's economy, create new jobs, and increase Indonesia's role in the global electric vehicle supply chain.

Government Indonesia is working to establish smelters and tighten the ban on raw nickel exports as a step to prevent its continued role as a supplier of raw nickel to foreign consumers. Furthermore, downstreaming is expected to create jobs, contributing to economic recovery and improving the quality of life for the community. This will also have an impact on attracting investors to invest in Indonesia. The downstreaming program will certainly accelerate investment growth in Indonesia. Continuously increasing investment value will facilitate national development (Purwanto, 2024).



Picture 1. Increased nickel downstream revenue. Source: <https://finance.detik.com>

Before implementation of nickel downstreaming, revenue from nickel exports in Indonesia was only around Rp. 32 trillion (US\$ 2.1 billion). However, after the implementation of the nickel downstreaming policy and the development of the domestic processing industry, export revenues reached Rp. 510 trillion (US\$ 33.8 billion) in 2023. If calculated, there was an increase in revenue of: $510 \text{ T} - 32 \text{ T} = \text{Rp. } 478 \text{ T}$. Thus, nickel export revenues in Indonesia increased by a difference of 478 T after downstreaming was implemented on nickel commodities, which shows a drastic increase and reflects the effectiveness of the nickel downstreaming policy in increasing added value and foreign exchange for the country.

<i>Nickel Mining Area</i>	<i>Mining Area</i>
<i>Southeast Sulawesi</i>	±198,624.66 ha
<i>South Sulawesi</i>	±198,624.66 ha
<i>Central Sulawesi</i>	±115,397.37 ha
<i>North Maluku</i>	±156,197.04 ha
<i>Maluku</i>	±4,389 ha
<i>Papua</i>	±16,470 ha
<i>West Papua</i>	±22,636 ha

Table 1. The Largest and Most Extensive Nickel-Producing Region in Indonesia.

Source: <https://www.inilah.com>

JATAM data shows that 44 percent of Indonesia's land area has been granted mining permits, with a total of approximately 8,588 permits covering an area of 93.36 million hectares. According to information from the Ministry of Energy and Mineral Resources (ESDM), Indonesia has nickel reserves of 72 million tons. This figure is equivalent to 52 percent of the world's total nickel reserves of 139 million tons. These statistics place Indonesia as a major producer in the global nickel industry and serve as a vital driver of the national economy (Bidul & Widowaty, 2024).

Nickel mining companies that implement downstreaming policies have a series of legal obligations that are clearly regulated in several regulations, namely: (Pattynama, 2024)

1. Companies are required to implement environmental protection and management through the preparation of an Environmental Impact Analysis (AMDAL) or UKL-UPL document before commencing operations and conducting environmental feasibility tests based on the AMDAL document. This is regulated in Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH), specifically Articles 22 to 24.
2. Every company holding a Mining Business Permit (IUP) is required to prepare and implement a reclamation and post-mining plan. This is emphasized in Law Number 3 of 2020, amending Law Number 4 of 2009 concerning Mineral and Coal Mining, specifically Article 96 (c), which mandates post-mining reclamation as part of operational responsibilities.
3. Mining companies are also required to provide reclamation and post-mining guarantee funds before starting production activities, as regulated in Law Number 2 of 2025 concerning the fourth amendment to Law Number 4 of 2009 concerning Mineral and Coal Mining (Minerba Law), specifically Article 100. This regulation was later strengthened by Government Regulation Number 78 of 2010 concerning Reclamation and Post-Mining (President of the Republic of Indonesia, 2025).
4. Companies must report periodically on the implementation of environmental management in the form of environmental audits to evaluate a company's environmental performance in identifying potential environmental impacts, as regulated in the Environmental Management Law in Article 48.
5. Companies are responsible for ensuring that smelter operations do not cause water, air, or soil pollution. This is in accordance with Article 60 of the Environmental Management and Management Law, which stipulates that individuals are prohibited from dumping waste and/or materials into the environment without a permit.
6. Companies must involve the community in environmental decision-making processes, including the preparation of environmental impact assessments (AMDAL). This is emphasized in Article 26 of the Environmental Management Law, which states that the preparation of AMDAL documents involves the community, including those affected by the impacts, environmental observers, and/or those affected by all decisions made in the AMDAL process (President of the Republic of Indonesia, 2009).

