

POLITICAL AND LEGAL DEVELOPMENTS IN MINERAL AND COAL MINING LAWS: A CRITICAL REVIEW

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Abstract

The revision of Indonesia's Mineral and Coal Mining Law (Law Number 3 of 2020) has generated significant debate and resistance, especially from 2019 through the initial phases of the COVID-19 pandemic in 2020. Significant concerns encompass heightened corruption risks, compromised environmental protections, dependence on foreign labor, reduced community rights in mining regions, and challenges to democratic and decentralized governance structures. This study rigorously analyses the legal and practical implications of the law, concentrating on its application within the nickel mining industry. This approach employs a juridical-normative framework, integrating literature reviews and observational methods to evaluate recent legal cases and the effects of policy changes. The findings indicate that although the law is designed to simplify licensing procedures and encourage investment, it also presents issues related to diminished regional autonomy, possible environmental harm, and social disparities. The highlighted issues reveal Indonesia's dependence on extractive industries, which starkly contrasts the global movement towards sustainable practices. The research underscores the necessity for regulatory reforms that harmonize economic development with environmental sustainability and fair resource management, providing critical insights for policymakers, legal professionals, and industry participants.

Keywords: Mineral and Coal Law; Legal Politics; Environmental Impact; Community Rights.

1. Introduction

Mining is the process of extracting geological materials or valuable minerals, typically sourced from ore bodies located either on the surface or deep underground.¹ In light of obstacles like the global economic crisis and falling commodity prices, mining companies persist in their exploration of remote regions to identify viable mineral reserves. The presence of indigenous, characterized and vulnerable populations characterizes frontier locations. In response to community concerns and to promote development, numerous mining companies have begun to employ community practitioners. These professionals interact with residents and support community development initiatives at the operational level.²

¹ Adator Stephanie Worlanyo and Li Jiangfeng, "Evaluating the Environmental and Economic Impact of Mining for Post-Mined Land Restoration and Land-Use: A Review," *Journal of Environmental Management* 279 (February 1, 2021): 111623, <https://doi.org/10.1016/j.jenvman.2020.111623>.

² Deanna Kemp, "Mining and Community Development: Problems and Possibilities of Local-Level Practice," *Community Development Journal* 45, no. 2 (April 1, 2010): 198–218, <https://doi.org/10.1093/cdj/bsp006>.

Mining activities exert significant influences on the environment and the surrounding communities. Mining operations are frequently linked to environmental degradation, pollution, and community displacement. The negative consequences frequently result in disputes among mining companies, governmental bodies, and local communities. Disputes surrounding forced evictions and environmental damage present considerable obstacles to achieving sustainable development goals.³

The Constitution of the Republic of Indonesia mandates that the welfare of the Indonesian people be realized through the utilization of natural resources, stating that “Earth, water, and natural resources contained therein are controlled by the state and used for the maximum benefit of the people”.⁴ Regulation is further elaborated upon in Law Number 4 of 2009, which articulates that “minerals and coal found within Indonesia’s designated mining areas are non-renewable natural resources granted by God, playing a crucial role in sustaining the livelihoods of numerous individuals.” The statutory regulations clearly delineate that Indonesia operates under the principle of dredging activities. Furthermore, the use of non-renewable natural resources should be directed exclusively towards maximizing the country’s economic advantages and ensuring equitable welfare for the national community.⁵

In the historical context of Indonesian mining, the Regional People’s Representative Council implemented recent amendments to the Mineral and Coal Mining Law, which sparked considerable controversy at the onset of 2020. The report from CNN Indonesia regarding the enactment of Law Number 3 of 2020, which amends Law Number 4 of 2009, indicates that this legislation is associated with one of the most significant and protracted demonstration movements spanning from 2019 to 2020. The demonstration of the People’s Council’s position not only prompted a response but also elicited significant opposition from the Alliance of the Archipelago and the Indigenous Peoples (AMAN) throughout the region.⁶

³ Ilham Samanlangi et al., “Mining Conflict and Sustainable Development: A Review of Case Studies and Theoretical Framework,” *Indonesia Journal of Engineering and Education Technology (IJEET)* 2, no. 2 (March 29, 2024): 198–204, <https://doi.org/10.61991/ijeet.v2i2.37>.

