
GOOD GOVERNANCE MANAGEMENT OF MINERAL RESOURCES AND COAL

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Abstract

National development which is currently being promoted by the government in various sectors requires a lot of budgets, one of which comes from the potential of mineral resources and coal for community welfare. Increased use of mineral and coal resources for community welfare will also be followed by increased environmental damage. Various negative impacts on the environment arising from the management of improper use of natural resources, which will sacrifice the environment, other natural resources, even not the welfare of the community, will actually harm the surrounding community. It even causes flooding and disruption of biological natural resources in the forest and will disrupt the economy and health of the surrounding community in particular and the nation in general. Law Number 32 of 2009 concerning environmental protection and management has included a philosophical foundation regarding the concept of sustainable and environmentally sound development in the framework of economic development. This is important in national economic development because environmental problems in the future will be more complex and conditions with the interests of investors. Therefore, Article 2 of Law No. 4 of 2009 as amended to Law No. 3 of 2020 concerning Mineral and Coal Mining, needs to consider the principles of a. Benefits, equity, and balance; b. Siding with the interests of the nation; c. Participation, Transparency, and Accountability; d. Sustainable And Environmentally Friendly.

Keywords:

Good Governance, Mining, Welfare, Democracy

1. Introduction

Mining activities have the potential to damage the environment because it has the characteristics of changing the environment physically, chemically, and biologically. The purpose of mining activities is to process the potential of non-renewable natural resources. Therefore, management is carried out in a wise manner by considering article 2 of Law No.3 of 2020 concerning amendments to Law No. 4 of 2009 concerning Mineral and Coal Mining. Namely, the management of mineral and coal mining always considers the principles of transparency, accountability, justice, and environmental sustainability. (Dwi Haryadi, 2019)

Attention to the environment must really be a priority scale because in mining activities pollution of the environment cannot be avoided. Therefore, the state exists as part of the management and management by supervising and holding licensing obligations for business actors. One of the threats to the country is environmental problems.

The impact of the mining business is not only on the economic aspect but also on the environmental aspect which as a result causes social unrest. That is, there is an increase in the escalation of friction between mining companies and the community, by managing mineral and coal resources, the agrarian pattern of the community will change into mining communities and around the mine becomes damaged and the surrounding settlements become polluted. Even though the maximum effort has been made to repair the damage or pollution, it is still lacking and does not touch on substantive matters. (Khusniyah, 2018)

Law No. 3 of 2020 concerning amendments to Law no. 4 of 2009 concerning Mineral and Coal Mining began to open new horizons regarding the juridical aspects of mining management in the environmental sector as well as the issue of Indonesia's mining independence. As one of Indonesia's sources of foreign exchange in the last few decades, mining activities of all forms and types have become an interesting issue and have a large dimension in the life of the Indonesian people.

It is an interesting issue because talking about mining, the emphasis is on economic problems, where the processes and effects of mining support countries and large corporations (both domestic and foreign). In this situation, the state collects income in the form of both taxes and nontaxes. Meanwhile, the proceeds from the sale of mined minerals are gained by mining firms.

On the one hand, in terms of seeking economic benefits in the mining industry, there are still several factors which have been overlooked. That it needs to be handled as efficiently as possible to provide the state with great benefits for the people's greatest prosperity. (Fitria, 1945)

2. Material description

It is clear from Article 33(3) of the 1945 Constitution of the Republic of Indonesia that the land, water and natural resources found therein are to be regulated by the state and used for the greatest welfare of the people. Indonesia has mineral potential, and as a nonrenewable natural resource, coal is a natural resource found in this mother earth. The management carried out by the State is therefore expected to take place in an optimal, accessible, open, safe, environmentally friendly and just manner in order to benefit sustainably from the prosperity of the people. This is clearly backed by Article 2 of Chapter II of Law No. 4 of 2009 on the extraction of minerals and gas.

It is realized that Indonesia is a country that has natural wealth and agricultural products that stretch both in the earth and on the earth, in the air, and at sea. It is a gift from God Almighty, which must be grateful for the good and correct management and management. The mining aspect, in this case, the management of mineral and coal resources, can cause problems, especially those related to mining permits which may have legal implications.

For the greatest possible development of the citizens, the management of mineral and coal resources in the state by government power must be responsible. Article 33(3) of the Constitution of the Republic of Indonesia of 1945 acts as the umbrella for the administration of mineral and coal resources. In order to be realized as expected, better governance is needed, hereinafter referred to as *Good Governance*. (Polish, nd). *Good Governance* means: "The activities of a government institution that are carried out based on the interests of the people and the norms that apply to realize the ideals of the state. Meanwhile, according to IAN & BPKP what is meant by good governance is: "How the government interacts with the community and manages resources in development". (Khusniyah, 2018)

Government Regulation No. 101 of 2000, formulating the meaning of *good governance* as follows: "Governance develops and applies the principles-principles of professionalism, accountability, transparency, excellent service, democracy, efficiency, effectiveness, rule of law and can be accepted by all Public".

