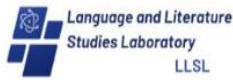
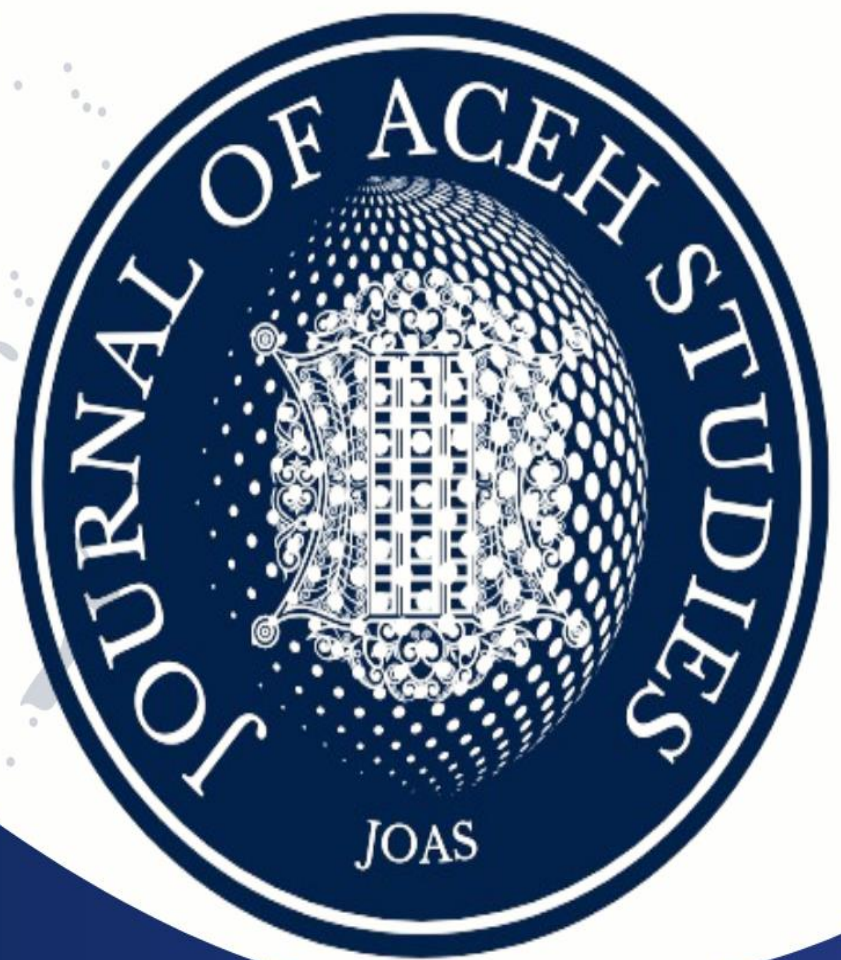


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Analysis of PT Lhoong Setia Mining's Responsibility for Land Reclamation in the Perspective of Environmental Fiqh

Fitria Mardhatillah¹

Universitas Malikussaleh, Indonesia

Shira Thani^{2*}

Universitas Malikussaleh, Indonesia

Fitri Maghfirah³

Universitas Malikussaleh, Indonesia

Abstract

Mining businesses play an important role in providing real added value for national economic growth and sustainable regional development. However, the excessive exploitation of natural resources will have an impact on the sustainability of natural resources and environmental functions. Land reclamation is the responsibility of mining companies to restore post-mining environmental conditions. This study utilizes a qualitative analysis method with a comparative analysis data collection technique, namely by comparing various journals, written information from the internet, and other literature. According to Law Number 3 of 2020 regarding Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, companies or business actors are required to carry out post-mining reclamation. As a result of field findings, PT Lhoong Setia Mining has not conducted the land reclamation process or fulfilled other obligations. This is not in line with laws, regulations, and the principles of environmental fiqh in mining land exploration.

Keyword: Responsibility; Land Reclamation; Environment Jurisprudence

* Corresponding author, email: shirathani@unimal.ac.id

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INTRODUCTION

Mining business activities play an important role in providing real added value for national economic growth and sustainable regional development (Republik Indonesia, 2020). The mining industry has an impact on regional development, job opportunities expansion, increased community income, and community business opportunities (Dwijaya, 2021). In addition to contributing to economic growth, mining also has significant environmental impacts. Fulfilling human needs without considering efficiency for the sake of personal interests leads to environmental damage.