B. Impact of Nickel Downstreaming on the Environment and Society

Downstream providing a profitable contribution, especially to the country's economy. However, the positive side of the nickel downstreaming program is that it has a greater impact on the economy than on the environment or society, as the consequences are significant and on going. This impacts human rights and environmental damage. JATAM's final report in 2020 recorded 45 mining-related conflicts, 22 of which involved pollution and ecosystem damage around mining

sites (Bidul & Widowaty, 2024). The following are the impacts of downstream nickel mining on the environment and society: (Si Yusuf Al Hafiz & Nurul Izzah, 2025)

1. Impact on the Environment

a. Soil fertility levels are decreasing

Potential Pollution can occur during the transfer, transportation, storage, and processing processes. Environmental elements at risk include soil and groundwater. Heavy metals can contaminate the soil around the tailings storage area. Rainfall and stormwater runoff can carry hazardous chemicals from the storage site to the ground surface. This type of soil contamination can impact soil fertility and its ability to support plant growth (Saputra et al., 2023).

b. Biodiversity index

Biodiversity is increasingly threatened by massive land clearing, which is causing environmental degradation. Indiscriminate logging is causing the loss of flora and fauna that should be preserved. According to data from Forest Watch Indonesia, over the past 10 years, more than 23,763 hectares of land in Central and East Halmahera have been deforested, largely due to the expansion and exploitation of nickel mining. Changes in aquatic and terrestrial ecosystems can also damage the natural habitats of plants and animals. This situation could lead to the extinction of endemic Indonesian wildlife, which should be protected and properly cared for.

c. River and sea water pollution

Pollution of rivers and seawater causes changes in water quality, which is one of the issues facing communities surrounding mining areas. This includes changes in river water color due to erosion of soil from former land clearings. Furthermore, the discharge of tailings waste into rivers and seas leads to the release of hazardous chemical compounds, such as heavy metals, polluting rivers and seas with hazardous and toxic materials and damaging aquatic ecosystems around nickel mining areas.

d. Deteriorating air quality

Excessive deforestation, indiscriminate waste disposal, and high dust concentrations have all led to changes in air quality around mining areas, as has occurred in the PT. IWIP area. Increased traffic volumes in the affected villages have contributed to high dust concentrations. This is particularly evident on the district road passing through Lelilef Sawai and Lelilef Woebulen villages, located directly west of the industrial area. Furthermore, measurements also indicate that the presence of the coal-fired power plant (PLTU) in the PT. IWIP area has resulted in high levels of dust particles in the surrounding area, exceeding the IRMA (Initiative for Responsible Mining Assurance) criteria.

For example, environmental impacts have occurred in the PT. IWIP area. The quality of the soil, river water, and seawater has changed. Some rivers have even been buried and no longer flow to the sea. The Wosea River, which has shrunk due to dumping activities on both sides, has detected hexavalent chromium compounds. Concentrations exceed the standards set by IRMA criteria. Not only does hexavalent chromium cause coral reef death, but ocean concentrations can accumulate in fish, which are then consumed by humans. If concentrations increase, this compound can change body morphology, damage the digestive system, and/or even trigger cancer. Global Forest Watch noted that, from 2001 to 2023, Central Halmahera lost 27.9 kilo hectares (kha) of tree cover, equivalent to a 13% decrease. Damage to watersheds has resulted in seven flash floods since 2020. Large-scale deforestation has led to flooding and the threat of landslides. From August 2020 to June 17, 2024, floods of at least one meter in depth occurred more than 12

times. As a result, community water sources were contaminated, homes and agricultural land were submerged in mud, ultimately polluting coastal areas and marine waters. Forests are crucial for Central Halmahera in preventing flooding and landslides. The high rate of deforestation due to mining activities makes Central Halmahera highly vulnerable to flooding, landslides, and other disasters (JATAM, 2024).

2. Impact on Society

The following are the impacts experienced by the community due to nickel downstream mining activities, namely:

a. From a health perspective

Communities affected by nickel downstreaming do not have the right to a good and healthy living environment, which impacts the quality of public health. The high levels of dust experienced by local residents can lead to respiratory infections. Polluted air can affect lung function. Pollutants contribute to various respiratory illnesses such as flu, bronchitis, pneumonia, and chronic conditions like asthma. According to the WHO, respiratory infections are diseases that affect the upper or lower respiratory system. They are contagious and can cause mild symptoms or even fatal illnesses, depending on the environment. Respiratory infections can be one of the health problems caused by mining dust and show a relatively high prevalence (Bidul & Widowaty, 2024).

