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Authority of Revocation of Mining Business Permits in the Perspective of Administrative Law Towards Good and Environmentally Friendly Mining Governance

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ABSTRACT

The President's authority to revoke thousands of mineral and coal Mining Business Permits (IUPs) is part of the efforts of a Good & Environmentally Friendly Mining Governance system. In the management of natural resources, aspects of environmental sustainability are needed. The research method used is normative juridical, with qualitative data analysis techniques. The results of this study are: first, the mechanism for revocation of IUP through a comprehensive evaluation from planning to post-mining activities, based on administrative, technical, environmental, and financial evaluations. The criteria for IUPs to be revoked are IUPs that do not submit Work Plan and Cost Budget reports, IUPs that are not operating, and IUPs that do not carry out post-mining reclamation obligations, and do not carry out environmental management. Second, the revocation of an IUP has three implications, namely juridical implications, namely policies for regulating and improving the mining governance system. The sociological implications are getting the social carrying capacity of the community and access to natural resource management rights. Finally, the implications of environmental insight, as a global commitment to implementing sustainable development principles, are integrated into the mining business activity licensing system.

Keywords: Mining, Revocation, Environment

ABSTRAK

Kewenangan Presiden untuk mencabut ribuan Izin Usaha Pertambangan (IUP) mineral dan batubara merupakan bagian dari upaya sistem tata kelola pertambangan yang baik & ramah lingkungan. Dalam pengelolaan sumber daya alam, aspek kelestarian lingkungan sangat diperlukan. Metode penelitian yang digunakan adalah yuridis normatif, dengan teknik analisis data kualitatif. Hasil penelitian ini adalah: pertama, mekanisme pencabutan IUP melalui evaluasi menyeluruh mulai dari perencanaan hingga kegiatan pascatambang, berdasarkan evaluasi administratif, teknis, lingkungan, dan keuangan. Kriteria IUP yang dicabut adalah IUP yang tidak menyampaikan laporan Rencana Kerja dan Anggaran Biaya, IUP yang tidak beroperasi, dan IUP yang tidak melaksanakan kewajiban reklamasi pascatambang, serta tidak melakukan pengelolaan lingkungan. Kedua, pencabutan IUP memiliki tiga implikasi, yaitu implikasi yuridis, yaitu kebijakan pengaturan dan penyempurnaan sistem tata kelola pertambangan. Implikasi sosiologisnya adalah mendapatkan daya dukung sosial masyarakat dan akses terhadap hak pengelolaan sumber daya alam. Terakhir, implikasi wawasan lingkungan, sebagai komitmen global untuk menerapkan prinsip pembangunan berkelanjutan, diintegrasikan ke dalam sistem perizinan kegiatan usaha pertambangan.

Kata Kunci: *Pertambangan, Pencabutan, Lingkungan*

Introduction

President Jokowi's policy in early January 2022 announced to revoke 2,078 mineral and coal Mining Business Permits (Indonesian: Izin Usaha Pertambangan/IUP) because the holders of these thousands of IUPs never submitted work plans, various permits that had been granted for years but were not carried out, causing obstacles in the use of natural resources to improve people's welfare.

The President said that the government continues to improve natural resource management so that it is equitable, transparent, and fair to correct injustices and natural damage.¹ Forestry mining permits, as well as state land use, continue to be thoroughly evaluated. Permits that are not executed, are not productive, are transferred to other parties, and are not by the designation and regulations, will be revoked.

Efforts to make improvements to natural resource governance are necessary to overcome the increasingly threatening environmental crisis, while at the same time ensuring the realization of sustainable development. For this reason, new perspectives in national development need to be developed without compromising environmental aspects and community welfare.²

Every business and activity basically has an impact on the environment that needs to be analysed from the beginning of its planning, so that negative impact control measures. Every

mine must be destructive like, there are open pits and closed mines.³ Underground mining is the process of extracting a type of mining goods by making wells or tunnels into rock layers due to the location of the mines far from the earth's surface. Meanwhile, open-pit mining (surface mining) is a mining method where all mining activities are carried out above the earth's surface.

The President ordered the Ministry of Energy and Mineral Resources (ESDM), State-Owned Enterprises (BUMN), and State Electricity Company (PLN) to find the best solution for the national interest. For example, in the context of coal supply, there needs to be a priority scale with the fulfilment of domestic needs for PLN and industry. In addition to the coal mining sector, there is also the plantation sector and other natural resource management by prioritizing domestic needs, before exporting.

