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BUREAUCRATIC PATHOLOGIES AND EXECUTIVE DEFIANCE IN COASTAL MINING CONCESSIONS: A POLITICAL AND CRIMINAL LAW PERSPECTIVE

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Abstract

The centralization of electronic mining licensing in Indonesia has given rise to bureaucratic pathologies in the form of sectoral egos that undermine local autonomy and threaten the sustainability of coastal ecosystems. This study aims to deconstruct legal anomalies and political dynamics in governance regarding the issuance of mining operation permits on small islands, analyze the impasse in litigation practices, and formulate a framework for resolving the dysfunction in the execution of administrative court rulings (PTUN). Through a normative legal research method employing legislative, conceptual, and case-based approaches to Supreme Court Decision No. 650 K/TUN/2022, this study identifies three structural flaws. First, the central government's erroneous application of the lex specialis doctrine has prioritized the mining exploitation regime over imperative instruments for the protection of coastal ecosystems. Second, the absence of enforceable executive instruments within the PTUN procedural law triggers institutional defiance, where decisions to revoke permits become ineffective and merely create an illusion of environmental justice. Third, this systemic weakness is exploited by administrative officials through the manipulation of issuing new disputed objects (permit recycling) to circumvent the court's ruling. As a solution, this paper recommends a paradigm shift from formal-procedural oversight toward outcome-based governance evaluation. This must be accompanied by the absolute blocking of an integrated geospatial data-based permitting system, as well as the imposition of dwangsom (compulsory fines) directly levied on the personal assets of state officials and the integration of criminal law enforcement against defiant bureaucrats to break the chain of administrative law circumvention.

Keywords*: Bureaucratic Pathologies; Executive Defiance; Licensing Centralization; Political Dynamics; Criminal Liability.*

Abstrak

Sentralisasi perizinan pertambangan elektronik di Indonesia telah memicu munculnya patologi birokrasi berupa ego sektoral yang merongrong otonomi daerah dan mengancam kelestarian ekosistem pesisir. Penelitian ini bertujuan untuk mengurai anomali hukum dan dinamika politik dalam tata kelola terkait penerbitan izin operasi pertambangan di pulau-pulau kecil, menganalisis kebuntuan dalam praktik litigasi, serta merumuskan kerangka kerja untuk mengatasi disfungsi dalam pelaksanaan putusan Pengadilan Tata Usaha Negara (PTUN). Melalui metode penelitian hukum normatif yang menggunakan pendekatan legislatif, konseptual, dan berbasis kasus terhadap Putusan Mahkamah Agung No. 650 K/TUN/2022, penelitian ini mengidentifikasi tiga kelemahan struktural. Pertama, penerapan doktrin lex specialis yang keliru oleh pemerintah pusat telah memprioritaskan rezim eksploitasi pertambangan di atas instrumen-instrumen imperatif untuk perlindungan ekosistem pesisir. Kedua, tidak adanya instrumen eksekutif yang dapat ditegakkan dalam hukum acara PTUN memicu pembangkangan kelembagaan, di mana keputusan pencabutan izin menjadi tidak efektif dan hanya menciptakan ilusi keadilan lingkungan. Ketiga, kelemahan sistemik ini dimanfaatkan oleh pejabat administratif melalui manipulasi penerbitan objek sengketa baru (daur ulang izin) untuk mengelak dari putusan pengadilan. Sebagai solusi, makalah ini merekomendasikan pergeseran paradigma dari pengawasan formal-prosedural menuju evaluasi tata kelola berbasis hasil. Hal ini harus disertai dengan pemblokiran mutlak terhadap sistem perizinan berbasis data geospasial terintegrasi, serta pengenaan dwangsom (denda paksa) yang langsung dibebankan pada aset pribadi pejabat negara dan integrasi penegakan hukum pidana terhadap birokrat yang membangkang untuk memutus rantai pengelakan hukum administrasi.

***Kata kunci**: Patologi Birokrasi; Pembangkangan Eksekutif; Sentralisasi Perizinan; Dinamika Politik; Tanggung Jawab Pidana.*

INTRODUCTION

Administrative law is fundamentally designed as a control mechanism to balance economic development agendas with the preservation of sustainable living spaces. As a constitutional welfare state (verzorgingsstaat), Indonesia mandates state intervention to ensure that natural resource utilization directly translates to public prosperity and environmental safety, an obligation deeply rooted in Article 33 of the 1945 Constitution. Under this framework, state administrative actions must actively protect citizens' living spaces and strictly adhere to the General Principles of Good Governance (AUPB). Consequently, licensing instruments must function as preventive ecological safeguards to achieve substantive regulatory objectives, rather than merely fulfilling procedural formalities (Philipus M. Hardjon 2002).

However, contemporary government administration in Indonesia reveals a decline in this protective function due to investment pragmatism. Administrative decisions (KTUN) in business licensing now reflect quantitative ambitions over ecological sustainability, shifting the essence of licensing from a preventive instrument to a tool for legitimizing exploitation (Putra Tri Rezeki, Aldri Frinaldi, and Roberia 2025). Consequently, administrative law loses its moral authority when confronted with massive environmental damage, triggering legal uncertainty that undermines access to justice for affected communities.