Environmental crisis issues are a hot topic that is widely discussed by various groups. The potential of Indonesia's natural resources opens up vast mining areas for exploration to meet human needs. However, excessive exploitation of natural resources will have an impact on the sustainability of natural resources and environmental functions. Mining activities cause various problems in former mining areas, including environmental changes such as chemical, physical, and biological changes. Chemical changes affect the existence of groundwater and surface water, which then lead to physical changes in the morphology and topography of the land. Furthermore, there are microclimate changes caused by alterations in wind speed, disruption of biological habitats in the form of flora and fauna, and a decrease in soil productivity due to deforestation or soil depletion (Suprpto, 2008).

Land reclamation is the responsibility of mining companies to restore post-mining environmental conditions. Holders of mining business permits (IUP) or special mining business permits (IUPK) are required to prepare and submit reclamation plans and/or post-mining plans (Republik Indonesia, 2020). Reclamation is the process of restoring or rearranging land that has undergone degradation or ecological damage so that it can be reused for certain purposes. This process is an obligation of mining companies regulated by laws and regulations. The reclamation program for former mining land is a requirement that must be carried out by every company, both private and non-private. This is regulated in the laws on the obligation of mine reclamation Law No. 4 of 2009 and strengthened by Perpu No. 78 of 2010 concerning Post-Mining Reclamation. The demand to carry out the obligation to reclaim former mining land has been conveyed by Wahana Lingkungan Hidup Indonesia (WALHI) Aceh to PT Lhoong Setia Mining (LSM) (Republik Indonesia, 2020).

PT Lhoong Setia Mining (LSM) is a company that exploits iron ore in Lhoong District, Aceh Besar. The company has been producing and selling its products since 2011. From 2011 to 2013, PT. LSM controlled 500 ha of land in seven villages. The issuance of a national policy related to the ban on the sale of raw materials caused this company to cease operations. However, in 2013, the Ministry of Trade provided a quota of 450,000 tons to sell its products (GeRAK Aceh, 2018).

In Islamic law, the regulation of human actions in behaving and interacting with the environment is sourced from the Qur'an and hadith. This is specifically discussed in environmental fiqh (fiqh bi'ah). Through this approach, research was carried out to discuss the positive legal regulations in Indonesia that govern the responsibility of land reclamation for mining companies, especially PT Lhoong Setia Mining. The study also examines the social and environmental impacts of land reclamation carried out by PT LSM, as well as the main principles of fiqh bi'ah that are relevant to post-mining land reclamation.

METHOD

The research method used in this study is qualitative analysis, which involves extracting the most significant data from multiple journals. Data was collected through literature studies from a variety of journals and books, and the latest data was compared to the actual conditions at the location. The data collection technique employed a comparative analysis method, which involved comparing various journals, written information from the internet, and other literature sources.

FINDINGS AND DISCUSSION

Land Reclamation Responsibilities for Mining Companies

Law Number 3 of 2020, which amends Law Number 4 of 2009 concerning Mineral and Coal Mining, represents a significant step forward in addressing the present and future challenges of mineral and coal mining management. This law introduces effective and comprehensive regulations aimed at ensuring sustainable economic growth and regional development, while also prioritizing environmental sustainability. One of the key improvements brought about by

this law is the requirement for business actors and companies to achieve a 100 percent success rate in reclamation and post-mining activities (Kementerian ESDM, 2020).

The company is obliged to carry out post-mining environmental responsibility, which aims to restore environmental and ecosystem functions that have been disrupted due to mining activities (Damopoli, 2013). It is very important that all parties, including officials, corporations, and community leaders, are aware and able to play an active role in the efforts to recover post-mining land (Thohari, 2013). This restoration activity is called reclamation.