This is a necessity for the welfare of the community through private companies, BUMN, and their subsidiaries engaged in various sectors in the management of natural resources.

The central government's policy to revoke Mining Business Permits (IUPs) is based on changes to the provisions of Article 119 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, that an IUP or IUPK (Indonesian: Izin Usaha Pertambangan Khusus) can be revoked by the Minister if a. the IUP or

lingungan-dan-kesejahteraan-rakyat., accessed on March 26, 2022.

³ Syarifah Rahmatillah and Tasbi Husen, "Penyalahgunaan Pengelolaan Pertambangan Terhadap Kerusakan Lingkungan Hidup Di Kecamatan Kluet Tengah," *LEGITIMASI: Jurnal Hukum Pidana Dan Politik Hukum* 7, no. 1 (December 4, 2018): 149-52, <https://doi.org/10.22373/legitimasi.v7i1.3969>.

¹ CNBC Indonesia, "Jokowi Untung 2078 Izin Usaha Pertambangan," CNBC Indonesia, 2022, <https://www.cnbcindonesia.com/news/202201061316094305137/breaking-news-jokowi-untung-2078-izin-usaha-pertambangan>. accessed on March 18, 2022.

² Deonisia Arlinta, "Tata Kelola SDA Penting Untuk Kelestarian Lingkungan Dan Kesejahteraan Rakyat," *Kompas*, January 20, 2011, <https://www.kompas.id/baca/utama/2020/01/11/tata-kelola-sda-penting-untuk-kelestarian->

IUPK holder does not fulfil the obligations stipulated in the IUP or IUPK as well as the provisions of laws and regulations; b. the holder of an IUP or IUPK commits a crime as referred to in this Law; or c. IUP or IUPK holders are declared bankrupt.

In addition to administrative sanctions in the form of revocation of IUP or IUPK, criminal sanctions are also imposed for IUP/IUPK that have been revoked or expired and do not carry out reclamation and post-mining obligations, placement of reclamation and post-mining guarantee funds, can be sentenced to imprisonment for a maximum of 5 (five) year or a fine of Rp. 100,000,000,000.00 (one hundred billion rupiah). This is by the provisions of Article 161B paragraph (1) of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining.

The author observes that the pattern of regulation in the Mineral and Coal Mining Law (Undang-Undang Pertambangan Mineral dan Batubara) and the Job Creation Act (Undang-Undang Cipta Kerja), in the mineral and coal mining cluster, is more dominated by the imposition of administrative sanctions.

According to Wicipto Setiadi, there are several purposes for including and implementing the provisions of sanctions in-laws and regulations, including administrative sanctions.⁴ *First*, as an effort to enforce the provisions of the legislation. The provision of sanctions will facilitate the enforcement of these norms, and the effectiveness/effectiveness of the use of the laws and regulations can be seen, and the provisions of the laws and regulations

can be complied with. *Second*, to provide punishment for anyone who violates a statutory norm. People who violate a norm should indeed be given punishment according to the severity of the violation. *Third*, deter someone from violating the law again. With the imposition of sanctions, it is hoped that people will not repeat violations. *Fourth*, prevent other parties from violating the law. With the threat of sanctions, it is hoped that people will not violate the law.

The regulatory policy in the mineral and coal mining sector is in its development. Some of the content material in Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, has undergone changes which are included in the mineral mining cluster and coal in Law Number 11 of 2020 concerning Job Creation.

Furthermore, about the implementation of mineral and coal mining business activities, it has been further regulated in Indonesian Government Regulation (PP) Number 96 of 2021 concerning the Implementation of Mineral and Coal Mining Business Activities.

Based on Article 62 of the Regulation of the Minister of Energy and Mineral Resources Number 7 of 2020 concerning Procedures for Granting Areas, Licensing, and Reporting on Mineral and Coal Mining Business Activities, the obligations of IUP holders have been regulated, some of which are: prepare and submit the Annual Plan & Cost Budget (RKAB) to the Minister or governor by their respective authorities for approval, submit periodic written reports on the Annual RKAB as well as the implementation of mining business

⁴ Wicipto Setiadi, "Sanksi Administratif Sebagai Salah Satu Instrumen Penegakan Hukum Dalam Peraturan Perundang-Undangan," *Jurnal Legislasi Indonesia* 6, no. 4 (2009): 606-7.

activities carried out, including the implementation of cooperation with IUP holders, comply with the tolerance limits for the carrying capacity of the environment, and ensure the application of environmental quality standards and standards by the characteristics of an area. IUP or IUPK holders are also required to manage and monitor the mining environment, including reclamation and post-mining activities.