The turning point in this governance declines stems from the radical centralization of licensing authority through Law No. 3 of 2020 on Mineral and Coal Mining, subsequently reinforced by the Cipta Kerja legislative regime. The absolute withdrawal of licensing authority from local governments to the central government constitutes a severe anomaly within the established asymmetric decentralization architecture. Local governments, which possess empirical understanding of regional environmental carrying capacity and spatial planning, have had their roles reduced to passive entities. The causal mechanism of this marginalization is rooted in the architecture of the centralized electronic permitting system (Online Single Submission/OSS). By design, this centralized system relies heavily on standardized, national-level administrative checklists and algorithmic approvals, fundamentally decoupling the issuance of permits from localized spatial planning instruments (RTRW) and rigorous on-the-ground ecological assessments. Because the central bureaucratic apparatus lacks the institutional capacity to conduct empirical physical evaluations across the vast archipelago, this structural decoupling inevitably produces a governance system that is blind to spatial realities. Permits are thus issued from bureaucratic desks in the capital based on formal documentary compliance rather than empirical verification. This policy systematically dismantles checks and balances, forcing local areas to bear the ecological burden while the central government monopolizes permitting authority. Politically, this centralizing behavior reflects a calculated effort by central elites to systematically absorb local autonomy, reshaping bureaucratic instruments to serve centralized rent seeking networks (Bersch and Fukuyama 2023).

These structural conditions are exacerbated by strong sectoral egos among ministries, triggering sharp conflicts of norms within our legal hierarchy. On one hand, the Ministry of Energy and Mineral Resources (ESDM) hides behind the principle of lex specialis derogat legi generali, using the mining legal regime across various geographical landscapes. On the other hand, the coastal protection regime specifically regulated through Law No. 27 of 2007 jo. Law No. 1 of 2014 imperatively prohibits mining activities on small islands with a land area under 2,000 square kilometers. When these two specialized regimes clash, government officials tend to impose institutional will without engaging in vertical or horizontal coordination. This absence of policy harmonization creates jurisdictional chaos, where the same area is deemed permissible for mining by one agency but strictly prohibited by another.

The most visible manifestation of this bureaucratic pathology and clash of sectoral authority is documented in the administrative (Setyasih 2023) dispute regarding a gold mining permit on Sangihe Island, North Sulawesi. This case, which culminated in Supreme Court Decision No. 650 K/TUN/2022, is not a routine environmental dispute, but a reflection of the fracture in the state's administrative law structure. The Ministry of ESDM unilaterally approved the Upgrading of the Production Operation Phase of the Contract of Work on an area far below the legal threshold for coastal zones. This action exposes the failure of the government's internal administrative review system, where legal documents were issued in violation of ecological carrying capacity. The issuance of such permits disregards legal rationality and represents the arrogance of officials' discretion, prioritizing project smoothness over spatial planning certainty.

From the perspective of

administrative court practice (PTUN), mining permit disputes of this nature reveal procedural loopholes highly susceptible to manipulation through defensive litigation tactics. When the public or environmental activists file a lawsuit, the subject of the dispute is often narrowed down to merely formal aspects of the Decision Letter. Administrative court judges are frequently trapped in positivistic legalistic scrutiny without daring to dissect substantive defects in authority caused by ministerial sectoral egos. Evidence in the courtroom hits a dead end when confronted with the doctrine of administrative legal fiction and the shield of "National Strategic Projects" making the efforts to prove an abuse of authority (*détournement de pouvoir*) extremely arduous and resource draining (Allison 2024).

Nevertheless, the Supreme Court's cassation decision effectively provides a bold jurisprudential correction. The Court explicitly revoked the mining production permit based on the philosophical premise that small island regions constitute highly vulnerable ecological entities that must absolutely be subject to the lex specialis of coastal laws. This ruling restores the supremacy of the precautionary principle and issues a stern rebuke against haphazard administrative practices. Furthermore, the panel of judges' reasoning underscores that the centralization of permitting authority must not be interpreted as a blank check to breach the restrictive limits of other sectoral laws, judicially correcting the flawed thinking that prioritizes investment flows above all else.

Furthermore, the panel of judges' reasoning underscores that the centralization of permitting authority must not be interpreted as a blank check to breach the restrictive limits of other sectoral laws, judicially correcting the flawed thinking that prioritizes investment flows above all else. However, this victory has opened a Pandora's box of chronic problems, namely the deadlock in enforcing administrative decisions. As highlighted in contemporary public law scholarship, this deadlock is not merely an empirical anomaly, but a systemic institutional flaw rooted in the normative framework of Indonesia's Administrative Court Law (Law No. 51 of 2009). Specifically, Article 116 of the Law restricts execution mechanisms solely to administrative sanctions such as institutional reprimands, forced fines (dwangsom), or mass media publications structurally omitting the establishment of an enforcement agency with direct physical coercive power, such as execution bailiffs (Maulidyna 2025). Because the procedural law relies entirely on the voluntary compliance and moral obligation of the defeated state officials, final and binding court decisions overturning administrative actions frequently fail to halt real-world corporate operations, effectively reducing ecological justice to dead legal literature on paper (Putra Tri Rezeki, Aldri Frinaldi, and Roberia 2025). While relevant ministries delay the formal revocation under various bureaucratic pretexts, corporate heavy machinery continues to operate on the ground, tearing apart the community's living space. This enforcement dysfunction constitutes an anomaly in a rule of law state, where the highest court's rulings are nullified through the silence and defiance of state officials. This institutional paralysis uncovers a deeper political dynamic of 'executive defiance' where administrative authorities intentionally exploit enforcement limitations to insulate corporate-state alliances from judicial finality.