Holders of Mining Business Permits (hereinafter referred to as IUP) or Special Mining Business Permits (hereinafter referred to as IUPK) must implement good mining practices. These obligations include the implementation of mining safety regulations, the management and monitoring of the mining environment (including reclamation and/or post-mining activities), efforts to conserve minerals and coal, and the management of mining waste from mining operations in solid, liquid, or gas form until it meets environmental quality standards before being discharged into the environment (Republic of Indonesia, 2020). The application of mining practices will have a positive impact on the land, allowing it to be reused by the local community.

The implementation of reclamation and post-mining by holders of Production Operation IUP and Production Operation IUPK must comply with the principles of protection and management of the mining environment, occupational safety and health, as well as mineral and coal conservation. Principles of protection and management of the mining environment include the protection of surface water, groundwater, seawater, soil, and air quality based on quality standards or standard criteria for environmental damage. It also involves the protection and restoration of biodiversity, assurance of the stability and safety of side rock deposits and/or soil/overburden rocks, tailings ponds, former mining land, and other artificial structures. The use of ex-mining land should be in accordance with its designation, taking into consideration local social and cultural values, and the protection of the quantity of groundwater in accordance with the provisions of laws and regulations (Peraturan Menteri ESDM, 2014). Environmental protection and management around mining is expected to minimize forest degradation in mining areas.

Based on Law Number 3 of 2020, Article 100 states that IUP and IUPK holders are obliged to provide reclamation guarantee funds and post-mining guarantees. If IUP and IUPK holders do not carry out reclamation in accordance with the approved plan, the minister, governor, or regent/mayor, in accordance with their authority, can appoint a third party to carry out reclamation and post-mining using the guarantee funds. If IUP and IUPK holders whose business licenses are revoked or terminated do not carry out reclamation/post-mining or do not place reclamation/post-mining guarantee funds, they can be sentenced to a maximum of 5 (five) years in prison and a maximum fine of Rp 100,000,000,000 (one hundred billion rupiah). In addition to criminal sanctions, IUP and IUPK holders can be sentenced to additional penalties in the form of payment of funds to fulfill their reclamation and/or post-mining obligations.

Evaluation of PT Lhoong Setia Mining's Environmental Responsibility

PT Lhoong Setia Mining (LSM) is one of the iron ore mining companies operating in the Lhoong District, Aceh Besar. This company has a Production Operation Mining Business License from 2010 to 2027 with a letter numbered: 540/01/IUP-OP/2010. Production and sales activities were carried out from 2011 to 2013. There was a cessation of production operations due to a national policy, but in 2013 PT LSM was still given a quota by the Ministry of Trade to sell their products until April 30, 2013 (GeRAK Aceh, 2018).

Iron ore mining by PT Lhoong Setia Mining (LSM) operating in Lhoong District, Aceh Besar has caused environmental problems. Since the beginning, the community has been worried about the threat of environmental damage. In addition, the land compensation process is felt by the community to be very cheap. Based on information from the local community, the river where fish are used to look has been filled with sand and mud (Hanafiah, 2022). Wahana Lingkungan Hidup Indonesia (WALHI) Aceh has tried to remind PT LSM to carry out post-operative land reclamation before resuming reexploitation. WALHI Aceh has also asked the Aceh Government to evaluate the permit PT LSM because of several problems that have not been solved by the company (Safrizal, 2022).

The cessation of production operations in 2013 also caused a social impact on the community, namely the large number of workers who were laid off without clarity on their rights. In addition, the Aceh Anti-Corruption Movement (GeRAK) monitored the activities of

mining companies in Aceh and found many violations and criminal acts related to mining activities throughout 2017, including PT LSM. The company did not attempt to carry out reclamation activities in the former mining area. In fact, this company admitted that it had deposited a reclamation guarantee fund of 1 billion (GeRAK Aceh, 2018). However, according to Ahmad Salihin, Director of WALHI Aceh, in his statement in November 2022, the land reclamation process and other obligations have not been implemented. After the transfer of ownership of PT LSM to the new owner, information obtained from a number of fishermen in Jantang Village asked for guarantees from the company's management so that there would be guarantees not to aggravate environmental damage as had occurred before. There has been no meeting point for a written guarantee request that the company does not damage the environment. The company is only limited to verbal guarantees, while the fishermen ask in writing because learning from previous experience there is no definite guarantee (Hanafiah, 2022).

