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REFORM OF THE LAW AND THE MINERAL AND MINERAL GOVERNANCE ECOSYSTEM OVER THE REVOCATION OF MINING BUSINESS LICENSES (MBL) IN INDONESIA AND ITS IMPACT ON BUSINESS ACTORS

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Abstract

Ship accidents are one of the main risks in shipping activities. Ship accidents can cause enormous material and non-material losses, including casualties. This study aims to analyze the factors that affect ship accidents and compile recommendations for prevention from the aspect of Navigation-Shipping Aids. The rate of passenger ship accidents in Indonesia is currently still relatively high. The research method in this study uses the normative legal research method, which examines laws and regulations and legal literature to answer legal problems. The results of this study show that in the case of ship accidents, legal responsibility can fall on the ship owner or other parties related to negligence or failure in maintaining navigation-shipping aids. This article provides an in-depth understanding of relevant legal procedures and the importance of applying navigation technology to prevent ship accidents. The conclusions of the analysis show that the factors affecting ship accidents and their prevention efforts from the aspects of navigation-navigation aids can be improved by ensuring the classification of navigational aids and the role of law in regulating their use.

Keywords: Law, Minerba, Revocation, Mining Business Licence.

INTRODUCTION

The existence of abundant natural resources, such as coal, nickel, copper, and gold, makes the mining sector a strategic sector that supports sustainable economic growth and increases Indonesia's competitiveness in the global market. As with a process, which requires study and improvement, so does the Mineral and Mineral Law.

The issuance of this law requires study and constructive criticism. An example is the regulation regarding the revocation of Mining Business Licenses (MBL). In January 2022, through Presidential Decree Number 1 of 2022, the President announced the revocation of 2078 MBLs divided into 1776 mineral mining companies and 302 coal mining companies which until now are running, around 180 coal mineral mining companies that have received a Decree (SK) of revocation via email by the minister of investment or the head of the Investment Coordinating Board (ICB).

Meanwhile, mining business licenses (MBL) and special mining business licenses (SMBL) are revoked by the minister if the company violates the following provisions

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(Darongke et al., 2022; Kawuwung, 2018; Redi & Dharma, 2019):

a. The MBL or SMBL holder does not fulfill the obligations stipulated in the MBL or MBL as well as the provisions of laws and regulations.
b. MBL or SMBL holders commit criminal acts as referred to in this Law.
c. MBL or SMBL holder is declared bankrupt.

Furthermore, the second legal basis is Government Regulation (PP) Number 96 of 2021 article 185.

In the regulation, administrative sanctions are in the form of:

a. Written warning
b. Partial or total suspension of production activities, exploration, or operations
c. Revocation of MBL, SMBL, IPR, SIPB, or MBL for sale.

Next, another legal basis for revocation is Presidential Decree number 1 of 2022, through which President Joko Widodo established the Task Force on Land Use Structuring and Investment Structuring. In article 3 point b provides recommendations to the Ministry of Investment or the head of ICB to revoke mining business licenses. The revocation of this Decree is based on the reason of not submitting the WPCB or budget work plan in previous years or permits that have been granted but not carried out. The MBLs revoked by the Ministry of Investment or ICB are divided into around 248 mineral commodities in total, then coal has been 137 so overall it has been 380. The revocation of this Decree is sent via direct email based on the Ministry of Investment to the respective company, and is not penetrated to the agency, and is not penetrated to other places. Some companies do not get a revocation decree directly, but company data is no longer available in MODI. Minerba One Data Indonesia (MODI) is an application developed to help manage the data of mineral and coal companies within the Directorate General of Minerals and Coal (Hidayat, 2021; Rahma et al., 2023).

There is a problem that occurs in this case, that according to the government, mining companies must be revoked if they do not carry out activities, meaning they are active but not active, but in fact, there are many obstacles on the part of the company that cause mining companies to be unable to carry out activities (Elcaputera & Frastien, 2020; Imaniano, 2021). For example, currently the price of commodity minerals has increased significantly, namely 100 thousand dollars per ton, so nickel is a problem on the London metal exchange. In addition, many companies are constrained in applying for IPPKH or Forest Area Borrowing Permits due to the lack of quotas, so there are several regions that continue to pay land lease obligations from the Ministry of Energy and Mineral Resources but cannot carry out production. The revocation of 137 coal mining business permits in the period from February 2 to March 5, 2022 The revocation of mining permits has caused an uproar for mining business actors, including members of the Indonesian Nickel Mining Association or APNI, considering the large investment costs incurred by miners, the revocation of MBL mining permits by the government in the context of structuring mining activities certainly needs to be supported but of course

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must be based on corridors applicable laws and regulations to provide business certainty for investors in the mining sector.

Several things are the reasons why the company has not carried out mining operational activities, including: (1) many regions do not get the quota for Forest Area Borrowing Permits (IPPKH) so that they cannot carry out production activities, which means that all mining activities, starting from the initial stage, namely obtaining permits become difficult to do; (2) Regarding mining activities in the exploration stage that require resources such as time and need considerable costs, but there is uncertainty because it turns out that the expected mining results do not exist or are not suitable; (3) Rules for processing raw materials in the country (Haris et al., 2023; Istiqomah, 2014). Currently, around 81 business entities have been built from 27 nickel processing companies that have been produced, 27 are under construction and some are in the process of applying for permits. This means that for the nickel processing industry, many mining companies have entered into cooperation contracts, for the guarantee of raw materials or the supply of raw materials to several processing industry factories, so that in the agreements it is not allowed to sell ore or raw materials, raw materials to other factories, because they already have cooperation with several factories that are in the process of construction; (4) There are companies that are constrained by port licensing, namely in areas that are subject to mangrove areas, affected by spatial planning or by regulations from the KPP, so that they cannot carry out the development of port permits; (5) The problem of land acquisition area with the landowner community and the local community which is not easy and complicates the production process; (6) Regarding the completeness of the WPCB document, the problem occurred when since December 10, 2021, all permits have been handled by the central government, while the capacity of Human Resources at the Ministry of Energy and Mineral Resources in handling 34 provinces out of 5048 mining business licenses throughout Indonesia, is limited.

The submission of Work Plans and Cost Budgets (WPCB) for nickel mines, especially through ESDM (Mineral Exploration, Exploitation, and Processing), generally involves the following conditions (Umam et al., 2020):

1) Mining Permit: this is a valid mining permit from the government or an authorized institution, such as the Ministry of Energy and Mineral Resources (EMR) in Indonesia.
2) Exploration Report: which includes the results of geological surveys, mineral reserves, and estimates of nickel mine potential.
3) Work Plan: The WPCB must include a detailed work plan, including the stages of mineral exploration, exploitation, and processing. It includes mining methods, production plans, and environmental rehabilitation plans.
4) Cost Budget: covers all aspects of the project, including the cost of exploration, mining, treatment, infrastructure, environmental management, and more.
5) Environmental Management Plan: Parties applying for WPCB must include a comprehensive environmental management plan to minimize the environmental impact of

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mining activities.

