

RESPONSIBILITY OF TIN MINING BUSINESS LICENSES FOR ENVIRONMENTAL POLLUTION BASED ON THE POLLUTER PAYS PRINCIPLE

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Abstract

The purpose of writing this article is to find out and analyze the polluter pays principle concept and its regulations in Indonesia, as well as to find out and analyze the accountability of tin mining business permits for environmental pollution based on the polluter pays principle. Therefore, the research method used in this article uses a normative juridical method with a conceptual approach and a statutory approach. The article reveals that PPP in Indonesia involves both preventive and repressive measures to address environmental pollution. Polluters are charged with compensation, but regulations like UUPPLH and Minerba Law are more repressive. Implementation involves guarantee, pollution, and conservation funds funded by APBN/APBD grants/donations. PT. Timah, as the largest tin IUP holder in Babel, has carried out 100% reclamation, but overall, of the total IUP holders in Babel, these funds are apparently not commensurate with the damage that arises as a result of tin mining exploitation activities. And the number of newly reclaimed areas is 1.59% of the total IUP that has been granted. The form of civil liability is regulated in the UUPPLH, while criminal liability is regulated in the Minerba Law.

Keywords: Responsibility, Tin, Mining License, Environmental Pollution, Polluter Pays Principle

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INTRODUCTION

Humans need natural resources to fulfill their daily needs. The sources of natural resources are land, water, air, and other natural resources, which are included in renewable and non-renewable natural resources. However, it must be realized that the natural resources that are sources are limited and will run out. For this reason, remaining natural resources must be managed well and wisely, as a reflection of the responsibility that these natural resources are not only utilized now but can also be accessed by future generations.¹

Article 33, paragraph (3) of the 1945 constitution emphasizes that the earth, water, and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people. Considering that minerals and coal are non-renewable natural resources, it is important that their management be carried out by paying attention to the principles of benefit, justice, and balance. Apart from that, it must also side with the interests of the nation and be participatory, transparent, accountable, sustainable, and environmentally friendly.

On the other side, the aim of implementing regional autonomy is to achieve accelerated regional development for prosperity and welfare for the people of the region concerned. Regional development policies for economic development within the framework of regional autonomy must be able to optimize regional resource potential by exploring and utilizing the potential of natural resources and human resources.² Tin is a potential non-renewable natural resource belonging to Bangka Belitung and is the commodity product that contributes the largest foreign exchange in Indonesia, with 95% of production for export and 5% for domestic consumption.³

These benefits are also felt by the Regional Government of Bangka Belitung Islands Province as a tin mining producing area through Profit Sharing Funds. Based on the Decree of the Minister of Energy and Mineral Resources of the Republic of Indonesia regarding the Determination of Producing Areas and the Basis for Calculating Profit Sharing Funds from Natural Resources from Mineral and Coal Mining for 2021, the total profit-sharing funds obtained by Bangka Belitung Province and Six City Districts amounted to IDR 564 billion, consisting of royalties amounting to IDR 511.5 billion and land rent fees amounting to IDR 52.6 billion.⁴

¹ Joni, *Hukum Lingkungan Kehutanan* (Yogyakarta: Pustaka Pelajar, 2015).

² Soewartoyo and Toni Soetopo, 'Potensi Sumber Daya Alam Dan Peningkatan Kualitas Sumber Daya Manusia Di Kawasan Masyarakat Pesisir, Kabupaten Bangka', *Jurnal Kependudukan Indonesia*, IV.2 (2009), 61–78
<<http://ejurnal.kependudukan.lipi.go.id/index.php/jki/article/download/185/217>>.

³ Putri Novani Khairizka, 'TINS Setor Pajak Rp 267.8 Miliar, Ini Dia Rinciannya', *Pajakku*, 2022 <<https://www.pajakku.com/read/62a04f23a9ea8709cb18a3a7/TINS-Setor-Pajak-Rp-2678-Miliar-Ini-Dia-Rinciannya>> [accessed 10 September 2022].

⁴ Khairizka.