The company must receive proposals and inputs from residents directly affected by mining activities. This has been clearly stated in Government Regulation Number 22 of 2021 concerning the Implementation of Environmental Protection and Management. In particular, in article 28 paragraph 3, it is explained that the directly affected community has the right to submit suggestions, opinions, and responses to business plans and/or activities. Suggestions, opinions, and public responses must be used by the person in charge of the business and/or activities as input in filling out the Terms of Reference Form (Peraturan Pemerintah RI, 2021). Based on this regulation, it is clear that the company must fulfill several commitments related to not damaging the environment by agreeing on a written agreement with the Lhoong fishing community.

The results of field observations by the WALHI Aceh team after the initial mining operation revealed several mining problems. One of the issues is that the Krung Sob river has become shallow and lost its biodiversity. This is due to siltation caused by the accumulation of sludge downstream, which then flows directly into the sea. Prior to PT LSM's operations, the river was rich in natural resources, such as fish, crabs, and other biodiversity, which were of economic value to fishermen. Additionally, the river also provided water for rice fields, making it crucial to improve the quality of the river water so that it can continue to be used for agricultural and other purposes. Another concerning fact is that the previous mine pit remains open, and the company has made no effort to carry out reclamation. According to Law Number 3 of 2020, which amends Law Number 4 of 2009 regarding Mineral and Coal Mining, PT LSM has failed to fulfill its obligations as stipulated by these regulations. Therefore, the government should take action to ensure that reclamation is promptly carried out. (WalhiAceh, 2022)

Implementation of Environmental Fiqh Principles in Land Reclamation

Environmental fiqh (Fiqh Bi'ah) is a product of Islamic law related to the law of taklifi produced in the process of legal *istinbat* through intellectual reasoning (*ijtihad*) in the context of *masalah mursalah* against *nash shara'* linked to ethical-empirical values within the framework of *maqasid sharia* about the views, attitudes, and behaviors of the people towards the ecological environment. In addition to legal products, environmental fiqh can be understood as a critical methodology for environmental issues in the *ushul fiqh* corridor (Darmalaksana).

Environmental fiqh (*fiqh al-bi'ah*) in terminology, environmental fiqh can be interpreted as a set of rules about human ecological behavior determined by scholars who compose based on detailed postulates for the purpose of achieving the benefits of life with ecological nuances (Thohari, 2013). According to Zahari, environmental fiqh (*fiqh al-bi'ah*) can be understood as laws or practical rules related to the direct relationship of humans with the environment. This definition is the result of both the combination of the words *fiqh* and *al-bi'ah* from a linguistic point of view (Musa, 2010). Dwi concluded that environmental fiqh is Islamic rules that are derived from detailed postulates about human behavior towards the environment in order to realize benefits and keep damage away (Juwita, 2017).

Mining law and environmental jurisprudence are in harmony when it comes to protecting the environment. Article 39 of Law Number 3 of 2020 stipulates that owners of mining business licenses are obligated to conduct reclamation and post-mining activities. This aligns with the perspective of environmental jurisprudence, which holds that human beings have been appointed by Allah as *caliph fil ardh* (earth's appointed leaders) to uphold Allah's *sharia* on earth. One of the ways this is manifested is through being a conservator or guardian of nature (Albar, 2024).

The values contained in the Qur'an and Hadith can be used as a basis for thinking and acting for Muslims in responding to environmental damage (Mustafa, 2020). The basic

principles to achieve the goals of sharia with the manifestation of goodness and avoiding evil are contained in the five basic benefits for upholding human life, namely maintaining religion (hifzul din), maintaining the soul (hifzul nafs), maintaining righteousness (hifzul nasl), maintaining reason (hifzul aql), and maintaining wealth (hifzul mal) (Ubaidillah, 2010). Environmental maintenance is the same as efforts to improve the goals of sharia. Protecting the environment is the same as protecting religion because the abuse of the environment has implicitly tarnished the command of Allah SWT to protect and maintain the environment, build, repair, and prohibit all forms of actions that can damage it.

Furthermore, protecting the environment and preserving it is the same as protecting the soul. This means that the protection of human psychic life and their safety in the destruction of the environment and the principles of balance that result in threats and dangers to human life arise (Idrus, 2020).