6) Financial Plan: WPCB typically requires clear financial planning, including projected revenues and expenses from nickel mining.
7) Commitment to Fulfillment of Conditions: this is a commitment to comply with all applicable mining, environmental, and social regulations and regulations.
8) Consultation and Coordination: In some cases, evidence of consultation with the local community and other relevant parties is required.

Therefore, the Work Plan and Cost Budget (WPCB) is a document that must be prepared by mining companies every year and submitted for approval by the Ministry of Energy and Mineral Resources (EMR). This document is a very important document for Mining Business Permit (MBL)/Special (SMBL) owners because it supports legality in every mining activity, starting from the exploration, transportation, processing to refining to marketing stages, both for domestic and export. Mining WPCB is defined as a work plan and cost budget for the current year on Mineral and Coal Mining Business activities which include business aspects, engineering aspects, and environmental aspects (Fathurrahman, 2023; Qusairy, 2023; Umam et al., 2020).

However, in 2022, it is stated that there are still mining business permit holders (MBL) who have not yet submitted the 2022 WPCB, so it is necessary to clarify and accelerate the process of submitting and evaluating the 2022 WPCB so that mining companies can continue to operate and the conservation of mining materials is optimal. The government through the Ministry of Energy and Mineral Resources noted that as many as thousands of mining permits have not yet been operated because the WPCB of the mining company has not been approved. In that year, the Ministry of Energy and Mineral Resources rejected hundreds of applications for mineral and mineral RBBs on the grounds that the company had not or was not registered with Minerba One Data Indonesia (MODI), the company did not have the approval of the feasibility study document, and the most frequent occurrence was that there was no calculation of the balance of resources and reserves that had been verified by the Competent Person registered with the Indonesian Mineral Reserve Committee (IMRC) (Sakti Agi, 2022).

The problem of the Work Plan and Cost Budget (WPCB) has caused problems that are now rampant. For example, a company sells nickel mining products in the mining business permit (MBL) area of PT using a Cost Budget Work Plan document from another company and then sells it to several smelters. Based on the above problems, this study identifies several problem formulations that are the main focus, namely first, the need to reform the legal rules and the Mineral and Mineral Governance ecosystem. Second, an analysis of Presidential Decree Number 1 of 2022 which gives the Investment Coordinating Board (ICB) the authority to revoke the MBL with a significant impact on mining business actors. Third, a concrete strategy to realize the reform. The purpose of this study is to elaborate and analyze each formulation of these problems in depth, with the hope of making a real contribution to the reform of the law and Mineral and Mineral Governance that is more effective and sustainable.

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METHOD

The method used in this study is a normative legal research method supported by empirical data. The normative legal research method is a legal research method that is carried out by researching literature or secondary data, also called doctrinal research, where law is often conceptualized as what is written in laws and regulations (law in books) or conceptualized as rules or norms which are benchmarks of human behavior that are considered appropriate (Atikah, 2022; Djuleka & Devi Rahayu, 2020; Noorhayati et al., 2021).

The type of planning in this legal research is case-study design. The data source in this legal research consists of primary legal materials, namely legal materials consisting of laws and regulations. This material includes the Decree of the President of the Republic of Indonesia Number 1 of 2022 concerning the Task Force on Land Use Arrangement and Investment Planning. Secondary legal materials, namely legal materials consisting of books, legal journals, opinions of scholars (doctrines), legal cases, jurisprudence, and the results of the latest symposiums, related to research problems. Tertiary legal materials, namely legal materials that provide instructions or explanations of primary legal materials and secondary legal materials, such as explanations of legislation, legal encyclopedias, and legal magazine indexes

This study uses a data collection method through interviews and observations obtained in the field by exploring the information provided by the informant as primary data. The interview will be conducted online via the internet with the zoom application, and will be recorded during the interview. Meanwhile, the subject observed is how the reality of the existence of laws and regulations regarding Minerba has an impact on the business processes of mining actors and its impact on the company's operationalization.

The data analysis in this study is qualitative. The data obtained, collected in the manner described above, and systematically arranged, then analyzed the content qualitatively, which finally wrote what should be done, namely primary data analysis, corroborated by juridical analysis, namely analysis and decomposition of data until a conclusion was produced. Qualitative analysis means describing data in a quality manner in the form of regular and non-overlapping sentences that facilitate data interpretation and analytical understanding. Then an interpretation will be carried out so that a clear picture of the problem being studied will be obtained, so that a conclusion and suggestion can be drawn. The data source comes from the Ministry of Energy and Mineral Resources (EMR), and the owner of a Nickel Mining Business License.

RESULTS AND DISCUSSION

Things That Cause Legal Reform

The four foundations for the preparation of mineral and coal policies are in the form of philosophical, political, legal, and strategic foundations. This foundation is clarified in the Decree of the Minister of Energy and Mineral Resources of the Republic of Indonesia Number 77.K/MB.01/ME3. B/2022 on National Mineral and Coal Policy. This foundation is needed because in seeing the important role of production for the Indonesian state is through

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sustainable and responsible mining management (Al Idrus, 2022). If this goes smoothly, it will provide added value for the prosperity and welfare of Indonesian citizens which is one of the tasks of the government and the House of Representatives (DPR). Laws and regulations or policies are usually formulated by bureaucrats. Bureaucrats should be independent of every Indonesian citizen in accommodating the aspirations of the community. In fact, as an ordinary human being, there are many aspects that can influence bureaucrats in forming laws and regulations. This gives rise to the opinion that the laws and regulations that are made are only for the benefit of a few groups, not for the benefit of all Indonesian citizens.

Law Number 4 of 2009 concerning Mineral and Coal Mining was previously estimated to be a solution to all challenges in the implementation of mining. However, in reality, it turns out that this law has not been a solution so it needs to be perfected or revised. The government and the House of Representatives have amended the Mineral and Mineral Law as a way to organize and improve mineral and mineral mining. This arrangement aims to ensure that mining has real participation in the community through the principles of benefit, environmental insight, legal certainty, participation, and accountability (Abidin, 2017; Butar et al., 2023; Elsi, 2023). The author underlines the things that are urgent in the revision of the Mineral and Mineral Law, namely licensing authority, permit extension, regulation of people's mining permits and environmental aspects, down streaming, divestment, and regulations that are claimed to strengthen SOEs.