The problem is these profits are still relatively small compared to the impact of pollution and environmental damage from tin mining activities.⁵Socio-economic life includes an increase in the number of children dropping out of school to become miners, conflicts between residents and conventional tin miners, and farmers and fishermen changing professions to become tin miners.⁶ As stated by Erwiza, conflicts regarding control of mining resources and issues of environmental damage are a window to see other overlapping conflicts.⁷

This condition is in line with the results of research by Cust and Viale regarding the Natural Resource Curse phenomenon, where in subnational, natural resource extraction can have a positive influence, provide benefits, provide revenue for the government, and create economic linkages with other sectors. On the other hand, extraction can also have negative economic, environmental, and social consequences.⁸In fact, the state also has a responsibility to protect the interests of future generations in the utilization of environmental options, quality, and access to natural resources.⁹

Harun M. Husen interprets environmental pollution as occurring when the presence of foreign living creatures, substances, energy, or other components results in changes to the environmental ecosystem and a decrease in environmental quality so that the environment no longer functions as it should for its ecological purpose.¹⁰Environmental pollution is defined in Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH) as the entry or inclusion of living creatures by human activities so that they exceed established environmental quality standards.

The Polluter Principle or The polluter pays principle (PPP) is a principle used to calculate the costs of preventing and controlling environmental pollution. Polluters are obliged to take responsibility for eliminating pollution, so this principle is the basis for

⁵ Yulianti, Burhanuddin Bani, and Albana, 'Analisa Pertambangan Timah Di Provinsi Kepulauan Bangka Belitung', *Jurnal Ekonomi*, 22.1 (2020), 54–62.

⁶ Risdawati Ahmad et al., "Derita Di Balik Tambang: Kontestasi Kepentingan Ekonomi Politik Dalam Pertambangan Timah, Di Bangka Belitung," *Sosioglobal: Jurnal Pemikiran Dan Penelitian Sosiologi* 6, no. 2 (2022): 114, <https://doi.org/10.24198/jsg.v6i2.36803>.

⁷ Erwiza Erman, "Aktor, Akses Dan Politik Lingkungan Di Pertambangan Timah Bangka," *Jurnal Masyarakat Indonesia: Jurnal Ilmu-Ilmu Sosial Indonesia* 36, no. 2 (2010): 71–101.

⁸ Hania Rahma and others, 'Fenomena Natural Resource Curse Dalam Pembangunan Wilayah Di Indonesia', *Jurnal Ekonomi Dan Pembangunan Indonesia*, 21.2 (2021), 148–63 <<https://doi.org/10.21002/jepi.v21i2.1358>>.

⁹Bunga Permatasari and Raffles, 'Mencari Pengakuan Terhadap Perlindungan Keadilan Antar Generasi Dalam Peraturan Perundang-Undangan Di Indonesia', *Jurnal Ilmu Hukum: Fakultas Hukum Universitas Riau*, 10.1 (2021), 95–112.

¹⁰ ¹⁰ Mulida Hayati, 'Perlindungan Hukum Bagi Masyarakat Terhadap Pencemaran Lingkungan Akibat Budidaya Burung Walet', *Supremasi Hukum: Jurnal Penelitian Hukum*, 27.1 (2018), 38–54 <<https://doi.org/10.33369/jsh.27.1.38-54>>.

imposing pollution levies.¹¹towards 28 Tin Companies actively operating in Bangka Belitung,¹²And to PT. Timah is the largest IUP holder in Bangka Belitung.

Based on the facts above, this article will examine the concept of the polluter-pays principle, its regulation in Indonesia, and the accountability of tin mining business permits for environmental pollution based on the polluter-pays principle.

RESEARCH METHODS

This research uses a normative juridical research type with a conceptual approach and a statutory approach. This research data uses primary legal materials and secondary legal materials.

RESULT AND DISCUSSION

The Concept Of The Polluter Pays Principle And Its Regulation In Indonesia

Initially, the PPP principle was proposed by economist EJ Mishan in *The Cost of Economic Growth* in the 1960s, and since then, it has quickly become a widely accepted slogan for almost the entire world who cares about the environment and environmental policy because it has received support from The Organization for Economic Cooperation and Development (OECD) and European Communities (EC).¹³

PPP is a general principle of international environmental law. The International Convention on Oil Pollution Preparedness, Response and Cooperation, which was approved by the International Maritime Organization (IMO) in 1990, stated firmly that the polluter pays principle is a general principle of international environmental law. The Preamble takes into account the "Polluter Pays" Principle as a general principle of international environmental law.¹⁴

*Convention on Transboundary Effects of Industrial Accidents*The Preamble also states firmly that PPP is a general principle in international environmental law by taking into account the polluter-pays principle general principle of international environmental law. Consider the polluter pays principle as a general principle of international environmental law.¹⁵

¹¹ Elly Kristiani Purwendah and Eti Mul Erowati, "Prinsip Pencemar Membayar (Polluter Pays Principle) Dalam Sistem Hukum Indonesia," *Jurnal Pendidikan Kewarganegaraan Undiksha* 9, no. 2 (2021): 157–67.

