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The Measuring Effectiveness of Centralization of Indonesian Coal Mineral Mining Licensing

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Abstract. *Measuring the effectiveness of centralizing coal mineral mining licensing in Indonesia is important for conducting research to measure the success of business actors in obtaining business certainty. There are indications of failure to centralize Indonesian coal mineral mining licensing, which can hamper the business being operated and reduce the trust of business actors in the Indonesian Government. This type of research is normative juridical research using second party data such as articles and laws and regulations up to court decisions which are then presented in descriptive form. The novelty of this research that distinguishes it from previous research is the analysis of ministerial-level regulations and legal processes carried out by several business actors at the State Administrative Court Institution to obtain business certainty. The results showed that several business actors to obtain certainty of license implementation such as PT Perdana Maju Utama, PT Fajar Bahari, PT Mandiri Biofuels, PT Sri Mulya Agung, PT Garuda Agung Perkasa, and CV Siti Maju Sejahtera, did not go well which was marked by filing a lawsuit at the State Administrative Court Institution to the Government of Indonesia, so that the non-implementation of centralization of mineral and coal mining licenses was not only carried out by business actors but also by the State as the licensor.*

Keywords: *Centralization; Licensing; Mineral; Mining.*

1. Introduction

A recent update to Law No. 4 of 2009 about Mineral and Coal (Minerba) Mining, which is recognized for offering more legal certainty in business, is Law No. 3 of

2020 concerning Minerba Mining. While Law No. 4 of 2009 transitions mining concessions through contracts to a licensing system, Law No. 3 of 2020's licensing system is anticipated to give the State more control over it and benefit the community, particularly the ease of doing business in the mining industry.

The goal of Law No. 3 of 2020's legal reform in the mining industry is to sustainably contribute value associated with Indonesia's economic expansion and national development. Another justification for the enactment of Law No. 3 of 2020 is that Law No. 4 of 2009 is no longer deemed to be in line with Indonesia's coal and mineral affairs issues, which means that the implementing regulations have failed to address the real issues that arise in the management of coal and mineral mining as well as associated cross-sectoral issues.

The power to issue licenses to business owners has undergone substantial modifications in Indonesian mining law. According to Article 4 Paragraph (2) of Law No. 4/2009, Management carry out the control of minerals and coal by the state. But Law No. 3 of 2020's Article 4 Paragraph 2 was changed to read, the state, through the central government, manages natural resources for mineral and coal mining. A law change known as "centralization of mining licensing" is anticipated to facilitate entrepreneurs' acquisition of mining company licenses from the Central Government.

The state is in the position to effect the five control functions fully through the license system. This is because the corporate players and the state enjoy a hierarchical legal relationship as opposed to an equal one. For the state to regulate the wealth of natural resources and direct them to fulfilling the people's welfare based on its ideology, business players are required to adapt to the state's regulation and policy on mining (Rahadiyan & Savira, 2017).

Although Law No. 4 of 2009 was repealed and replaced by Law No. 3 of 2020, licensed firms or individuals must first apply for a permission from the local regency or city government in order to conduct mining activities in a certain region. It is the responsibility of the regional government in each mining area to oversee mining operations, provide direction, and settle disputes. In the context of resolving disputes between mining firms and communities in the mining region, the local government has the authority to act as a mediator directly or to revoke the licenses of mining business owners who are found to be at fault. Oversight of the mining business license's sustainability in the mining site region, the authority is with the Local Government.

The central government's predominance in monopolizing mining control concerns has been gradually restored by Law No. 3 of 2020's provisions about amendments to Law No. 4 of 2009, the most recent development in the legislative reform of the mining sector. Article 4 Paragraph 2 of Law No. 3 of 2020

states that "The Central Government organizes the control of Minerba by the State as referred to in paragraph (1) in accordance with the provisions of this Law." Removing the Regional Government's authority to control coal and minerals, as allowed by Law No. 4 of 2009, is the aim of the ratio legis of the legal politics of Article 4 Paragraph (2) (Al-Farisi, 2021).

Transfers the powers of mining management to the powers of reclamation, revegetation (reforestation) and other conversion activities, such that environmental impacts are beyond the power of the Regency / City Government to control. Revocation of the mining powers from the Regency / City Area renders the area to lack any power to manage, supervise and utilize its natural resources directly. That contradicts the mining regulations after the promulgation of Law No. 4 of 2009 which has given authority to the Regional Government and the Central Government equally in utilizing coal mineral mining resources (Tomboelu, 2020).

The revocation of regional government authority in issuing community mining permits has several negative consequences. First, there is a lack of coordination between the central and regional governments in issuing mining business permits. Second, there is a lack of regulation and management of reclamation and post-mining activities, and there is no system for investing funds in these activities. Third, national mining data and statistics are not harmonized, and illegal community mining is widespread in the regions. Third, there is a lack of coordination between the Ministry of Energy and Mineral Resources (ESDM), the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (BPN), and the Ministry of Environment and Forestry (KLHK) in resolving land rights issues and environmental damage caused by mining activities (Putra, 2023).