Protecting the environment is included in the framework of preserving descendants for the survival of future generations on Earth. Deviant acts related to the environment will result in the misery of future generations. Efforts to maintain the balance of generations are reflected in the teachings and encouragement to unite in building solidarity among Muslims, which is applied concretely in maintaining all forms of exploitation of sources of sustenance that are the right of future generations. Excessive exploitation is a form of tyranny that must be avoided.

Protecting the environment is not the same as distorting reason, but rather it is a responsibility that falls upon rational individuals. Only those who lack reason would be burdened with the task of protecting and preserving the environment. Efforts to ensure human survival will not be successful unless one's intellect is also maintained. Ijtihad, or the use of reason, is crucial in this matter. In this context, 'Umar bin al-Khattab advised that those who protect the environment are also maintaining a balance of thought, a balance between the present and the future, between what is beneficial and what is harmful, between pleasure and suffering, and between truth and spirituality. This is because such behavior is not befitting of those who are intoxicated or have lost their minds (Ubaidillah, 2020).

Wealth is not just money, gold, and gems. Instead, it encompasses all the things that belong to humans and all the efforts made to acquire them. Therefore, the earth, trees, animals, water, air, and everything above and beneath the surface of the earth are treasures. Since humans are prone to desire, the Quran reminds us that wealth can be a source of slander or trials (Aisyah, 2019).

The presence of environmental fiqh provides a more practical reference for interacting with the environment. Restoration or rehabilitation of the damaged environment is part of the essence of environmental fiqh (Fiqh Bi'ah), which is the conservation of the damaged environment. The law of environmental conservation is fardhu kifayah. This means that everyone, both individuals and groups, as well as companies, is responsible for environmental conservation and must be involved in addressing environmental damage (Yafie, 2006). Environmental fiqh plays a role in maintaining the natural and environmental functions in the mining sector in Islam, as it is a manifestation of awareness, wisdom, and concern that are integral parts of the Muslim community's faith. Thus, the guidance of Allah swt is related to the necessity of human attitudes towards the environment, which is always to maintain and preserve the surrounding natural environment and avoid causing damage (Sinapoy, 2019).

CONCLUSION

Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining requires business actors/companies to carry out reclamation and post-mining activities with a success rate of 100 percent. PT Lhoong Setia Mining (LSM) is one of the iron ore mining companies operating in Lhoong District, Aceh Besar, and is obliged to implement these provisions after the mining operation permit is approved. However, the facts on the ground indicate that PT Lhoong Setia Mining has not carried out the land reclamation process or fulfilled other obligations. In accordance with the law, from the perspective of environmental fiqh, mining activities are also obligated to maintain the environment through efforts to improve and restore it, as the basic principles of sharia emphasize the preservation of nature and the earth as a mandate from Allah swt. Environmental maintenance aligns with the goals of sharia. Protecting the environment is equivalent to protecting religion, as the abuse of the environment implicitly disregards Allah swt's command to protect and maintain the environment, construct and repair, and prohibit any actions that can damage it.