¹² Cici Nasya Nita, "Di Bangka Belitung Ada 28 Perusahaan Tambang Timah Yang Aktif Beroperasi," *Bangka Pos*, 2020, Bangkapos.com.

¹³ Siti sundari Rangkuti, *Hukum Lingkungan Dan Kebijakan Lingkungan Nasional*, cetakan ke (Airlangga University Press, 2000).

¹⁴ IMO, *International Convention on Oil Pollution Preparedness, Response and Cooperation* (London, 1990) <<https://doi.org/10.7901/2169-3358-1995-1-775>>.

¹⁵ United Nations, *Convention On The Transboundary Effects Of Industrial Accidents*, 1992.

PPP is also found in Principle 16 of the Rio Declaration, which states that national authorities should strive to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that polluters must, in principle, bear the costs of pollution, taking into account the public interest and without distorting international trade and investment.¹⁶ The Treaty Establishing the European Community recognizes PPP as a community policy (the European Community) regarding the environment that aims for high-level environmental protection by considering the diversity of conditions in various regions of the Community. This is based on the precautionary principle and the principle of preventive action, that the main environmental loss is fixing the source of pollution, and the polluter will pay.¹⁷

According to Ian Mann, PPP is a principle that requires polluters to bear the costs of actions to reduce pollution in accordance with the level of damage done to society or which exceeds acceptable levels of pollution. John Brady defines the polluter pays principle as meaning that all waste generators are legally and financially responsible for safe waste handling, environmentally friendly waste disposal, and creating incentives to reduce the amount of waste produced.¹⁸

Siti Sundari Rangkuti stated that, in essence, PPP means that polluters must bear the costs of preventing pollution. PPP is preventive in nature, which is the basis for pollution levies such as air pollution fees, water pollution fees, etc., whose main aim is to finance pollution control efforts. The polluter pays principle is preventive in nature and is realized as an economic tool in the form of environmental taxes.

The application of PPP as an economic tool also has weaknesses because payments are based on the amount of pollution released, which still needs to be considered during the production project. As a result, the imposition of environmental taxes becomes ineffective and detrimental to people's welfare.¹⁹

From Seerden's thoughts, the development of PPPs that integrate economic and legal tools can be traced as follows: PPPs basically require polluters to limit their negative impacts on the environment. At the very least, he had to fix all the negative effects. This principle goes beyond the distribution of costs for mitigating, eliminating, and repairing environmental damage. Additionally, it supports direct actions (injunctions, prohibitions), incentive payments, and claims that require those responsible to take action

¹⁶ *The Rio Declaration on Environment and Development*, 1992.

¹⁷ See Article 174 paragraph (2) European Community, "Consolidated Version of the Treaty Establishing the European Community," 325 Official Journal of the European Communities § (1997).

¹⁸ A'an Efendi, *Hukum Pengelolaan Lingkungan* (Jakarta Barat: Indeks Jakarata, 2018).

¹⁹ Irina Glazyrina, Vasily Glazyrin, and Sergey Vinnichenko, 'The Polluter Pays Principle and Potential Conflicts in Society,' *Ecological Economics*, 59.3 (2006).

or assert civil legal liability. Therefore, this principle serves as a substantial principle in determining responsibility for environmental impacts, hazards, and risks.²⁰

As part of the balancing process between the interests of business and society, including the need to maintain a harmonious and balanced environmental carrying capacity, legal responsibility includes efforts to eliminate negative consequences and is a requirement in many environmental pollution situations. For this reason, PPP can be interpreted as having two meanings. The first meaning is as an economic instrument with the aim of imposing costs on polluters for the losses incurred, and the second meaning is the main instrument for demanding legal responsibility for cases of environmental pollution.²¹ Therefore, the PPP principle contains preventive and repressive meanings in dealing with environmental pollution.

In the development of law in Indonesia, PPP not only covers economic instruments but has also become a legal instrument. PPP is regulated in Article 2 Letter J of the UUPPLH, which stipulates that environmental protection and management is carried out based on the polluter pays principle (PPP). The formulation of this article emphasizes the obligation for every person responsible whose business and/or activities cause environmental pollution and/or damage to be obliged to bear the costs of environmental restoration.