⁴ Riswandha Imawan and Rehulina Rehulina, “Legal Aspects of Indonesia’s Obligation to Use Renewable Energy,” *Jambe Law Journal* 5, no. 2 (2022): 229–49, <https://doi.org/10.22437/jlj.5.2.229-249>; Ricko Anas Extrada and Kamarusdiana Kamarusdiana, “The Constitutionality of State Authority Over Water Resources Management Based on Human Rights Principles,” *Staatsrecht: Indonesian Constitutional Law Journal* 5, no. 1 (2021): 115–36, <https://doi.org/10.15408/siclj.v5i1.20769>.

⁵ Hamdiyah Hamdiyah, “Analisis Unsur-Unsur Tindak Pidana Pencurian: Tinjauan Hukum,” *Jurnal Tahqiq: Jurnal Ilmiah Pemikiran Hukum Islam* 18, no. 1 (2024): 98–108, <https://doi.org/10.61393/tahqiq.v18i1.216>.

⁶ Ahsana Nadiyya, “Menakar Undang-Undang Mineral Dan Batubara Terhadap Kerentanan Perlindungan Hak Masyarakat Hukum Adat,” *Jurnal Hukum Lex Generalis* 2, no. 3 (2021): 195–212. <https://doi.org/10.56370/jhlg.v2i3.42>

This contradiction has a rationale, and the revision of this law is thought to present multiple issues affecting social order. These include the provision of unrestricted rights to miners, the safeguarding of violations in mining operations, opportunities for corruption, non-adherence to royalties, taxes, and non-tax state revenues payments, and an increase in environmental degradation. The Coordinator of the East Kalimantan Mining Advocacy Network highlighted that this bill would directly jeopardize the survival of the community surrounding the mining area, failing to safeguard their well-being and concurrently weakening the efficacy of regulatory oversight institutions.⁷

The composition of these communities includes not only individuals residing in mining areas but also indigenous populations who possess significant authority over various aspects such as cultural heritage, residency, natural resource management, protection of forest regions, and the sustainable stewardship of forests across generations. The forest area associated with Indigenous populations is diminishing as a result of land exploitation for mining activities, particularly nickel mining, which has seen a notable rise in recent years.⁸ Approximately 40-50 million indigenous individuals lack a designated status within the legal framework established by Law Number 3 of 2020. Nonetheless, the Mineral and Coal Mining Law stipulates the necessity for community engagement in mining regions to facilitate the execution of the legislation. Is the clearing of mining land in customary forests conducive to economic advantages for the local communities? This remains a significant question that has yet to be resolved.

The need for more decision-making authority among local governments in managing their regions, particularly regarding the mineral resources within their jurisdiction, presents a considerable challenge, as these rights and powers have progressively reverted to the central government. The formulation process of the Mineral and Coal Mining Law, finalized on May 12, 2020, raises significant concerns due to its lack of public aspirations and participation. This process occurred amidst the COVID-19 pandemic, a period when societal and governmental initiatives were predominantly directed towards managing the crisis. Out of the 575 members of the People's Representative Council, attendance at the session was notably limited, with only 296 members present—41 attended in person, while 225 engaged virtually. CNN Indonesia reports that

⁷ Imas Novita Juaningsih, "Polemik Revisi Undang-Undang Minerba Dalam Dinamika Tata Negara Indonesia," *Adalah* 4, no. 3 (2020): 103–8, <https://doi.org/10.15408/adalah.v4i3.16502>.

⁸ La Ode Munawal Idati, La Ode Magribi, and Irwan Lakawa, "Analisis Banjir Faktor Penyebab Dan Prioritas Penanganan Sungai Anduonuhu," *Sultra Civil Engineering Journal* 1, no. 2 (December 8, 2020): 54–71, <https://doi.org/10.54297/sciej.v1i2.144>.

dissenting members are restricted to pursuing judicial review and cannot voice their objections during the plenary session.

Nickel mining stands out as a leading and highly regarded sector globally, particularly as its prominence has surged in response to Europe's mandate for electric vehicle adoption by 2030. Furthermore, nickel serves as the primary component in lithium batteries utilized in electric vehicles. Indonesia stands out as the leading global supplier of nickel, boasting reserves of 800,000 million tonnes. The nickel sourced from this country is recognized for its superior quality, particularly in the formulation of lithium battery compounds, which offer a storage capacity for electricity that is notably more efficient and durable.