The existence of the Mineral and Coal Law has indeed brought significant changes in the regulation and management of the mineral and coal mining sector in Indonesia. Matters of important concern in the legal reform of the Mineral and Mineral Law related to changes include:

a. Centralization of authority that in Law No. 3 of 2020 transfers most of the authority to regulate and manage minerals and coal to the central government. And the elimination of local government authority in issuing mining business licenses (MBL) is part of centralization.
b. Article 4, Law No. 3 of 2020, emphasizes that minerals and coal are national assets controlled by the state, and control over resources is carried out by the central government through policy, regulation, management, management, and supervision functions.
c. The abolition of Article 7 and Article 8 in Law No. 3 of 2020, that the article which regulates the authority of provincial and regional governments in the management of minerals and coal is abolished.

With the changes in the provisions of the Mineral and Mineral Law, legal reform in this case will have a significant impact related to the changes mentioned above, namely as follows:

a. The transfer of authority to regulate and manage minerals and coal in the central government ensures more efficient and consistent coordination. The central government can take strategic steps to optimize the management of natural resources nationally.

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b. By removing the authority of local governments in issuing MBL, legal certainty is created for mining business actors. These changes can lead to uniform regulations throughout Indonesia.

c. Centralization allows for tighter oversight of the implementation of licensing and mining activities. The central government can be more efficient in managing and supervising the mineral and mineral sector.

d. Legal certainty and centralization of authority can increase investment and exploration enthusiasm in the mining sector. The company is more confident to invest and conduct mineral and coal exploration.

In general, the revision of the Mineral and Mineral Law contains quite massive changes, where the changes occur in 143 articles out of a total of 217 articles, or about 80 percent of the number of articles in Law No. 4/2009. In more detail, at least 51 new articles have been added, 83 articles have been amended, and 9 articles have been deleted. At least, there are five basic things that are considered to be the main problems behind the amendment to the Mineral and Mineral Law, namely:

1) The debureaucratization of licensing contained in the revision of the Mineral and Mineral Law regulates the revocation of the need for the government to consult with the House of Representatives regarding production and export control. In the new law, paragraph 3 (article 5) mentions enough Government Regulations to regulate these technical matters. This spirit of debureaucratization can also be seen from the elimination of the concept of dualism of Mining Business Permits (MBL) in the Exploration and Operations area (in article 1 paragraphs 8 and 9). This new law only regulates one MBL. Similarly, Special MBLs (SMBL) do not have variants of Exploration SMBL and Operation SMBL. MBL has indeed become simpler because it includes two business activities, namely exploration and production operations which were previously separated, requiring mining entrepreneurs to take care of the two types of permits separately. If in the past in the management of MBL there were 24 rows of tables that had to meet the requirements, now there are only 13 items left (A to M), and exploration permits can also be extended for 1 year, as regulated in article 42A. Meanwhile, MBL holders are also allowed to have more than one MBL and SMBL on the condition that the MBL holder is a state-owned or private enterprise holding an MBL for non-metallic and mineral commodities. In fact, the land requirements for owners of metal and coal mineral MBLs are no longer limited to a minimum of 5,000 hectares (ha), which means that small-scale miners can also get MBLs for exploration in small MBL Areas (WMBL). This has the potential to make mining actors increasingly mushrooming in various regions. In addition, although the spirit of debureaucratization of licensing is seen in some articles, there are also several new permits in the form of Transportation and Sales Permits and Mining Services Business Permits (IUJP) which are included in paragraph 13 article 1.

2) The revision of the Mineral and Mineral Law also cuts 19 important articles related to the role and authority of local governments. In the amendment of the law, as contained in article 4 paragraph 2, local governments are no longer included in the context of controlling mineral

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and mineral resources. In the future, the authority will be fully withdrawn by the central government. The authority of local governments in granting mining permits was eliminated by the abolition of article 7 (authority of the provincial government) and article 8 (authority of the district/city government). The right to delegate authority to determine Mining Business Areas (WUP) from the central government to the regions previously regulated in article 15 was also abolished, which was also followed by the abolition of the right of regents/mayors in the determination of People's Mining Areas (WPR) in article 21 of the previous Law.

3) The new revision of the Mineral and Mineral Law provides a very wide space for business actors to optimize their company capacity. If it is not balanced with strong regulations to optimize state revenue, as well as in order to preserve the environment and prioritize the welfare of local communities, then this new law is no different from state regulations that facilitate capital power to exploit national mining wealth in a structured and massive manner. For example, for the People's Mining Area (WPR), the limit of primary reserves of metals and coal is expanded, not only to 25 meters deep, but also to 100 meters. Similarly, the maximum area of WPR, from 25 hectares to 100 hectares. The WPR rule, which originally had to be worked on by the people for at least 15 years, is now softened with the provision that the area that is just to be worked on can also be categorized as WPR.

4) The spirit of increasing competitiveness, added value and mining business results can also be seen in downstream efforts in the form of separating categories of processing and refining activities of mining products without changing their physical and chemical properties, which were previously merged into one. The rules to increase the added value of mining products are also broken down in mining commodities of mineral and mineral minerals, into three types, namely the processing and refining of mineral and metal mining commodities; processing of non-metallic minerals; and the processing of rock mines, all of which must be carried out domestically (Article 103).

5) In addition to opening a large space for domestic capital strength, this law also opens the door for the entry of Foreign Capital Companies (PMAs) to work on the national mining business. This PMA is expected to strengthen downstream coal gasification due to limited technological capacity in the country. Therefore, a number of basic rules have been made related to the business of a number of giant foreign mining companies that have Special Mining Business Permits (SMBL) and former holders of Contract of Work (KK) or holders of Coal Mining Concession Work Agreements (PKP2B). A number of these companies receive special treatment compared to ordinary SMBL owners (article 35 paragraph 3). What needs to be anticipated is paragraph 1 of article 27 of this new law also removes the obligation of the government to establish a State Reserve Area (WPN) which is the basis of nature conservation policy where KK and PKP2B holders who have expired must return it to the state as WPN for further auction by prioritizing SOEs and BUMDs.

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Stages of Legal Reform

Mineral and coal governance cannot be separated from the basic principles of good governance, namely transparency, participation, and accountability as the main elements (Haris, 2019; The Devil and the Devil, 2017). In order to achieve this goal, the Directorate General of Minerals and Coal of the Ministry of Energy and Mineral Resources collaborated with the World Bank and the Indonesian Mining Institute (IMI) to diagnose various mining sector policies in Indonesia. Director of Mineral and Mineral Program Development Muhammad Wafid stated that the analysis conducted by IMI and the World Bank is expected to help the Directorate General of Mineral and Mineral Resources and the Government of Indonesia. "By implementing MinGov, it shows seriousness in strengthening the governance of the mining sector and creating a more logical and predictable business environment for foreign and domestic investors," said Wafid at the Mining Investment and Governance (MinGov) in Indonesia Workshop in Jakarta. As a result of the analysis, there are several new reform frameworks that need to be implemented in mining activities in Indonesia. One of them focuses on mining cadastral (cadastral/mapping) mining. In line with this, careful planning and budgeting are needed in accordance with the needs of mining activities. In addition, the mining title needs to be updated regularly and improve the information technology system, especially at the provincial level.