Ministerial Regulation (Peraturan Menteri) is clear that the revoked IUP is a permit that does not submit the Work Plan & Cost Budget (RKAB). In addition, other reasons for revocation include permits that do not operate and permits that are not followed up with business permits, as well as IUP holders who do not pay attention to the environment and do not take care of the Environmental Impact Analysis/EIA (*Indonesian: Analisis Mengenai Dampak Lingkungan/AMDAL*).

Data from the Ministry of Investment/Investment Coordinating Agency (*BKPM/Badan Koordinasi Penanaman Modal*), states that a total of 2,087 IUP licenses will be revoked with a total land area of 3,201,046 hectares and an additional 19 IUPs, bringing the total to 2,097 IUPs, 192 forestry sector permits: Permission to Borrow and Use Forest Area/IPPKH (*Indonesian: Ijin Pinjam Pakai Kawasan Hutan*), Forest Concession Rights/HPH (*Indonesian: Hak Pengusahaan Hutan*), and Industrial Forest/HTI (*Indonesian: Hutan Tanaman Industri*), with a total area of 3,126,439 hectares, and HGU Plantations with a total area of 34,448 hectares.⁵

The revocation of IUP on the one hand is part of the government's authority from the point of view of administrative law, but on the other hand, it must have implications for improving the mining governance system that is good and environmentally friendly. The process of evaluating the implementation of permits must, of course, be viewed holistically and integrally by the government to use its authority as mandated by law.

IUP revocation as part of the supervisory function and state administration actions to provide administrative sanctions to IUP holders. In the context of administrative law, supervision is the process of observing, and comparing the work tasks assigned to implementing officials with the standards that have been set in a systematic plan with cooperative and corrective actions to avoid deviations for certain purposes.⁶ State supervision through the central government of various IUPs in Indonesia should be directly proportional to the enforcement of administrative law.

However, supervision has been hyper since the transfer of authority in licensing and supervision from the governor to the central government,⁷ through the Directorate General of Mineral and Coal at the Ministry of Energy and Mineral Resources, because it has implications for the central authority to supervise thousands of IUPs in some regions in Indonesia, the problems of which are quite complex from various points of view, including the non-compliance of

⁵ Ade Miranti Karunia, "Pencabutan Izin Usaha Pertambangan, Bahlil: Tidak Ditujukan Pada Satu Kelompok Tertentu," *Kompas.Com*, January 11, 2022, <https://money.kompas.com/read/2022/01/11/063600226/pencabutan-izin-usaha-pertambangan-bahlil--tidak-ditujukan-pada-satu-kelompok>, accessed on March 30, 2022.

⁶ Nurmayani, *Hukum Administrasi Daerah*, 2009.

⁷ It can be seen that the change in authority from the governor was withdrawn to the center through Law no. 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining.

obligations for reclamation and post-mining, and environmental management.

Based on this background and rationale, it is important to study it more deeply as the scope of this research is related to authority, mechanism, and criteria for Revocation of Mining Business Permits in the Perspective of Administrative Law and implications for revocation of IUPs which are oriented towards good mining governance & environmental perspective.

The scope of this research will examine 2 (two) main problems, namely first, what is the authority, mechanism, and criteria for Revocation of Mining Business Permits in the Perspective of Administrative Law? and second, does the revocation of the IUP have any implications for a good & environmentally sound mining governance system?

Methodology

In this study, using normative juridical research methods, through a study of various regulations in the mineral and coal mining sector, namely Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, Law Number 11 of 2020 concerning Job Creation in mineral and coal mining clusters, Government Regulation Number 96 of 2021 concerning Implementation of Mineral and Coal

Mining Business Activities, and Regulation of the Minister of Energy and Mineral Resources Number 7 of 2020 concerning Procedures for Regional Granting, Licensing, and Reporting in Mineral and Coal Mining Business Activities.

Normative legal research is also known as library research or document study because this research is carried out or aimed only at written regulations or other legal materials. The research was conducted by examining library materials or secondary data, and tertiary legal materials.⁸

This normative juridical research is supported by empirical data related to the policy of revocation of Mining Business Permits (IUP) by the central government with data sourced from news media and ministry data.