In addition, metal Nickel (Ni) has negative health effects. At high or prolonged levels, nickel can be toxic and carcinogenic, meaning that excessive exposure can cause poisoning and increase the risk of cancer. One common effect is contact dermatitis, which manifests as rashes and skin irritation. The body requires small amounts of nickel, but excessive exposure can pose serious health risks. These include immune system disorders, neurological problems, reproductive disorders, developmental delays, carcinogenic risks, and even death. Organic mercury can cross the placenta and harm the fetus in pregnant women, leading to birth defects, DNA and chromosome damage, impaired blood circulation to the brain, and brain damage. Mercury poisoning can damage organs such as the kidneys and liver. Although levels of this heavy metal in rivers do not exceed regulatory standards, it can still pose a risk due to its accumulation in the body.

Cases of health impacts on the community occurred in PT. IWIP. Population growth, reduced vegetation cover, and increased traffic in villages have all contributed to air quality. The increase in acute respiratory infections (ISPA) has been attributed to the worsening air quality. According to the Lelilef Community Health Center, there has been an increase in ISPA cases since PT. IWIP began operating. Previously, the number of cases recorded was around 300 per year. Currently, the number has reached 800 to 1,000 cases per year. Furthermore, the AEER team recorded a spike of up to 500 cases of diarrhea annually due to poor sanitation around the mining area (Saputra et al., 2023).

b. From a socio-economic perspective

The socio-economic changes experienced by affected communities are due to the shrinking of living space, such as the loss of livelihoods. This is not only experienced by farmers who lose their plantations through land acquisition, but also by fishermen. For example, this is what happened at PT. Indonesia Weda Bay Industrial Park (IWIP). Local farmers were forced to sell their agricultural land and switch to other professions. In addition to reducing agricultural areas, the company also carried out reclamation and cleared mangrove forests, forcing fishermen to venture further out to sea. Furthermore, local residents around PT. IWIP reported that the land

the company purchased from them was not valued fairly at only around IDR 2,500 per meter, representing unfair compensation for the local community. This has led to economic dependence on the mining company. In March 2022, the North Maluku Statistics Agency (BPS) reported that there were 79,870 individuals living in poverty, and that number jumped to 83,800 in March 2023 (Narasi Newsroom, 2024). In its implementation, this downstreaming program has also triggered increased violence, intimidation, and even criminalization against communities struggling to maintain their homes. A concrete example can be seen on Obi Island, South Halmahera, where Harita Group's industrial operations are located. A resident was jailed on charges of obstructing mining activities (JATAM, 2023).

Another example of economic impacts occurred at PT. Indonesia Morowali Industrial Park (IMIP) in Morowali, Central Sulawesi. One of the main problems is the lack of empowerment of the local community. In practice, the majority of the company's workforce is recruited from outside the region, even abroad, while local communities struggle to access employment due to limited education and technical training. Since IMIP's operation, local fishermen have been unable to effectively fish. This also applies to waste discharge through drainage channels, which has exceeded seawater quality standards. Downstream of the river that serves as a waste disposal channel, the coastal area is still open to fishing. However, conditions have worsened, with fish unable to reproduce upstream because water temperatures have soared to 39°C. As a result, fishermen's catches in Fatufia have significantly decreased, which has also affected fish collectors (Lampe, 2021).

c. From a Customary and Cultural Perspective

Nickel mining expansion, particularly downstream industries, often encroaches on customary territories without formal recognition. For example, in Halmahera (North Maluku), indigenous communities such as the Tobelo Dalam and O'Hongana Manyawa were evicted from their customary lands, which were then deemed "no man's land" by corporations and the state. As a result, they lost their homes, traditional livelihoods such as farming, hunting, and fishing, as well as ritual and symbolic spaces inherent in their culture. Customary forests and ritual spaces used for traditional medicine, ceremonies, and socio-cultural activities were damaged by massive deforestation to make way for downstream facilities. Many local species became extinct or diminished, eliminating knowledge and cultural values passed down through generations. Loss of access to clean water also disrupted rituals based on sacred water sources.

Some residents are pressured into mining work as compensation, while those who maintain traditional ways of life are sometimes discriminated against, punished, or intimidated for resisting mining. This undermines communal solidarity, erodes trust among residents, and distorts customary rules and norms. Indigenous communities that once lived in harmony with nature and relied on local economic systems such as agriculture, hunting, fishing, and traditional festivals have experienced changes in their social structure. Experience working in smelters does not necessarily lead to prosperity for indigenous communities, and they often lose out in the complex system, leading to the erosion of values such as togetherness, mutual cooperation, and a sense of cultural sovereignty (Sawal, 2023).