According to the OECD, the implementation of PPP can be carried out through various mechanisms, such as prohibitions and licensing requirements, regulations, the imposition of various pollution levies, or a combination thereof. The central government and regional governments are given the freedom to choose to use the PPP implementation mechanism. Unfortunately, in Indonesia, the implementation of PPP in the UUPPLH is not for the prevention of environmental damage but rather for the preservation of environmental functions, where the Government and Regional Governments are obliged to develop and implement environmental and economic instruments in the form of development planning and economic activities, environmental funding, and incentives and/or disincentives.²²

Article 22 Paragraph (19) of the Job Creation Law (UUCK), which revises Article 55 of the UUPPLH, regulates environmental funding instruments, including environmental restoration guarantee funds, funds for overcoming pollution and/or environmental damage and restoration, and trust/assistance funds for conservation.²³ Furthermore, environmental permit holders are required to pay a guarantee fund for the

²⁰ René Seerden, Michiel Heldeweg, and K Deketelaere, *Public Environmental Law in the European Union and the United States : A Comparative Analysis* (London: The Hague; London: Kluwer Law International, 2002).

²¹ Koesnadi Harjasoemantri, *Hukum Tata Lingkungan*, Ketujuh Be (Yogyakarta: Gadjah Mada University Press, 2002).

²² Lihat Pasal 42 *Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup*, 2009.

²³ Lihat Pasal 43 Ayat 2 *Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup*.

restoration of environmental functions in accordance with the requirements, which must be stated in the business permit and stated in the environmental approval. Environmental approval holders are required to submit an amount of security deposit, which must be deposited into a government bank appointed by the government so that the environmental guarantee fund can take effect.²⁴

A statement of allocation of guarantee funds for the restoration of environmental functions and proof of ownership of guarantee funds for the restoration of environmental functions must be owned by environmental approval holders to prevent damage to or restore environmental functions. Time deposits, joint savings, bank guarantees, insurance policies, and other financial instruments can be used as guarantee funds if issued by government-owned financial services institutions that the government has appointed in accordance with statutory provisions. For more detailed comparisons between each environmental funding instrument, see Table 1.

Table 1. Environmental Funding Instruments²⁵

Instrument Name	Source	Utility
Environmental Recovery Guarantee Fund	Environmental Approval Holder	1. Overcoming environmental pollution and/or environmental damage; and/or 2. Restoration of environmental functions and/or environmental damage that arises as a result of a business and/or activity
Environmental Pollution and/or Damage and Restoration Fund	APBN/APBD	1. Mitigation of pollution and/or environmental damage at locations where the source and/or perpetrator is unknown; And 2. Restoration of the environment due to environmental pollution and/or damage whose source and/or perpetrator is unknown
Trust Fund/Conservation Assistance.	Grants/Donations	1. natural resources conservation; 2. natural resource reserves, And

²⁴ Lihat Pasal 471 Ayat (1) Pemerintah Republik Indonesia, *Peraturan Pemerintah Nomor 22 Tahun 2021 Tentang Pedoman Perlindungan Dan Pengelolaan Lingkungan Hidup*, Sekretariat Negara Republik Indonesia (Indonesia, 2021) <<http://www.jdih.setjen.kemendagri.go.id/>>.

²⁵ Kania Jennifer Wiryadi and others, 'Padjadjaran Law Review Padjadjaran Law Review', *Padjadjaran Law Review*, 8.2 (2020).

3. preservation of atmospheric functions.

Apart from UUPPLH, PPP is also contained in Law Number 3 of 2020 concerning Mineral and Coal Mining (UU Minerba). There are requirements and obligations in the form of reclamation and post-mining, as well as the placement of reclamation funds and post-mining funds, which must be borne by the holder of a mining business permit (IUP) or special mining business permit (IUPK). The reclamation and post-mining obligations must achieve a 100% success rate; if not fulfilled, there will be criminal sanctions for the holders of IUP and IUPK.²⁶

The difference in the PPP mechanism in the UUPPLH and the Minerba Law stipulates that the Minister, Governor, or Regent/Mayor can appoint a third party to restore environmental functions, whereas, in PPP, it is the polluter who is obliged to carry out activities to prevent and restore environmental functions. Therefore, the obligation to pay compensation to polluters after environmental pollution occurs is not a manifestation of PPP, which means preventive and repressive measures in the event of environmental pollution.