In collecting data, the study of documents or library materials is used. Documentation studies are the first step of any legal research, both normatively and sociologically⁹. In this case the study of documentation with data collection techniques through library research. Library research by reviewing regulations and library sources from books and journals.

The analytical method used in this study is an analysis of qualitative data¹⁰, and in the context of legal research, namely qualitative juridical analysis, by analyzing various primary and secondary

⁸ Elisabeth Nurhaini Butarbutar, *Metode Penelitian Hukum (Langkah Langkah Untuk Menemukan Kebenaran Dalam Ilmu Hukum)* (Bandung: Refika Aditama, 2018). P. 83-84

⁹ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Universitas Indonesia Press, 2012). P. 21 & 66.

¹⁰ The considerations of researchers using qualitative methods are based on considerations, namely:

- a. the adjustment of qualitative research is easier when dealing with multiple realities;
- b. This method presents directly the nature of the relationship between the researcher and the respondent;

- c. This method is more sensitive and more adaptable to the many sharpening of shared influences and value patterns encountered.

In addition, according to its level, this research is descriptive, namely research for careful measurement of certain social phenomena by developing concepts and gathering facts, but does not test hypotheses. See: Masri Singarimbun and Sofyan Effendi, "Metode Penelitian Survei, Edisi Revisi, PT," *Pustaka LP3ES, Jakarta*, 1995., P. 4-5. See also: Lexy J. Moleong, *Metodologi Penelitian Kualitatif, Remaja Rosdakarya*, 22nd ed. (Bandung: Remaja Rosdakarya, 2006), P. 9-10.

data, as well as primary legal materials, secondary legal materials, and tertiary legal materials.¹¹ This qualitative data analysis technique follows the conceptual approach given by Miles and Huberman.¹²

Activities in qualitative data analysis are carried out continuously at each stage of the research until it is complete and the data is saturated. The process of collecting and analyzing information includes data reduction,¹³ data display¹⁴ and conclusion/verification data.¹⁵

Discussion

1. The conception of Permits and Authorities in the Study of State Administrative Law

The concept of authority or authority has a strategic meaning in the field of administrative law studies, so that authority or authority is used more by government administrative bodies or officials.¹⁶

Terminologically, the term authority has the same meaning as

"authority" in English and "bevoegdheid" in Dutch. According to Black's Law Dictionary, the word "Authority" is defined as legal power; a right to command or to act; the right and power of public officers to require obedience to their orders legally issued in the scope of their public duties.¹⁷

Observing the importance of authority in the study of state administrative law, further emphasized by FAM Stroink and JG Steenbeek, through their statement: "*Het Begrip bevoegdheid is and ook een kembegrip in the staats-en administratief recht*".¹⁸ This statement gives the meaning that authority is a core concept of administrative law.

Power in the state is legal power, especially in the Constitution as the highest law that gives authority to the government (executive) and other state government structures to act by the authority granted by law. The authority of this government is also a function of the people's control over the government acting.¹⁹

provided by the informants or their supporting documents. After being well organized, the researcher will conclude with an answer to the questions that have been set previously.

¹⁶ It can be seen further in Law Number 30 of 2014 concerning Government Administration, that the authority lies in the legislative, executive, and judicial bodies, thus experiencing an expansion of meaning in the context of government administration.

¹⁷ J. B. L. and Henry Campbell Black, "Black's Law Dictionary," *University of Pennsylvania Law Review and American Law Register*, 1911, <https://doi.org/10.2307/3307452>. p. 133.

¹⁸ Nur Basuki Winarno, *Penyalahgunaan Wewenang Dan Tindak Pidana Korupsi* (Yogyakarta: Laksbang Mediatama, 2008), P. 65.

¹⁹ See: Nirahua Salmon Eliazer Marthen, *Orasi Inagurasi dalam rangka penerimaan jabatan akademik/fungsional dosen sebagai Profeser/Guru Besar dalam bidang Ilmu Hukum*, at Faculty of Law Pattimura University, with title: Nirahua Salmon Eliazer Marthen, "Penggunaan Diskresi Dalam Tindakan Pemerintah," n.d., <https://fh.unpatti.ac.id/use-discretion-dalam-action-government>.

