

Reconstruction of Coal Mining Business Permit Regulations in Realizing Sustainable and Equitable Development

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ABSTRACT: The management of the coal mining sector in Indonesia still faces serious challenges in realising sustainable and equitable development. In general, the granting of Mining Business Permits (IUP) has tended to be oriented solely towards economic growth, without considering social justice, protection of local community rights, and environmental sustainability. In particular, weak supervision, overlapping regulations, and low public participation exacerbate inequality in mining benefits and risks distribution. This study aims to analyze the legal system of coal IUP in Indonesia, assess its implementation against the principles of justice and sustainability, and prepare a proposal for a more responsive and inclusive legal reconstruction. The method used is doctrinal (normative) legal research with a normative juridical, statutory, conceptual, and philosophical approach, and supported by primary data through interviews and secondary data from legal and policy literature. The study results indicate that reform of the IUP system is urgently needed through regulatory harmonization, strengthening of supervisory institutions, applying the principle of Free, Prior and Informed Consent (FPIC), and developing participatory mechanisms. Legal reconstruction is needed to address ecological and social challenges towards equitable and sustainable mining.

KEYWORDS: Business Permit Regulation; Coal; Sustainable Development

1. INTRODUCTION

Coal is a strategic commodity that plays a vital role in the Indonesian economy as a domestic energy source and a leading export commodity. Indonesia is ranked top in global coal production and exports as a country with abundant coal reserves. According to data from the Ministry of Energy and Mineral Resources (ESDM), the coal mining sector contributes significantly to state revenues through taxes, royalties, and foreign exchange export (Pertiwi, 2020).

The contribution of coal is not only limited to state revenues, but also to job creation and economic drivers in mining areas. In many regions, such as Kalimantan and Sumatra, the coal industry is the backbone of the local economy. This makes the regulation of coal mining business permits (IUP) an important instrument in national economic policy. However, dependence on coal also presents a significant dilemma in the context of sustainable development. Although it provides short-term economic benefits, coal exploitation often negatively impacts the environment, such as deforestation, water and air pollution, and social conflicts with local communities (Hadi, 2021). Therefore, regulations are needed that regulate business permits legally and formally and are oriented towards sustainability and social justice. Reconstruction of coal IUP regulations is an urgent necessity so that natural resource policies are not trapped in an exploitative paradigm, but can balance economic interests, environmental protection, and the rights of affected communities.

The regulation of coal mining business permits (IUP) in Indonesia still faces various structural and implementation inequalities. These inequalities arise from overlapping regulations between the central and regional governments, weak monitoring systems, and the dominance of corporate interests in the licensing process. As a result, the licensing process is often non-transparent, does not adequately involve affected communities, and ignores the principles of environmental justice.

One of the main problems is the lack of synchronisation of vertical regulations between the central and regional governments after the enactment of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining (Minerba). The centralization of the authority to grant IUP to the central government distances it from local conditions, so supervision of the implementation of permits becomes weak and prone to abuse (Firmansyah, 2021).

There is a tendency for the IUP issuance process to be more driven by short-term economic interests without adequate consideration of the environmental carrying capacity and social aspects of the community around the mine. In many cases, IUPs are granted in protected forest areas or customary areas without proper consultation, which triggers social conflict and damages the ecological order (Nugroho & Safitri, 2022). This inequality shows the need for regulatory reconstruction that not only improves the

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licensing system legally, but also strengthens the principles of justice, participation, and accountability in sustainable natural resource management.

Despite making a significant contribution to the national economy, Indonesia's coal mining industry has caused various negative impacts, both ecologically and socially. Large-scale mining activities often cause severe environmental damage, such as deforestation, water and air pollution, soil degradation, and biodiversity loss (Putra & Hadi, 2020). In addition, weak reclamation and post-mining processes exacerbate environmental degradation and pose a risk of ecological disasters, such as mine pits that become toxic lakes.

From a social perspective, mining often triggers conflicts between companies and local communities due to land evictions, destruction of livelihoods, and unequal distribution of economic benefits. In many cases, indigenous peoples and vulnerable groups are the primary victims without adequate rights protection mechanisms (Yuliani, 2021). This inequality shows that social justice has not been a primary consideration in regulating mining business permits.

