



RESEARCH ARTICLE

# Conflict And Dispute Resolution in Mineral and Coal Mining Business Activities: A Legal Review of Justice, Certainty and Legal Benefit

Syafril<sup>1\*</sup>, Farida Patittingi<sup>2</sup>, Irwansyah<sup>3</sup>, Abrar Saleng<sup>4</sup>

<sup>1,2,3,4</sup> Faculty of Law, Hasanuddin University

ARTICLE INFO	ABSTRACT
Received: Aug 16, 2024 Accepted: Oct 12, 2024	Mining business activities benefit the country through the foreign exchange generated; this is inseparable. While on the other hand, Minerba mining activities not only have the power to damage the environment through exploration activities, but are also often followed by conflicts between mining companies and communities living or working in mining areas, resulting in disputes between mining business actors, local communities and local governments where the mining business activities are carried out. This is inseparable from the values of justice, certainty, and benefits of mining business activities. The research method used in this study is normative research supported by empirical data. Normative legal research is understood as research to test a norm or applicable provision. The data collected, both primary and secondary legal materials, are then analyzed legally using qualitative methods to draw conclusions in this study. The conclusion of this study is that for the law or implementation of a regulation to work, a device that supports the coercive nature of the legal rules is needed, so everyone must implement them. A regulation implemented consistently will provide legal authority and values of justice, certainty and legal benefits. The use of land/land for the interests of mining business activities often causes conflicts of interest that lead to conflicts or disputes. These disputes can be resolved through the courts; they can also be resolved through institutions outside the courts, known as alternative dispute resolution, which can be done through consultation, negotiation, mediation, conciliation, or expert assessment.
<b>Keywords</b> Land Dispute Mining Southeast Sulawesi	
<b>*Corresponding Author:</b> ssyafrill05@gmail.com	

## INTRODUCTION

Mineral and Coal Mining (from now on referred to as Minerba ) as a natural resource is essentially based on the concept of State Control Rights (HMN) over the earth, water, and natural resources contained therein, as stated in Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia). The consideration of letter a of Law Number 4 of 2009 as amended by Law Number 3 of 2020 concerning Mineral and Coal Mining (hereinafter referred to as the Minerba Law ) determines that Minerba in the territory of the Unitary State of the Republic of Indonesia is a non-renewable natural resource and wealth as a gift from God Almighty, which has an important role and fulfills the needs of many people controlled by the state to support sustainable national development to realize the welfare and prosperity of the people in a just manner. In utilizing these natural resources, the state's role as a

regulator is the leading actor in maintaining the sustainability of the ecosystem and sustainable development. Development).<sup>1</sup>

Mineral and Coal Management has “two sides of the coin” that overlap and contradict each other. On the one hand, mineral and coal mining activities benefit the state through the foreign exchange generated, which the state uses to finance development. In 2020, the mining sector generated USD 3.9 billion in foreign exchange, with the realization of Non-Tax State Revenue (PNBP) of IDR 34.6 trillion (110%).<sup>2</sup>In 2021, the mining sector generated USD 3.9 billion in foreign exchange, with the realization of PNBP of IDR 34.6 trillion (110%), the same as in 2020.<sup>3</sup>In 2022, it increased by USD 5.6 billion (112%), with the realization of PNBP of IDR 183.3560.77 trillion (180.047%) from the APBN target of IDR 101.84 trillion.<sup>4</sup>

Meanwhile, mineral and coal mining activities not only have the potential to damage the environment through exploration activities but are often followed by conflicts between mining companies and communities living or working in mining areas. This conflict occurs not only during mining activities but also during land acquisition and control by IUP/IUPK holders. Based on data from the Mining Advocacy Network (JATAM), there were 45 mining conflicts in 2020.<sup>5</sup>No exception in Southeast Sulawesi Province, several conflicts in mining areas also occurred between communities and companies holding IUP/IUPK. Two are the conflict in the Wawonii Islands and the mining land conflict in Konawe Regency. These two conflicts have attracted the attention of the mass media.

Common problems related to land acquisition, especially in coal commodities, are pretty diverse, but what often arises is related to Compensation in forest areas where companies have Forest Area Use Permits (PPKH). Generally, this is related to the amount of Compensation for growing crops or the existence of business rights such as land/cultivation certificates issued by the village/sub-district government. Another problem is land ownership claims such as customary/kingdom/sultanate land in the IUP area.