The return of the authority to grant mineral and coal mining concession licenses and rights to the central government from the regional government is due to internal factors, namely irregularities that occur both politically and legally that have been carried out by the regional government. In addition to internal factors, it is also caused by external factors in the form of investor interests, which of course will invest in the mining sector. Investors carry out this activity by ensuring legal certainty regarding the implementation of the mining business. In addition, with the right of control in the hands of the central government, of course it will be better because when the control of minerals and coal is still in the hands of local governments, there are often clashes between regulations that have been made by the central government and local government regulations (Risano, 2020).

The implication of the transfer of mining licensing authority from local governments to the central government is the reduction of conflicts that arise

when local governments issue mining licenses. The previous system created many conflicts, both horizontal and vertical, due to the authority of local governments in granting licenses that were often not in line with community aspirations and initiatives. This change aims to address such conflicts and ensure that the management of mining permits is more centralized and potentially more consistent with broader government policies and community needs (Nuswanto, 2026). One of the changes in returning management to the hands of the central government is to be able to control production and sales which are commodities related to energy security and the return of Law No. 3 of 2020 does not affect regional revenues related to mining proceeds (Lathif, 2017).

The impartial public response to the renewal of mining law is considered to be more in favor of business actors (Al-Idrus, 2022), even though the licensing system in mining law has replaced the contract system which should apply the same unlike contracts that are different from one another, besides that the centralization of permits in mining authority can be considered optimal if it can produce ideal and effective mining management (Yanto & Hikmah, 2023). Effectiveness is defined as people's capacity to be active, usable, and compliant when performing activities with the desired outcome. This leads to the conclusion that effectiveness is a condition that indicates the degree to which the plan may be accomplished; hence, effectiveness can also be understood as the degree of success that can be attained from a certain approach or endeavor in line with the goals to be accomplished.

The effectiveness of supervision of coal mining licensing by the Energy and Mineral Resources Agency in East Kalimantan Province has not been effective, because at the stage of achieving the objectives, the supervision time carried out is minimal because it is carried out once a year due to the limited budget before and during the Covid-19 Pandemic. Furthermore, at the stage of adaptation, the existing supervisors are still lacking to carry out inspections due to the number of supervisors only 35 people less than the number of mining licenses so that some companies do not get supervision (Syahhuri, 2021). The current condition of the State of Indonesia through the President has been declared in a state of no longer facing the Covid-19 Pandemic status. Legal reform through Law No. 3 of 2020 and its implementing regulations are expected to be optimal or effective in providing services to business actors, so that business actors can optimally run their business.

This research is different from previous studies such as those conducted by Sibatuara & Soemarwi who did not examine the implementing regulations of Law. No. 3 of 2020 even though the implementing regulations of Law No. 3 of 2020 are regulated in Government / Ministerial level regulations that regulate in detail in carrying out the mandate of Law No. 3 of 2020 (Sibatuara & Soemarwi,

2023), and research from Friskilia and friends who in their research stated that Law. No. 3 of 2020 is considered not fully effective and efficient in solving problems related to mining activities, especially licensing, but Friskilia and friends' research does not explain in detail what licensing is meant, whether environmental permits, extension permits, or transportation permits (Darongke et al, 2022). This research has not been conducted by previous researchers and this research is expected to provide a way out to the Government of Indonesia as the authorized party in issuing Mining Licenses.

2. Research Methods

This research used the normative method, or in other words the normative juridical method, which is an approach to legal regulations to identify das sollen norms and das sein implementation in society. The main focus of this research was on the legal aspects of the centralization of Indonesia's mining business permit application. The analysis was conducted by finding relevant supporting data during the implementation of Law No. 3 of 2020 in the mining sector, identifying policy weaknesses that cause various problems. The data sources of this research include secondary data such as legal regulations both issued by the Government and up to Ministerial Decrees, books, journals, articles, scientific papers, and data obtained through electronic media that are credible and academically accountable (Benuf & Azhar, 2020). Case studies in Indonesian State Administrative decisions between business actors and the central government in the case of the ESDM as a measure of effectiveness against the centralization of coal mineral mining licensing in Indonesia, because some business actors who are dissatisfied with the government in terms of being harmed by government actions can demand justice through the State Administrative Court Institution.