C. Legal Responsibilities of Nickel Downstream Mining Companies to the Environment and Affected Communities

Article 74 of Law Number 40 of 2007 concerning Limited Liability Companies states that every company operating in the natural resources sector is required to implement social and

environmental responsibility programs. A company operating in the natural resources sector is a company whose business activities involve managing and utilizing natural resources (President of the Republic of Indonesia, 2007). In addition, Article 3 of Government Regulation Number 47 of 2012 concerning Social and Environmental Responsibility of Limited Liability Companies also emphasizes similar matters regarding the obligations of limited liability companies in carrying out social and environmental responsibilities whose business activities relate to natural resources, this is because Article 2 states that the company as a legal subject has social and environmental responsibilities (President of the Republic of Indonesia, 2012).

Corporate responsibility in enforcing the law for actions carried out by corporations can be analyzed through three aspects of responsibility, namely:

1. Corporate Criminal Liability

According to Barda Nawawi Arief, for there to be criminal responsibility, it must first be clear who can be held responsible, meaning it must first be ascertained who is considered the perpetrator in a particular criminal act. A company director cannot escape criminal responsibility if the company he leads pollutes and/or damages the environment. This is a consequence of the provisions of Article 97 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies, which states that the Board of Directors is fully responsible for the management of the company. In carrying out their duties and obligations, the board of directors must manage the company for the benefit of the company and in accordance with the company's aims and objectives, and must do so in good faith and with full responsibility (Mardiya, 2018).

Article 69 of Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation regulates criminal provisions for any person who does not comply with the established spatial planning as referred to in Article 61 letter (a) and then the act results in a change in the function of space, the perpetrator can be subject to criminal penalties in the form of imprisonment for a maximum of three years and a maximum fine of one billion rupiah. If the crime results in loss of property or causes damage to goods, the criminal sanctions increase to a maximum imprisonment of four years and a maximum fine of two billion five hundred million rupiah. If the result of the violation results in the death of a person, the perpetrator can be subject to a maximum imprisonment of fifteen years and a maximum fine of eight billion rupiah. These criminal provisions are also closely related to the risk assessment mechanism which is determined based on the level of danger and the potential for danger to occur in the implementation of business or activities as referred to in Article 7. The assessment of the level of danger covers four main aspects, namely health, safety, environment, and utilization and management of resources. Apart from criminal fines, according to Article 74 paragraph 2, corporations can be given additional penalties consisting of revocation of business permits and/or revocation of legal entity status (President of the Republic of Indonesia, 2023).

Corporate criminal liability is also included in Law Number 1 of 2023 (the "new" Criminal Code), where corporations are explicitly recognized as subjects of criminal law. Criminal acts committed by corporations can arise from the actions of managers holding strategic positions within the organizational structure, as well as other parties working for and on behalf of the corporation, including those acting in the corporation's interests. Criminal liability is not limited to internal factors; it can also apply to external parties who have de facto power over the direction of company policies and decisions, such as beneficial owners, control holders, or those giving orders

from outside the organizational structure. Thus, the scope of perpetrators within the framework of corporate liability is significantly expanded.

Article 48 of the "new" Criminal Code explains that several conditions must be met for a corporation to be held accountable for its actions. These include:

- a. Criminal acts are committed in corporate business activities as stated in the articles of association;
- b. Such acts provide benefits to the corporation in violation of the law;
- c. Accepted or approved as corporate policy;
- d. The corporation did not take appropriate preventive or mitigating measures;
- e. Corporations passively allow criminal acts to occur.

If fulfilled, then criminal responsibility is not only given to the corporation as a legal entity, but also to the managers, beneficial owners, order givers and control holders (President of the Republic of Indonesia, 2023).