What occurred subsequently? In 2019, the province of Southeast Sulawesi, recognized for its significant and extensive nickel resources in Indonesia, encountered flash floods.⁹ This encompassed three regencies and cities: Kendari City, Konawe Regency, South Konawe, and North Konawe, resulting in damage to infrastructure and facilities amounting to 17 trillion rupiahs. It is noteworthy that, according to data from the Ministry of Energy and Mineral Resources, Southeast Sulawesi Province has a total of 17,000 mines, both legal and illegal. There are multiple instances involving mining companies, including PT. Bososi Pratama is suspected of conducting mining activities within a protected forest area located in the North Konawe regency. The mining activities encompass deforestation, the construction of roads for access to mining areas, and marine stockpiling, all of which contravene the principles of spatial planning and marine spatial planning as outlined by the Ministry of Marine Affairs and Fisheries.

The weak position of Indigenous peoples, the unrestricted investment opportunities despite environmental concerns, and the implications for the community's economy further substantiate this point. The annual estimated losses from flash floods in Southeast Sulawesi province exceed the incremental production gains from mining, which contribute to state income. Regarding Law Number 3 of 2020, state administrators must engage in careful political and legal analysis when establishing boundaries, standards, evaluations, and policy directions.¹⁰

This article aims to examine and investigate the legal implementation of recent cases while critically assessing the legal implications of Law Number 3 of 2020, especially regarding its application in the nickel mining industry. The authors have undertaken a thorough literature review

⁹ Idati, Magribi, and Lakawa.

¹⁰ Indra Rahmayanti, Bahtiar, and Bakri Yusuf, "Dampak Keberadaan Pertambangan Nikel Terhadap Kondisi Lingkungan, Sosial, Ekonomi (Studi Di Desa Muara Lapapao Kecamatan Wolo Kabupaten Kolaka)," *Gemeinschaft: Jurnal Masyarakat Pesisir dan Perdesaan* 2, no. 2 (2020): 145–51, <https://doi.org/10.52423/gjmpp.v2i2.15535>.

to meet these objectives, integrating insights from recent legal cases and other pertinent sources. The research seeks to enhance comprehension of the impact that recent legal reforms have on the regulatory framework and operational practices in Indonesia's nickel mining industry. The findings present important considerations for policymakers, legal practitioners, and industry stakeholders by highlighting the challenges and opportunities that emerge from the implementation of Law Number 3 of 2020. The study also highlights the wider socio-environmental impacts of these regulatory changes, establishing a basis for the development of more sustainable and equitable mining practices in Indonesia.

2. Methods

This study utilized a juridical-normative methodology, integrating literature reviews with observational techniques. The literature review sought to clarify theories, findings, case studies, and other materials that constituted a conceptual framework, utilizing references essential for comprehending the topic. The analysis employed contemporary sources to examine the discussions related to mining regulations, with a specific focus on nickel mining in Indonesia. The study generated a comprehensive overview by systematically gathering legal and factual information pertaining to the challenges and factors affecting nickel mining. Primary data collection involved gathering documents related to laws and regulations, while secondary sources—including books, journals, websites, media, and theses—were incorporated to complement the primary data, thereby enhancing relevance and accountability. The data collection process was meticulously carried out, scrutinized, and evaluated to address the research questions thoroughly.

3. Results and Discussion

3.1. Evaluating Indonesia's Mineral and Coal Law of 2020: Policy Revisions, Challenges, and Impacts

The national mining sector plays a significant role in enhancing economic growth and promoting sustainable development. This is accomplished through the enhancement of national income, the contribution of foreign exchange, the creation of job opportunities, the generation of a favorable trade balance via exports, the attraction of investments, the support of infrastructure development, and the improvement of the welfare of surrounding communities.¹¹

¹¹ Tuti Widyaningrum and Muhammad Rifqi Hamidi, "Pembaruan Hukum Pertambangan Mineral Dan Batubara Menuju Keadilan Dan Kepastian Hukum Yang Berkelanjutan Untuk Masyarakat Indonesia," *Iblam Law Review* 4, no. 3 (2024): 11–22, <https://doi.org/10.52249/ilr.v4i3.436>.

The mining sector plays a crucial role in sustainable development by overseeing mineral resources to ensure their availability for future generations. It fosters green innovation and technology, contributes to the development of regional infrastructure, creates employment opportunities, and improves the well-being of local communities. Mining activities, which encompass prospecting, exploration, construction, operation, maintenance, expansion, abandonment, decommissioning, and repurposing, can produce a variety of both positive and negative impacts, as well as direct and indirect effects on social and environmental systems. Engagement in activities like mine exploration, construction, operation, and maintenance can result in significant land-use changes and potentially negative environmental impacts. These may encompass deforestation, soil erosion, contamination and alteration of soil profiles, pollution of local streams and wetlands, as well as heightened levels of noise, dust, and emissions.¹²

Furthermore, it is essential to analyze how the allocation of benefits derived from mining activities corresponds with the principle of distributive justice.¹³ Rawls¹⁴ posits that distributive justice pertains to the equitable distribution of economic advantages among all individuals in society impacted by economic activities. The mining sector frequently experiences an uneven allocation of revenues, which can result in social inequities. Consequently, state regulation needs to be implemented in order to tackle these challenges and guarantee that the advancement of the mining sector occurs effectively and equitably.