3. Result and Discussion

3.1. The Coal Minerals are Natural Resources in State Sovereignty

Based on data from the Central Statistics Agency (BPS), the mineral and coal sector contributes to Indonesia's gross domestic product (GDP) reaching Rp2,198 trillion or 10.5 percent of Indonesia's total GDP of Rp20,892 trillion in 2023. Coal serves as one of the largest contributors to state revenue. In 2023, coal exports have contributed to PNBP (Non-Tax State Revenue) of approximately 100 trillion rupiah excluding taxes. In addition, the mining industry provides a better life for the community, especially around the mine. The mining industry has absorbed more than 330 thousand workers and has provided approximately 2.5 trillion rupiah for community empowerment program activities around the mine. This shows that the economic and social impacts of coal mining activities are felt by the community.

Coal and minerals are both considered natural resources as they are products of nature that may be utilized to support human needs. The United Nations General Assembly Resolution (UN Resolution) of December 21, 1952, affirming each nation's freedom to freely utilize its natural resources and promoting self-determination in the economic sphere (Starke, 1989), the right of the state to control its natural resources in order to boost economic growth was reaffirmed in the UN Resolution 1974, the Declaration on the establishment of the New Indonesian Economic System, and the Program of Economic Rights and Obligations of the State.

Additionally, the concepts of international law gained significant impetus in 1962 with the adoption of UN Resolution 1803 (XVII). The right of peoples and countries to permanent sovereignty over natural resources and wealth is emphasized in point 1 as "being exercised in the interests of their national development and the welfare of the people concerned." Resources must be explored, developed, and regulated in accordance with national and international laws and regulations that freely determine what is required or desirable in terms of allowing, restricting, or outlawing certain activities. This includes the inclusion of foreign capital required for this purpose (Botchway, 2006). Every state has the sovereign right to freely trade with other nations and to dispose of its natural resources in the interests of economic progress and the welfare of its own citizens, according to the UN Resolution 1803 (Bungenberg & Hobe, 2015).

UN Resolution 1803 is an international agreement between developed countries and developing countries in the country's economic policies, especially in terms of natural resources. The international agreement of the UN Resolution 1803 is the protection of natural resources for countries that have explored their natural resources, especially countries receiving capital because they are unable to cultivate them, and also legal protection for the country providing capital both business entities and citizens who have carried out exploitation of the policies of the country that owns natural resources.

The Republic of Indonesia's 1945 Constitution, which is the ultimate source of law in Indonesia, regulates the country's national economy. One of its articles, Article 33 Paragraph 3(3), states that Natural resources contained within the territory of the unitary state of the Republic of Indonesia are controlled by the state with the aim of maximizing the welfare of the general population of Indonesia. This means that the Indonesian State is constitutionally sovereign over its natural resources, both above and below ground.

State authority over natural resources, as outlined in Decision No. 001-021-022/PUU-I/2003, encompasses five key functions: State policy, State

management, State regulation, State administration, and State supervision. The policy function is executed directly by the State, which involves establishing guidelines for the management of oil and gas resources. The management function is performed by the government, which exercises its power to grant licenses, permits, and concessions, as well as the ability to revoke these rights when necessary. The regulatory function is the primary responsibility of the State, enacted through legislative authority in collaboration with the House of Representatives and government regulations, aimed at enhancing the welfare of the populace. The management function may also be facilitated through mechanisms of share ownership, allowing government participation in corporate governance via State-Owned Enterprises. Lastly, the supervisory function is undertaken by the State or government to oversee and regulate critical production sectors that significantly impact the lives of many, ensuring that these resources are utilized for the public good.

More than one-third of all notified export restrictions are in the natural resources sector, despite the fact that the current evolution of World Trade Organization (WTO) legal provisions and its jurisprudence tends to move away from a fair balance between state sovereignty over natural resources and free trade. This is in addition to multiple WTO trade policy reviews. Nevertheless, the country's enduring sovereignty over natural resources cannot be ensured by WTO regulations alone (Boklan & Kappuswamy, 2024). Strategies to enhance energy security to reduce the risks associated with energy import dependence, China is implementing several strategies aimed at enhancing energy security. First, strengthening regional energy cooperation with neighboring countries can help secure energy resources and supply chains. In addition, diversifying energy sources by investing in the renewable energy industry can reduce dependence on a single supplier, thereby reducing the risks associated with supply disruptions. Improving energy efficiency across all sectors is also important, as it can help reduce energy consumption per unit of GDP and support sustainable economic growth (Shi, 2015).

Key factors contributing to resource-induced conflict in fragile states include: Demographic Change: Population growth can lead to resource scarcity, which increases the propensity for violent conflict. Resource Abundance: Contrary to the scarcity argument, resource abundance can also drive conflict by creating incentives for looting and profiteering from resources. Governance Challenges: Fragile states often struggle with governance issues such as negotiating equitable agreements with extractive industries and managing transitions in the resource extraction phase, which can exacerbate tensions. Institutional Resilience: Low institutional resilience can leave countries vulnerable to shocks such as food and water crises, leading to instability and potential conflict. Factors such as climate change, volatile commodity prices and population pressures further limit

capacity building in fragile states, increasing the risk of violent conflict. Property Rights and Trust Mechanisms: Poor management of common property resources such as water and land can lead to conflict if property rights and trust mechanisms are not well established (Bleischwitz et al, 2014).