BIBLIOGRAPHY

- Admin GeRAK Aceh. (2018). *Kekayaan Leuser, Surga bagi Penjarah*. GeRAK (Gerakan Anti Korupsi). <https://www.gerakaceh.id/kekayaan-leuser-surga-bagi-penjarah/>
- Albar, S.R. (2024). Pengelolaan Tambang Galian C terhadap Lingkungan Hidup di Kabupaten Bulukumba; Analisis Fiqh Bi'ah. *SHAUTUNA: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab*. Volume 05 Issue I, 72-88. DOI:10.24252/shautuna.v5i1.40066.
- Damopoli, D.N. (2013). Tanggung Jawab Perusahaan Pertambangan terhadap Lingkungan Pasca Pengelolaan, *Lex et Societatis*, Vol. I/No. 5, hlm. 5-17. <https://doi.org/10.35796/les.v1i5.3169>
- Hanafiah, J. (2022). *Resahnya Masyarakat Aceh, Lubang Tambang Bijih Besi PT. LSM Belum Direklamasi*. Mongabay; Situs Berita Lingkungan. <https://www.mongabay.co.id/2022/12/17/resahnya-masyarakat-aceh-lubang-tambang-bijih-besi-pt-lsm-belum-direklamasi/>
- Idrus, M.A. (2020). Paradigma Literalistik Dalam Penalaran Hukum Islam, *DIKTUM: Jurnal Syariah Dan Hukum*, no. 1, 1-16, <https://doi.org/https://doi.org/10.35905/diktum.v18i1.1404>
- Juwita, D.R. (2017). Fiqh Lingkungan Hidup dalam Perspektif Islam, *El-Wasathiyah: Jurnal Studi Agama*, Volume 5, Nomor 1, hlm. 27-41. <https://doi.org/10.35888/el-wasathiyah.v5i1>
- Kementerian Energi dan Sumber Daya Mineral Republik Indonesia. (2020). *Siaran Pers Nomor: 217.Pers/04/SJI/2020 tentang UU baru Pertambangan Mineral dan Batubara: IUP dan IUPK Wajib Reklamasi dan Pascatambang Sukses 100%*. <https://esdm.go.id/id/media-center/arsip-berita/uu-baru-pertambangan-mineral-dan-batubara-iup-dan-iupk-wajib-reklamasi-dan-pascatambang-sukses-100->
- Mustafa, Z. (2020). Problematika Pemaknaan Teks Syariat Dan Dinamika Masalah Kemanusiaan, *Mazahibuna: Jurnal Perbandingan Mazhab* 2, no. 1, 36-58, <https://doi.org/10.24252/MH.V2I1.14282>
- Nur Aisyah, (2019). Wasiat Dalam Pandangan Hukum Islam Dan Bw, *El-Iqthisadi : Jurnal Hukum Ekonomi Syariah Fakultas Syariah Dan Hukum*, no. 1, 54-61, <https://doi.org/10.24252/el-iqthisadi.v1i1.9905>
- Peraturan Menteri Energi Dan Sumber Daya Mineral Republik Indonesia N0. 7. (2014). *Pelaksanaan Reklamasi Dan Pascatambang Pada Kegiatan Usaha Pertambangan Mineral Dan Batubara*. [Implementation of Reclamation and Post-Mining in Mineral and Coal Mining Business Activities]
- Peraturan Pemerintah No. 22. (2021). *Penyelenggaraan Perlindungan dan Pengelolaan Lingkungan Hidup*. [Implementation of Environmental Protection and Management]
- Safrizal, I. (2022). *WALHI Aceh Ingatkan PT Lhoong Setia Mining Segera Lakukan Reklamasi Lahan*. Acehinfo. <https://www.acehinfo.id/walhi-aceh-ingatkan-pt-lhoong-setia-mining-segera-lakukan-reklamasi-lahan/>
- Sinapoy, M.S. (2019). Analisis Fiqh Lingkungan Terkait Penyalahgunaan Pengelolaan Pertambangan Terhadap Kerusakan Lingkungan Hidup. *Holrev*, Volume 3 Issue 1, pp. 85-102.
- Thohari, A. Epistemologi Fikih Lingkungan: Revitalisasi Konsep Masalah, *Az Zarfqa'*, Vol. 5, No. 2, Desember 2013, hlm. 145-161. <https://doi.org/10.14421/azzarfqa.v5i2.1317>
- Ubaidillah, M.H. (2010). Fiqh Al-Biah (Formulasi Konsep Al-Maqasid Al-Shari'ah Dalam Konservasi Dan Restorasi Lingkungan), *Al-Qanun: Jurnal Pemikiran Dan*

Undang-Undang No. 3. (2020). *Perubahan Atas Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara*. [Mineral and Coal Mining].

Walhiaceh. (2022, November 30). WALHI Aceh Warning PT Lhoong Setia Mining Segera Reklamasi Lahan. *WALHI ACEH*. <https://walhiaceh.or.id/2022/11/30/walhi-aceh-warning-pt-lhoong-setia-mining-segera-reklamasi-lahan/>

Yafie, A, (2006). *Merintis Fiqih Lingkungan Hidup*. Jakarta: Ufuk Press.