Responsibility Of Tin Mining Business Licenses For Environmental Pollution Based On The Polluter Pays Principle

PPP is the principle of allocating costs from entrepreneurs for the potential pollution caused, especially in environmental use. PPP is an integral part of environmental law because it provides guidance in making or implementing laws that require polluters to take environmental restoration measures, including providing compensation to victims of pollution either because pollution is proven or because of activities that have the potential to pollute the environment.²⁷ Unfortunately, the UUPPLH does not yet provide protection for compensation for human victims.²⁸

Responsibility for restoring environmental functions is borne by every person who pollutes and/or damages the environment, as regulated in Article 69 jo. Article 54 paragraph (1) UUPPLH jo. Job Creation Law. One of the recovery instruments based on Article 43 paragraph (2) letter a jo. Article 55 of the PPLH Law jo. The Cipta Kerja Law is an environmental economic instrument in the form of a guarantee fund for environmental recovery. The aim of this restoration is to plan to restore or normalize environmental functions that have been damaged so that there is clear accountability between the government and business permit holders in preserving the

²⁶ Lihat Pasal 100, 121 ayat (1), 123A Ayat (2), Pasal 161B Pemerintah Republik Indonesia, *Undang-Undang Nomor 3 Tahun 2020 Tentang Pertambangan Mineral Dan Batubara, Pemerintah Republik Indonesia*, 2020 <[https://jdih.esdm.go.id/storage/document/UU No. 3 Thn 2020.pdf](https://jdih.esdm.go.id/storage/document/UU%20No.%203%20Thn%202020.pdf)>.

²⁷ M Muhdar, 'Eksistensi Polluter Pays Principle Dalam Pengaturan Hukum Lingkungan Di Indonesia', *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada*, 21.1 (2009), 67–80.

²⁸ Teguh Endi Widodo, 'Upaya Preventif Dan Represif Kerusakan Lingkungan Hidup Melalui Asas Pencemar Membayar (Polluter et al.)' (Universitas 17 Agustus 1945 Surabaya., 2021) <<http://repository.untag-sby.ac.id/id/eprint/11762%0AActions> (login required)>.

environment.²⁹One form of environmental recovery guarantee fund is a term deposit. Reclamation funds and post-mining funds are time deposits.

The implementation of PPP in Bangka Belitung for tin mining business permit holders is carried out by implementing reclamation. This is because reclamation and post-mining obligations, as well as the placement of reclamation funds and post-mining funds, are obligations borne by the holder of a mining business permit (IUP) or special mining business permit (IUPK).

Currently, PT. Timah is the largest company in Bangka Belitung, which holds an operational area of 120 mining business permits (428,379 ha) with a land area of 288,716 ha and a sea area of 139,663 ha. Furthermore, tin companies are the most consistent in reclamation activities as the largest tin IUP holders in Bangka Belitung, PT. In 2022, Timah has realized 100 percent of the reclamation plan from the target of 402.5 hectares to reach 403.79 hectares. The forms of land reclamation carried out are in the form of revegetation and reclamation in other forms. Furthermore, in 2023 PT. Timah plans to reclaim 400 hectares of ex-mining land spread across the Bangka Belitung Islands Province.³⁰

Overall, the reclamation guarantee funds and post-mining guarantee funds collected by the Department of Energy and Mineral Resources are as follows:

Table 2: Reclamation Guarantee Fund Reclamation and Post-Mining Guarantee Fund Receipts³¹

Year	Reclamation Guarantee Fund (Rupiah)	Post-Mining Guarantee Fund (Rupiah)
2018	12,106,052,103.55,-	9,559,643,855.00,-
2019	6,809,553,482.00,-	5,489,321,808.85,-
2020	12,776,088,142.00,-	2,152,225,598.00,-

²⁹ Tazkia Nafs Azzahra and Yobel Manuel Oktapiamus, 'Menilik Peluang Penerapan Label Karbon (Carbon Labelling) Pada Kemasan Produk Makanan Di Indonesia Sebagai Instrumen Pemulihan Lingkungan', *Jurnal Hukum Lingkungan Indonesia*, 8.2 (2022), 310–38 <<https://doi.org/10.38011/jhli.v8i2.439>>.

³⁰ Timah, 'Tahun Ini, PT Timah Tbk Targetkan Reklamasi 400 Hektar Lahan Di Bangka Belitung', *Timah.Com*, 2023 <<https://timah.com/news/post/tahun-ini-pt-timah-tbk-targetkan-reklamasi-400-hektar-lahan-di-bangka-belitung.html>> [accessed 25 February 2023].