Weak public participation in the licensing and policy-making process also exacerbates the problem. Public consultation procedures are often mere formalities and do not provide real space for the community to convey their objections or aspirations substantively. The principle of participation is a key element in democratic and equitable sustainable development (Wulandari & Prasetyo, 2022). Therefore, the reconstruction of IUP regulations needs to strongly integrate ecological approaches, human rights, and participatory mechanisms so that mining can be directed towards sustainability and justice across generations.

This study addresses the complexity of issues regulating coal Mining Business Permits (IUP) in Indonesia, with three main interrelated objectives. This study aims to analyze the legal system governing coal IUP, including a review of the norms in Law Number 3 of 2020 and its derivative regulations. The primary focus is to identify regulatory inconsistencies, overlapping authorities, and legal gaps in the management of mining resources nationally and regionally (Syafruddin & Hartini, 2021). In addition, this study seeks to assess the extent to which the implementation of IUP has reflected the principles of social justice and environmental sustainability. In this context, the principle of justice is understood not only in terms of economic distribution but also in the recognition of local community rights and protection of the environment. Many current IUP issuance and implementation practices are considered to ignore the principle of ecological justice and do not involve the community substantively (Marbun & Sihombing, 2022).

As a solution-oriented contribution, this study aims to compile a proposal for legal reconstruction of the coal mining licensing system, based on the principles of the welfare state, sustainable development, and public participation. This reconstruction is directed at integrating normative, ecological, and institutional approaches to encourage the creation of transparent, accountable, and equitable mining governance (Wibisono, 2020).

This research is urgent because the paradigm of regulating coal Mining Business Permits (IUP) in Indonesia has so far been more oriented towards short-term economic interests than environmental protection and social justice. Although the mining sector makes a major contribution to state and regional revenues, its negative impacts on ecosystems, public health, and social inequality further strengthen the need for a more balanced regulatory approach (Susanti & Prabowo, 2020).

The practice of granting IUPs that is not transparent and has minimal public participation often gives rise to horizontal conflicts between companies and communities, and worsens environmental damage due to weak post-permit issuance supervision (Rahmawati & Nugroho, 2022). In addition, the current legal framework tends to be technocratic and centralistic, not fully providing space for a participatory, inclusive, and sustainable development-oriented governance model across generations.

This research is important to fill the gap in studies that criticize existing policies and compile normative reconstructions that can be used as legal and institutional bases. By combining the ecological justice approach, welfare state theory, and community participation, this research is expected to be a scientific and practical contribution to the reform of the mining legal system in Indonesia (Wulandari, 2021).

2. LITERATURE REVIEW

2.1. Theoretical Framework

This study is based on three main theories as conceptual foundations: Welfare State Theory, Development Law Theory, and Ecological Justice Theory, which are integratively used to study and reconstruct the regulation of coal Mining Business Permits (IUP). Welfare State Theory emphasises that the state has a responsibility to ensure the welfare of all citizens, including the management of natural resources. In the context of IUP, this theory demands that mining policies not only benefit corporations but also guarantee protection for affected communities and fair distribution of benefits (Nugroho & Winarno, 2021).

The Law and Development Theory argues that law must play an active role as an instrument of development. In the mining sector, law should not be neutral, but instead must be designed to encourage economic, social, and environmental progress in a balanced manner (Sutedi, 2020). This includes regulations facilitating innovation, sustainable investment, and increased institutional capacity. Meanwhile, the Ecological Justice Theory goes beyond the anthropocentric approach by placing nature as the subject of justice. Within this framework, IUP regulations must consider environmental rights, ecosystem sustainability, and intergenerational equity, so that the exploitation of natural resources does not harm future generations (Hasibuan & Dewi, 2022).

2. The Concept of Sustainable Development

Sustainable development is a paradigm that integrates economic growth, environmental protection, and social justice in a balanced way. This concept was first popularized in the Brundtland Report by the World Commission on Environment and Development (WCED) in 1987, which defined sustainable development as development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs (WCED, 1987).

In mining, sustainable development demands that natural resource exploitation be carried out responsibly, simultaneously considering ecological, social, and economic aspects (Wibisana, 2020). Uncontrolled coal exploitation can damage ecosystems, create social inequality, and worsen the climate crisis. Therefore, the principle of sustainability must be the primary reference in the mining licensing and operational system.

Some of the leading indicators of sustainable development in the mining sector include: protection of biodiversity, efficient waste management, involvement of local communities, transparency of economic benefits, and intergenerational equity (Sutopo & Rahmi, 2021). Thus, sustainability is not only related to environmental sustainability, but also includes fair and inclusive governance.