Even more troubling is that bureaucrats often exploit regulatory loopholes to maneuver and "whitewash" disputed objects already invalidated by the

judiciary. Instead of complying with the ruling, government officials frequently exercise discretionary authority to issue substitute licensing instruments with minor administrative modifications. This bureaucratic manipulation tactic which substantively violates the ne bis in idem principle within the administrative framework cruelly forces citizens to restart the litigation cycle from scratch. This procedural loophole appears to be deliberately facilitated by bureaucratic flexibility to accommodate extra-legal interests, betraying the pillar of legal certainty and undermining the dignity of administrative courts.

To date, previous academic studies highlighting mining disputes on small islands have generally focused on scientific evaluations of environmental damage or on human rights discourse. While literature has extensively examined EIA oversight and public participation, very few have dissected the anatomy of these disputes purely from the perspective of Administrative Law. The failure to capture the sectoral self-interest of ministries and the power struggles arising from post-decentralization permitting processes has caused many analyses to overlook the root bureaucratic issues. There is a clear gap in doctrinal research sharply examining how these institutional jurisdictional defects give rise to structural legal conflicts that cannot be resolved solely through conventional environmental litigation instruments. This paper strategically positions itself to fill this academic gap.

Building on these factual anomalies and procedural deadlocks, this article aims to comprehensively deconstruct the root causes of the clash of governmental authority in coastal mining permits. Through an in-depth analysis of the ratio decidendi of Supreme Court Decision No. 650 K/TUN/2022, this study will reveal how permit centralization facilitates sectoral arrogance, while unraveling the phenomenon of enforcement dysfunction. By integrating administrative law, constitutional dynamics, and a criminal law perspective, this paper formulates ideas for procedural enforcement reform—arguing that when bureaucratic malpractices mutate into deliberate defiance, penal liabilities and anti-corruption frameworks must interface to restore the principles of the rule of law.

THEORETICAL FRAMEWORK/ LITERATURE REVIEW

Recent scholarship in public administration emphasizes that natural resource governance in developing nations is frequently crippled by institutionalized bureaucratic pathologies. Setyasih (2023) demonstrates that bureaucratic pathology in local governments often manifests through procedural inefficiencies, but when licensing authority is radically centralized, it mutates into regulatory capture. Bersch and Fukuyama (2023) further conceptualize this dynamic through the lens of bureaucratic autonomy; when line ministries systematically absorb local autonomy without adequate oversight, they tend to transform the state apparatus into a "rentier" system. This structure is specifically designed to secure elite-corporate extraction networks rather than serving its constitutional mandate to protect public welfare and sustainable living spaces.

This structural centralization creates what is identified as "spatial illiteracy" within central-level electronic permitting systems. Landmann and Vollan (2024) note that central decision-making, when insulated from local democratic feedback and regional realities, structurally fails to capture ecological vulnerabilities. Consequently, algorithmic permitting systems produce massive jurisdictional conflicts. In the

context of regulatory clashes, Wicaksana (2021) highlights that state officials often exploit the dualism in interpreting the lex specialis derogat legi generali principle. Central agencies selectively apply mining regimes to accelerate investment flows while intentionally blinding themselves to imperative coastal protection laws, thereby legitimizing environmental extraction through flawed legal reasoning.

Furthermore, contemporary empirical studies tracking environmental litigation deadlocks underscore a global phenomenon of "executive defiance." Putra Tri Rezeki, Frinaldi, and Roberia (2025) argue that the dynamics between the government and citizens in administrative courts often result in hollow victories for disenfranchised communities due to systemic administrative stalling. Maulidyna (2025) specifically identifies the institutional format of Indonesia's Administrative Court (PTUN) as inherently flawed, pointing to the structural absence of an enforcement agency with direct physical coercive power. Resource-extraction corporations and captured bureaucrats routinely exploit this regulatory vacuum to perform "permit recycling" the deceptive tactic of reissuing slightly modified administrative instruments over identical disputed objects to deliberately bypass judicial finality.

To dismantle this systemic malgovernance, recent legal-political scholarship suggests a critical paradigm shift: conventional, soft-law administrative remedies must strictly interface with penal enforcement and criminal law frameworks. Susetyo, Amiq, and Prawesthi (2023) emphasize the urgency of strict law enforcement in coastal mining sectors, which must extend beyond corporate entities to target the state apparatus facilitating them. When bureaucratic pathologies mutate from negligent maladministration into deliberate, calculated defiance of supreme judicial orders to protect illicit corporate economic rents, these actions structurally fulfill the statutory elements of criminal abuse of authority and state-sponsored corruption (Abdurahman et al. 2025). Therefore, justifying the immediate intervention of penal liabilities and personal corporate-state prosecution is theoretically and legally imperative to restore the supremacy of the rule of law.

METHODS

The primary design used in this research is qualitative, specifically normative legal research (or doctrinal research) enriched by a socio-legal and politico-administrative analytical framework. The selection of this hybrid method is grounded in the characteristics of the problem, which is centered on issues of conflict of norms, ambiguity of administrative authority, and the absence of legal instruments in the enforcement of administrative court rulings (Marune 2023). Unlike empirical research that focuses on sociological effectiveness in society, this study positions administrative law as a coherent dogmatic system, while simultaneously employing political science concepts such as regulatory capture and executive defiance as heuristic tools to analyze why state apparatuses systematically deviate from legal norms in practice. Its primary focus is to prescribe and deconstruct the principles, norms, and legal provisions that overlap between the centralized mining licensing regime and the regime protecting coastal regional autonomy. Through reasoning grounded in the hierarchy of legislation and institutional behavior, this study aims to identify epistemological flaws in the bureaucratic policy architecture that fuel ministerial sectoral ego.