¹¹ Soekanto; Sri Mamudji Soerjono, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta: Raja Grafindo Persada, 2003), P. 23-54.

¹² B. Mathew dan Michael Huberman Miles, *Analisis Data Kualitatif Buku Sumber Tentang Metode-Metode Baru*, ed. Penerjemah Tjetjep Rohendi Rohidi, *Universitas Indonesia Press* (Jakarta: Universitas Indonesia Press, 1992), P. 20.

¹³ Data Reduction is the process of selecting, focusing on simplification, abstracting, and transforming 'rough' data that emerges from written records in the field. Researchers will summarize, code, explore themes, and write memos according to the problems, objectives, benefits of the research, and the framework of thought that has been set previously.

¹⁴ Data Display or data presentation is a structured collection of information that gives the possibility of drawing conclusions and taking action. The presentation of this data will provide in-depth information about what happened, what to do, analyze, and take action to answer research questions. The presentation of this data is in the form of a narrative.

¹⁵ Conclusion/Verification, namely the researcher records all patterns, explanations, configurations, causal flows, and proportions

In addition to the concept of authority, in the study of state administrative law, the term permit is also known. Permits or Vergunning according to the Dictionary of Legal Terms are defined as permits/permits from the government that is required for actions that generally require special supervision, but which in general are not considered as completely undesirable things.²⁰

The government's authority in the concept of a rule of law comes from the applicable laws and regulations. According to Huisman, government organs cannot consider their government authority. Authority is only granted by law.²¹

The purpose of granting permits is to control government activities in certain matters because the provisions contain guidelines that must be carried out both by those concerned and by authorized officials. In addition, the purpose of licensing can also be viewed from 2 (two) aspects, namely from the side of the government and the community.²²

From the government's perspective, the granting of permits is aimed at:

- 1) To implement the regulations, whether the provisions contained in the regulations are by the reality and practice or not, and at the same time to regulate order;
- 2) As a source of regional income, with a request for a permit, the government's revenue will directly increase because each permit issued by the applicant must pay a levy first. There is also more income in the field of user fees, the ultimate goal is to finance development.

²⁰ HR. Ridwan, *Hukum Administrasi Negara* (Jakarta: Raja Grafindo Persada, 2006).P. 198.

²¹ Diyan Isnaeni, "Implikasi Yuridis Kewenangan Pemerintah Daerah Dalam Pemberian Ijin Usaha Pertambangan Menurut Undang-Undang Nomor 23 Tahun 2014,"

Furthermore, from the community side, the issuance of permits aims to:

- a) For legal certainty;
- b) For the certainty of rights;
- c) To make it easier to get facilities. If the building already has a permit, it will be easier to get facilities.

2. Authority, mechanism, and criteria for Revocation of Mining Business Permit in Administrative Law Perspective

The authority through the central government's policy to revoke Mining Business Permits (IUP) is based on changes to the provisions of Article 119 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, that an IUP (Indonesian: Izin Usaha Pertambangan) or IUPK (Indonesian: Izin Usaha Pertambangan Khusus) can be revoked by Minister if:

- a) The IUP or IUPK holder does not fulfill the obligations stipulated in the IUP or IUPK as well as the provisions of laws and regulations;
- b) The holder of an IUP or IUPK commits a crime as referred to in this Law; or
- c) IUP or IUPK holders are declared bankrupt. In addition, it is also based on Law Number 11 of 2020 concerning Job Creation, in mineral and coal mining clusters, which contain more administrative sanctions than criminal sanctions.

Yurispruden 1, no. 1 (January 24, 2018): 35, <https://doi.org/10.33474/yur.v1i1.734..>

²² Sutedi Andrian, *Hukum Perizinan Dalam Sektor Pelayanan Publik* (Jakarta: Sinar Grafika, 2010). P. 193.

In-state administrative law, the use of administrative sanctions is the application of government authority, and this authority comes from written and unwritten administrative law rules.

Administration law enforcement is the authority of the state administration to straighten out the occurrence of violation by taking an action by giving sanctions.²³ In general, giving the government the authority to determine certain administrative legal norms, is accompanied by giving the authority to enforce those norms through the application of sanctions for those who violate the administrative law norms.²⁴

In this context, it is under the authority of the Ministry of Energy and Mineral Resources (ESDM), through the Directorate General of Mineral and Coal Mining.