Meanwhile, for the allocation of exploration and mining permits, IMI and the World Bank suggest that strict supervision is needed at the time of granting permits to be given to competent people and strengthen the function of one-stop licensing services under the coordination of ICB so that the time frame between mining permits and other permits can be aligned. In addition, there are still several inputs on the agenda in mineral and mineral reform, such as the completion of people's mines, taxation, coordination between parties, the obligation of companies to conduct exploration in green field areas and within the mining operation area (resource development). There are also incentives for companies to encourage exploration activities, rules for complaint mechanisms in terms of non-compliance with Occupational Health and Safety (K3) to evaluation of rules that hinder exploration activities and require the government to use geological data as the basis for licensing.

To provide a legal basis for the Steps to Reform and Reorganize Mineral and Mineral Management and Exploitation Activities, on January 12, 2009, Law No. 4 of 2009 concerning Mineral and Coal Mining (Mineral and Coal Mining Law) was passed. This is one of the efforts to reaffirm the Government's efforts to manage natural resources while also reaffirming the existence of Article 33 paragraph (3) of the 1945 Constitution, which states that "the earth, and water, and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." Along with its implementation, it turns out that the enforcement of the Mineral and Mineral Law is still not able to answer several problems and legal needs in the management of mineral and mineral resources.

Then in 2020, the Indonesian government made significant changes to Law No. 4 of 2009 through the issuance of Law No. 3 of 2020. The government is of the view that the new regulation will encourage more investment in the country's downstream mining industry while

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addressing some of the problems that arise in the mining sector today. Among these significant changes is the abolition of the authority of local governments to issue all types of mining permits. The law only allows the central government to delegate authority to local governments for the issuance of People's Mining permits.

Thus, the legal reform of the Mineral and Mineral Law must involve several stages related to changes in the Mineral and Mineral Law in Indonesia, namely:

a. The process of starting the change is through an intensive discussion process with the government, legal experts, and related institutions.
b. Synchronization with the Job Creation Law (Law No. 6 of 2023) that the Mineral and Mineral Law is synchronized with the Job Creation Law in accordance with the government's wishes. The results of the synchronization resulted in several substance changes in the Mineral and Mineral Law.

The Impact of Mineral and Mineral Law Reform

1. Dutch Colonialism

The history of the development of the mining industry in Indonesia began during Dutch colonialism. The forerunner of mining industrialization is also inseparable from the emergence of the Industrial Revolution which continues to expand in Europe. From here, the mining sector began to shift the position of spices which were previously a leading commodity in the Dutch East Indies colonial area. For this reason, in 1850, the Dutch East Indies Government established the Office of Geological Investigation, Management, Management and Search for Mining Excavated Materials, namely Dienst van het Mijnwezen, located in Weltevreden, Batavia. Through this institution, the area of geological research and mining excavation materials finally expanded to all corners of the archipelago. In October of the same year, a new regulation was made in the form of Besluit (decree) of the Colonial Government No. 45, which regulated "the prohibition of granting permits for the excavation of land containing mining materials to parties other than the Dutch" (Badruddin, 2018).

In addition, the institute also publishes research reports on the results of exploration around mining on a regular basis, as written in Javasche Courant and Jaarboek Van het Mijnwezen. Even at that time this report was widely spread and known in the international world. Over time, mining exploration rights are not only limited to being controlled by the Dutch East Indies Government, but the private sector also begins to get the opportunity to enter this mining industry. Where in 1852 the first mining regulation (Mijn Reglement) was made by the Dutch Government. In it, it is explained about the granting of mining rights to private parties of Dutch citizens. However, this regulation emphasizes that the private sector is only allowed to carry out mining activities outside the island of Java.

The Dutch private party that first received mining rights was Billiton Maatschappij, a tin miner on Belitung Island. The 1850 Mijn Reglement became the legal basis that was then used by the Dutch colonials to control, regulate and utilize mineral materials for the benefit of the Dutch Government (Adrian Sutedi, 2022).

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2. A New Round of Mining Exploration by Private Companies

Entering 1870, there was a change in the direction of the Dutch Government's more liberal policy. At that time, a new regulation emerged known as Agrarische Wet, where for the first time the right to private property and the role of the private sector were recognized by the Dutch East Indies Government.

Still through the Agrarische Wet rule, Private Companies that need land for mining activities must first lease it to the Government for a long period of time (75 years). However, the private sector can also lease land for a short period of time to the residents of the Dutch East Indies under the approval of the Government.

There was one statement in the Agrarische Wet which at that time was considered to lack respect for the people's rights to land sourced from the law, namely the state land statement (domein verklaring). The statement in the verclaring domein that is considered detrimental to the people because it makes the greatest profit is contained in Article 1 of the verclaring domein, which reads "that all land that the other party cannot prove as its eigendom (property rights), is the domain (owned) by the State".

3. The Emergence of Mining Business Rules Owned by Private Companies

In order to regulate the mining business, including oil mining in the colonial area of the Dutch East Indies, in 1899 the first Mining Law was issued, this law was called Indische Mijnwet (IMW). However, the Indische Mijnwet only regulates the main mining issues such as the classification of excavated materials and mining business. The reason is, the landowner still does not have the right to the mineral resources contained under his land.

Before the amendment to the IMW, the impression of the Mining Law during the Dutch colonial era was indeed very limited, besides that access to exploration was only allowed by the Colonial Government. Then there were two amendments, in 1910 and 1918. Through this amendment, there began to be a significant change in the position of the private sector in relation to mineral mining rights. Through article 5A, amended in 1910, private companies are allowed to conduct investigations and exploitation through agreements with the Government which will later be passed by law.

Not only that, the private sector also got convenience in mining and exploitation in the Dutch East Indies region, namely when there was an amendment in 1918. Through the amendment that became known as the contract system between the Government and the Private Sector, the licensing obligation passed by the Law was finally abolished. This amendment to the IMW also provides a more in-depth discussion, such as the protection of the business interests of residents and private companies owned by the Dutch East Indies.

There are also rules regarding the validity period of the concession, as well as the amount of taxes and excise that will be collected by the Government. Thus, the minerals and mining materials that are exploited belong entirely to the company in question. At least until the end of 1938 there were 471 mining concessions and permits in the colonization area of the Dutch East Indies. At that time, mining production was dominated by tin, petroleum and coal.