To dissect this complexity, this study integrally applies three main

approaches: the statutory approach, the conceptual approach, and the case approach. The statutory approach focuses on mapping the hierarchical structure and horizontal synchronization between Law No. 3 of 2020 on Mineral and Coal Mining, the Cipta Kerja legal framework regarding business licensing, and Law No. 27 of 2007 on the Management of Coastal Areas and Small Islands. Furthermore, the conceptual approach is used to construct an analytical framework by tracing the doctrines of Administrative Law, the principle of decentralization, and the General Principles of Good Governance (AUPB) (Hey 2017). These doctrines are absolutely necessary to demonstrate that uncoordinated centralization of licensing is, in fact, a deviation from the concept of the welfare state (verzorgingsstaat). The selection of these primary legal texts and secondary literature was not conducted through a systematic literature review (SLR), but rather through targeted purposive sampling, explicitly selecting materials that intersect with PTUN procedural loopholes, environmental extraction, and administrative accountability.

The case approach is specifically presented through an in-depth examination of the anatomy and ratio decidendi of Supreme Court Decision No. 650 K/TUN/2022. The selection of this single landmark case study is based on strict criteria: it represents the most definitive jurisprudential evidence of a direct normative clash between national mining regimes and coastal protection laws, and it perfectly encapsulates the transition from theoretical administrative concepts to the actual defensive litigation tactics deployed by defiant state officials. The analysis of the panel of judges reasoning is not merely to examine the final ruling, but to fully unravel the transition from theory to litigation tactics practiced in administrative court proceedings. Through an examination of the arguments in the complaint and the state apparatus's exceptions, it can be identified how administrative officials hide behind their sectoral authority, while simultaneously formulating prescriptive strategies to overcome the impasse in the execution of final and binding (inkracht) rulings.

The data specifications utilized in this study are entirely based on primary and secondary legal sources. Primary legal sources consist of binding legislative instruments, implementing regulations in the OSS licensing sector, and the official document of Supreme Court Decision No. 650 K/TUN/2022. Meanwhile, secondary legal materials were extracted from various authoritative literature, including textbooks on state institutions, scientific journals indexed in SINTA or Scopus relevant to governance, regional autonomy, and public policy. This library research was conducted systematically to identify the philosophical foundations explaining why anomalies in executive authority have repeatedly occurred following the implementation of the centralized licensing regime.

Legal text analysis was conducted using a prescriptive analytical approach, employing systematic interpretation and teleological (sociological) interpretation. Systematic interpretation works by linking article by article across sectoral laws to identify the bottlenecks in the authority of the central and regional governments. Meanwhile, teleological interpretation is applied to uncover the original intent of the lawmaker (Tiililä, Schlottmann, and Bechlivanidis 2026), to demonstrate that the spirit of regional autonomy must not be simply nullified by central licensing instruments. Through deductive reasoning, the results of this analysis are projected not merely as normative criticism but culminate

in a proposal for the reconstruction of the legal framework for administrative governance one that better ensures the certainty of implementation and curtails the scope for sectoral self-interest among state officials.

RESULT AND DISCUSSION (12pt, Bold)

A. Clashes of Authority Following the Centralization of Licensing: A Distortion of Asymmetric Decentralization and Lex Specialis

The centralization of licensing authority, which was reclaimed by the central government through the Mineral and Coal Mining Law (Feijoo-Arostegui et al. 2026), has created a fundamental upheaval in our constitutional architecture. This shift effectively diminishes the meaning of regional autonomy guaranteed under Article 18 of the 1945 Constitution, which constitutionally mandates local governments the freedom to manage their own territorial areas in a proportionate manner. Theoretically, this structural centralization fundamentally contradicts the principle of asymmetric decentralization a concept recognized under Article 18B of the 1945 Constitution which necessitates the division of governmental responsibilities to be proportionately tailored based on a region's specific characteristics, local wisdom, and ecological vulnerabilities. The central government, through a highly pragmatic investment lens, has taken control of licensing without considering the environmental mitigation capacity that local officials have long understood. In practice, this centralization creates a monopoly of administrative authority that is blind to the environmental carrying capacity of the site, thereby relegating local governments to mere spectators as their natural resources are exploited in the name of national development projects fully controlled from the national capital (Landmann and Vollan 2024).

The illusion of permitting efficiency touted through integrated electronic or online systems harbors serious procedural flaws from a public administration law perspective. The algorithmic systems managing approvals are designed purely to cut through bureaucratic red tape without rigidly incorporating variables related to the safety of living spaces. Consequently, this mechanism frequently conflicts with spatial planning and zoning instruments painstakingly developed by local governments through local regulations. Spatial planning documents, which should serve as the guiding authority in determining whether an extractive activity may operate, have now been degraded to mere appendices that can be adjusted later. Technical ministry officials at the central level often overlook the fact that every geographical landscape has different carrying capacity thresholds; thus, automatic approval through this electronic system has a high potential to produce administrative decisions that are procedurally flawed from the very outset.