Normatively regulated in Law Number 7 of 2012 concerning Handling of Social Conflict (from now on referred to as Law No. 7 of 2012), Article 5 states that conflict originates from a) problems related to politics, economics, and socio-culture; b) feuds between religious communities and/or inter-religious communities, inter-tribes, and inter-ethnicities; c) disputes over village, district/city, and provincial boundaries; d) disputes over natural resources between communities and between communities and business actors; or e) unbalanced distribution of natural resources in society. About mining activities, the conflict is related to disputes over natural resources between

---

<sup>1</sup> Birkah Latif, SM Noor., Juajir Sumardi ., and Irwansyah , 2019. Sustainable Development and Sea Protection: Trade on Fish and Fishery Products, IOP Conference Series: Earth and Environmental Science, 343 (1), p. 206-209. Can downloaded at: [https://www.researchgate.net/publication/337061782\\_Sustainable\\_development\\_and\\_sea\\_protection\\_Trade\\_on\\_fish\\_and\\_fishery\\_product](https://www.researchgate.net/publication/337061782_Sustainable_development_and_sea_protection_Trade_on_fish_and_fishery_product)

<sup>2</sup> “MINISTRY OF EMR PERFORMANCE REPORT 2020”. Jakarta, 2021, Data downloaded at: <https://www.esdm.go.id/assets/media/content/content-lapoan-kinerja-kesdm-2020.pdf>

<sup>3</sup> “MINISTRY OF ENERGY AND MINERAL RESOURCES PERFORMANCE REPORT 2021”, Jakarta, 2022, p. 231. Data downloaded at: <https://www.esdm.go.id/assets/media/content/content-laporan-kinerja-kementerian-esdm-2021.pdf>

<sup>4</sup> “MINISTRY OF ENERGY AND RESOURCES PERFORMANCE REPORT 2022”, Jakarta, 2023, p. 268. downloaded at: <https://www.esdm.go.id/assets/media/content/content-laporan-kinerja-kementerian-esdm-tahun-2022.pdf>

<sup>5</sup> <https://www.jatam.org/2020-adalah-tahun-panen-ijon-politik-tambang-kriminalalisasi-hingga-berujung-bencana/> . Press Release (01/25/2021).

communities and between communities and business actors or unbalanced distribution of natural resources in society.

Investment in the Mineral and Coal Mining sector is significant as a source of state revenue (foreign exchange). They are included in Southeast Sulawesi Province (hereinafter referred to as Sultra), which is one of the largest mining-producing areas in Indonesia, especially nickel mining. Based on data from the BPS Sultra citing data from the Southeast Sulawesi Province Mining Company Directory in 2021, 138 nickel mines were operating in Sultra, not including non-nickel mines. However, this mining investment in several situations could have run smoothly. The opening or acquisition of land for mining activities received a reaction of rejection from local residents, resulting in social conflicts and not infrequently ending in legal disputes in court. Even though the mining company has completed the permits as required by the laws in the mining and environmental sectors. Mining companies do not dare to operate if they do not have complete permits because it will have serious legal consequences. Mining companies have spent a lot of money on this investment.

In other situations, communities that reject mining investments often rely solely on claims of management rights to certain land or forest areas. Mining investments in forest areas that allow for mining activities to be opened, for example, often come up against communities who feel they own the land, even without a solid legal basis. Meanwhile, mining companies have obtained complete permits to open mining investments in the location.

The government's authority in Article 6 of the Minerba Law includes granting IUPs, coaching, resolving community conflicts, and supervising mining businesses, but in Article 6 of the Minerba Law No. 3 of 2020, conflict resolution is eliminated/removed. The government's authority is limited to providing guidance and supervision of implementing Mineral and Coal Mining Business activities by Business License holders; even the phrase "conflict" is not regulated. Eliminating this conflict resolution authority throws the responsibility for conflict resolution to IUP/IUPK holders. This shows a need for more attention in handling conflict mitigation in mining activities/businesses.

