

# 非法採砂適用法規及判決探討 —我國與印度、印尼、越南之比較

## A Legal Study on Illegal Sand Mining - Comparison between Taiwan, India, Indonesia, and Vietnam

楊迺軒，楊雅筑

Yang, Nai-Hsuan, Yang, Ya Zhu

### 中文摘要

自 2005 年起，我國金門周遭海域發生中國大陸抽砂船越界採砂之事，近年該國抽砂船更至馬祖、澎湖臺灣淺堆等地非法採砂，此舉不僅越界進入我國禁止、限制水域與專屬經濟海域，對於生態環境、漁業資源及國土安全也都造成一大困擾與威脅。國際上猖獗的非法採砂爭議，亦引起諸多國際媒體爭相關注。聯合國環境規劃署亦發出聲明，警示各國若繼續無節制地開採砂石，將對生態環境造成永久性的危害。

非法採砂不僅在我國發生，印度、印尼、越南等國家亦飽受非法採砂所帶來的負面影響。如何減少、杜絕非法採砂以避免生態環境持續遭受破壞，是各國政府迫在眉睫，必須盡快且妥善處理之事。

本文依蒐集之文獻、資料衡酌近年非法採砂情形較嚴重之國家，就印度、印尼及越南等國之非法採砂適用法規進行比較研究，針對各國適用法規及其實務判決，與我國進行比較分析，並提出相對應於我國法之修法建議。

關鍵字：

非法採砂、中國大陸抽砂船、《中華民國專屬經濟海域及大陸礁層法》第 18 條、《土石採取法》第 36 條、印度非法採砂、印尼非法採砂、越南非法採砂

## **Abstract**

Since 2005, PRC's sand-dredging vessels have crossed the border to illegal sand mining in the sea area around Kinmen. In recent years, illegal sand mining by sand-dredging vessels of the PRC has become more serious in the waters of Matsu, Penghu, Taiwan and other places.

This move not only illegally crosses the border into Taiwan's restricted waters and exclusive economic zones, but also causes major troubles and threats to the ecological environment, fishery resources and homeland security.

Illegal sand mining not only occurs in Taiwan, but also in other countries such as India, Indonesia, and Vietnam, which have also suffered from the negative impacts of illegal sand mining.

Therefore, how to reduce and eliminate illegal sand mining to avoid continued damage to the ecological environment is an urgent matter that countries around the world must deal with as soon as possible and properly.

This article conducts a comparative study on the applicable laws and regulations for illegal sand mining in India, Indonesia, and Vietnam. After comparative research, put forward suggestions for amending the laws corresponding to Taiwan legal system.

**Keywords:** Illegal sand mining, Chinese sand-dredging vessels, The Law on the Exclusive Economic Zone and the Continental Shelf of the Republic of China §18, The Sand and Gravel Excavation Act §36, Illegal Sand Mining in India, Illegal Sand Mining in Indonesia, Illegal Sand Mining in Vietnam