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4. Masa Orde Lama in 1950

Mining exploration in the archipelago was still ongoing when the allies were defeated by the Japanese. At that time, the colonial government of the Dutch East Indies had destroyed mining installations in the Dutch East Indies region. However, not long after, Japan immediately repaired and re-operated the damaged mines. Considering that the products produced by the mining sector are urgently needed by the Japanese government to support the World War program. It's just that when compared to what was done by the Dutch East Indies Government, the mining exploration period by the Japanese government lasted only 3 years. Although the period of Japanese rule was relatively short, the exploration activity has resulted in several new mining findings. In addition, the number of coal mines opened has also increased significantly.

Some of the new mining goods developed by Japan include: copper mines, iron ore, cinnabar, manganese ore and bauxite. Where all the results of the exploitation of mining goods in the form of minerals in the archipelago are directed to support war activities. For this reason, during the process of exploration of mining materials in the archipelago, under the Japanese military government, the value of investment spent reached 198.8 million yen, or equivalent to 16% of the total investment made in Indonesia.

After the bombing of Hiroshima and Nagasaki in 1945 by the Americans, Japan finally surrendered to the allies. In 1945, it also marked the end of the Japanese colonial period in Indonesia, which then returned control to the Netherlands and its allies.

5. Changes in Mining Policy Rules after Independence

The Indische Mijnwet Law formed by the Netherlands regarding mining is still used by the Government of Indonesia after the proclamation of independence in 1945. To improve the IMW Law made by the Dutch Colonial, the Government of Indonesia issued Law No. 78 of 1958. In this new law, the Foreign Investment mechanism is regulated, but the mining sector of vital materials is still closed to foreign investors. However, in practice, Law No. 78 of 1958 has no effect on the policies carried out by the Government. As can be seen since the year of the issuance of this law, there has been a nationalization of Dutch companies.

A year later, the Government issued Law No. 10 of 1959. Through this law, the Government has the authority to revoke mining rights granted before 1949. If the mining is still in the early stages of work or seems not to be done seriously, then the Government can legally cancel it. However, the revocation of mining rights through Law No. 10 of 1949 has an exception for petroleum mining. For this reason, throughout the Nationalization program until 1960, there were still 3 privately owned oil companies left, namely Stanvac, Caltex and Shell.

In 1960 the Government of Indonesia issued mining regulations for the first time, namely Government Regulation in Lieu of Law No. 37 of 1960 concerning Mining. This regulation was then referred to as Law No. 37 of 1960. Through this new law, the Government provides great opportunities for state companies, as well as private companies owned by Indonesian nationals to explore mining materials. In fact, the Government also provides flexibility to exploit excavations that are strategic excavations and vital excavations. In addition, Law 37 of

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1960 also shows the spirit of Nationalism and anti-westernism. This is also supported by the priority of mining exploration given to cooperative business entities.

6. New Order Period 1960s

The Entry of Foreign Mining Companies in Indonesia Since the leadership of the New Order, policies in the mining sector have turned out to be more dominant aimed at attracting foreign investors. This can be seen from the ratification of MPRS Decree No. XXIII/MPRS/1966 concerning the Renewal of Policies on the Basis of Economy, Finance and Development. The MPRS Decree states that the potential of capital, technology, and expertise from abroad can be used to process the potential of natural resources for the development of Indonesia. Through the Decree of the MPRS, it finally became the legal basis for economic and development policies that require foreign investment, namely in the form of Foreign Investment, where the main goal is to accelerate economic improvement and development (Adrian Sutedi, 2022).

Not only that, in connection with mining activities which incidentally require a large amount of capital support, the Government subsequently issued Law No. 1 of 1967 concerning Foreign Investment (PMA Law) and Law No. 11 of 1967. The FDI Law is also the starting point for foreign investment in Indonesia. After the enactment of the Foreign Investment Law, on April 5, 1967, the first Foreign Investment work contract (KK) was signed, namely between Freeport Sulphur Company (FCS/PT. Freeport Indonesia. Inc), owned by the United States, with the Government of Indonesia.

It was also recorded that in the period between 1967-1972 there were at least 16 foreign mining companies that carried out Contract of Work. Some of the well-known foreign mining companies that entered included ALCOA, Billton Mij, INCO, Kennecott, and US Steel. Where the total foreign investment in Indonesia is US$ 2,488.4 million. The entry of foreign investors who control the mining industry sector is also the forerunner of the initial environmental damage in Indonesia. As happened in Papua, the mining clearance carried out by Freeport caused environmental damage on a very large scale. Forests, which have never been touched by industrialization, are now places of exploitation of mines and mining settlements. The river, which used to be the source of livelihood for the indigenous Papuan people, is now starting to be polluted by tailings waste from the mining process as much as 300 thousand tons/day.

Mining activities carried out by foreign private companies have also caused social conflicts with the community around the mine which continue to occur until now. In the same year after the enactment of the PMA Law, the Government issued Law No. 11 of 1967 which contained the Basic Provisions of Mining. Through this Law, the State has absolute authority to grant permission to extract all mineral resources to individuals and companies.

The impact of this new Law is to eliminate people's claims to land rights and their use which includes surface land and the earth's body, as guaranteed by Law No. 5 of 1960 concerning Basic Agrarian Provisions (UUPA). In addition to injustice to land rights and their use, many companies that have received permits to exploit minerals do not heed the rules in reclaiming former mining land.

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For example, private and government-owned coal mining companies blatantly violate Article 30 of Mining Law Number 11 of 1967 which expressly states: "Upon completion of mining and excavation at a place of work, the holder of the mining authority concerned is obliged to return the land in such a way that it does not cause danger of disease or other dangers."

The violation of Law No. 11 of 1967 occurred because there was no strict sanction from the Government against mining companies that were proven to have committed violations. Since the beginning of the rise of mining companies that have sprung up, former mining land has generally been left open and gaping until it becomes toxic lakes. Some of the former mining excavation holes that were reclaimed also looked not fully repaired and left in a damaged condition. Regarding the types of contracts and permits to carry out mining, there are at least 5 things regulated in Law No. 11 of 1967, namely:

1) Mining Power of Attorney (KP), intended for national companies, both state-owned and private,
2) Contract of Work (KK) intended for mining groups a and b, as well as foreign capital,
3) Coal Mining Concession Work Agreement (PKP2B) for domestic capital and foreign capital engaged in coal mining,
4) Regional Mining Permit (SIPD) for national companies and cooperatives to cultivate industrial mining materials, and
5) People's Mining Permit (SIPR).