Some analyses contend that globalization and other elements of the modern international legal system are undermining sovereignty, while others maintain it or demonstrate that the extent of state power has grown over time. Still others contend that the State's capacity to exert effective control is being undermined (Krasner, 1999). However, as stated in “Article 33 Paragraph 3 of the 1945 Constitution of the Republic of Indonesia (UUD 1945)”, the goal of State control over natural resources is to realize the welfare of the people, not business actors or State government officials as rulers. This means that the State has the freedom to carry out acts of management, management, supervision, regulation, and policy provision, which are essentially obtained from the people as an instrument to realize the wishes of the people, namely the greatest welfare. Such is the intention of State sovereignty over natural resources.

"Additional provisions regarding the implementation of this article shall be regulated by law," states Article 33, Paragraph 5 UUD 1945. This is one of the methods by which the Indonesian State exercises its authority over its natural resources pursuant to Article 33 Paragraph (3) of the UUD 1945, i.e., the application of a statute enacting the entire provision thereof. The entire implementation of Article 33 in the UUD 1945 is carried out by a law as an implementation of one of the Indonesian State control over its natural resources in Article 33 Paragraph (3).

As is stipulated in the preface to Law Number 4 of 2009, non-renewable natural resources of the earth, namely minerals and coal, must be managed in the best possible way, effectively, transparently, sustainably, environmentally friendly, and equitably, with a view to providing the most maximum benefits for the prosperity of the people in a sustainable manner. State ownership of natural resources, especially in coal and mineral mining, is implemented by law and regulation in the mineral and coal mining sector, i.e., Law Number 11 of 1967 on the Principles of Mining, Law Number 4 of 2009, and Law Number 3 of 2020 as a legal revision in the mining sector.

State sovereignty over natural resources is exercised through legislation, although legislation is submitted by the people to the State to make and pass. The goal is none other than to realize the welfare of the people. The welfare of the people as the goal of the State's sovereignty over natural resources may not be achieved, then sovereignty as a tool to achieve the intended goal. The tool that is implemented through legislation has an obligation to achieve its goals,

namely satisfying the people not the State, because the true owner of the State's sovereignty over natural resources is the people while the State is an extension of the power of the people given to the State through its rulers. The people must be satisfied and prosperous so that the State succeeds in exercising its sovereignty, especially over its natural resources.

3.2. Law & Criticism of Centralization of Minerba Mining Licenses Indonesia

Indonesia is now regulating its coal and mineral mining according to a new plan. With national application, the Central Government takes charge of managing coal and mineral mining in the various areas. Since legislation No. 3 of 2020 revised Law No. 4 of 2009, the legislation has undergone several significant changes, including synchronization with the Job Creation Law. Law No. 3 of 2020 contains a number of new materials, including: The topic involves arrangements about the Mining Law Area concept, there are changes in authority regarding the management of minerals and coal, there is a need to develop a plan for managing minerals and coal, the role of State-Owned Enterprises is being strengthened, New licensing ideas, such as those for specific types or purposes of mineral exploitation, and licenses for community mining, are part of the revised licensing regulations in minerba mining, and rules are being updated to improve environmental management in mining, including post-mining and reclamation activities.

Several regulations have been issued by the Indonesian These include Government Regulation (PP) No. 96 of 2021 regarding the Implementation of Minerba Mining Business Activities, PP No. 15 of 2022 concerning State Revenue in the Coal Mining Business Sector, PP No. 46 of 2022 concerning Capital Participation Indonesia for the Establishment of a Company, PP No. 52 Year 2022 on the Safety and Security of Nuclear Excavation Material Mining. In addition to government regulations, there are other regulations, such as Minister of Energy and Mineral Resources Regulation (Permen) No. 10 of 2023, Permen No. 16 of 2021, Permen No. 7 of 2023, Permen No. 6 of 2024, Permen No. 7 of 2022, Permen No. 14 of 2022, and Permen No. 10 of 2023.

Regulations on Procedures for Granting Areas, Licensing, and Reporting on Minerba Business Activities, after the issuance of Law No. 3 of 2020. The Indonesian Government has issued two regulations in a very fast period of time, namely Permen ESDM No. 7 of 2020 and Permen ESDM No. 16 of 2021 as an amendment. The two regulations have changes that are only one year apart, which means that some of the above implementing regulations in carrying out the mandate of Law Number 3 of 2020 are inconsistent. Law also has internal morality. Internal morality does not refer to the moral substance in legal rules, but to the qualities that enable the law to achieve its goals. Other implementing

regulations are seen such as "Kepmen ESDM 15.K/HK.02/MEM.B/2022" and "Kepmen ESDM 297.K/MB.01/MEM.B/2023", undergoing changes within a period of one year with very significant changes clearly visible differences in several arrangements.