Based on Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, most of them contain provisions that can be subject to administrative sanctions. Some of the provisions that can be subject to administrative sanctions are the domain of the state through the central government (Minister) to take actions in the form of administrative sanctions.

Government action in the form of imposing administrative sanctions aimed at IUP, IUPK, IPR, SIPB holders as stated in Article 151 paragraph (2) of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining regulating types of administrative sanctions, including:

- a) written warning;
- b) fine;
- c) temporary suspension of part or all of the Exploration activities or Production Operations; and/or
- d) revocation of IUP, IUPK, IPR, SIPB, or IUP for sale.

The authority to cancel the central government in the form of revocation of permits is regulated in Article 64 of Law no. 30 of 2014 with criteria if the decision contains defects in authority, procedure, and or substance. If the decision is revoked, a new decision must be issued by stating the legal basis for the revocation and taking into account the general principles of good governance.

The revocation of the decision can only be carried out by government officials who make decisions, superiors of officials who make decisions, or by court order. Decisions on revocation made by government officials and superior officials are carried out no later than 5 (five) working days while decisions on revocation made by court order are made within a maximum of 21 (twenty-one) working days.²⁵

The authority authorized to carry out the revocation of the IUP is the Minister or the Governor who issues the mining business permit by their respective authorities so that it is in line with the *Contrarius Actus* principle.²⁶ The principle of *contrarius actus* attaches automatically to state administrative officials without having to be explicitly

²³ Sri Nur Hari Susanto, "Karakter Yuridis Sanksi Hukum Administrasi: Suatu Pendekatan Komparasi," *Administrative Law and Governance Journal*, 2019, <https://doi.org/10.14710/alj.v2i1.126-142>.

²⁴ Anggara Sahya, *Hukum Administrasi*, 1st ed. (Bandung: Pustaka Setia, 2018), P. 133.

²⁵ Sahya., P. 144.

²⁶ *Contrarius actus* is a term for an action taken by a state administrative agency or official that issues a State Administrative Decree by itself or automatically has the authority to cancel the said State Administrative Decree. This principle is a juridical term. See: M. Lutfi Chakim, "Contrarius Actus Kamus Hukum," *Majalah Konstitusi* (Jakarta, 2017). P.78

mentioned in the law.²⁷ According to the provisions of Article 52 of Law no. 30 of 2014, a decision is valid if it meets the following requirements: it is determined by an authorized official, made according to the procedure, and the substance is by the object of the decision. The validity of the decision is based on the provisions of the legislation and the General Principles of Good Governance.²⁸

The central government evaluates various existing IUPs and then exercises its authority to provide administrative sanctions with several types that have been regulated in various laws and regulations, as derivative regulations of Law no. 3 of 2020 concerning Mineral and Coal Mining, including Law No. 11 of 2020 concerning Job Creation in mineral and coal mining clusters, along with their implementing regulations.

The mechanism for revocation of IUPs, of course, begins with evaluations of IUPs, whose licensing authority has been with the Regent/Mayor and Governor, before the licensing authority is withdrawn to the center.

Based on the author's analysis of the legislation in the mineral and coal mining sector, the Minister conducts a comprehensive evaluation from planning to post-implementation of mineral and coal mining activities.

In general, the overall evaluation is classified into 4 things, the first is administrative evaluation; the second is technical evaluation; the third is environmental evaluation, and the fourth is the evaluation from the financial aspect.

Some criteria for IUPs to be revoked have been affirmed by President Joko Widodo in early 2022, including IUP holders who do not submit regular Work Plan and Budget (RKAB) reports, IUPs that are not operationalized, IUPs that do

not carry out reclamation and post-mining obligations and do not carry out environmental management. One of the government's considerations to revoke the IUP by not submitting the RKAB that must be submitted to the Minister refers to the technical provisions based on Article 177 of Government Regulation Number 96 of 2021 concerning the Implementation of Mineral and Coal Mining Business Activities.

In addition to the general criteria that have been affirmed by the President, normatively referring to Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, and Law Number 11 of 2020 concerning Job Creation, in mineral and coal mining clusters, and their derivatives regulations.