From the perspective of administrative law, this licensing chaos stems from institutional authority defects facilitated by sectoral laws. The theory of authority teaches that every action by a government official must absolutely be based on a valid attribution or delegation without violating the authority limits of other institutions. On-the-ground evidence shows that the ministry responsible for energy and mineral resources frequently acts beyond the boundaries of its ecological jurisdiction under the pretext of accelerating strategic investments. State administrative officials issue operational production decisions assuming their authority is absolute and unbound by the environmental permitting regimes of other ministries. Such practices of

sectoral arrogance undermine the principle of inter-governmental coordination, which in turn creates administrative anarchy where one ministry perceives itself as superior to others in managing the exact same spatial area within a specific region.

This clash of authority becomes particularly destructive when analyzing the factual conflict of norms between mining regulations and coastal zone management regulations. The Coastal Zone and Small Islands Management Act unequivocally and without compromise prohibits all forms of mineral mining activities on islands with a land area of less than two thousand square kilometers. Despite this prohibition being crystal clear, officials fro m the Ministry of Energy continue to issue mining business permits in these prohibited areas. This action demonstrates that government officials often interpret legal instruments selectively, adhering only to laws that grant them authority while disregarding those that limit such authority to safeguard the living spaces of island communities.

This flawed legal reasoning by government officials generally hides behind the legal doctrine of *lex specialis derogat legi generali*, which is applied haphazardly (Wicaksana 2021). Sectoral ministries insist that mining laws constitute special regulations that automatically supersede the application of coastal and small island laws. This claim constitutes a legal fallacy because both laws are, in fact, special regulations governing distinct subjects. Mining regulations pertain to mineral commodities, whereas coastal regulations concern the protection of terrestrial territorial areas. When a mining site is located within the protected territorial space of a small island, the legal regime governing territorial safety must be prioritized to prevent ecosystem extinction. Forcing mining law to override coastal law constitutes a form of regulatory tyranny that undermines the principle of sustainable development.

Theoretically, the resolution of this conflict between specific regulations must be addressed through systematic and teleological interpretation methods in constitutional law. Systematic interpretation compels state officials not to read mining permit provisions in isolation but to link them to the constitutional guarantee of citizens' right to a healthy environment. Meanwhile, teleological interpretation directs us toward the purpose of the coastal law, which was originally intended to protect small islands from the threat of large-scale extractive industries. Ignoring these two methods of interpretation and allowing sectoral ministries to issue permits unilaterally constitutes a clear form of administrative misconduct. Officials who approve extractive operations in these prohibited areas can be classified as having committed an abuse of authority by using their discretion for purposes contrary to the spirit of the ecological constitution embraced by the state.

The most brutal manifestation of this clash of sectoral authority is vividly illustrated in the tragedy of permit governance in the Sangihe Islands of North Sulawesi Province(Soemarmi et al. 2025). The central government knowingly and intentionally approved the expansion of gold mining operations on land areas far below the minimum threshold required by coastal laws. This administrative decision was issued as if Sangihe Island were an empty expanse of land free from the risks of land subsidence and acute clean water crises. This empirical fact exposes the corruption of the environmental impact analysis process, which was merely drafted as an administrative formality on paper without validating the actual threats on the ground. The production operation permit in Sangihe

stands as a monument to the failure of our bureaucracy to apply the principle of precaution, which should be the primary guide for every official when issuing environmental approval documents.

As a result of this haphazard centralization of permitting, the mechanism of checks and balances between the central and local governments has become completely paralyzed on the ground. Local autonomous leaders and their technical staff who best understand the social and ecological conditions of the local community have lost their jurisdictional teeth to stop corporate heavy machinery. When civil society urges local governments to act, local officials can only argue that they are bound by the administrative hierarchy and dare not annul legal instruments issued by ministers in the capital. This deadlock in central-local relations has created a situation of apathy in local governance, where local officials allow the destruction of living spaces to occur by hiding behind a lack of authority. At this point, centralization has transformed into an instrument of administrative oppression that sacrifices the region's ecological future to secure investment flows from the central government.

In the arena of litigation before administrative courts, government officials often exploit bureaucratic loopholes to defend these flawed permits. Court practice shows that government legal counsel consistently redirects the debate toward the fulfillment of formal procedural requirements within the electronic system rather than addressing substantive arguments regarding violations of environmental carrying capacity. This defensive litigation tactic cleverly shifts the judges' focus from substantive unlawful acts to mere issues of compliance with administrative documentation requirements. Such maneuvers demonstrate that administrative officials often lack the good faith to acknowledge cross-sectoral errors but instead use every formal defense instrument to legitimize those errors. This makes administrative adjudication often feel dry and fails to address the ecological justice sought by justice seekers from affected regions.

Based on the analysis of the issues outlined above, it can be concluded that the clash of licensing authorities among ministries following centralization represents a massive dysfunction in government governance. The issuance of decisions by government officials that violate the legal boundaries of coastal zones constitutes a serious breach of the principles of due diligence and legal certainty enshrined in administrative legislation. State administration practices must not be allowed to operate in the dark corridors of sectoral egos where ministries negate one another in pursuit of economic targets alone. Therefore, administrative courts must take a progressive role with the courage to annul any licensing product born from this regulatory regime's collusion. A re-purification of administrative authority is necessary so that licensing instruments once again function as a safety valve for the preservation of living spaces and not merely a rubber stamp for the destruction of small islands in the archipelago.