There are other problems outside environmental problems that must be felt by the people regarding mining regulations during this new order period. The problem is none other than the concept of criminalization. The Mining Law very clearly overrides the rights of the people to mining materials in their territory, this is stated in article 32 paragraph 2 of Law No. 11 of 1967 which reads: "Punished with a maximum penalty of three months and/or with a fine of up to ten thousand rupiah, whoever has the right to land obstructs or interferes with a legitimate mining business."

7. Post-New Order 2004

Changes in Mining Policy Rules began the fall of the new order regime accompanied by reforms, also caused widespread changes in the government model. Where in this new era, autonomy that was originally controlled by the Central Government (centralistic), is now given to the regions (decentralization). The enactment of Law No. 32 of 2004 (replacing Law No. 22 of 1999), which discusses Regional Government, then regulates several authorities regarding the use of natural resources, especially those in the area of local government. One of the authorities that at that time received criticism was related to the model of agreements such as the Contract of Work. Where through this agreement, the position of private mining companies is on par with the state. This is certainly contrary to the spirit of Article 33 paragraph 1 of the 1945 Constitution which emphasizes that "the economy is arranged as a joint effort based on the principle of family."

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In addition to the passage of the Law regulating Regional Government, the government subsequently issued Law No. 4 of 2009 (abolishing Law No. 11 of 1967), which was then called the Mineral and Mineral Law. Through the Mineral and Mineral Law, which became a new reference in the implementation of mineral and coal mining activities, the new order regime that adhered to the contract system in the previous law, was replaced with a licensing regime. In the Mineral and Mineral Law, there are at least several forms of licensing that are regulated, namely: Mining Business Permits (MBL) which apply to types of business entities, cooperatives and individuals. Then there is a People's Mining Permit (MBL) which is given to local residents, both individuals, groups and cooperatives, with a certain area. And the last is the Special Mining Business Permit (SMBL), which applies to business entities such as SOEs, BUMDs and private companies.

In addition to regulating the type of permits for those who will clear land for mining activities, the Mineral and Mineral Law also contains rules of authority for various levels of government. The division of authority levels is divided into three, namely: local governments at level II, level I and the Central Government. Other changes that are quite prominent in the Mineral and Mineral Law compared to Law No. 11 of 1967 are the regulation of environmental aspects, divestment, processing and refining in the country (down streaming) in order to increase added value. Not only that, the Mineral and Mineral Law also discusses administrative sanctions for violations committed by permit holders, as well as sanctions against permit givers or issuers. For the Contract of Work and PKP2B that have been running, it will still be valid until the expiration of the contract period. In the transitional provisions of the Mineral and Mineral Law, it is explained that the holder of the Contract of Work who has been producing when the Mineral and Mineral Law is enacted, is obliged to carry out purification no later than five years since the Mineral and Mineral Law was enacted. If you look further, the Mineral and Mineral Law has actually paid attention to the environmental aspect, but unfortunately it has not adopted many principles contained in Law No. 32 of 2009 concerning Environmental Protection and Management (PPLH Law).

Commission VII of the House of Representatives at that time should have been able to synchronize and include stronger environmental protection principles in the draft material of the Mineral and Mineral Law. In 2018, the amendment to the Mineral and Mineral Law was included in the priority of the national legislation program (PROLEGNAS). There are at least 7 judicial review applications to the Constitutional Court, as well as the existence of Law No. 23 of 2014 paragraph 1, which is considered to cause legal uncertainty and confusion in the implementation of mineral and coal mining in the region.

8. New Era 2009-Present

The power of attorney for mining operations licensing that has switched from the local government to the central government presents a negative impact. These impacts include the inability of the community to report to the local government regarding the rejection of mining activities that are considered to cause environmental damage or conflicts. Even if the community's rejection of mining activities is considered to interfere with business activities, then the community can be reported and sentenced to a criminal penalty as discrimination in

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Article 162. When viewed related to regulations in Indonesia that regulate a good and healthy environment as per article 33 paragraph (3) of the 1945 Constitution, article 28H of the 1945 Constitution, and article 5 paragraph 1 of Law No. 23 of 1997 concerning Environmental Management, any type of business that is related to environmental activities and has the potential to change in this case damaging or polluting must pay attention to the principles and norms listed in the laws and regulations above it and related including mining industry activities in it.

The reforms implemented are solely an effort to prevent bad things from dominating in the activities of the mining sector. Then after the creation of the Mineral and Mineral Law, it was then implemented for some time. Now the Mineral and Mineral Law is considered to be incompatible with the conditions of the community, as well as the needs of the entire community, especially in the mining sector. So that for many parties it is necessary to re-examine the Mineral and Mineral Law, so that the content of the law can be more relevant and in accordance with community conditions and legal needs as well as how to operate in the field in the mining sector in real terms.

In the reform of the Mineral and Mineral Law, the most obvious thing is the change in the system from being managed and regulated by local governments to being regulated by the central government. Then there is a statement that the government has the right to be the ruler in terms of policy, determination of regulation, management, management and supervision of existing mining activities. Meanwhile, regarding the granting of mining business licenses in the latest law, there are three types of permits, namely permits related to mining businesses, special mining business permits, and people's mining permits. The existence of this regulatory change is expected to change the conditions of the mining business to be easier and more flexible, and create greater investment opportunities. However, this law reform provides little concern that there are losses experienced by districts or cities because they only have the power to grant land acquisition permits. Especially as long as this mining is still ongoing, it is still the local government that bears the risk of environmental damage that occurs due to mining activities. The existence of this regulatory change has indeed resulted in the emergence of more strategic development projects in Indonesia, but in reality this also increases the risk of environmental damage due to the simplification of the granting of mining business licenses. Because basically no matter how much profit is obtained, the environmental damage caused by mining activities is priceless and takes a long time to return it to its original state.

Law Enforcement of Mineral and Mineral Governance

Changes to the Local Government Law can be classified as a local government reform. The desired change process from Law No. 5 of 1974 concerning Principles of Regional Government to Law No. 22 of 1999 concerning Regional Government and Law No. 25 of 1999 concerning Financial Balance between the Central and Regional Governments, is classified as a radical change or drastic change. Moreover, the changes after Law Number 22 of 1999, namely Law Number 32 of 2004 which is now also amended again to the 2014 Local Government Law, provide very fundamental changes in the implementation of local government, especially in the implementation of mining affairs.

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With the existence of Law No. 3 of 2020 amending Law No. 4 of 2009 concerning Mineral and Coal Mining, the authority is given to the central government to manage the natural resources available in its territory, the Republic of Indonesia, including supervision and control, responsibly. This policy is a new paradigm that gives wider authority to the central government to independently carry out its government functions.