The implementation of Law Number 3 of 2020, as a revision to Law Number 4 of 2009, is rooted in the premise that the objectives of the earlier legislation still need to be fulfilled.¹⁵ Indonesian policymakers highlight persistent challenges in the mineral and coal mining sector, particularly in aligning mining activities with broader national development goals, including their connectivity with non-mining sectors. Although the revision faced significant criticism for allegedly undermining the nation's democratic framework and raising concerns about ethical

¹² Stanislaw Dudka and Domy C. Adriano, "Environmental Impacts of Metal Ore Mining and Processing: A Review," *Journal of Environmental Quality* 26, no. 3 (May 1, 1997): 590–602, <https://doi.org/10.2134/jeq1997.00472425002600030003x>; Neal R. Haddaway et al., "Evidence of the Impacts of Metal Mining and the Effectiveness of Mining Mitigation Measures on Social–Ecological Systems in Arctic and Boreal Regions: A Systematic Map Protocol," *Environmental Evidence* 8, no. 1 (February 21, 2019): 9, <https://doi.org/10.1186/s13750-019-0152-8>; J.D. Appleton et al., "Impacts of Mercury Contaminated Mining Waste on Soil Quality, Crops, Bivalves, and Fish in the Naboc River Area, Mindanao, Philippines," *Science of The Total Environment* 354, no. 2 (February 1, 2006): 198–211, <https://doi.org/10.1016/j.scitotenv.2005.01.042>.

¹³ Widyaningrum and Hamidi, "Pembaruan Hukum Pertambangan Mineral Dan Batubara Menuju Keadilan Dan Kepastian Hukum Yang Berkelanjutan Untuk Masyarakat Indonesia."

¹⁴ John Rawls, *A Theory of Justice: Revised Edition* (United States: Harvard University Press, 1971).

¹⁵ Septiana Sari and Darminto Hartono Paulus, "Licensing Policy on Mineral and Coal Mining in the Concept of Division of Authority," *Pandecta Research Law Journal* 17, no. 2 (December 30, 2022): 189–97, <https://doi.org/10.15294/pandecta.v17i2.31653>.

lapses in the legislative process, it was ultimately enacted despite substantial opposition and delays. This opposition included various actions, such as an open letter addressed to the President of the Republic of Indonesia on April 3, 2020, rejecting the deliberation of the Mineral and Coal Mining Bill during the COVID-19 pandemic. Additionally, a letter from the Ministry of Energy and Mineral Resources (Number 529/04/SJN.R/2020) emphasized the need to shift focus toward managing the spread of COVID-19. Despite these objections, the revision proceeded, culminating in a meeting with Commission VII of the House of Representatives on April 21, 2020.

The opposition asserts that the House of Representatives of the Republic of Indonesia contradicts the principle of legal disclosure as specified in Article 5 Letter G of Law Number 12 of 2011, along with the lack of a public review process in the amendment of Law Number 3 of 2020. The amendment of Law Number 4 of 2019 raises several important issues, including the reassessment of authority concerning the administration of mineral and coal resources, the introduction of new regulations pertaining to mining jurisdiction, and the strategic agenda for managing these resources. The amendments delineate the duties of various institutions, including state research institutes, State-Owned Enterprises (SOEs), Regional-Owned Enterprises, and other business entities, in conducting investigations and research essential for the formulation of Mining Business Licence Areas (WIUP). The modifications aim to unify the roles of state-owned enterprises, reform licensing regulations to incorporate community mining and particular rock usage and improve environmental management in mining operations, especially concerning reclamation and post-mining initiatives. The forthcoming revisions aim to enhance the value of minerals and coal, improve regulatory frameworks related to land use, promote database sharing, strengthen community empowerment, and ensure the sustainability of operations for holders of the Contract of Work (KK) and the Coal Mining Exploitation Work Agreement (PKP2B).¹⁶