"According to the text of the United Nations Development Program (UNDP), governance is: "The use of political economy and administrative authority at all levels to control state affairs. Governance encompasses all process structures and organizations in which individuals and societies communicate their interest in the use, enforcement of and distinction between legal rights and obligations. (Fitria, 1945)

Good governance according to LAN contains two definitions (Ulisah, nd) :

First, values that uphold people's wishes/will and values that can strengthen the capacity of people to achieve (national) freedom, sustainable growth, and social justice objectives. Second, in carrying out its duties to achieve these objectives, the practical aspects of an effective and productive government.

According to the LAN, the mode of good governance is the implementation of solid state governance, which is responsible and effective and efficient by maintaining a "synergy" of positive interactions between the realms of government, the private sector and society. The characteristics of *Good Governance* refer to the policy documents of the United Nation Development Program (UNDP), namely: (Yoas Ellyasaf Lukas, John Kekua, 2019)

1. Include everyone, be open and accountable, efficient and equitable,
2. Guaranteeing the rule of law
3. Ensure that community consensus is the basis for political, social and economic goals.
4. In the decision-making process concerning the distribution of development capital, take account of the needs of the poorest and weakest.

As alluded to in Article 13 of Law No. 30 of 2014, General principles of good governance concerning State Administration includes the principles: (Jeanne Darc Noviyanti Manik, 2009)

1. Juridical certainty;
2. Advantages;
3. Unbiasedness;
4. Watchfulness;
5. Do not misuse power;
6. Openness;
7. Political interest; and the public interest
8. Excellent operation.

The principles of *good governance* according to Buyung are as follows: (Graham et al., 2003)

1. Professionalism, improving government administrators' capacity and morale in order to be able to provide simple, quick, effective and affordable services.
2. Accountability, strengthening the accountability of decision-makers in all public interest sectors.
3. Transparency, through the availability of information, establishes reciprocal trust between the government and the public and makes it easier to access accurate and sufficient information.
4. Excellent service, implementation of public services that include good procedures, clear tariffs, the certainty of time, easy access, complete facilities, and infrastructure as well as friendly and disciplined services.
5. Democracy and participation encourage every citizen to exercise their right to express their opinion, either directly or indirectly, in the decision making process which concerns the interests of the community.
6. Efficiency and effectiveness, ensuring the delivery of services to the community by optimally and responsibly using available resources.
7. The rule of law should be recognized and respected by all citizens, recognizing that law enforcement is only for all parties without exception, respecting human rights, and paying attention to the ideals that exist in society.

According to the United Nations Development Program (UNDP), there are 14 principles of good governance, namely:

1. Visionary; (Weiss & Taylor, 2016)
2. Openness and transparency (Openness and Transparency);
3. Participation; Accountability;
5. The rule of law (Rule Of Law)
6. Democracy (Democracy);
7. Professionalism and competence;
8. Responsiveness (Responsiveness);
9. Efficiency and effectiveness (Efficiency And Effectiveness);
10. Decentralization (Decentralization)
11. Partnerships with the private sector and the community (Private Sector and Civil Society Partnership);
12. Commitment to reducing inequality (Commitment To Reduce Inequality);
13. Commitment to the environment (Commitment To Environmental Protection);
14. Commitment to Fair Market.

The elements of governance according to Sedarmayanti consist of 3 categories, namely: (Haris, 2017):

1. State/Government; the idea of governance is essentially a government operation, but it also includes the private sector and the institutions of civil society.
2. Private sector; private sector players include private firms involved in business system transactions, such as manufacturing, commerce, banking and cooperatives, including operations in the informal sector.
3. Civil society; Community organizations in the sense of the state are essentially between the government and individuals or in the centre, which includes both Sedarmayanti, *Good Governance*.

The principle of mineral and coal resource management is regulated in Article 2 of Law No. 4 of 2009 concerning Mineral and Coal Mining. Namely (Lestari & Dj Sophisticated, 2019)

- a. Benefits, equity, and balance;
- b. Siding with the interests of the nation;
- c. Participation, Transparency, and Accountability;
- d. Sustainable And Environmental Monitoring.

Considering that minerals and coal as natural resources contained in the earth are non-renewable natural resources, their management needs to be carried out optimally, efficiently, transparently, sustainably, and with environmental insight, and justice in order to obtain maximum benefits for the prosperity of the people in a sustainable manner. The legal basis for the importance of managing mineral and coal resources properly and correctly is Law Number 28 of 1999 concerning the Implementation of a State that is Clean and Free from Corruption, Collusion, and Nepotism.