The relevance of this concept in the study is to evaluate the extent to which the regulation of Coal IUP in Indonesia has implemented these principles. Sustainable development cannot be achieved only with a technocratic approach; it requires a progressive and participatory legal framework.

3. Relevant Legal Principles

The coal mining business's regulatory framework requires applying progressive public law principles to realise fair, inclusive, and sustainable natural resource governance. The three main relevant principles are justice, participation, transparency and accountability.

First, the principle of justice is a fundamental principle in the legal system. It demands that resource management provide benefits evenly to all citizens, especially affected local communities (Rahardjo, 2010). In the context of mining, justice does not only mean the distribution of profits but also the protection of the environmental and social rights of communities around the mine (Syahrani, 2018).

Second, the participatory principle recognizes the community's right to be involved in the decision-making process, including in granting mining business permits. Public involvement is considered a means to avoid social conflict and increase policy legitimacy (Fitriana & Nugroho, 2022). Meaningful participation also strengthens social control over potential abuse of power in issuing permits.

Third, the principle of transparency and accountability demands openness of information and accountability from the government and business actors for all actions that have a public impact. The closedness of the mining licensing process is often a source of corruption and land conflicts (Setiawan, 2020). With this principle, mining governance can be monitored democratically.

Implementing these three principles is the main prerequisite for realising a coal IUP system that is in accordance with the principles of sustainable development and ecological justice.

3. METHODS

This study uses doctrinal (normative) legal research to analyse, review, and reconstruct legal regulations related to coal mining business permits based on applicable legal norms and principles (Marzuki, 2017). Doctrinal legal research focuses on the study of literature and legal documents to understand the normative framework governing natural resource management. The research approach used is normative juridical with three main dimensions: the legislative approach, the conceptual approach, and the philosophical approach (Soerjono Soekanto & Sri Mamudji, 2011). The legislative approach is used to examine the applicable regulations, ranging from laws to government regulations to regional regulations related to coal mining permits. The conceptual approach examines the legal concepts underlying the regulation of mining business permits, such as justice and sustainability. The philosophical approach discusses the fundamental values and objectives of law in the context of sustainable development and social justice.

The research data sources consist of primary and secondary data. Primary data were obtained through in-depth interviews with mining sector stakeholders, such as government officials, mining companies, academics, and representatives of affected communities. Secondary data were obtained from studies of regulatory documents, scientific journals, research reports, and relevant court decisions (Yunus, 2019). Qualitative analysis is used to interpret normative and empirical data in depth. This analysis aims to explore inconsistencies in implementing regulations, identify legal challenges, and formulate a reconstruction of a fair and sustainable licensing system.

4. RESULT AND DISCUSSION

4.1. Evaluation of the Legal System and Implementation of Coal Mining Business Licenses in Indonesia

The coal mining business licensing (IUP) system in Indonesia is regulated through various regulations, starting from the Mineral and Coal Law (UU Minerba) No. 3 of 2020 to implementing regulations and regional regulations governing the procedures for

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granting permits and supervising mining activities (Ministry of Energy and Mineral Resources, 2021). This licensing structure includes Exploration Permits, Production Business Permits, and Transportation and Sales Permits. This system is designed to accommodate economic interests and sustainable natural resource management. However, the complexity of the regulations causes overlapping authority between institutions, resulting in inconsistencies in their implementation (Prasetyo & Kusuma, 2022).

The supervision of the implementation of coal IUP also shows many weaknesses. These weaknesses include weak environmental monitoring mechanisms, low levels of law enforcement against violations, and minimal community involvement in the supervision process (Wahyuni et al., 2020). This opens up opportunities for irregularities and corruption in issuing and implementing business permits. Ineffective supervision also results in significant ecological damage, such as deforestation and water pollution, and creates social injustice for affected communities.

The dominance of a technocratic approach in the formulation and implementation of mining policies is also a significant obstacle. An approach that focuses on technical and economic aspects without considering social justice and environmental values causes policies to be more top-down and less responsive to the needs of local communities (Sari & Indrawan, 2021). As a result, public participation and transparency are neglected, exacerbating inequality and social conflict. Too technical policies often ignore the complexity of social dynamics and ecosystem sustainability.