Regarding the types of sanctions, Article 118 of the "new" Criminal Code divides criminal sanctions against corporations into two categories: principal penalties and additional penalties. The following are the main and additional penalties:

- a. Principal Criminal Penalty or Fine (Article 121)
 - 1) Minimum category IV is subject to at least a corporate fine.
 - 2) In cases where a criminal offense is punishable by imprisonment of less than 7 years, the maximum fine for a corporation is category VI.
 - 3) In the case of criminal acts, the maximum prison term is 7-15 years, with a maximum fine of category VII.
 - 4) Maximum category VIII for the death penalty, life imprisonment, or a maximum of 20 years
- b. Additional Criminal Penalties (Article 120)
 - 1) Compensation
 - 2) Repair of losses resulting from criminal acts
 - 3) Neglected fulfillment of obligations
 - 4) Customary obligations
 - 5) Job training financing
 - 6) Confiscation of goods or profits
 - 7) Announcement of court decision
 - 8) Revocation of certain business permits (max. 2 years)
 - 9) Permanent prohibition on certain acts
 - 10) Closure of business premises (max. 2 years)
 - 11) Business suspension (max. 2 years)
 - 12) Dissolution of corporation

If a corporation fails to comply with additional penalties, such as paying compensation or fulfilling other obligations, prosecutors can seize and auction the corporation's assets or income. If assets are insufficient to cover the fine, an alternative sanction, such as a business freeze, can be imposed.

Article 103 of the PPLH Law states that "Any person who produces B3 waste and does not manage it as referred to in Article 59 shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least IDR 1,000,000,000.00 (one billion rupiah) and a maximum of IDR 3,000,000,000.00 (three billion rupiah)".

2. Corporate Civil Liability

According to Article 1365 of the Civil Code, it is stated that "Any action that is against the law and causes loss to another party, requires the individual who caused the loss due to his mistake to compensate for the loss that occurred." Based on the provisions in this article, mistakes that arise from unlawful actions give rise to an obligation to provide compensation for the consequences of the action, the compensation arises because of the mistake, not because of the agreement (Civil Code, nd).

Civil liability can be chosen from two perspectives: before the loss occurs and after the loss occurs. From the perspective of before the loss occurs, liability serves a preventive function. The possibility that someone will be held responsible, either based on an unlawful act (PMH) or strict liability, will encourage that person to act cautiously. Conversely, if someone will not be responsible for the results of their actions (theoretically called no liability), then they will lose the incentive to act cautiously. In this no liability condition, the victim is the only party who must act cautiously. In essence, civil liability will provide a legal basis that requires polluters, in the sense of those who cause pollution/damage that impacts the environment and surrounding people, to pay for the damage.

The primary principle used in enforcing civil liability is the polluter pays principle, which is expressly stipulated in Article 87 of the Environmental Management and Management Law. This provision requires any perpetrator of environmental pollution or damage to provide compensation and undertake remedial measures for the environmental losses incurred. Judges can not only impose financial compensation, but also issue specific legal orders for perpetrators to restore the damaged environment. The types of legal action that judges can impose on perpetrators include:

- a. Install or repair waste processing systems, so that the waste produced complies with established environmental quality standards;
- b. Making efforts to restore environmental functions to the condition they were in before pollution or damage occurred;
- c. Eliminating or destroying sources of pollution to prevent further pollution or environmental damage.

Meanwhile, Article 88 of the Environmental Management and Management Law introduces the concept of strict liability. Under this provision, perpetrators of environmental pollution or destruction do not need to be proven legally guilty to be held accountable. This means that fault is not a primary requirement, and it is sufficient to prove that the act caused harm to the environment or another party. This makes Article 88 a *lex specialis* in civil cases related to unlawful acts in the environmental sector (Hibatullah et al., 2023).

Then the obligation to restore the environment is the responsibility of every individual involved in environmental pollution and/or damage activities in accordance with Article 54 paragraph (1) of the Environmental Management Law. This restoration process is carried out through several steps, namely:

- a. Stop the source of pollution and clean up polluting elements
- b. Remediation, namely efforts to improve environmental quality or handling contaminated land
- c. Rehabilitation, which seeks to restore environmental values, functions and benefits, including efforts to prevent land damage, provide protection and repair ecosystems.
- d. Restoration or return of ecosystem to its original state
- e. Another method that is in line with advances in science and technology.

Restoration generally includes reclamation and revegetation activities. Reclamation is a step taken during the mining process to tidy up, restore, and improve the quality of the environment with the aim of returning it to its normal function. Revegetation is the process of bringing back trees, shrubs, and other plants. Revegetation is particularly useful for restoring post-mining areas that have experienced deforestation (Salsabila et al., 2024).