Elucidation of Chapter II Article 2 of Law No. 4 of 2009 concerning Mineral and Coal Mining is as follows: (Law of the Republic of Indonesia, 2009)

a. Benefits, justice, and balance;

The principle of benefits, which in the management of mineral and coal resources can provide for the welfare of many people. This principle is in accordance with the concept developed by Jeremy Bentham. Law must provide benefits or uses for people (to serve utility). The concept of utility developed by Jeremy Bentham is intended to explain the concept of happiness or well-being.

The principle of Benefit is a principle in which the management of mineral and coal resources can provide usefulness for the welfare of many people. This principle is in accordance with the concept developed by Jeremy Bentham, which embraces utilitarianism. Utilitarianism The legal principle of mineral and coal mining that sided with the interests of the community put benefit as the main objective of the law. Expediency is defined as happiness(*happiness*), who did not make good or unfair a law but rather depends on the discussion of whether the law can give happiness to man or not.

Mineral resource management must be in such a way as to provide tangible benefits for economic growth, not just for business actors and officials related to mining. This includes the community must get the maximum benefit from the results of mineral and coal management. As an embodiment of Article 33 paragraph 3 of the 1945 Constitution of the Republic of Indonesia, regarding mineral and coal resources, the management of mineral and coal resources can improve the welfare of the community.

The principle of justice, which must provide equal and equal rights to the community at large. The community can be given the right to manage and utilize minerals and coal, and also be burdened with the obligation to preserve the environment.

Principles of Justice, covering aspects of people's welfare, equity, recognition of community ownership, legal pluralism, and those who damage pay. This principle of justice aims to realize the management of mineral and coal resources that ensures justice between and between generations. In addition, this principle also aims to realize legal protection for the Indonesian people in the management of mining natural resources. Thus the principle of justice is a principle in the management and exploitation of minerals and coal in which the utilization must provide equal rights to the community at large. (Rawls, 1997)

For people who are unable to compete because of the backwardness of their human resources, they are given special treatment. The community can be given the right to manage and utilize minerals and coal, and also be burdened with the obligation to preserve the environment. So far, the community has received less attention because the government has always given privileges to large companies in managing mineral and coal resources. (Ratnasari Fajariya Abidin, 2017) The past few years to date in Indonesia are still colored by demands for a sense of justice for the community that is in accordance with the goals and ideals of the nation and state that is able to implement in governance and development of natural resources, especially coal mining, by practicing the principles of *good governance*. In addition, the community demands that the government pay serious attention to tackling corruption, collusion, and nepotism (KKN) so that a clean government is created and is able to provide *public goods and services* as in the principles of *Good Governance*. (Lestari & Dj Sophisticated, 2019) The implementation of *good governance* is the main prerequisite for realizing the aspirations of the society in achieving the goals and ideals of the nation and state. In realizing the implementation of *Good Governance*, it must be based on values as moral guidelines for state administrators. ethics and code of conduct are needed that can be used as a reference for state administrators. The values that become the moral standards of state administrators are integrity, professionalism, prioritizing the interests of the public, and the state as well as being forward-looking. (Amelia Novita, 2018)

Good governance can also be viewed as a concept that contains general principles of government that must be used as guidelines in conducting life. In the perspective of Regional Autonomy, the application of good governance is also very important in an effort to realize regional governance that is effective, efficient, independent, and free of corruption, collusion, and nepotism (KKN). This is also supported by the enactment of Law Number 32 of 2004, most recently Law Number 23 of 2014 concerning Regional Government. (Aguilera & Cuervo-Cazurra, 2009)

The principle of balance, the principle that requires that in implementing mineral and coal mining, an equal and balanced position of rights and obligations between the licensor and the permit holder.

The principle of balance is intended as a principle of managing mineral and coal resources based on the principle of preserving the environmental capacity that is harmonious and balanced to support development. Sustainable Principles of Mineral and Coal Mining for the Community for the improvement of human welfare. The principle of balance also requires that in the implementation of mineral and coal mining, there must be an equal and balanced position of rights and obligations between the licensor and the permit holder. (Risal et al., 2017)issuers

The permit can claim their rights from license holders, such as IPR, IUP, and IUPK. Likewise, a permit holder can claim his rights from the licensor so that the licensor can carry out his obligations, such as providing guidance and supervision to the permit holder. This means a balance in rights and obligations. One of the implementations of the balance principle in mining management and exploitation is to maintain a balance between the availability of minerals and the needs of the market or consumers and this balancing principle should be the main principle of the mining law and the law on natural resource management. (Mere, 2015)

The principle of balance between availability and production with consumer needs is expected to function as a tool of control (*tool of social engineering*) for mining activities. Social control is a normative aspect of social life or can be called as the definition of deviant behavior and its consequences such as prohibitions, demands, punishment, and sanctions. (Mundzir et al., 2016)

The production limitation provisions are intended so that IUP, IUPK, and IPR holders in producing minerals maintain a balance between the availability of mineral mining materials and market needs, especially the interests of the national economy. In addition, it must also consider the rights and interests of future generations, because unlimited mining production means waste and is a form of deprivation of the rights of the next generation. A such action is a form of violation of the values of justice between generations. (Fachlevi et al., 2016)

b. Siding with the interests of the nation;