There are no provisions regulating the Mining Business License (IUP) must meet the criteria, one of which has been registered or has been registered in the list of IUPs resulting from the structuring of IUPs and Special Mining Business Licenses (IUPK) that meet the provisions registered in the IUP database of the MODI. In the provisions of the First arrangement in the "Kepmen ESDM 15.K/HK.02/MEM.B/2022," it does not regulate that the IUP must be registered in MODI. This can be interpreted that the "Kepmen ESDM 15.K/HK.02/MEM.B/2022," is more accommodating and provides an opportunity for mining businesses whose IUPs have not been registered in the MODI system to submit applications for processing the issuance of metal mineral or coal IUPs to the Ministry of ESDM through the Director General of Minerba.

The Director General of Minerba, acting on behalf of the ESDM, may arrange for regional licensing through shrinkage or issue metal mineral or coal IUP to one of the business entities whose area reserves are issued first in the event that processing the issuance of IUP causes issues with overlapping regional licensing with the same commodity as registered IUP/ IUPK holders (Kepmen ESDM 297.K/MB.01/MEM.B/2023). In contrast to the "Kepmen ESDM 15.K/HK.02/MEM.B/2022" which applies the first application system for reserve areas that have met the requirements (first come first served). Arrangements in terms of processing the issuance of IUPs that result in overlapping problems in the "Kepmen ESDM 297.K/MB.01/MEM.B/2023", are certainly better and provide certainty of the license area obtained from the area permit issued first, not first submitted if the mining business license area overlaps with other parties.

Holders of metal mineral or coal IUP resulting from the arrangement of IUP that are still valid and there are no problems of overlapping regional licensing with the same commodity, which is regulated in "Kepmen ESDM 297.K/MB.01/MEM.B/2023" can submit an application for processing IUP re-registration provided that the license Decree number is recorded in the minutes of the national IUP reconciliation between the ESDM or Local Government before the enactment of this Ministerial Decree and fulfills administrative requirements, territorial requirements and criteria, technical requirements, environmental requirements, and financial requirements. Unlike what is stipulated in the "Kepmen ESDM 15.K/HK.02/MEM.B/2022", there is no requirement for the license decree to be recorded in the minutes of the national IUP reconciliation between the ESDM and the Local Government.

Some differences in mining licensing policy changes in "Kepmen ESDM 297.K/MB.01/MEM.B/2023" and "Kepmen ESDM 15.K/HK.02/MEM.B/2022", are more obvious and increasingly unfavorable for coal mineral mining business actors. Regulations stipulated in "Kepmen ESDM 297.K/MB.01/MEM.B/2023" are more complete and impose licensing obligations to be completed by business actors even though the permits obtained from the Local Government are not yet complete, as well as licensing data collection from the Local Government to the Central Government which is imposed on business actors.

Interestingly, one of the provisions added in Article 83A of PP No. 25 of 2024 concerning Amendments to PP No. 96 of 2021 concerning the Implementation of Minerba Mining Business Activities is the Mining Business License Area, which gives preference to companies owned by religious community organizations. Between PP Nos. 96 of 2021 and 25 of 2024, a number of modifications outlined in the Government Regulation on the execution of mineral coal mining company operations are implemented over a three-year period without first being reviewed by the House of Representatives. The fact that Diversity Community Organizations are in charge of mine management is undoubtedly contrary to their founding goals, which are religious in nature rather than mining management.

The addition of the regulation in Article 83A of PP No. 25 of 2024 concerning Amendments to PP No. 96 of 2021 further makes Indonesia violate the principles of Business and Human Rights in the United Nation Guiding Principles on Business and Human Rights (UGHP), both the principles of protection, respect and restoration of human rights. In addition, the National Human Rights Commission has also warned of potential conflicts and interests after the issuance of mining regulations Law. No. 3 of 2020 was passed (Qurbani & Rafiqi, 2022).

Tongam Pangabean in the International Non Governmental Organization (NGO) Forum on Indonesian Development which states that the case of PT Dairi Prima Mineral (DPM) zinc ore mining located in Dairi Regency can illustrate the complexity of human rights due diligence practices, arguing that the domestic private subsidiary Bumi Resources Minerals (BRM) and Nonferrous Metal Industry's Foreign Engineering and Construction Co.., Ltd. (NFC) based in Beijing have come under scrutiny for unsustainable and irresponsible mining practices that lead to human rights violations particularly the right to free, prior and informed consent, the right to the environment, the right to traditional occupations, and the right to public information. Universitas Airlangga through its website on June 11, 2024 has highlighted the mining permit policy with the title mining policy for religious organizations: concern or interest (UNAIRNEWS, 2024). This shows that the opening of mining business licenses for religious

organizations not only provides the State's concern for its people but can also be in the interests of the ruling Government entering the Regional Head General Election.