3. Corporate Administrative Responsibilities

The administrative responsibilities of corporations in the context of environmental protection and management are expressly regulated in Articles 76 to 81 of the Environmental Management Law. Administrative sanctions are imposed by the Minister, Governor, or Regent/Mayor on those responsible for businesses and/or activities if violations of environmental permits as referred to in Article 76 paragraph (1) are found during the supervision process. These administrative sanctions consist of: (Anggrainy & Safitri, 2023)

- a. Written warning,
- b. Government coercion,
- c. Freezing of environmental permits, and
- d. Revocation of environmental permit (Article 76 paragraph 2).

This provision is reaffirmed in Article 77, which authorizes the Minister to take over the imposition of sanctions if the regional government intentionally fails to act on serious violations. Furthermore, Article 78 emphasizes that the imposition of administrative sanctions does not eliminate the responsibility for restitution and/or criminal liability inherent in business actors.

Article 79 stipulates that the freezing or revocation of environmental permits as referred to in Article 76 paragraph (2) letters c and d will be imposed if the business actor does not comply with government coercion. The forms of government coercion are described in Article 80 paragraph (1) which consist of:

- a. Temporary suspension of production activities,
- b. Transfer of production facilities,
- c. Closing of wastewater or emission channels,
- d. Demolition,
- e. Confiscation of goods or equipment that have the potential to cause violations,
- f. Temporary suspension of all activities, and
- g. Other actions to stop violations and restore environmental functions.

In addition, Article 80 paragraph (2) states that government coercion can be imposed without prior warning in urgent circumstances, namely if the violation results in:

- a. A serious threat to humans and the environment,
- b. The impact will be bigger and wider if it is not stopped immediately, and/or
- c. There will be huge losses for the environment if pollution/destruction is not stopped immediately.

Article 81 explains that any business actor who does not comply with government coercion can be fined for late implementation of sanctions.

Regulation of the Minister of Energy and Mineral Resources (ESDM) Number 41 of 2016 regulates Community Development and Empowerment (PPM) in mineral and coal mining business activities. This provision emphasizes that mining companies have an obligation to make a real contribution to the communities surrounding their operational areas. Article 5 of the regulation explains that mining companies must prepare a PPM Master Plan, which is a strategic

document for planning comprehensive and sustainable community development programs. This Master Plan must consider the local needs and potential of the communities surrounding the mine. In line with Article 108 of the Mineral and Coal Law, which emphasizes that IUP and IUPK holders are obliged to prepare and implement community development and empowerment programs. Companies must also allocate funds in accordance with provisions stipulated by the Minister as a form of social responsibility. In the preparation process, this program must be consulted with the regional government and local communities to ensure it is in line with local needs.

Article 6 of ESDM Ministerial Regulation Number 41 of 2016 explains the forms of Community Empowerment (PPM) programs included in the PPM Master Plan. These programs cover various areas, including education, health, increasing community income, economic, social and cultural independence, environmental preservation, and infrastructure development that supports community independence. Article 25 of ESDM Ministerial Regulation Number 41 of 2016 stipulates that mining business entities that do not fulfill or violate the provisions related to the implementation of the PPM Program, as stipulated in several previous articles, may be subject to administrative sanctions. These sanctions include three forms: written warnings, temporary suspension of some or all mining business activities, and/or revocation of Mining Business Permits (IUP) or IUPK. These sanctions are imposed by the Director General on behalf of the Minister or by the governor according to their authority (Ministry of Energy and Mineral Resources, 2016).

According to MUI Fatwa Number 22 of 2011 concerning Environmentally Friendly Mining, it is stated that the provisions that must be met in carrying out mining activities are:

- a. Includes obtaining permits
- b. Compliance with applicable space management and licensing regulations
- c. It starts with a feasibility study that takes environmental aspects into account.
- d. Mining must be carried out without causing damage to the surrounding environment.

These provisions also apply after mining activities, including post-mining restoration, rehabilitation, and reclamation. Furthermore, mining activities must be based on proper land use, territorial sovereignty, and consideration of national resilience. Mining activities must also avoid potential damage, such as water pollution, impacts on the hydrological cycle, threats to biodiversity, air pollution, accelerating climate change, endangering public health, potentially increasing poverty, and other negative impacts (Muhaimin, 2022).