In terms of management authority, the 1967 Mining Law uses the concept contained in the Indische Mijnwet where local governments are only authorized to manage 'trivial' mining, which in the 1967 Mining Law is distinguished where strategic (Group A) and vital (Group B) excavated materials by the government and non-strategic non-vital excavated materials (Group C) by the Provincial Level I Regional Government. This classification is considered no longer efficient, because the strategic, vital and non-vital criteria are unclear. This strategic criterion is related to the interests and security of the state, which of course can shift at any time which has the consequence of shifting the criteria for excavated materials. In addition, in practice, this classification is also associated with the authority to grant mining permits. Group A excavation can only be given to the Government, while for Group B it can be given to the private legal entity of Indonesia, for Group C it is in the hands of the local government. However, there are often certain changes, which without objective criteria, can be delegated to other parties, for example, coal, which is designated as Group A, but the mining license is also granted to the private sector.

However, in its implementation, the management of the mining sector in Indonesia has not been carried out optimally because the current mining license has caused multiple interpretations so that obstacles occur in its completion. There are mining permits that are valid based on mining permits enforced based on Law No. 4 of 2009 concerning mineral and coal mining. The informal institutions that have been formed have also created a conducive atmosphere, especially among PETI actors. Influential actors such as capital owners, land owners, and security forces are usually more dominant in determining various unwritten rules that govern PETI operations.

The management of mineral and coal mining is not spared from the provisions of Article 3 of Law No. 4 of 2009 concerning Mineral and Coal Mining, saying that "In order to support sustainable national development, the objectives of mineral and coal management are: a. ensuring the effectiveness of the implementation and control of mining business activities in a useful, successful, and competitive manner; b. ensuring the benefits of mineral and coal mining in a sustainable and environmentally sound manner; c. ensuring the availability of minerals and coal as raw materials and/or as energy sources for domestic needs; d. support and develop national capabilities to be more able to compete at the national, regional, and international levels; e. increasing the income of local, regional, and state communities, as well as creating jobs for the welfare of the people; and f. ensuring legal certainty in the implementation of mineral and coal mining business activities."

In carrying out the management of mineral and coal mining, the authority is given to the Government, Provinces, and Regencies/Cities in Law No. 4 of 2009 which states the authority to manage mineral and coal mining as stated in the provisions of Article 6 paragraph (1) that

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"The authority of the Government in the management of mineral and coal mining, among others, is: a. the determination of national policies; b. making laws and regulations; c. setting national standards, guidelines, and criteria; d. determination of the national mineral and coal mining licensing system; e. the determination of the taxpayer is carried out after coordinating with the local government and consulting with the House of Representatives of the Republic of Indonesia; f. granting MBL, coaching, resolving community conflicts, and supervising mining businesses located across provincial and/or marine areas more than 12 (twelve) miles from the coastline; g. granting MBL, coaching, resolving community conflicts, and supervising mining businesses whose mining locations are located across provincial and/or marine areas more than 12 (twelve) miles from the coastline; h. granting MBL, coaching, resolving community conflicts, and supervising mining operations that have a direct environmental impact across provinces and/or in marine areas more than 12 (twelve) miles from the coastline; i. granting Exploration SMBL and Production Operation SMBL; j. evaluation of Production Operation MBL, issued by local governments, which have caused environmental damage and which do not apply good mining principles; k. determination of production, marketing, utilization, and conservation policies; l. determination of policies for cooperation, partnership, and community empowerment; m. formulation and determination of non-tax state revenues from mineral and coal mining business results; n. guidance and supervision of the implementation of mineral and coal mining management implemented by local governments; o. guidance and supervision of the preparation of regional regulations in the field of mining; p. inventory, investigation, and research and exploration in order to obtain mineral and coal data and information as material for the preparation of WUP and WPN; q. management of geological information, information on the potential of mineral and coal resources, and mining information at the national level; r. guidance and supervision of post-mining land reclamation; s. Preparation of the balance sheet of mineral and coal resources at the national level; t. development and increase of added value of mining business activities; and u. improving the ability of Government apparatus, provincial governments, and district/city governments in the implementation of mining business management."

The provisions of Article 6 paragraph (1) of Law No. 4 of 2009 above, have been changed with the existence of Law No. 3 of 2020 concerning Amendments to Law No. 4 of 2009 concerning Mineral and Coal Mining, stating that "Article 6 paragraph (1): The Central Government in the management of Mineral and Coal Mining is authorized to: a. determine a national Mineral and Coal management plan; b. establishing a national Minerals and Coal policy; c. stipulating laws and regulations; d. set national standards, guidelines, and criteria; e. conducting Mining Investigations and Research in all Mining Jurisdictions; f. determine the WP after being determined by the provincial Regional Government in accordance with its authority and in consultation with the House of Representatives of the Republic of Indonesia; g. establishing the WMBL of metal minerals and the WMBL of Coal; h. to determine the WMBL of non-metallic minerals and rocks; i. establishing WSMBL; j. carry out WSMBL offers on a priority basis; k. issuing Business Licensing; l. to provide guidance and supervision over the implementation of Mineral and Coal Mining Business activities carried out by Business License holders; m. establishing production, marketing, utilization, and conservation policies;

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n. establishing policies for cooperation, partnership, and community empowerment; o. manage and determine non-tax state revenues from the proceeds of the Mineral and Coal Mining Business; p. managing geological information, information on the potential of mineral and coal resources, and mining information; q. conducting guidance and supervision of Reclamation and Post-Mining; r. to prepare a balance sheet of mineral and coal resources at the national level; s. developing and increasing the added value of Mining Business activities; t. improving the ability of the Central Government and provincial Regional Government apparatus in the implementation of Mining Business management. u. set the benchmark price of metallic minerals, certain types of non-metallic minerals, radioactive minerals, and coal; v. to manage mine inspectors; and w. to manage mining supervisory officials."

Meanwhile, the authority referred to in Article 7 paragraph (1), says that "The authority of the provincial government in the management of mineral and coal mining, among others, is: a. the making of regional laws and regulations; b. granting MBL, coaching, resolving community conflicts and supervising mining businesses across regency/city and/or sea areas of 4 (four) miles to 12 (twelve) miles; c. granting MBL, coaching, resolving community conflicts and supervising mining businesses for production operations whose activities are located across districts/cities and/or sea areas of 4 (four) miles to 12 (twelve) miles; d. granting MBL, coaching, resolving community conflicts and supervising mining businesses that have a direct environmental impact across districts/cities and/or marine areas of 4 (four) miles to 12 (twelve) miles; e. inventory, investigation and research as well as exploration in order to obtain mineral and coal data and information in accordance with their authority; f. management of geological information, information on the potential of mineral and coal resources, and mining information in the provinces/regions; g. preparation of mineral and coal resource balances in provincial regions/regions; h. development and increase of added value of mining business activities in the province; i. development and increase of community participation in the mining business by paying attention to environmental sustainability; j. coordination of licensing and supervision of the use of explosives in the mining area in accordance with its authority; k. submission of information on the results of inventory, general investigation, and research and exploration to the Minister and regents/mayors; l. submission of information on production, domestic sales, and exports to the Minister and regents/mayors; m. guidance and supervision of post-mining land reclamation; and n. improving the ability of provincial government apparatus and regency/city governments in the implementation of mining business management."