Various provisions in the Law Number 3 of 2020 concerning Amendments to Laws Number 4 of 2009 concerning Mineral and Coal Mining (mineral and coal law regulate) the criteria for various actions that must be taken by the mining business license holder and may be subject to administrative sanctions if they do not carry out some of these obligations, among others: the obligation to carry out further exploration activities every year and provide a budget, community mining permits are required to comply with the provisions of mining technical requirements, holders of special mining business licenses who are not interested in exploiting other minerals are obligated to protect these other minerals from being used by other parties, obligation to use mining roads in the implementation of mining business activities, obligations to apply good mining regulations, obligations to implement good mining principles,

²⁷ Imam Sukadi, "Asas Contrarius Actus Sebagai Kontrol Pemerintah Terhadap Kebebasan Berserikat Dan Berkumpul Di Indonesia," *Mimbar Keadilan* 12, no. 2 (July 10, 2019): 181, <https://doi.org/10.30996/mk.v12i2.2457>. P.184.

²⁸ Mayer Hayrani DS, "Pengaturan Pengawasan Pusat Terhadap Izin Usaha Pertambangan Mineral Dan Batubara Di Era Otonomi Daerah," *Jurnal Legislasi Indonesia* 16, no. 1 (2018): 145.

obligations to ensure the application of environmental quality standards and standards according to the characteristics of an area, obligations to maintain the function and carrying capacity of resources water, the obligation to prepare and submit the Reclamation plan and/or Post-mining plan, must meet the balance of openings and manage ex-mining holes, must hand over land, have the obligation to provide and place a Reclamation guarantee fund and/or Postmining guarantee fund, obligation to prepare community development and empowerment programs, obligation to allocate funds for the implementation of community development and empowerment programs whose minimum amount is determined by the Minister, obligation to provide written reports on a regular basis, must carry out Reclamation and Postmining up to a 100% success rate (one hundred percent), must place a reclamation guarantee fund and/or a mining guarantee fund, and bonds for the settlement of land rights with the right holder, and several other obligations carried out by the IUP holder.

Some of the activities that must be carried out by IUP, IUPK, IPR, or SIPB holders mentioned above, and receive administrative sanctions if they do not carry out these obligations, are also subject to fines.

This is based on Article 185 paragraph (3) and paragraph (4) of Government Regulation Number 96 of 2021 concerning the Implementation of Mineral and Coal Mining Business Activities, the amount of which is adjusted to the provisions in the field of regional taxes and levies.

President Joko Widodo's policy in carrying out some of these provisions is related to the provision of administrative sanctions to mining business license holders in the form of revocation of mining business permits. In the theory of state administrative law, and based on

Law Number 30 of 2014 concerning Government Administration, the President has delegated the authority to revoke Mining Business Permits (Indonesian: Izin Usaha Pertambangan/IUP) to the Minister of Energy and Mineral Resources. In addition, the supervisory system in state administrative law is in the form of administering administrative sanctions as part of enforcing administrative law in the mining business licensing sector.

The author analyzes based on the legal character contained in Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, and Law Number 11 of 2020 concerning Job Creation, in mineral and coal mining clusters is administrative law, so that the sanctions are also dominated by administrative sanctions. In addition, there is no firmness in the provisions regarding non-compliance with several obligations of the IUP holder which may be subject to administrative and criminal sanctions.

There needs to be a clear norm between obligations that are not carried out, and are subject to administrative sanctions and criminal sanctions. Ambiguous and biased in-law norms will be followed by ambiguity or ambiguity of meaning in derived regulations.

3. Implications of Revocation of Mining Permits for Improvement of Mining Governance System & Environmentally Friendly

Government actions based on orders from Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, and Law Number 11 of 2020 concerning Job Creation, along with its implementing regulations regarding the revocation of thousands of IUPs in Indonesia will It has juridical, sociological, and environmental implications.

The juridical implication in this context is the policy of regulating and improving the mining governance system in Indonesia. The long process of managing IUPs to the stage of production operations where the authority is currently with the central government is corrective and evaluative action for the government for the issuance of IUPs.

On the one hand, there are state control rights over natural resources in the mineral and coal mining sector,²⁹ but on the other hand, there is a function of state oversight of IUP holders, as a continuation of permits issued by the state.

The central government's authority over the revocation of IUPs is the beginning to improve the mining governance system that is oriented toward environmental insight based on a green constitution, to be followed by the formation of green regulations in its technical implementation, of green policies, on the management of mineral and coal mining resources.