Thus, this evaluation reveals that although coal mining licensing regulations are quite complete normatively, their implementation has not optimally integrated the principles of justice and sustainability. Therefore, a reconstruction of the licensing system that strengthens regulatory harmonization, increases supervisory capacity, and adopts a more inclusive and ecological approach is needed.

4.2. Analysis of Social Justice and Human Rights Protection

Coal mining activities in Indonesia have a significant impact on local communities, especially indigenous communities around the mining area. The social impacts that arise are not only in the form of physical changes to the environment, but also involve shifts in indigenous peoples' culture and traditional way of life (Sahide et al., 2016). Exploitation of natural resources without local communities' involvement and consent can potentially violate land rights and cultural rights guaranteed by human rights, including the right to obtain information and participate in decision-making (Kristiansen & Rachman, 2020). Many cases show that indigenous peoples are often marginalised in the licensing process, which causes social conflict and decreased welfare.

The inequality of the distribution of benefits and risks is also a significant issue in the context of social justice. Although mining generates significant economic benefits, the financial benefits are often not proportionally enjoyed by affected communities. On the contrary, risks such as environmental pollution, loss of agricultural land, and health problems affect these vulnerable groups more (Fauzi et al., 2019). This indicates an imbalance that reflects the failure of the mining business permit system to ensure fair distribution of results and adequate protection for local communities.

In the context of human rights protection, the existing IUP regulations have not optimally integrated comprehensive human rights principles, especially the right to a healthy environment and social justice (Nurhidayati & Prasetyo, 2021). Community participation in the licensing process is still limited and symbolic, thus not providing sufficient space for meaningful dialogue and negotiation between companies, the government, and the community (Maharani & Nugroho, 2018). This condition reinforces the need to reconstruct the licensing system that is not only oriented towards administrative compliance but also upholds the principles of social justice and human rights protection as an integral part of sustainable development. Thus, this analysis confirms that social justice and human rights protection must be the main pillars in reforming coal mining business permit regulations, so local communities can obtain benefits reasonably while avoiding the negative impacts of mining activities.

4.3. Public Participation Issues

Public participation in managing coal mining business permits (IUP) in Indonesia still faces significant obstacles. One of the main problems is the low involvement of local communities in the licensing and decision-making process. The public consultation mechanisms implemented so far tend to be formalities without sufficient space for substantive dialogue between the government, companies, and the community (Santosa & Utomo, 2018). Many residents are only objects of policy socialisation, not as subjects who actively provide input or supervise the implementation of mining activities. As a result, the aspirations and needs of the community are often not adequately accommodated in mining regulations or implementation (Arifin & Fauzi, 2020).

Furthermore, transparency barriers are a major barrier to meaningful public participation. Public access to important information related to permits, environmental impacts, and social management is often limited and untimely (Nurhasanah, 2019). This lack of openness leads to public distrust of the licensing process and hinders the public's ability to monitor mining company activities effectively. Low transparency also weakens accountability for natural resource management, potentially increasing corrupt practices and irregularities in issuing permits (Hidayat & Purnomo, 2021).

In the context of sustainable and equitable development, public participation is crucial because it ensures that natural resource management not only benefits a handful of parties, but also pays attention to the welfare of affected communities and environmental sustainability. Therefore, the existing licensing system must be redesigned to strengthen inclusive, transparent, and accountable participatory mechanisms. Strengthening access to information and active community involvement in every licensing stage can

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reduce social conflict, increase trust, and ensure mining policies are more responsive to social and environmental needs (Putra et al., 2022).

Thus, the current problem of public participation is a major challenge in reconstructing coal IUP regulations, which must be resolved immediately so that the principles of justice and sustainability can truly be realized.

4.4. Coal IUP Legal Reconstruction Model

Reconstruction of coal mining business permit (IUP) regulations oriented towards sustainable and equitable development requires a comprehensive and synergistic legal model. First, vertical and horizontal harmonization of regulations is the primary key to overcoming overlaps and inconsistencies in the licensing system. Vertical harmonisation refers to the synchronisation between national and regional regulations, while horizontal harmonisation involves alignment between various sectoral regulations related to mining, the environment, and social (Ramadani & Sari, 2020). This is important so licensing policies are not contradictory and implementation in the field can run effectively.