The principle of partiality for the interests of the nation, namely that both the central and regional governments must take sides or be pro to the larger interests of the nation. This means that the interests of the nation must take precedence over the interests of investors. However, investors' interests are also taken into account. Even though the management uses foreign capital, foreign workers, foreign planning, it is still committed that the activities resulting from the management and exploitation of mineral and coal resources are in the national interest. (Yahman, 2013)

Several things that need to be considered so that management and exploitation are still in the interests of the people and the state are: (B. Salinding, 2019)

- Management and exploitation do not interfere with and negate people's rights, and are always aimed at the greatest possible prosperity. people;
- Fulfillment of people's rights as owners of human rights;
- Care for environmental sustainability;
- The role of the State is very higher than that of the private sector to actually exist the supervision and control;
- Regulations must be enforced by minimizing normative symbols above the firmness that is factually implemented.

c. Participation, Transparency, and Accountability;

The principle of participation, that in the implementation of mineral and coal mining, it is not only the participation of the licensor and license holder but the community, especially those in the mining circle, must participate in the implementation of mining activities.

The Principle of Participation, in the Minerba Law, creates problems, very normative rules. What is regulated is limited to granting authority to the provincial government to increase community participation, especially communities around mining areas, as described in Article 7 letter (i) of the Minerba Law, which states that the development and enhancement of community participation in mining businesses take into account environmental sustainability. (Lita & Nasution, 2013) The level of government should have the authority and not be mandated to be further regulated. The principle of transparency, namely the principle that the implementation of mineral and coal mining must be implemented openly. This means that any information conveyed to the public by license givers and holders must be socialized clearly and openly to the public. For example, regarding the stages of mining activities, labor requirements, and others. If there is a negative impact from mining, it must be communicated openly to the community around the mining area. (Class et al., 2020)

Article 145 paragraph (1) and paragraph (2) of the Minerba Law states that communities who are directly affected by negative impacts from activities the mining business have the right to (Law of the Republic of Indonesia, 2009)

- a) Receive appropriate compensation due to errors in the exploitation of mining activities in accordance with the provisions of statutory regulations; and
- b) File a lawsuit with the court against losses due to mining operations that violate the provisions. Furthermore, the provisions regarding public protection are stipulated based on the provisions of statutory regulations. This provision is normatively very important to protect people's rights. However, without operational regulations, these protection provisions have no real impact on protecting community rights.

Apart from that, there is no provision in the Minerba Law that guarantees safety, security, and protection from being criminalized by people fighting for their rights which have been violated

due to mining activities. This provision is very important to avoid various forms of violence that often occur against those who refuse to mine because it will affect their lives. There are no further arrangements regarding the mechanism that must be made so that state officials or the government apply the principles of participatory, transparency, and accountability in the context of the management of Mineral and Coal Resources. What happened then was interpreted differently in an effort to apply these principles. This raises the public opinion or conclusion that the government is not implementing participatory management principles, transparency, and accountability. This is reflected in the many problems related to land that have direct contact with the people. At this point, the root of the problem is licensing. The full authority of certain officials in accordance with the authority to grant permits, in fact, creates many problems for the people. As the number of permits increases, conflicts from year to year also increase. (Yahman, 2013)

With regard to the above problems, there has been a change in regulations regarding mineral and coal mining from Law Number 4 of 2009 to Law Number 4 of 2020. This change is expected to be able to correct previous mistakes and remain in accordance with the philosophical aspects of Article 33 of the 1945 Constitution of the Republic of Indonesia. As well as the commitment to carry out the role of the state to uphold the welfare state.

The principle of transparency is one of the most basic principles in the concept of *good governance*. Before moving on to discussing the principle of transparency, it is necessary to first understand about *good governance*. The term *Governance* is taken from the Greek *kubernáo* which means to direct or control (*to steer*). This term was first used by Plato and has been the birth of the Latin term *Gubernare* which has the same meaning and meaning.

The word *Governance* itself was first used in the French State in the 13th century which more or less means an art or way of governing (*the art or way to govern*). The word *Governance* is also derivated into English, which means a way to carry out the government as it should (*manner of action rule*). In 1990, several economists and politics from Anglo Saxon countries who are members of several international institutions (UN, World Bank, IMF) defined the word *governance* not only as an art or a way to govern but also to define government (*government*). as institutions and *governance* as a method of governance based on the participation of civil society at all levels (regional, national, and international). (Class et al., 2020)

Starting from this notion of *governance*, some experts argue that *Good Governance* has the same concept, it's just different in scope. In the concept of *good governance*, *governance* is defined as inclusive rather than *the government*. *Government* is more of a management organization, namely the state or government, whereas *governance* involves not only the state and the government but also the parties involved in it.