The amendments are designed to improve the technical elements that support the coordination of investors and third parties in achieving national welfare objectives in the mining sector. The removal of Article 165 from the previous Mineral and Coal Mining Law raises significant concerns that require thorough examination. The removal of this article, which formerly established criminal penalties of up to two years in prison and a maximum fine of IDR 200 million for the illegal issuance of mining permits and misuse of authority, prompts apprehensions regarding the likelihood of heightened corruption within the mining permit process. The discussion

¹⁶ Enny Nurbaningsih, "Implikasi Putusan Mahkamah Konstitusi Nomor 92 / Puu-X / 2012 Dan Alternatif Model Hubungan," *Mimbar Hukum* 27, no. 1 (2015): 1–13. <https://doi.org/10.22146/jmh.15906>

surrounding the legalization of Mineral and Coal Law Number 3 of 2020 has persisted into 2024. One of the main arguments supporting the law is the potential for enhanced value creation. The policy requires that mineral processing and refining occur within the country, thereby promoting downstream industrialization in the mining sector. This has the potential to increase the value of nickel products and yield significant economic advantages for Indonesia. Secondly, in terms of legal certainty and investment, the Mineral and Coal Mining Law enhances legal assurance for investors through the extension of mining business permits and the prioritization of existing companies for license renewals. This has the potential to enhance investment interest in the nickel mining sector.

Conversely, a primary argument against Mineral and Coal Mining Law Number 3 of 2020 is the disregard for Regional Autonomy. The law reallocates various authorities that regional governments formerly possessed to the central government.¹⁷ This may lead to dissatisfaction at the regional level and is viewed as undermining regional autonomy while diminishing the capacity of local governments to oversee their natural resources—secondly, the possibility of environmental harm. The law incorporates regulations pertaining to environmental oversight; however, the enforcement mechanisms need to be revised. The rigorous activities associated with the nickel industry often result in significant deforestation, water contamination, and the degradation of ecosystems, especially in regions where mining occurs. Third, inequity towards local communities. Mining operations frequently result in a perceived disadvantage for local communities, primarily due to the degradation of agricultural land, the introduction of pollution, and various other adverse effects. Moreover, they often need to realize substantial economic advantages from these activities.

Fourth, and potentially the most significant factor, is the Economic Dependence on the Extractive Industry. This dependence may impede economic diversification and elevate economic instability in the event of commodity price fluctuations. This represents a significant divergence from the policy of the United Kingdom, which is set to eliminate all coal-fired power plants by 2025, positioning itself as the first major country to undertake such a measure. Nevertheless, the strategy of the United Kingdom focuses on addressing the capacity gap primarily through the development of new gas and nuclear facilities rather than pursuing cleaner energy options. This suggests that Indonesia lags by roughly ten years compared to the United Kingdom, which adopted

¹⁷ Agus Kusnadi, “Re-Evaluasi Hubungan Pengawasan Pusat Dan Daerah Setelah Berlakunya UU No. 23 Tahun 2014 Tentang Pemerintahan Daerah,” *Arena Hukum* 10, no. 1 (2017): 61–77, <https://doi.org/10.21776/ub.arenahukum.2017.01001.4>.

coal as the primary catalyst for its Industrial Revolution in the 16th century. This period saw coal catalyzing industrial advancements while simultaneously establishing a distinct social hierarchy, characterized by industrial workers as the lower class and the aristocracy as the upper echelon of society.

3.2. Shifting Authority in the Mineral and Coal Mining Sector

Article 173C of Law Number 3 of 2020 stipulates that the central government holds the authority to regulate the mineral and coal mining sector, particularly concerning the issuance of new permits, which are valid for a maximum duration of six months, effective from June 2020. A variety of initiatives have been undertaken to enhance the central government's capacity in the management and utilization of mineral and coal resources, aiming for effective and efficient implementation to promote national independence and the advancement of the national industry.

This legislative revision has led to a notable change in the legal framework surrounding decentralization and regional autonomy, as systematically outlined in Law Number 23 of 2014 and Law Number 12 of 2011, which serve as key references for the allocation of power. The regional autonomy law fundamentally aims to ensure equitable welfare by granting comprehensive authority over the management of natural resources and the distinct socio-cultural assets inherent to each region in Indonesia. Regional autonomy is fundamentally aimed at reinforcing the principles of empowerment, service, and community participation, aligning with regional institutions to manage their territories in accordance with statutory regulations effectively.