D. Legal Responsibilities of Nickel Downstream Mining Companies to the Environment and Affected Communities

Etymologically, *maslahah* is defined as benefit. *Maslahah* also encompasses benefits or activities that bring profit. In terms of terminology, Imam al-Ghazali stated that *maslahah* essentially means seeking benefits and avoiding harm to uphold the goals of sharia (Hidayatullah, 2018). Imam Al-Ghazali explained that "Maslahah according to its original meaning means attracting benefits or rejecting harm (things that are detrimental). However, that is not what we mean, because achieving benefits and avoiding harm is the goal of creatures (humans). The benefit of creatures lies in achieving their goals. What we mean by *maslahah* is maintaining the goals of *syara'* (Islamic law). There are five goals of Islamic law that are to be achieved by creatures; namely preserving their religion, soul, mind, offspring and property. Every law contains the goal of

preserving These five things are called *maslahah*; and every thing that negates them is called *mafsadat* and rejecting them is called *maslahah*." (Al-Ghazali, 1980).

Al-Ghazali divided *maslahah* into three levels based on their substantial strength: the necessities of life, the necessities of life, and the necessities of life. The highest level is the necessities of life, which is the protection of the five basic principles of sharia: religion, life, intellect, lineage, and property. These five aspects must be maintained because they are the main foundation for the continuity of life and social order (Al-Ghazali, 1980). This aligns with the criteria for *maslahah* according to MUI Fatwa Number 6 of 2005, which emphasizes that *maslahah* in Islamic law refers to the primary objective of the legal prescription, namely to realize the welfare of humanity as a whole. This concept aligns with *maqashid al-syariah*, namely the objectives of Islamic law which are realized in the form of protection for the five basic needs (*al-dharuriyyat al-khams*): religion (*din*), reason (*'aql*), life (*nafs*), wealth (*mal*), and descendants (*nasl*). These five aspects are fundamental elements that must be maintained for the continuation of human life with dignity and balance (Indonesian Ulema Council, 2005).

The scope of *al-mashlahah* is divided into three parts, namely: *al-mashlahah al-'ammah* (general welfare), *al-mashlahah al-lati tata'allaqu bi maslahah al-aghlab* (welfare that concerns the majority of people), and *al-mashlahah al-khashshah al-nadirah* (personal welfare) (Taufiq, 2022). Therefore, *mashlahah al-'ammah* is the most appropriate and appropriate for this research, because environmental damage and the impacts caused to society due to nickel downstream activities are collective issues that concern the lives of many people and future generations. *Mashlahah al-'ammah* is a broad and in-depth scope in assessing corporate responsibility for environmental damage and community suffering due to nickel downstream activities, even though the impacts are felt directly or indirectly.

The Word of Allah SWT. in surah Al-Mu'minun verse 71, namely:

لَوْ أَتَّبَعَ الْحَقُّ أَهْوَاءَهُمْ لَفَسَدَتِ السَّمَوَاتُ وَالْأَرْضُ وَمَنْ فِيهِنَّ ۚ بَلْ أَتَيْنَهُمْ بِذِكْرِهِمْ فَهُمْ عَنْ ذِكْرِهِمْ مُعْرِضُونَ ۝

"If the truth had followed their desires, the heavens and the earth and everything in them would have perished. In fact, We have brought them their pride, but they turned away from that pride." (QS. al-Mu'minun: [23]: 71). Then in the hadith of the Prophet SAW: "You were sent to provide ease, and not to cause hardship." (HR. al-Bukhari) (Indonesian Ulema Council, 2005). These hadiths and verses emphasize that Islam exists to facilitate human life and maintain universal balance. If a company neglects environmental protection, resulting in harm to society, it contradicts the fundamental values of Islam, which mandates the protection and benefit of all creatures. This means that corporate responsibility is not merely a formal legal aspect, but also a moral obligation to avoid complicating or damaging the lives of people and the environment.

Thus, nickel downstream mining companies that have had an extraordinary impact on the environment and affected communities can be reviewed through *Al-Maslahah adh-Dharuriyyah*, namely primary welfare related to the basic needs of humanity both in this world and in the hereafter (Hidayatullah, 2018). Therefore, according to the perspective of *maslahah*, nickel downstream mining companies are obliged to carry out their responsibilities because nickel mining activities have an impact on the *adh-dharuriyat al-khamsah*, namely as follows:

1. *Hifz al-Din* (maintaining religion)

According to Yusuf al-Qardhawi believes that protecting the environment means protecting religion. Environmental damage and disregard for conservation are considered tantamount to

defiling religious sanctities and ignoring the objectives of sharia (Anshari & Permata, 2024). In other words, committing mistakes such as polluting the environment, destroying forests, and neglecting environmental concerns can be seen as violating true religious principles. In this regard, it's understandable that mining companies' responsibilities do not reflect religious observance.