In addition to having juridical implications for regulatory policies in the mineral and coal mining sector based on the constitutionality of the state's right to control natural resources Article 33 of the 1945 Constitution, the revocation of IUPs also has sociological implications, namely gaining social support capacity and community groups who have concern for the environment. and access of local communities or customary law communities to land rights and the

management of natural resources around them, so as not to cause social conflicts. In-Law Number 7 of 2012 concerning Handling of Social Conflicts, two of the sources of conflict come from first, natural resource disputes between communities and/or between communities and business actors; or second, unequal distribution of natural resources in society.³⁰

Community groups, environmental organizations, and local communities or customary law communities are part of their contribution and participation in structuring mining management from planning, to licensing processes, to evaluations of the implementation of mining business activities.

Policy evaluation and followed by the revocation of IUP by the central government, taking into account and listening to the aspirations of various community groups, environmental organizations, and customary law communities or local communities in accessing natural resources. In front of the state, these various civil groups should not be positioned as opposing parties or vis a vis with the state and groups of capital owners.

In general the impact mining in the environment is a decrease in productivity land, soil density increases, erosion and sedimentation, ground motion or landslides, disruption of flora and fauna, health problems community and impact to microclimate change.³¹

²⁹ The State's right to control natural wealth as stated in Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia is further regulated in Article 2 Paragraph 2 Number 5 of 1960 concerning Basic Agrarian Basic Regulations (hereinafter referred to as UUPA) which is the basis for the birth of the government's authority in granting permits related to the utilization and management of natural resources. See: Widodo & Rika Indra Dewi Hananto, *Problematika Kewenangan Pemberian Izin Usaha Pertambangan Setelah Berlakunya Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah* (Surabaya: Program

Studi Ilmu Hukum, Fakultas Ilmu Sosial dan Hukum Universitas Negeri Surabaya, 2015), P. 2.

³⁰ Wahyu Nugroho, "Persoalan Hukum Penyelesaian Hak Atas Tanah Dan Lingkungan Berdasarkan Perubahan Undang-Undang Minerba," *Jurnal Hukum Ius Quia Iustum*, 2020, <https://doi.org/10.20885/iustum.vol27.iss3.art7>. P.571

³¹ Nurul Listiyani, "Dampak Pertambangan Terhadap Lingkungan Hidup Di Kalimantan Selatan Dan Implikasinya Bagi Hak-Hak Warga Negara," *Al-'Adl IX*, no. 1 (2017): 76-77.

The next implication of IUP revocation is IUP holders who are environmentally sound. Since the planning and licensing process, it has been oriented toward environmental insight.

Serious environmental impacts in the implementation of mineral and coal mining business activities, both pollution and environmental damage, contribute to increased carbon emissions and global warming in the long term, while in the short term, deforestation, degradation, land conversion, and landscape changes, habitat loss occur. wildlife in forest areas, and flooding in some areas that are centers of mineral and coal mining business activities in Indonesia.

Environmental insight is not only jargon and state commitment at the national level but has become a global commitment to implement the principles of sustainable development to be integrated into the mining business activity licensing system.

The environment and ecosystems are disturbed and the damage is so severe. The central government's firm stance on the revocation of various IUPs that are problematic from an environmental aspect is part of the state's commitment to agreements in global forums on environmental problems experienced by people all over the world, to be handled collectively.

Conclusion

Based on the description can be concluded *first*, the mechanism for revocation of IUP starts from evaluations of IUP, whose licensing authority has been with the Regent/Mayor and Governor before the licensing authority is withdrawn to the center. The Minister conducts a comprehensive evaluation from planning to post-implementation of mineral and coal mining activities. Mechanisms in conducting evaluations are classified into 4 (four) things,

administrative evaluation; technical evaluation; environmental evaluation; and evaluation from the financial aspect. The criteria for IUP to be revoked are IUP holders who do not submit regular Work Plan and Budget (RKAB) reports, IUPs that is not operationalized, IUPs that do not carry out reclamation and post-mining obligations, and do not carry out environmental management,

Then *second*, the revocation of IUP has three implications, namely juridical, sociological, and environmental implications. The juridical implication in this context is the policy of regulating and improving the mining governance system in Indonesia. The government's consistency in implementing a green constitution, which is then followed by the formation of green regulations in its technical implementation, to green policies on the management of mineral and coal mining resources.

The sociological implications are getting the social carrying capacity of people who have concern for the environment and access of local communities or customary law communities to the rights to manage natural resources around them, so as not to cause social conflicts. The next implication is environmental insight, integrated into the mining business activity licensing system.

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