Governance referred to here is not only about management within a company but how to regulate the relationship between all interested parties and the company (*stakeholders*) which is manifested in a company control system. According to Sunaryati, the principles of *good governance* are identical to those contained in general principles. Transparency comes from the word *Transparency* which means the nature of an object that is translucent so that objects that are behind objects that have transparent properties will be seen clearly and clearly. If we associate this meaning with the concept of *good governance*, the principle of transparency referred to here is the disclosure of information in the context of the decision-making process and in the context of disclosing material and relevant information regarding a company. Information provision must be carried out in a manner that is easily accessible and understood by stakeholders. (Lita & Nasution, 2013)

This principle suggests that companies should take the initiative to disclose information not only as to matters as required by laws and regulations but also as important for decision making by shareholders, creditors, and other stakeholders. In addition, disclosure of the information is carried out correctly, accurately, and on time to shareholders so that shareholders can participate in making decisions regarding fundamental changes to the company and share in the company's profits. (Istiyanti, 2012)

Disclosure of false information will result in misleading statements, this includes statements that are clearly not in accordance with existing facts or can also occur due to the omission of material fact information both in company documents and in stock trading. Information that must be disclosed by the company includes: (Hikmawati, 2012)

- The company's vision and mission,
- business objectives and corporate strategy,
- financial condition,
- composition and compensation for the management,
- controlling shareholders,
- share ownership by members of the

Board of Directors and members of the Board of Commissioners and their family members in companies and other companies, risk management systems, internal control and supervision

systems, systems and implementation of *Good Governance* and the level of compliance, and important events that may affect the condition of the company.

The principle of transparency in open management is related to mining management information that is publicly accessible so that state institutions and community members such as non-governmental organizations can monitor and provide effective supervision. Transparency, in granting mining permits, should be followed by transparency in the form of easy access to information for the public regarding the process of granting mining permits and also in seeing the impact of the issuance of these permits.

Transparency, in granting mining permits, should be followed by transparency in the form of easy access to information for the public regarding the process of granting mining permits and also in seeing the impact of the issuance of these permits. The government provides the same treatment for foreign investors in a transparent and fair manner to foreign investors, even though foreign investors are more promising than local entrepreneurs. There is no mining data available that is easily accessed and monitored by the community. The absence of transparency regarding mining business licensing data not only makes legal services in the field of licensing uncertain but also a source of land tenure conflicts. (Permana, 2010)

For companies wishing to invest in mining, they need accurate data on the location of potential mining areas. to make sure no other permission has been given on it yet. For the community, disclosure of mining information guarantees their right to participate and avoid mining impacts that can affect.

The principle of accountability, every mineral, and coal mining must be accountable to the people by taking into account the sense of justice and appropriateness. The principle of accountability is closely related to the rights to be received by the government, both the central and local governments, which come from mineral and coal mining activities. The principle of accountability means that every mineral and coal mining must be accountable to the people by paying attention to a sense of justice and fairness.

The principle of accountability is closely related to the rights that will be received by the government, both central and local governments, which come from mineral and coal mining activities. Related to the principle of accountability for the management of mineral and coal mining on customary land, the rights of the Community over mineral resources, including fees, compensation for land, compensation for direct impacts from mining, corporate CSR, and so on, must be realized by mining companies. The principle of transparency is one of the principles of *good governance*. *Good Governance* is a mechanism for managing economic resources. (Mining, 2010)

a. Sustainable And Environmentally Friendly;

The principle of being sustainable and environmentally sound, the management of mineral and coal resources is a principle that is planned to integrate the economic, environmental, and socio-cultural dimensions in the overall mineral and coal mining business to realize present and future prosperity. This principle is related to survival and sustainability. the environment today and in the future. Considering that the National Development which is currently being promoted by the government in various sectors requires a lot of budgets, one of which comes from the potential of mineral and coal resources for the welfare of the community. Increased use of mineral and coal resources for community welfare will also be followed by increased environmental damage. (Amelia Novita, 2018)

Various negative impacts on the environment are caused by the management of improper use of natural resources, which will sacrifice the environment, other natural resources, not even the welfare of the community, but will actually harm the surrounding community. Besides that, it will also trigger flooding and disruption of biological natural resources in the forest and will disrupt the economy and health of the surrounding community in particular and the nation in general. (Aguilera & Cuervo-Cazurra, 2009). Law Number 32 of 2009 concerning environmental protection and management has included a philosophical foundation regarding the concept of sustainable and environmentally sound development in the framework of economic development. This is important in national economic development because environmental problems in the future will be more complex and conditions with the interests of investors. Therefore, Article 2 of Law No. 4 of 2009 as amended to Law No. 3 of 2020 concerning Mineral and Coal Mining, needs to consider the principles of a. Benefits, equity, and balance; b. Siding with the interests of the nation; c. Participation, Transparency, and Accountability; d. Sustainable And Environmentally Friendly. Better governance, as stipulated in Article 28 of 1999 concerning clean governance and free from corruption, collusion, and nepotism.