B. Litigation Practices and Enforcement Dysfunction: The Reality of Executive Defiance and the Illusion of Environmental Justice

Shifting the debate from the substance of authority to the reality of the courtroom, we are confronted with a stage of illusory justice played out by the administrative courts. Supreme Court decisions that boldly revoke mining permits in coastal areas of the archipelago often yield only fleeting euphoria for environmental

activists. This theoretical victory in the courtroom instantly crumbles when confronted with the reality on the ground, which reveals just how blunt the teeth of our administrative law enforcement truly are. Plaintiffs and affected communities are confronted with the empirical reality that a declaratory revocation ruling from the highest judicial body does not automatically translate into the immediate cessation of physical extractive operations at the disputed site. This discrepancy highlights a severe implementation gap between the normative mandate of ecological justice articulated by the judiciary and the factual enforcement required to halt environmental degradation in the field.

This tragedy of legal enforcement dysfunction is fundamentally rooted in an inherent flaw in the design of Indonesia's administrative judiciary, which from the outset was not equipped with enforcement mechanisms (Maulidyna 2025). In stark contrast to civil procedural law, which has court bailiffs and real enforcement mechanisms with the assistance of judicial security personnel, the administrative court system is left impotent without an enforcement body. Lawmakers naively constructed this judicial system on the fictitious assumption that government officials always possess a high level of moral compliance with court rulings (Beal and Fisch 2024). Professional realities in the world of litigation prove that relying on the moral conscience of officials who issue problematic permits is nothing but a utopia, especially when the subject of the dispute intersects directly with the vortex of capital in the massive-scale extractive industry.

The characteristic of administrative court rulings, which are essentially declaratory in nature and only limitedly administrative condemnatory, constitutes a systemic weakness that is systematically exploited by the bureaucracy. When a judge orders the revocation of an administrative decision, its enforcement is entirely dependent on the active action of the relevant official to issue an official revocation letter. Our procedural law does indeed provide for administrative sanctions, including public disclosure in the media, for officials who defy such orders; however, these measures have proven completely ineffective in halting corporate operations on the ground. Administrative sanctions in the form of reprimands from superiors lose their relevance when the superiors of these administrative officials are themselves part of a centralized regime that from the outset intended for the mining project to proceed unimpeded.

The paralysis of these enforcement instruments subsequently gave rise to a phenomenon of institutionalized bureaucratic defiance, subtly justified under the pretext of completing internal ministry procedures. State administrative officials who lose in court typically do not immediately revoke the canceled permits but instead delay action, citing the need to wait for an official copy of the ruling or the necessity of conducting further legal reviews within their internal legal offices. This deliberately created delay is a dirty tactic that gives corporations breathing room to continue reaping financial profits while accelerating the rate of environmental damage at the disputed site. This act of delaying enforcement without valid grounds constitutes a form of severe maladministration that undermines the principle of legal certainty; unfortunately, there is no specific mechanical framework to automatically overcome this structural stall. This institutional paralysis reveals a calculated political strategy of 'executive defiance, where the executive branch intentionally leverages the judiciary's

structural enforcement gaps to shelter corporate-state financial alliances from legal finality.

On the other hand, corporations as third parties with a stake in the matter or intervening defendants often exploit this administrative vacuum with highly manipulative legal arguments. They argue that if the relevant minister has not physically issued a decision revoking the permit, their mining activities remain legally valid in the eyes of the state. This deviant legal logic is allowed to flourish on the ground, leading law enforcement agencies such as the police to often hesitate to act and halt heavy machinery operations, citing the absence of an official revocation order from the ministry. This situation places indigenous communities and residents in a highly vulnerable position, as they must confront corporate thuggery directly while state security officials choose to remain neutral in the name of documentary formalities.

The complexity of enforcing these rulings is further compounded when disputes collide with the dual legal regime governing the relationship between the state and mining corporations. In many natural resource disputes, mining companies hide behind the Work Contract, a civil law document serving as a business agreement with the state. When administrative courts revoke an environmental feasibility permit or production operation approval, the corporation argues that such an administrative decision does not automatically nullify its civil contract. They claim that their exploitation rights stem from a binding civil contract that serves as law for the parties, so unilateral revocation through administrative channels is deemed invalid for halting the company's entire operations.

The central government often deliberately turns a blind eye to the manipulation of this dualism between the civil and public legal regimes to save face regarding investment on the global stage. This turning a blind eye creates a constitutional anomaly where the state, in its capacity as a civil law subject, allows the contract to proceed, while the state, in its capacity as a holder of public authority, has been proven to have violated the law by issuing permits that damage the environment. Government officials hide behind the fear of being sued again by corporations through international arbitration forums if they immediately enforce administrative court rulings. This phantom fear sacrifices the supremacy of national law and renders the Supreme Court of the Republic of Indonesia's rulings no more than non-binding recommendations in the eyes of capital holders.

The reality of this failure to enforce is tragically documented in the history of litigation over the gold mining dispute in the Sangihe Islands following the issuance of the Supreme Court's cassation ruling. Although the panel of judges explicitly stated that the issuance of production operation permits on that small island violated coastal laws and absolutely annulled the minister's decision, the corporation's heavy machinery operations did not cease immediately. The central government responded slowly to this final and binding ruling, thereby allowing the people of Sangihe to remain constantly under the shadow of the threat of the destruction of their living environment. This tragedy of enforcement in Sangihe confirms the thesis that winning a legal battle over the interpretation of a clause in administrative court proceedings is insufficient to stop environmental crimes if the enforcement officials act in bad faith in carrying out the mandate of the law (Susetyo, Amiq, and Prawesthi 2023).