The presence of a discrepancy between the primary responsibilities and roles of government at both regional and central levels, including Ministerial Decrees and Presidential Decrees wielding greater authority, is likely to lead to hyper-regulation, a situation that democratic nations should strive to prevent. A nation founded on democratic principles, characterized by the notion of "from the people, for the people, and by the people," must sustain its vitality and avoid hyper-regulation that mirrors capitalism. A system that transitions the legal politics of regional autonomy from decentralization to centralization in pursuit of economic benefits designed to foster prosperity and equality for the Indonesian populace, yet influenced by specific stakeholders, ultimately hindering the attainment of community welfare.¹⁸

¹⁸ Sol Picciotto, "Paradoxes of Regulating Corporate Capitalism: Property Rights and Hyper-Regulation," *Oñati Socio-Legal Series* 1, no. 2 (2011): 1–18. <https://opo.iisj.net/index.php/osls/article/view/74>

The provisions specified in Article 1 paragraph 28a, Article 169a, and Article 169b paragraph 5 of the revised mining law present a contentious issue due to their regulatory implications for mining legal areas; however, their exact function within the overall framework still needs to be clarified. The supplementary state document clarifies that the term "state-reserved area" denotes a specific percentage of land allocated for cultivation and is categorized as a State Reserved Area (WPN). This classification encompasses areas recognized for their substantial mineral and coal reserves, frequently located within conservation zones. The House of Representatives of the Republic of Indonesia plays a vital role in protecting these regions, ensuring that forests and conservation zones are utilized appropriately. This responsibility encompasses the evaluation and approval of modifications in land use or spatial designation, grounded in principles like environmental carrying capacity, mining feasibility, resource conservation, and the strategic allocation of reserves for pressing state requirements. The House possesses considerable power to reclassify protected areas as mining zones based on the principle of addressing essential state interests.

The revised law's broad definition of the State Reserved Area (WPN) is a particularly contentious aspect, as it includes all land, maritime, and subsurface territories within Indonesia. Communities have expressed apprehensions regarding the environmental and social consequences of mining operations in these regions, perceiving them as a direct risk to their living conditions. The extensive exploration and establishment of mines on land, water, and continental shelves raise concerns regarding compliance with Article 28H paragraph (1) of the 1945 Constitution and Law Number 32 of 2009, which emphasize the importance of environmental protection and the prevention of damage. The amended legislation facilitates the extension of Contracts of Work (CoW) and Coal Mining Concession Work Agreements (PKP2B) without the need for an auction process, permitting automatic extensions for two subsequent ten-year periods. This provision has faced scrutiny for circumventing transparency and possibly benefiting particular entities. Additionally, contract holders have the option to request extra mining areas beyond their current zones during the production phase, thereby facilitating expanded concessions within the WPN.

The amended legislation reallocates the duty of performing investigations and research concerning mining regions. The new framework grants the Minister the authority to delegate these responsibilities to state research institutions, State-Owned Enterprises, Regionally-Owned Enterprises, or private entities. This signifies a shift from the conventional dependence on mine inspectors and supervisory officials, expanding the range of institutions engaged in these

processes. The law consolidates the oversight of mineral and coal resources within the central government's authority, consequently diminishing the influence of regional officials, including governors and mayors. This reduces their capacity to oversee mining operations, encompassing the issuance and regulation of Mining Business Licenses (IUP), Artisanal Mining Licenses (IPR), and Special Mining Business Licenses (IUPK).

The revised law, although met with significant opposition, presents a framework designed to offer legal certainty and implement a contemporary strategy for community mining. The classification of community mining encompasses three distinct types: metal mineral mining, non-metal mineral mining, and rock mining. This classification illustrates the dynamic characteristics of community mining, historically overseen by Indigenous populations employing basic tools for their subsistence. Community mining, with its historical foundations in hereditary practices, has progressively evolved to incorporate contemporary techniques, all the while preserving its cultural significance. Local communities, influenced by their established conventions and social interactions, have devised creative strategies for managing their mining activities, effectively balancing tradition with advancement.¹⁹

This position fundamentally enhances the mining sector for the populace, as local governments in 2020 have generally struggled to integrate local wisdom effectively in addressing public mining cases decisively. The integration of people's mining into regional regulations or policies has yet to be optimized to foster development and compliance among local communities, who still need to be made aware of its implications. It is essential to prevent future scenarios that could lead to the emergence of new issues, particularly those related to the competition for mining power that is both owned by the populace and regulated by the government. The obstruction of a state mining business is classified as a criminal act under Law Number 3 of 2020, specifically outlined in Articles 162 and 164. The law states: "Any individual who obstructs or interferes with the Mining Business activities of holders of Mining Business Licenses, Special Mining Business Licenses, Artisanal Mining Licenses, or SIPB, who have met the requirements as specified in Article 136 paragraph (2), shall face a penalty of up to 1 (one) year of imprisonment or a fine not exceeding IDR 100,000,000.00 (one hundred million rupiahs)."