On the one hand, mining management is intended to explore natural wealth sources in order to obtain added value to the economy, on the other hand, mining management whose objects are non-renewable and which can damage the environment and ultimately damage the ecosystem.

Meanwhile, all creatures including humans can only live in an environment with a good and proper ecosystem.

Therefore, mining management planning integrates economic, environmental, and socio-cultural dimensions. In addition to the principles of mineral and coal resource management described above, one of the legal principles in favor of the community is the principle of recognition. Therefore, the principle of proper recognition is included in the Minerba Law as a principle of mineral and coal resource management. Because environmental problems are a problem for all of us, both the government, the investment world, and society in general (Rizal et al., 2017)

The influence of sustainable development principles on the development of environmental and natural resource laws in Indonesia is one of the new developments and national development policies. since the reform era. The issuance of TAP MPR No.IX / 2001 on agrarian reform and natural resource management, which among other things contains new principles of natural resource management and an order to make changes to the legal system of natural resource management currently in effect is one of the foundations for sustainable development policies in the field of natural resources.

Mineral and coal resources play a strategic role in the national economy of a country. Almost all countries rely on the mining sector to control the country's economy. Likewise Indonesia until now, development has relied on the mining sector, namely the potential for mineral and coal resources. It should be realized that the potential for mineral and coal resources is non-renewable, meaning that one day it will run out. Natural resources that are not renewable or commonly called *non-renewable resources*. (Aguilera & Cuervo-Cazurra, 2009)

The consequences of using mineral and coal resources cannot return to their original state. The restoration of nature requires a very long process, which is millions of years later. Therefore, in management, it is necessary to pay attention to the added value of the national economy. Besides, firmness and commitment to the principles of benefit, justice, balance, and siding with the interests of the nation and the state are priorities. This statement is in accordance with the provisions of Article 33 paragraph 3 of the 1945 Constitution of the Republic of Indonesia.

Increasing added value to the national economy can be done by strengthening regulations. Regulations made for the management and exploitation of potential mineral and coal resources in improving people's welfare. Besides, strengthening the country's economy and advancing national development.

Mining activities always clash with environmental damage. Starting from the pre-mining stage to reclamation or the final stage has the potential to have an impact on the environment. Another impact can also occur in the contamination of clean water that can be consumed by humans. In addition, often encountered, *voids* are namely ex-mine holes that have not been reclaimed in the shape of a lake which often engulfs drowning victims. Because the characteristics of mining change the landscape and natural physical, chemical, and biological conditions. Therefore, there needs to be a government committee that is strengthened through regulations to manage mining properly including the aspect of supervision.

Responding to the impact of mining activities that are identical to giving real losses, it is necessary to integrate the environmental paradigm in every stage of mining activities. Of course, it is necessary to consider the carrying capacity and carrying capacity of the environment, the socio-economic conditions of the local community, and the condition of the ecosystem around the mining area, both in terms of biodiversity and water resources. Through the carrying capacity of regulations and the involvement of stakeholders, in the end, the sustainability aspect can increase the positive impact of development on the socio-economic conditions of society. Besides, it minimizes the negative potential of mining activities.

Coal mining business activities also form *void* or perforated land due to the extraction of natural resources, while the people in that place remain poor. The complexity in managing the natural resources of minerals and coal energy sources is increasing considering that up to now there are still overlaps in the issuance of permits between the central government and regional governments. In several cases, the KPK has arrested a number of officials who were involved in corruption related to natural resource exploitation licenses. The issuance of coal mining business permits in accordance with Article 39, Article 78, and Article 79 of Law Number 4 of 2009 concerning Mineral and Coal Mining clearly formulates the contents of the Mining Business License (IUP), the authority to issue IUP is in the hands of the Regent / Mayor, Governor, and Minister. according to their authority. Opportunities for the practice of KKN by unscrupulous government officials and mining business actors, starting from the stage of exploration permit activities, opportunities for manipulation of land area, in exploitation activities such as manipulation of land ownership documents by unscrupulous company employees and local government officials. In addition, the authority of the Central and Regional Governments in granting mining permits is very vulnerable to intervention by the owners of capital, when state institutions are under the control of

economic rulers / big investors, entrepreneurs who only pursue the economy by seeking solely profit from the coal business without caring about the impact on the environment and socio-cultural community due to coal mining activities.

Coal mining activities that are granted permits easily increase the rise of large investors, who are competing to seek maximum profit through coal mining business activities. This condition has deviated from Article 33 of the 1945 Constitution which emphasizes that national economic development must be in harmony with social and environmental problems. This is stated in article 33 paragraph (4), namely "The national economy is organized based on economic democracy with the principles of togetherness, equitable efficiency, sustainability, environmental insight, independence and by maintaining a balance of progress and national economic unity".