The collapse of the authority of administrative court rulings directly erodes

public trust in the judicial branch's ability to resolve agrarian conflicts and safeguard ecological sustainability. Communities who have gone to great lengths to raise public donations, mobilize expert support, and spend years navigating the court system ultimately feel betrayed by their own country's legal system. The social frustration caused by the failure to enforce this ruling has the potential to trigger an escalation of horizontal conflicts and acts of vigilantism on the ground, as the state is perceived to be deliberately absent in delivering concrete justice. Administrative law loses its highest dignity as a civilized instrument for dispute resolution when it fails to compel the guilty authorities to submit to the court's ruling.

Based on the analysis of the impasse in litigation practices outlined above, it can be asserted that the absence of enforcement mechanisms within administrative courts constitutes a structural weakness that urgently requires reconstruction by the legislature. If our procedural law relies solely on a moral appeal to government officials, the enforcement of environmental justice will always result in executive dysfunction that legalizes the slow and systematic destruction of nature. Administrative courts absolutely require progressive legal breakthroughs, whether through the revision of administrative court laws or the creation of judicial precedents establishing instruments such as dwangsom or fines. Without enforcement instruments possessing the power of threat and physical coercion, administrative courts will remain trapped as an academic stage producing lifeless court decisions amidst the roar of the ecological destruction of the Indonesian archipelago.

C. Loopholes for Manipulating Dispute Objects: Taktik Daur Ulang Izin and the Urgency of Criminal Law Interface

The most destructive pathology of bureaucracy in the ecological justice system does not merely stop at the reluctance to execute court rulings but extends to maneuvers involving the manipulation of the subject matter of the dispute. Following a defeat in court, government officials often do not lose their wits in continuing to serve the interests of extractive corporations through the corruptive exploitation of discretionary loopholes. The most common practice encountered is the issuance of a new decision letter that, in substance, grants an operating permit to the same company at the exact same location but is disguised with different nomenclature or registration numbers. This manipulative action constitutes a blatant violation of the principle of ne bis in idem within the administrative framework of government. Public officials deliberately recycle licensing instruments that have been declared legally defective by a panel of judges to create a new shield of legality for mining operations.

This illusion of legal compliance is designed in such a way that state officials appear to have carried out the court's ruling by revoking the old permit, yet at the same time they issue a new permit to replace it. The corporations holding these permits benefit greatly from this bureaucratic flexibility because they can continue to operate their heavy machinery under the pretext that their operations are now protected by a new administrative decision that has not yet been overturned by the courts. This scheme of legal circumvention is facilitated by a highly mechanistic online permitting system where new applications can be processed quickly without any blocking mechanism for areas currently or previously under a final and binding legal dispute. Our state administrative system has proven incapable of erecting a protective firewall to prevent the issuance of conflicting decisions regarding the same vital object,

thereby reducing administrative law to a tool for legitimizing environmental destruction.

The direct impact of this manipulative strategy of issuing new disputed objects is the shifting of the burden of proof and systemic exhaustion that is once again imposed on the shoulders of the affected communities. Citizens and environmental activists who have sacrificed years of their time and spent significant financial resources to win a single cassation ruling are now forced to repeat the litigation cycle from scratch. The administrative court views the newly issued decision as an independent administrative act possessing a presumption of legal validity or *praesumptio iustae* causa until a new ruling overturns it (Efendi and Sudarsono 2024). This endless chain of litigation creates an extreme disparity in access to justice between corporate capital facilitated by the authorities and indigenous communities struggling to defend their living spaces from the threat of permanent destruction.

The proliferation of loopholes for manipulating the subject of the dispute stems from a bureaucratic oversight paradigm both internal and external that remains trapped in a purely procedural evaluation. Government oversight bodies and administrative courts have, until now, focused their scrutiny solely on the completeness of formal documents and the procedural sequence of permit issuance on paper. This positivistic approach assumes that if authorized officials have met the administrative requirements within the system, their decisions are deemed valid regardless of how severely the ecosystem is destroyed. This outdated evaluation standard grants officials' leeway to hide behind bureaucratic stamps because they know oversight mechanisms will never address the substantive ecological impacts on the ground. This spatial illiteracy paradigm must be deconstructed immediately if the state is serious about ending the collusion between discretionary decision-makers and environmental destroyers.

As a proposal for the reconstruction of scientific doctrine and the practice of administrative law, it is imperative to adopt an outcome-oriented oversight system in evaluating every action taken by officials. This concept of outcome-based oversight shifts the focus of evaluation from mere compliance with administrative processes toward the achievement of the final outcomes of environmental conservation and the safety of living spaces. Under this new paradigm, a licensing decision is no longer deemed valid because its attachments are complete but is measured by whether the implementation of the permit ensures the sustainability of the small island's ecosystem or, conversely, damages it. If the outcome of a permit is proven to exploit and violate the restrictive limits of coastal laws, then the entire preceding administrative process must be declared null and void due to a substantial defect in authority.

This outcome-oriented oversight requires absolute integration between licensing legal instruments and real geospatial data that precisely delineate ecological carrying capacity limits. The central level electronic licensing system must be recalibrated to automatically reject any application for extractive activities located within protected small islands or in areas currently under court dispute. Spatial protection parameters must be established as absolute prerequisites that cannot be compromised by the discretion of any minister or government official. By applying measurable and rigid result benchmarks, the bureaucratic apparatus's leeway to maneuver in issuing permits for resource extraction in disputed locations will be completely closed off, as the system dogmatically rejects actions not oriented toward ecological safety.