³¹ H Syahrudin, 'Pelaksanaan Reklamasi Lahan Bekas Tambang Di Provinsi Kepulauan Bangka Belitung Melalui Pendekatan Whole of Government', *Journal Of Public Policy and Applied Administration*, 3.1 (2021), 25–44.

The availability of environmental funds in the form of reclamation guarantee funds and post-mining guarantee funds is intended as a guarantee for compensation that is paid immediately and is in accordance with actual losses, but even though the reclamation funds have been deposited into the regional treasury, these funds are apparently not commensurate with the damage that arises as a result of tin mining exploitation activities. In fact, the PPP principle aims to ensure that environmental restoration costs are borne 100% by the polluter.

Furthermore, based on data, the number of newly reclaimed areas is 1.59% of the total IUP that has been granted. The land clearing and reclamation data can be seen in Table 2.

Table 3: Land Clearance and Reclamation Data for Bangka Belitung Elementary School December 2020³²

No	IUP Administrative Area	Area (ha)				Information
		Land IUP	Land Opening	It's been reclaimed	Not Reclamation Yet	
			1992-2020	1992-2029		
1	Bangka	62.068.01	5,997.01	5,239.92	757.09	Opening data up to September 2020
2	West Bangka	48785.84	2,415.94	2041.10	374.84	Reclamation data up to December 2020
3	Central Bangka	21845.20	1,513.09	1,482.50	30.59	
4	South Bangka	23,906.82	522.19	519.3	2.89	
5	Belitung	13.262.80	730.6	652.8	77.8	

³² Syahrudin.

6	East Belitung	30,355.0 0	2,251.50	2,073.88	177.62
7	Cross Regency	88.492.4 8	3,335.16	3,320.35	14.81
	Amount	288.716. 15	16,765.4 9	15,329.85	1,435.64

Tin IUP holders in Babel who do not provide reclamation/post-mining guarantee funds may be threatened through the Minerba Law. The Mining and Coal Law provides a clear threat for every IUP/IUPK holder whose business permit is revoked or expires and does not carry out or place funds for reclamation/post-mining guarantees, being subject to a maximum sentence of 5 years in prison and a maximum fine of Rp. 100,000,000,-

Apart from the Minerba Law, UUPPLH is environmental law enforcement that is preventive and repressive in nature. PPP in UUPPLH is more repressive. This repressive nature is stated in Article 87, paragraph (1) UUPPLH. Article 87 paragraph (1) UUPPLH is a form of civil legal responsibility. The application of civil sanctions is the imposition of action on perpetrators of violations in the environmental sector in the form of an obligation to pay compensation and charge environmental restoration costs.

The application of civil sanctions is aimed at every person in charge of a business and/or activity who commits an unlawful act in the form of pollution and/or destruction of the environment which causes harm to other people or the environment and is obliged to pay compensation/losses and/or the business entity carrying out the transfer changing the nature and form of business, and/or activities of a business entity that violates the law does not relieve legal responsibility. The application of the compensation provisions is carried out based on the principle of strict liability.

The principle of strict liability means that the element of fault does not need to be proven by the plaintiff as a basis for payment of compensation. The provisions of this paragraph constitute the *lex specialis* in lawsuits regarding unlawful acts in general. According to this article, the amount of compensation that can be charged to environmental polluters or destroyers can be determined up to a certain limit. Therefore, based on this principle, IUP holders are directly and immediately responsible without needing to prove that environmental pollution has occurred.

CONCLUSION

PPP contains preventive and repressive meanings in dealing with environmental pollution, and in PPP, the polluter will be charged with paying compensation for environmental pollution. However, in Indonesia, the PPP regulations in the UUPPLH and Minerba Law are more repressive. The PPP implementation includes arrangements for a guarantee fund for environmental restoration, a fund for dealing with pollution and/or environmental damage and restoration, and a trust/assistance fund for conservation. In

each of these instruments, the costs for compensation for pollution are borne by the polluter, and funding sources come from the APBN/APBD grants/donations.

PT. Timah, as the largest tin IUP holder in Babel, has carried out 100% reclamation, but overall, of the total IUP holders in Babel, these funds are not commensurate with the damage that arises as a result of tin mining exploitation activities. And the number of newly reclaimed areas is 1.59% of the total IUP granted. The form of civil liability is regulated in the UUPPLH, while criminal liability is regulated in the Minerba Law.

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