The contributing factor is that since the enactment of Law Number 11 of 1967 concerning basic mining provisions which consists of various forms of permits, namely mining rights, Contracts of Work, coal mining exploitation work agreements (PKP2B), regional mining permits (SIPD) for materials industrial excavation, and People's Mining Permit (IPR) for community mining so that there are many gaps in the practice of Corruption, Collusion, and Nepotism. However, after the issuance of Law Number 4 of 2009 concerning Mineral and Coal Mining (Minerba Law) replacing Law Number 11 In 1967 regarding the main provisions of mining, there were also irregularities in the issuance of Mining Business Permits (IUP).

However, with the issuance of Law Number 4 of 2009 concerning Mineral and Coal Mining, especially after the regional autonomy policy implemented since 1999 and the promulgation of Law Number 22 of 1999 concerning Regional Government was later renewed by Law Number 32 of 2004 concerning Regional Government and The last one is Law number 23 of 2014 concerning Regional Government, the implication is that the handover of several governmental affairs which originally belonged to the authority of the central government to become the authority of the regional government, except for defense and security affairs, foreign affairs, religious affairs, monetary and judicial affairs.

Finally, mining affairs are one of the affairs that are the authority or household affairs of the Regional Government. One of the concrete manifestations, the issuance of Mining Concession (KP), which was originally a matter of the central government, was delegated to the authority of the Regional Government. However, with the issuance of Law number 23 of 2014 concerning regional governance, it has changed the paradigm of Mineral and Coal Resources management which has become decentralized at the provincial level, causing problems because Law number 4 of 2009 concerning Mineral and Coal Mining was made with reference to the Law Law No. 32/2004 on the regional government with a decentralization paradigm at the district/city level, not at the provincial level. In practice, it is still found that the implementation of regional autonomy is not in accordance with regional autonomy. Because regions are competing to seek revenue for their regions, many permits are issued without following environmental protection and resource use optimization principles. The charges imposed on license applicants are often baseless. Individuals also use permits to be traded. Who is closest to the permit issuer is the first to get the permit. This is one of the factors in the overlapping of mining areas.

Likewise for environmental management, Law Number 32 the Year 2009 pays serious attention to regulatory principles aimed at providing assurance for the realization of sustainable development and ensuring that the environment can be protected from businesses or activities that cause environmental damage or pollution. However, coal mining business activities that are exploited on a large scale by business actors solely for economic purposes only to seek maximum profit without paying attention to forest, environmental, socio-cultural sustainability, will cause many disasters. This is inseparable from the issuance of permits by authorized officials for coal mining business actors, so easily that it has led to rampant coal mining permit mafias playing with irresponsible officials.

By granting the authority to grant IUPs to regional governments without being accompanied by the readiness of a clear reference framework for a national mining policy strategy, this could lead to increasingly uncontrolled mining management and exploitation in these regions. In connection with several shortcomings of the Minerba Law, it is deemed urgent to revise this Law so that there is a clear and measurable direction, policy, and strategy for the national mining sector. The utilization of coal resources is very important as a means of supporting the economy and sustainable development of the region as well as on a national scale. However, in practice there are still many conflicts between investors and the people, making it the main problem that must be resolved.

Tracing the changes in regulations governing the management and exploitation of mineral and coal resources, positive benefits, linked to the philosophical aspects of Article 33 of the 1945 Constitution of the Republic of Indonesia, should be produced both vertically and horizontally. Initially centralized and then decentralized between the central government and the regional government, beginning with the issuance of Law Number 22 of 1999, and Law Number 32 of 2004, which gave loc

al governments a greater share of the authority to control existing natural resources in their territory. However, the impact is that the orientation of the use of the environment, especially the function of forests owned by the Regional Government, does not prioritize elements of conservation and preservation of the ecosystem. (Herawati et al.,2018).

Then, when Law Number 23 of 2014 was enforced as a replacement for Law Number 33 of 2004, there was no authority for the district / city governments to control mineral and coal resources. The jurisdiction is in the province, and it replaces the district / city jurisdiction. When Law No. 3 of 2020 concerning changes to Law No. 4 of 2009 concerning the extraction of minerals and coal was passed, the Authority modified and reverted to a centralized structure. This condition reminds us that in the era of 1967, the management of mineral and coal resources was also the central authority. The atmosphere is very centralized, not in accordance with the current development situation, in the future, it will become a problem. Furthermore, both nationally and globally, the management and production of minerals and coal must respond to strategic environmental changes.