Second, strengthening the capacity of supervisory institutions is crucial in ensuring company compliance with IUP provisions. Improving human resources, technical facilities, and the independence of supervisory institutions will improve the effectiveness of supervision and prevent corrupt practices and misuse of permits (Utami & Suryanto, 2019). With a strong supervisory institution, law enforcement against violations can run more optimally.

Third, integrating environmentally friendly technology into mining operations is an important strategy to minimize ecological impacts. Using the latest efficient and sustainable technology can reduce emissions, waste, and damage to natural habitats (Situmorang et al., 2021). Green technology also encourages innovation in environmentally friendly production processes, under the principles of sustainable development.

Fourth, an inclusive benefit-sharing mechanism must be implemented to ensure social justice. The benefit-sharing model needs to involve local and Indigenous communities as key stakeholders so that they receive economic benefits fairly and proportionally (Prasetyo & Handayani, 2022). This scheme can take the form of compensation funds, business partnerships, or sustainable social programs.

Fifth, the application of the Free, Prior and Informed Consent (FPIC) principle is the basis for guaranteeing the rights of indigenous and local communities to provide voluntary consent before mining activities are carried out (Andriani & Kurniawan, 2020). FPIC strengthens human rights and prevents social conflicts due to non-transparent licensing and a lack of community involvement.

This reconstruction model is expected to be a legal solution that is technically effective, socially just, and ecologically sustainable, thus supporting sustainable and equitable mining development in Indonesia.

5. CONCLUSION

This study confirms that fair and sustainable coal mining development requires a comprehensive reform of Indonesia's mining business licensing (IUP) system. The evaluation shows that although the legal framework for licensing is in place, its implementation still faces significant obstacles, such as inconsistent regulations, weak supervision, and the dominance of a technocratic approach less responsive to social and environmental issues. This has an impact on the unequal distribution of benefits and risks, as well as unfair treatment of local and indigenous communities affected by mining activities. In addition, the low level of public participation and limited transparency and access to information in the licensing process further exacerbate the problem.

Therefore, legal reconstruction of the IUP system is essential to address the existing ecological and social challenges. This reconstruction must be carried out with a comprehensive approach and oriented towards the principles of social justice, protection of human rights, and environmental sustainability. Harmonisation of regulations vertically and horizontally is a key aspect to eliminating overlapping and unclear regulations, which are often the source of problems. In addition, strengthening the institutional capacity of supervisors is very important to ensure that existing regulations can be implemented effectively and responsibly.

Integrating environmentally friendly technology is also essential to this reconstruction to minimize negative impacts on the ecosystem. Furthermore, an inclusive benefit-sharing mechanism must be implemented so that affected communities can obtain fair and equal benefits. Applying the Free, Prior, and Informed Consent (FPIC) principle as a licensing requirement emphasises the need to respect and protect the rights of Indigenous and local communities.

This study underlines that the reconstruction of coal IUP regulations is a strategic and important step in realising mining development that is economically productive, equitable, socially, and ecologically sustainable. This reform of the licensing legal system is expected to build better natural resource governance for the welfare of generations and the protection of affected communities.

RECOMMENDATION

Based on the research results on the reconstruction of coal Mining Business Permit (IUP) regulations in the context of sustainable and equitable development, several strategic recommendations are important for policymakers and related stakeholders to consider.

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First, a comprehensive revision of the IUP regulation is needed by prioritising ecological justice and community participation principles. This revision must integrate aspects of environmental sustainability as a fundamental element in licensing and emphasise the obligation of mining companies to protect the rights of indigenous and local communities affected by mining activities. The regulatory drafting process must be inclusive, opening up space for honest dialogue and consultation with various parties, so that the resulting policies can reflect common interests and minimize social conflict.

Second, increasing the role of communities and non-governmental institutions in monitoring and managing mining is crucial. The involvement of local communities and civil society organisations can strengthen accountability and transparency in implementing IUP. This participation is not only a form of external supervision but also a mechanism for strengthening rights and adequate social control. Therefore, the government needs to build the capacity of communities and non-governmental institutions through training, access to information, and sustainable empowerment.

Third, developing an information technology-based monitoring system needs to be prioritized to increase monitoring effectiveness and evaluate the implementation of mining business permits. Digital technology, such as geographic information systems (GIS), environmental sensors, and data transparency platforms, can help identify violations and environmental impacts in real time and increase data transparency to the public. This technology also enables more responsive and participatory monitoring, while supporting evidence-based decision-making.

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