The government in power, President Joko Widodo, during a visit to Pondok Pesantren and in Mosques, conveyed the reason for granting mining licenses for mass organizations starting from many complaints (Kompas.com, 2024). Contradictory to Deolipa's opinion in Liputan 6 news written by Dicky Agung Prihanto, it is explained that religious mass organizations, if they have a business or business as high as possible in the field of education, such as Muhammadiyah, are engaged in establishing schools, but if religious mass organizations are given mining concessions for mining businesses, it is certain to deviate from the religious field (Liputan6, 2024).

Mining law reform in Law no. 3 of 2020 which maintains Article 162 and Article 164 which regulates criminal sanctions for anyone who obstructs or disrupts mining business activities which are often used to criminalize communities or activists who reject mining, in the final record of 2018, there are at least 262 Indigenous Peoples who have been criminalized for defending their customary territories, so that the maintenance of the two criminal articles will further deter indigenous peoples from defending their customary territories, besides that the formation of revised coal mineral mining regulations is considered very thick for ease of investment, there are various potential threats that overshadow indigenous peoples and deprivation of their customary territories through investment activities (Sari, 2021). The existence of natural resources, especially minerals such as nickel, copper, bauxite and tin mining materials, which amount to around 1.5 billion metric tons, can be categorized as abundant natural resources obtained from nature, but the existence of abundant natural resources in a country that is effectively utilized for the benefit of its people for welfare reasons can have a curse impact because excessive mineral utilization has an impact on abiotic depletion (Aisyah et al, 2024).

Indonesia's mineral and coal natural resources are utilized on a large scale to be managed or explored by not limiting differences in business actors. Indonesian mineral and coal mining business actors can come from within the country or business actors from abroad by establishing companies in the country that owns natural resources. It is feared that the benefits of natural resources are not fully utilized by the people of the State that owns natural resources, but flow to the people of the State that owns large capital resources. The existence of countries that own natural resources, especially developing countries including Indonesia, has limited capital and technology. Countries with large capital resources will utilize them and will extract natural resources without regard to their sustainability.

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3.3 Implementation of Coal Mineral Mining Licenses by Several Business Actors

The Regional Government provided mining enterprise licenses prior to the passage of Law No. 3 of 2020. This is because Law No. 4 of 2009's Articles 7 and 8 grant the Regional Government the power to grant mining licenses to both provincial and regency-level governments. There are several different kinds of mining business licenses. In particular, mining business licenses in the production stage are often granted following the completion of exploration or after obtaining a production license through government-sponsored auctions.

Production stage mining business licenses owned by business actors are usually granted for 10 (ten) years and can be extended. However, the extension of the license that has been granted to business actors, after the issuance of Law No. 3 of 2020, cannot be submitted to the Regional Government that grants the license. Following the enactment of Law No. 3 of 2020, the Central Government grants coal mineral mining company licenses, including renewals and new ones that aren't related to rock kinds. In actuality, it is difficult for mining company players who currently hold an exploration or production permit and are entitled to a license extension to get one through the Central Government. Mining company actors may be compelled to file a lawsuit in the State Administrative Court if the government, in this case the State, is unruly or rejects its own regulations.

Based on the Deed of Resolution of the Meeting of Shareholders of PT Perdana Maju Utama Number 02 Dated May 27, 2019 made before Notary Iin Nurulhuda, S.H., M.Kn, Notary in Bogor Regency through the President Director Mr. Bedha C, PT Perdana Maju Utama, with its headquarters located at Jl. H. Benyamin Sueb Kavling A.6, Kebon Kosong Village, Kemayoran District, Central Jakarta, DKI Jakarta 10630, has filed a State Administration lawsuit against the Director General of Minerba of the ESDM. The issue of dispute between the ESDM and PT Perdana Maju Utama is the extension of PT Perdana Maju Utama's Coal Production Operation (OP) Mining Business License (IUP) which was denied extension. Although PT Perdana Maju Utama has submitted it in writing to the ESDM, through letter Number: 005/SPM/PMU/XI/2022 dated November 28, 2022 (PerdanaMajuUtama v ESDM, 2024).