Additionally, under Law Number 3 of 2020, the issuance of mining business permits that were once granted by regional heads on behalf of local governments is now rendered invalid, as

¹⁹ Derita Prapti Rahayu and Faisal Faisal, "Eksistensi Pertambangan Rakyat Pasca Pemberlakuan Perubahan Undang-Undang Tentang Pertambangan Mineral Dan Batubara," *Jurnal Pembangunan Hukum Indonesia* 3, no. 3 (2021): 337–53, <https://doi.org/10.14710/jphi.v3i3.337-353>.

the authority for mining has transitioned from regional to central government. Prior to this revision, regional governments possessed enhanced authority in the issuance of Mining Business Licenses (IUP) and the supervision and management of mining areas. This encompassed the power to oversee exploration and production operation permits within their respective jurisdictions, frequently resulting in discrepancies in policy and management standards across different regions. The issuance of a significant number of permits by regional governments has led to frequent issues such as overlapping permits, ambiguous mining boundaries, and inadequate oversight.

Historically, mining companies needed to secure multiple permits, such as the Mining Services Business License (IUJP), Mining Business License (IUP), and Transportation and Sales Permits. The licensing process exhibited considerable length and complexity, encompassing multiple stages at both regional and central levels. This frequently obstructs investment flows and generates uncertainty for mining companies. Law Number 3 of 2020 transferred the licensing authority from regional governments to the Ministry of Energy and Mineral Resources (ESDM), thereby centralizing this function. The process encompasses the issuance, oversight, and administration of mining licenses. This seeks to minimize inconsistencies and allow for overlaps among regions while also establishing a more uniform regulatory framework throughout Indonesia.

The main aim is to streamline the licensing process, taking into account the advantages and disadvantages associated with diminishing regional autonomy. The licensing process has been streamlined, featuring a centralized 'one-door policy' under the Ministry of ESDM. All permits associated with mining activities are centralized, eliminating the need for distinct permits from regional governments. This law eliminates the requirement for a Mining Services Business License (IUJP) for mining service providers, who are now required to secure permits that are pertinent to their specific business operations.

Law Number 3 of 2020 establishes that holders of Mining Business Licenses (IUP) and Special Mining Business Permits (IUPK) are afforded priority rights for extending their licenses. Extensions can be granted automatically, contingent upon the license holders meeting all legal requirements and obligations. This modification establishes a clear legal framework for investors and supports the stability of their operations, which is anticipated to enhance investment interest in the mining sector.

The revised Mineral and Coal Mining Law implements stricter regulations on mining area restrictions to minimize permit overlaps and mitigate conflicts among permit holders. This

restructuring aims to establish more organized and systematically arranged mining areas. The central government has the power to identify priority areas for operation by State-Owned Enterprises (BUMN) and Regional-Owned Enterprises (BUMD), establishing specific priorities for these entities.

3.3. The Paradox of Social and Environmental Impacts of Nickel Mining Activities in Southeast Sulawesi

Nickel mining activities in Southeast Sulawesi province have resulted in notable social and environmental impacts, encompassing both beneficial and detrimental effects, as regulated by Law Number 3 of 2020. In terms of social impact, the optimistic expectation that mining would catalyze economic development and societal progress has only been partially fulfilled. In various regions, including Pomaala in Kolaka Regency, the anticipated advantages—such as enhanced employment prospects and better income for local communities—have not materialized despite the prevalence of mining activities.²⁰

Mining activities frequently coincide with social conflicts arising from issues related to regulatory non-compliance and disputes between private companies and government authorities. There have been instances where tensions have heightened, resulting in violent demonstrations that led to unfortunate outcomes, including confrontations between protesters and police in 2019. The unrest resulted in significant damage to essential government structures, including the Provincial Energy and Mineral Resources Office and the regional People's Representative Council. These incidents highlight that economic development associated with mining does not inherently lead to an enhanced quality of life for the communities impacted. This type of development frequently results in societal disorientation, marginalization, and economic inequalities. The influx of foreign workers in the mining sector has led to cultural alienation and restricted job opportunities for local populations. Although mining jobs are often viewed as attractive because of their financial benefits, there is a notable under-representation of local workers, with foreign employees prevailing in both skilled and unskilled roles. The existing