2. *Hifẓ al-Nafs* (nurture the soul)

Impacts caused by mining activities can threaten the lives of humans and other living things. For example, the declining health of mining communities can lead to respiratory problems, diarrhea, rashes, and irritation. Furthermore, the increasingly uncontrolled environment, with soil, water, and air pollution around mining sites, will also impact the survival of communities, as well as flora and fauna. The more intense the impacts, the greater the risks faced by all living things.

3. *Hifẓ al-Mal* (maintaining property)

Treasure Not only in the form of money and gold, but everything on this earth is part of the treasure, meaning the environment is also part of the treasure. The activities of nickel downstream mining companies cause harm to the environment such as reduced biodiversity, environmental damage, and community rights have not been optimally fulfilled resulting in the loss of livelihoods for local communities. One of the most valuable treasures for communities in mining areas is water. Mining communities tend to depend on river and sea water as a source of livelihood. However, if the water is polluted due to the dumping of waste containing B3 (Hazardous and Toxic Materials), then the community around the mine will have difficulty finding clean water, fishermen will have difficulty catching fish, and river water can no longer be consumed by the local community.

4. *Hifẓ an-Nasl* (protecting offspring)

Long-term impacts of exposure to environmental pollution from industrial waste. Heavy metal mercury can cross the placenta and harm the fetus in pregnant women, leading to birth defects and DNA and chromosome damage. Furthermore, socio-economic changes such as poverty and social dysfunction can lead to conflict and crime, impacting children's morals and character development. This can threaten the survival of future generations. Although not directly felt, the next generation will suffer even greater consequences if not handled properly by nickel downstream mining companies. Therefore, nickel downstream mining companies are obliged to guarantee and maintain the continuity of a healthy, moral, and quality generation.

5. *Hifẓ al-Aql* (Keep your wits about you)

Caring for the environment is tantamount to protecting one's intellect, meaning that only those with reason are burdened with responsibility (*taklif*) for Allah's commands and prohibitions. Therefore, the obligation to protect and preserve the environment applies only to those who also protect their intellect. Therefore, only those without reason are not burdened with caring for and preserving the environment (Syukri, 2012).

Therefore, It can be concluded that nickel downstream mining companies have neglected the more important benefit, namely human well-being. Instead of safeguarding the welfare of the national economy, nickel downstream mining companies have actually brought negative consequences for society and the environment. Then, in accordance with the concept of the state's role in *al-maslahah al-da'uliyah*, there are two options: first, accept for the sake of the broader

interest; or second, reject at the risk of potential harm. This idea is also reinforced by the principle, "where there is benefit, there is God's law." (Zulham, 2018). Therefore, to protect the environment and affected communities, companies are required to be responsible for the negative consequences arising from nickel downstream mining activities by maintaining the five objectives of sharia contained in the essential needs and as regulated in the legislation discussed previously.

CONCLUSION

The impact of nickel downstream mining activities has had negative consequences for the environment, resulting in damage such as water, soil, and air pollution, and the extinction of biodiversity around mining areas. Not only is this environmental damage detrimental, it also impacts the communities surrounding the mining areas, both in terms of health, economic well-being, and customs and culture. The extraordinary negative impacts caused by nickel downstream mining companies on the environment and affected communities require companies to be responsible and have a series of obligations stipulated in national regulations. The responsibilities carried out by nickel downstream mining companies are not fully in line with the perspective of *maslahah* (beneficial benefit), because the environment and the rights of affected communities have not been optimally fulfilled by mining companies. Although aiming to increase national economic value, in practice, they often neglect environmental protection and the welfare of affected communities. Therefore, from a *maslahah* perspective, companies are obliged to be responsible for the environment and affected communities by prioritizing maintenance of the five aspects of sharia objectives (*maslahah dharuriyyah*). Because the company's responsibility for the resulting benefits is still partial, indicating an imbalance between the benefits obtained and the damage caused, so it does not touch all aspects of basic human needs (*dharuriyyat*), especially in terms of preserving life (*hifz al-nafs*) and property (*hifz al-mal*). Therefore, the responsibility of nickel downstream mining companies towards the environment and affected communities needs to be reviewed so that their orientation is not only focused on economic benefits, but also ensures comprehensive ecological and social justice. Therefore, companies must provide compensation to the community and carry out environmental improvements based on laws and regulations and *maslahah*.

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