In addition, PT Fajar Bahari filed a lawsuit against the ESDM because the Regional Government had issued PT Fajar Bahari's IUP OP on 3,927 hectares of land covered by Decree of the Regent of Tojo Una-Una Number 188.45/400/DISTAMBEN dated June 15, 2011, which was listed among the IUP OPs that satisfied the Ministry's requirements. The ESDM is proven to have committed an unlawful act by not carrying out its obligation to record the Production Operation Business License owned by PT Fajar Bahari into the list of

mining licenses that meet the provisions, as stated in the State Administrative Decision through the Jakarta State Administrative Court Decision Number 211/G/TF/2023/PTUN.JKT, August 14, 2023, jo. Jakarta State Administrative Court Decision Number 337/B/TF/2023/PT.TUN.JKT dated January 4, 2024, jo. Supreme Court Decision Number 325 K/TUN/TF/2024 (FajarBahari v ESDM, 2023)

In addition, IUP OP issued by the Regional Government as the Decree of the Regent of Morowali Number: 540.3/SK.003 /DESDM/I/2011 dated January 17, 2012 regarding the approval of the increase in Exploration IUP to IUP OP based on the application letter dated May 30, 2023 Number: 207/DIR-MB/V/2023, which was submitted by PT Mandiri Biofuels, in fact the ESDM did not carry out its obligations or rejected it, so that PT Mandiri Biofuels must take legal action through the State Administrative Court for the action or attitude of not carrying out its obligations of the ESDM which did not include the IUP OP issued by the Regional Government as the Morowali Regent Decree Number: 540.3/SK.003 /DESDM/I/2011 dated January 17, 2012, based on the Application Letter dated May 30, 2023 Number: 207/DIR-MB/V/2023. /DESDM/I/2011 dated January 17, 2012, based on the Application Letter dated May 30, 2023 Number: 207/DIR-MB/V/2023, submitted by PT Mandiri Biofuels (MandiriBiofuels v ESDM, 2023).

Through the Registrar of the Jakarta State Administrative Court, PT Sri Mulya Agung filed a lawsuit against the ESDM on September 1, 2023. The application letter, filed on December 13, 2021, with number 02/SPM/PT.SMA/XII-2021, and on July 24, 2023, with number 034/SMA/VII/2023, received no response. However, in accordance with Konawe Regent Decree Number: 140 of 2013 regarding the approval of the increase of Exploration IUP to IUP OP to PT Sri Mulya Agung dated April 23, 2013, the ESDM ought to have added or processed the Mining Business License of PT Sri Mulya Agung into the List of IUPs that satisfy the requirements at the Directorate General of Minerba of the ESDM as the Application Letter submitted by PT Sri Mulya Agung with Letter Number: 034/SMA/VII/2023 Dated July 24, 2023 (SriMulyaAgung v ESDM, 2023).

On June 16, 2023, Letter Number 017/PT was sent by PT Garuda Agung Perkasa. GAP/S. P/VI/2023 on its intention to submit its IUP to the MODI system to the ESDM. The Dirjen ESDM was sued in the State Administrative Court by PT Garuda Agung Perkasa for neglecting to enter PT Garuda Agung Perkasa's IUP into the MODI system since the ESDM actually did not respond or was inactive. The business suffered losses as a result of not entering PT Garuda Agung Perkasa's IUP into the MODI system, including the inability to obtain services (GarudaAgungPerkasa v ESDM, 2023).

The Board of Directors H of CV Siti Maju Sejahtera, situated in Karang Bintang, South Kalimantan Province. Jumron AR filed a lawsuit against the ESDM on

March 17, 2023, alleging that the latter failed to include the submitted permit in the list of mining licenses that comply with the terms of the application letter submitted on November 28, 2022, under Letter Number 026/SMS-ESDM/Dir/XI/2022. As a result of the ESDM's failure to process CV Siti Maju Sejahtera's license application, the company suffered losses that prevented it from ceasing its mining operations and from receiving government licensing services (SitiMajuSejahtera v ESDM, 2023).

Business actors who have obtained a license to conduct business in minerba mining for 10 (ten) years and get a 10 (ten) year license extension in the following year granted by the Regional Government in fact have not received certainty of implementation by the Central Government because the previous license was issued by the Regional Government not the Central Government, while the mineral and coal mining licensing policy has required licenses to no longer be issued by the Regional Government but rather the Central Government. The Indonesian government does a poor job of licensing business players in the coal and mineral mining industry, and it seems that the business actors themselves should throw responsibility for permits issued by the regional government into the hands of the national government.

As commercial players in the coal and mineral mining industries, several of the aforementioned mining corporations have expressed displeasure with the services offered by the Indonesian government, particularly in the area of coal mineral mining licenses, by pursuing legal remedies through the State Administrative Court. It is true that the Government of Indonesia did not implement the general principles of good governance as outlined in Law Number 30 of 2014 concerning Government Administration in the course of its administration, as the Panel of Judges found in the verdict of the dispute case examined and tried through the State Administrative Court.

State officials who can be legal subjects in the State Administration should be more careful in issuing statements, especially if the statement is considered to have harmed the public or business actors (Mangara, 2023).