The key challenge facing mineral and coal management and extraction is the effect of globalization that promotes democratization, regional autonomy, human rights, the environment, advances in technology and knowledge, intellectual property rights, and the demands of the private sector and society for an increased role. Facing strategic environmental challenges and resolving a number of these challenges, new mineral and coal mining legislation and regulations Law No. 3 of 2020 amending Law No. 4 of 2009 on mineral and coal mining, which may provide a legal framework for reform measures and restructuring of the management and exploitation of mineral and coal mining activities in Indonesia. (Evans, 2012)

One of the objectives of the formation of the Indonesian state based on the Preamble to the 1945 Constitution is to promote public welfare. On the basis of these objectives, Article 33 paragraph (3) of the 1945 Constitution emphasizes how to view the Indonesian nation in M. Daud Silalahi and Kristianto: Licensing in Mining Activities in Indonesia ... 2 to see the existence of mineral and coal resources in the region Indonesian jurisdiction. Article 33 paragraph (3) states that: "The land and water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people" so that it can be said to be the highest source of law in the management and exploitation of natural resources (SDA). in Indonesia which is aimed at achieving one of the goals of the Indonesian nation, namely the welfare of the people. Therefore, the new mineral and coal mining law can be considered a big challenge and at the same time an opportunity that can enhance sustainable national development. (Jarot Dirgo Ismoyo, 2018)

Criticizing Article 2 of Law Number 4 of 2009 concerning Mineral and Coal Mining which was subsequently amended to Law number 3 of 2020, namely the principle of **professionalism** in management and exploitation.

1. Mining Inspector (IT)

Mining Inspector (IT) is a civil servant assigned to supervise occupational safety and health (K3) and the mining business environment. IT is at the forefront of the management and exploitation of Mineral and Coal Resources. (Indonesia & Indonesia, and) IT as a functional officer who is tasked with conducting independent supervision in the mining sector has a crucial role. The scope of IT supervision based on Article 141 of Law Number 4 of 2009, that the supervision is carried out by the Mining Inspector are: (Yahman, 2013)

- Technical mining,
- Conservation of Minerals and Coal Resources
- Security and Health for Mining Jobs,
- Protection of the Mining Activity,
- Environmental Administration,
- Reclaim and Post-mining,
- Mining

Technology is appointed by the Minister of Energy and Mineral Resources (ESDM), the governor in accordance with their respective authorities. PASCA enactment of Law No. 23 of 2014 on Regional Government, IT management of the authority of the Central Government cq KESDM. "Management includes recruitment, appointment, career development, and dismissal from position". (Class et al., 2020)

Currently, throughout Indonesia, there are 166 civil servants (PNS) in the EMR sector who have been appointed to become IT, including 28 IT at the Directorate General (Ditjen) Minerba, Ministry of Energy and Mineral Resources, and 138 IT in local governments. There are 1,050 civil servants who have passed IT education and training. In accordance with the duties and functions of the organization, the Head of Mining Inspector is the Technical and Environmental Director of the Directorate General of Mineral and Coal. Assuming the ideal ratio of IT and companies under control is between 1: 7 and 1: 5 (depending on geography and accessibility conditions), then nationally we need 1,000-1,300 IT. There is still a shortage of IT formation around 834-1,134 people.

The number of mining companies that IT has to supervise is close to 6,500 companies. The dynamics are very high. You can imagine, currently, there are 6,364 clean and clear mining business permits (IUP), 74 Coal Mining Concession Work Agreements (PKP2B), and 35 contracts of work (KK) that are still valid. Currently, the role of IT is needed to supervise and provide guidance in mineral and coal mining companies.

2. Head of Mining Engineering (KTT)

A mining company cannot realize good and correct mining management if it does not have a Mining Engineering Head (KTT). The summit must also be competent because it is the highest leader at the mine site. The tasks of the summit are: (Permana, 2010)

- Make all records of activities and events in the mining activity environment
- Implement special provisions in the form of orders, prohibitions, and instructions from the Mining Inspector
- Follow up on notes from the Mining Inspector for further improvement

3. Conclusion

Potential for Corruption, Collusion, and Nepotism as well as environmental damage in the management and exploitation of mineral and coal resources. Therefore, efforts that can be made are to implement better governance by implementing article 2 of Law Number 4 of 2009 concerning Mineral and Coal Mining as amended to Law Number 3 of 2020. Criticizing Article 2 of the Minerba Law there needs to be an additional principle Professionalism in the management and exploitation of mineral and coal resources. Professionalism in the management of Mineral Resources and coal can be carried out by the Mining Inspector on the government side and the Mining Engineering Head on the Company side. Given the negative potential which is a threat for the country to continue to exist in the mining sector.

The mandate of the NRI Constitution and UUPA. The 1945 Constitution of the Republic of Indonesia places minerals and coal as assets, not free trade commodities. This placement requires the state to process minerals and coal with added value in order to achieve the greatest possible prosperity for the people, because the founders of the nation realize that minerals and coal have emotional value, are not renewable, and have limited availability. However, through legal smuggling by placing minerals and coal as free trade commodities, it is almost impossible to make efficiency, effectiveness, and savings in coal exploration and exploitation, especially starting from companies, individuals, and cooperatives to be allowed to exploit them.

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