²⁰ Riswan Suseno and Endang Mulyani, "Southeast Sulawesi Regional Development Concept Based on Mining Sector Leading Commodities," *Jurnal Teknologi Mineral Dan Batubara* 8, no. 3 (2012): 119–31. <https://doi.org/10.13057/biodiv/d230330>

disparity has exacerbated socioeconomic challenges and underscored the shortcomings of mining projects in enhancing the economic conditions of the surrounding communities.²¹

The environmental impacts of nickel mining in Southeast Sulawesi extend significantly beyond the social sphere. Although Law Number 3 of 2020 aimed to govern post-mining restoration initiatives, its implementation has frequently resulted in additional environmental harm. Mining activities in Pomaala have led to significant air and water pollution, land degradation, a reduction in biodiversity, deforestation, and a deterioration in public health. The pollution of water sources in villages like Hakatutobu and Tambea has attracted scrutiny, notably from former Minister of Maritime Affairs and Fisheries Susi Pudjiastuti, who conducted a personal inspection of the impacted regions. The environmental damage extends beyond local implications, encompassing significant financial repercussions. In 2019, the state incurred an estimated loss of IDR 265 billion, which was attributed to the operations of unlicensed mines, alongside 277 mining business permits that were devoid of official authorization.

An evident instance of environmental mismanagement is observed on Wawoni Island, where mining operations were initiated despite the island's limited size and its legal safeguards under spatial planning regulations. These instances highlight a significant spatial crisis on Sulawesi Island, where mining operations occupy around 38% of the land, according to the Sulawesi Participatory Mapping Network's 2019 report. The unregulated growth of mining activities has resulted in significant flooding in six districts and cities in Southeast Sulawesi, leading to infrastructure damage, displacement of residents, and estimated financial losses amounting to IDR 674.8 billion. The floods have caused significant damage to infrastructure, including bridges, roads, and electricity networks, as well as impacting fishponds, agricultural land, and educational facilities. This has resulted in thousands of homes being submerged and communities remaining isolated for extended periods.

The persistent occurrence of environmental disasters can be traced back to the improper application of Environmental Impact Analysis (AMDAL) processes. AMDAL is designed to mitigate environmental damage by endorsing only those development projects that adhere to sustainability principles. In practice, the failure to follow AMDAL recommendations, along with the issuance of plantation and mining permits that contravene regulations, has intensified the issue. A significant number of mining companies need to meet their responsibilities to reduce

²¹ Aldilal Aldilal et al., "Pemberitaan Dan Opini Publik Tentang Kedatangan Tenaga Kerja China Pada Masa Pandemi COVID-19 Di Sulawesi Tenggara," *Jurnal Ilmu Komunikasi* 18, no. 3 (2020): 280, <https://doi.org/10.31315/jik.v18i3.3789>.

environmental damage, resulting in increased degradation. In 2018, a total of 22 significant mining operations were closed, highlighting ongoing issues related to environmental and financial repercussions, as well as a consistent trend of non-compliance and mismanagement in the area. The nickel mining sector in Southeast Sulawesi, when managed with care, presents a significant opportunity for economic growth and can yield beneficial outcomes for the region. Nonetheless, in the absence of substantial enhancements in governance and compliance with environmental and social regulations, the sector continues to contribute to escalating inequality and ecological crises.

4. Conclusion

The implementation of the Mineral and Coal Mining Law amid the pandemic generated considerable debate, especially regarding its expected impact on Indonesia's social, economic, and environmental issues. The law presents reforms like a more efficient business licensing process that may enhance investment; however, it concurrently generates concerns regarding its effects on regional autonomy, as local governments may experience a reduction in their authority over their jurisdictions. Public skepticism is exacerbated by provisions that may promote environmentally detrimental mining practices, especially regarding nickel mining policies. The recent developments highlight Indonesia's ongoing dependence on an extractive economic model, which stands in sharp contrast to the approaches adopted by developed nations, such as the United Kingdom, that have moved away from environmentally harmful energy sources. The examination reveals that while the law offers administrative advantages, it also highlights underlying systemic issues in reconciling economic growth with sustainable development and environmental preservation.

Acknowledgement

The authors express sincere appreciation to the reviewers for their significant input in improving and refining the quality of this work. The authors express their appreciation to the Andi Sapada Institute, Muhammadiyah University of Yogyakarta, Wageningen University, and the supporting research teams for their consistent support and encouragement in advancing this endeavor to produce analyses in the field of Indonesian legal studies.

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