A decision is deemed a State Administrative Decision if it is not issued by the State Administrative body or official who is required to do so, according to the State Administrative Justice Law (Law Number 5 of 1986 concerning State Administrative Justice and its amendments, namely Law Number 9 of 2004 and Law Number 51 of 2009). A written decision that contains a rejection might be construed as the state administrative body's or official's passive attitude when they do not issue the decision. The choice is referred to as a fictitious-negative choice. While the negative substance of the judgment indicates that an

application was rejected, fictitious does not issue a written decision but may be seen as issuing one.

A lawsuit can be filed with the State Administrative Court by business actors or the public as legal subjects who believe that the issuance of a State Administrative Decree has harmed their interests. The lawsuit must be submitted in writing because it will serve as the basis for the court and the parties to examine the State Administrative dispute in question. The content of the State Administrative lawsuit itself is specified in the State Administrative Court Law and consists solely of the main claim that intends for the State Administrative Decree that harms him to be considered canceled or invalid, with or without a claim for compensation and/or rehabilitation.

The legal system is related to morals because this principle is used as a basis for citizens to comply with the law, while the legal products issued by the authorities must be consistent. Regulations that often change can make businesses change their business plans and strategies, this does not require cheap costs, so that legal uncertainty which results in business uncertainty must be minimized, because if it is too late to anticipate, it has the potential to become an obstacle for the state.

The main purpose of punishing those who violate the law is the reason or opinion that has been put forward as to why it is obligatory to obey the law, and that the person who benefits from the law has an obligation, justice or gratitude to contribute to the business that provides benefits by obeying the law, while another reason is that it is morally obliged to obey the law because by agreeing to the order has promised (Tunick, 2002). When boiled down to its most basic form, law serves to maintain order, which is a prerequisite for a society to be in order. The attainment of justice is another objective of the law, and its scope and substance differ depending on the community and time period. Furthermore, because without legal certainty, people cannot fully utilize the gifts and abilities that God has given them, order is sought in human relations in society.

Fuller in Petrus argues that law also has internal morality. Internal morality does not refer to the moral substance in legal rules, but to the qualities that enable the law to achieve its goals. Good law requires both, external morality and internal morality. Regarding internal morality which refers to the quality required by the law so that the law can achieve its purpose, Fuller in Petrus formulates eight things that make the law fail to achieve its purpose so that it loses its binding power and no longer deserves to be called law. These eight things are as follows: (1) failing to create a clear source of law so that the legal system does not have laws and regulations that can be a reference for the people who live in it; (2) failing to publish rules so that they are not known by the parties involved in

the law; (3) retroactive; (4) not making regulations that can be understood by the wider community; (5) making regulations that negate or contradict each other; (6) making regulations that exceed the ability of the regulated community; (7) making changes to regulations at any time without clear procedures; (8) the absence of harmony between the regulations stipulated and their implementation in the field (Bello, 2023).

Facing difficulties and uncertainties in the implementation of mineral and coal mining licensing in Indonesia, the Indonesian Government should make implementing regulations for Law No. 3 of 2020, especially for the centralization of coal mineral mining licensing based on the principle of generality that applies and can be a reference for all people in the community concerned, publicity is known to the wider community, prospectively does not apply retroactively, clarity is understood by the wider community, consistency there is no contradictory law, in accordance with the ability of the people subject to it, it is permanent and does not change without clear procedures, and the implementation of the rules is in accordance with what is determined.

Legal certainty in Indonesia, especially towards the centralization of mineral and coal mining licensing, is a challenge that needs to be overcome in improving justice and order for all citizens, especially business actors, so as to provide confidence to the public, not only nationally but also internationally. The implementation of Coal Mineral Mining Licensing by several business actors is in fact constrained by the non-compliance of state institutions, in this case, state administrative officials at the ESDM in carrying out their positions. Several business actors who have filed a lawsuit against the ESDM at the State Administrative Court Institution and the lawsuit was accepted by the Panel of Judges, indicating that state officials in the ESDM sector are not obedient in carrying out state orders or violating the law. One can imagine the costs incurred by business actors or the losses suffered to obtain justice in the country that owns natural resources if state officials act against their own laws.

4. Conclusion

Some mining business actors who have sued the Central Government in the processing of mining licenses at the State Administrative Court Institution, the Central Government should immediately make improvements to the licensing process submitted by mining business actors or if it is not possible for the Central Government, in this case the ESDM, to immediately make improvements to the regulations it issues in order to provide ease of doing business for business actors in the mining sector, because to provide order in the centralization of minerba mining licensing, the law should be made to meet the provisions of the principles, including prospective not retroactive, consistency, no contradictory

laws, in accordance with the law. Furthermore, for business actors from abroad. Seeing the condition of several mining business actors who have filed lawsuits against the Indonesian Government, it would be better for foreign business actors who will invest their capital in Indonesia in the minerba mining sector to be more selective and take into account the impact of losses in dispute resolution and time on the uncertainty of mining business permits in Indonesia.

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