Meanwhile, in the provisions of Article 8 paragraph (1) of Law No. 4 of 2009, it is stated that "The authority of the district/city government in the management of mineral and coal mining, among others, is: a. making regional laws and regulations; b. granting MBL and IPR, coaching, resolving community conflicts, and supervising mining businesses in the district/city and/or marine area up to 4 (four) miles; c. granting MBL and IPR, coaching, resolving community conflicts and supervising mining businesses for production operations whose activities are located in the district/city and/or sea area up to 4 (four) miles; d. inventory, investigation and research, as well as exploration in order to obtain mineral and coal data and information; e. management of geological information, mineral and coal potential information, and mining

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information in the district/city area; f. preparation of mineral and coal resource balances in the district/city area; g. development and empowerment of local communities in the mining business by paying attention to environmental sustainability; h. development and increase of added value and benefits of mining business activities optimally; i. submission of information on the results of inventory, general investigation, and research, as well as exploration and exploitation to the Minister and governor; j. submission of information on production, domestic sales, and exports to the Minister and governor; k. guidance and supervision of post-mining land reclamation; and l. improving the ability of district/city government apparatus in the implementation of mining business management."

The relationship between the central government and local governments is based on the formulation of Article 18 paragraph (5) of the 1945 Constitution of the Republic of Indonesia which states that, "Local governments exercise the widest possible autonomy, except for government affairs that are determined by law as the affairs of the Central Government".24 The article is the main legitimacy of the encouragement to exercise regional autonomy in various fields, one of which includes mineral and coal mining. Like the mining sector, mineral and mineral is one of the natural resource sectors, of course it has a relationship with other environmental sectors and how the authority of the Central and Regional Governments in managing mining businesses. This has the implication that the obligation to take action on the interpretation of the "right to control the state" is not only on the shoulders of the Central Government, but also becomes the obligation of local governments, of course in accordance with the classification of mandatory affairs and the choices charged.

The issue of access in the context of mineral and coal mining resource management needs to be sat together, integrated with the same interests of stakeholders to carry out mining management, both government, private (corporate), and indigenous/local communities. Civil society groups, and including customary law community units, have begun to move dynamically with perspectives, attitudes, and feedback to the government and corporations (private), so that the change in the way of thinking and attitudes of these community groups increasingly understands the constitutional rights of citizens, social justice and ecological justice. The legalization of the state to customary law communities is recognized for its existence, but to obtain such legalization, it must also follow the procedures or rules of the game that have been determined by the state through regulations.

Administrative sanctions in the form of written warnings are given a maximum of 3 (three) times with a warning period of 30 (thirty) calendar days each. In the event that MBL, SMBL, IPR, or SIPB holders who receive written warning sanctions, have not carried out their obligations, are subject to administrative sanctions in the form of temporary suspension of part or all of Exploration or Production Operation activities. Administrative sanctions in the form of temporary suspension of part or all of Exploration or Production Operations activities, imposed for a maximum period of 60 (sixty) calendar days from the period of written warning Halu Oleo Legal Research | Volume 5, Issue 1, April 2023 74 ends. In the event that the holder of an MBL, SMBL, IPR, or SIPB who receives sanctions in the form of temporary suspension of part or all of the Exploration or Production Operation activities has not carried out the

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obligation until the expiration of the period of imposition of sanctions in the form of temporary suspension of part or all of the Exploration or Production Operation activities, they are subject to administrative sanctions in the form of revocation of the MBL, SMBL, IPR or SIPB.

The authority to impose administrative sanctions is the Minister, in the form of revocation of permits (MBL, SMBL, IPR, SIPB or MBL for Sale), without going through the stages of granting administrative sanctions in the form of written warnings and temporary suspension of part or all of Exploration or Production Operations activities under certain conditions related to: a. criminal violations committed by MBL, SMBL, IPR, or SIPB holders based on Court Decisions with permanent legal force; b. the results of the Minister's evaluation of MBL, SMBL, IPR, or SIPB holders who have caused environmental damage and do not apply good mining engineering principles; or c. the holder of MBL, SMBL, IPR, or SIPB is declared bankrupt, in accordance with the provisions of laws and regulations.

In the Mining Law, in addition to recognizing the existence of illegal mining crimes, there are also various other criminal acts, most of which are aimed at mining business actors, and only one type of criminal act is aimed at permit issuing officials in the mining sector. Therefore, in a problem that mining activities have violated the rules of mining crimes without a permit (Salsabila et al., 2023; Syaefudin & Sudewo, 2020; Tutuarima et al., 2022). As has been known above, the state has the right to control the earth, water, and natural resources contained in it, including mines. Based on this, everyone who will carry out mining activities must first ask for permission from the state/government. If there is a mining activity where the perpetrator does not have a permit, then his act is a criminal act as stipulated in Article 158 of the Mining Law which reads as follows: Every person who conducts a mining business without an MBL, IPR or SMBL as referred to in Article 37, Article 40 paragraph (3), Article 48, Article 67 paragraph (1), Article 74 paragraph (1) or paragraph (5) shall be sentenced to imprisonment for a maximum of 10 (ten) years and a maximum fine of Rp.10,000,000. 000.00 (ten billion rupiah). Based on the description above, it can be understood that in the case of mineral and coal mining, the perpetrator is suspected of having committed a mining crime regulated in Article 158 of Law Number 4 of 2009 concerning Mineral and Coal Mining and the mining crime committed above is mineral and coal mining in the sand and land sector, in connection with the mining carried out by the perpetrator does not have a permit, the authorities have carried out law enforcement in accordance with the provisions of the applicable laws and regulations.

CONCLUSION

Legal reform and the Mineral and Mineral Governance Ecosystem on the revocation of Mining Business Licenses (MBL) in Indonesia and its impact on business actors. So that in the improvement in the legal field in an effort to organize clean and accountable quality regulations in Ministries/Institutions and Regional Governments. Legal reform or legal reform is the process of reviewing existing laws, and advocating and implementing changes in the legal system, usually with the aim of improving justice or efficiency.

Mineral and Mineral Governance on the Revocation of Mining Business Licenses (MBL) in Indonesia needs to be improved so that every individual or business entity, whether in the form

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of a legal entity or non-legal entity that is established and domiciled or carries out activities within the jurisdiction of the Republic of Indonesia, either alone or jointly through an agreement to carry out business activities in various economic fields

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