This paradigm shift toward outcome-oriented evaluation also carries strategic implications for the litigation tactics that environmental advocates must develop. Litigators can no longer limit themselves to drafting legal arguments focused on errors in document numbering or the absence of inter-agency coordination stamps. Legal arguments in the courtroom must be constructed in such a way as to demonstrate the failure of state administrative officials to achieve the environmental protection outcomes mandated by the constitution. Attorneys must be able to convince the panel of judges that the issuance of a new decision letter following a final and binding judgment constitutes an unlawful act by the government or an *onrechtmatige overheidsdaad* that undermines the state's objectives (Fauzi and Erliyana 2023). The burden of proof must be centered on empirical evidence of ecological damage as proof of the substantial failure of administrative actions issued by the government.

The application of this outward-oriented oversight doctrine undoubtedly demands progressive courage from judges in administrative courts to break the chain of legal formalism. Judges must no longer act merely as mouthpieces of the law regarding the completeness of administrative files but must act as guardians of ecological justice. The panel of judges must dare to pierce the fiction of legal validity by actively uncovering external facts on the ground, including considering the track record of officials who have repeatedly issued permits at the disputed location. Through rulings that boldly reach for substantive justice, administrative courts can restore their reputation as institutions that scrutinize abuse of power institutions feared by defiant bureaucratic officials.

To completely close the loopholes for manipulating the subject of the dispute, field-oriented oversight absolutely requires enforcement instruments in the form of dwangsom sanctions or fines imposed directly on officials personally. However, when soft-law administrative adjustments face systemic evasion, the legal framework must immediately interface with criminal law (Hukum Pidana). When public officials deliberately execute 'permit recycling' to mock judicial finality, their behavior moves beyond mere maladministration into a severe penal offense. Under anti-corruption frameworks (such as Article 3 of the Indonesian Anti-Corruption Law), a bureaucrat who knowingly misuses their discretionary power to reissue a legally voided extraction permit—thereby generating illicit corporate economic advantages while causing irreversible state ecological damage—can be prosecuted for criminal corruption. Furthermore, a specific penal codification for contempt of court must be instituted against individual state actors to legally dismantle the political arrogance of power. Imposing direct criminal liability alongside civil joint liability is the most rational legal tactic to create a tangible deterrent effect among bureaucrats.

Comprehensively, the restructuring of procedural law and governance oversight is an absolute foundation for saving the rule of law from bureaucratic decay. Loopholes for manipulation, such as the recycling of disputed mining permit cases in coastal areas, can only be stopped if we dare to abandon a formalistic approach and fully shift to empirically oriented, outcome-focused oversight. Administrative law must be restored to its original purpose as a protective instrument that prioritizes ecosystem sustainability and safeguards citizens' fundamental rights from the grip of political-economic oligarchies. By closing the space for administrative maneuvering

and imposing personal and criminal sanctions on officials who violate the administrative justice system, the state will rediscover its executive power in ensuring the realization of environmental justice for all the people of Indonesia.

CONCLUSION

The concluding statement should contain general summary of the research study, argumentation strengthening the discussion section, author preferences or recommendations.

Based on the analysis, this study concludes that the radical centralization of electronic-based permitting has birthed a severe bureaucratic pathology, manifested as sectoral egotism that systematically undermines regional autonomy and dismantles the asymmetric decentralization architecture. This structural flaw allows central-level kementerian to operate with severe spatial blindness, prioritizing extractive economic target expansion while aggressively violating the mandatory ecological protections of small islands and coastal zones.

Furthermore, this governance decline is deeply exacerbated by an enforcement deadlock within the administrative court system. The structural absence of independent executive enforcement bodies inside the PTUN framework triggers systemic 'executive defiance'. In this arena of power imbalance, defiant bureaucrats and captured government officials strategically delay legal finality, intentionally exploiting judicial enforcement limitations to shelter corporate-state financial alliances while corporate heavy machinery continues to devastate local ecosystems.

This institutional decay reaches its peak through the manipulative practice of 'permit recycling,' where public officials exercise their discretionary power to reissue slightly modified administrative instruments over identical disputed objects, thereby cruelly forcing disenfranchised citizens to restart the litigation cycle from scratch. This pathology persists because internal and external oversight paradigms remain blindly trapped in formal-procedural documentation compliance rather than evaluating empirical ecological outcomes.

To break this vicious cycle of maladministration and executive overreach, this paper formulates a critical cross-disciplinary reconstruction. First, the state must transition toward an outcome-oriented oversight model integrated with automated geospatial firewalls that dogmatically reject any permitting processed within restricted coastal zones or active court dispute areas. Second, and most importantly, soft-law administrative adjustments must strictly interface with criminal law.

When public officials deliberately recycle legally voided permits to mock judicial finality, their behavior must be treated as a severe penal offense rather than a mere procedural error. Defiant bureaucrats who misuse public discretion to secure illicit corporate rents while causing permanent environmental damage must be directly prosecuted under anti-corruption frameworks, such as Article 3 of the Indonesian Anti-Corruption Law, alongside the institution of strict criminal contempt of court liabilities and personal financial dwangsom sanctions. Only by enforcing direct criminal and personal liability onto state actors can the state dismantle bureaucratic arrogance, balance the separate branches of power, and restore concrete environmental justice across the Indonesian archipelago.

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