## RESEARCH METHODS

This research is normative research supported by empirical data. Normative legal research is understood as research to test a norm or applicable provision.<sup>6</sup> The normative study was chosen because this research will be in touch with the study of laws and regulations in the mining and handling of social conflicts, then supported by empirical data that supports normative research. The legal materials for this research are divided into two parts. The first is primary legal materials in the form of laws and regulations related to the issue of this research. Second, secondary legal materials are in the form of (i) data on the number of mining companies that have obtained IUP/IUPK in Southeast Sulawesi Province. (ii) data on mining companies holding IUP/IUPK that conflict with the community. (iii) data on legal disputes ( litigation ) between IUP/IUPK holders and other parties, supported by library studies. research ) in the form of books, scientific, legal journals, reports, papers, court decisions, and other related sources. The data analysis method used in this study is carried out using a descriptive legal thinking pattern. The data that has been collected, both primary and secondary legal materials, are then analyzed legally using qualitative methods, so that conclusions can be drawn in this study.

## DISCUSSION

Mining is a sector that receives serious attention from the government. Mining business activities provide a significant contribution to the inflow of state foreign exchange, as can be seen from the

---

<sup>6</sup> Irwansyah. Legal Research, Choice of Methods & Practices Article Writing, 2nd Edition, Mirra Buana Media, Yogyakarta, 2020, p. 42.

many Mining Authority permits in the region. One of the factors that investors consider when investing their capital is the issue of legal certainty.

Various legal provisions related to investment need to be adjusted to various multilateral, regional, and bilateral agreements followed by the government. Indonesia is a country of law, where the purpose of the law itself is to obtain justice, benefits and legal certainty.<sup>7</sup> The community expects legal certainty because with legal certainty, the community will be more orderly. The law is tasked with creating legal certainty because it aims to create public order. Without legal certainty, people do not know what to do, and eventually, unrest arises. However, too much emphasis on legal certainty and too strict adherence to legal regulations will result in rigidity and create a sense of injustice. Whatever happens, the rules are like that and must be obeyed and implemented.<sup>8</sup>

For the law to work or implement a regulation, a device is needed that supports the coercive nature of the rule of law, so that everyone must implement it. A regulation that is implemented consistently will provide legal authority and provide legal certainty.<sup>9</sup> Mining law concerns a set of rules that aim to protect interests related to the mining industry, minimize conflicts between mining companies, and provide general explanations to anyone who has the right to carry out mining activities.<sup>10</sup>

The principles of mining law as stated in Law Number 4 of 2009 concerning Mineral and Coal Mining, namely:

1. coal resources can provide benefits for the welfare of the wider community. This principle is in accordance with the concept developed by Jeremy Bentham. The law must provide benefits or uses for many people (to serve utilities).
2. The Principle of Justice must provide equal rights and equal treatment for the community. The community can be given the right to manage and utilize minerals and coal and is also burdened with the obligation to maintain environmental sustainability.
3. The principle of balance, namely the principle that requires that in the implementation of mineral and coal mining, there must be an equal and balanced position of rights and obligations between the permit grantor and the permit holder.
4. The principle of partisanship towards the interests of the nation, namely that both the central government and regional governments must side with or be pro the more outstanding interests of the nation. This means that the nation's interests must be prioritized compared to the interests of investors.
5. Participatory Principle, namely in the implementation of mineral and coal mining, not only the role of the grantor and permit holder alone, but the community, especially the community in the mining circle, must also play a role in the implementation of mining activities.
6. The principle of Accountability states that every mineral and coal mine must be accountable to the people by paying attention to justice and propriety. This principle of accountability is closely related to the rights that the government, both the central government and regional governments, will receive from mineral and coal mining activities.

With the ratification of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, the Indonesian government implemented restrictions. This law

---

<sup>7</sup> Comparison System Publication Positive and Negative Land Registration: Perspective Legal Certainty. Amanna Gappa, Vol. 29, No. 2, 2020, p. 111.

<sup>8</sup> Sudikno Mertokusumo, Understanding the Law (A Introduction), (Yogyakarta: Liberty, 1988) 1st printing, p. 136

<sup>9</sup> Nandang Sudrajat, Theory and Practice Indonesian Mining According to Law, (Pustaka Yustisia : Yogyakarta, 2010), p. 67

<sup>10</sup> Salim HS, Law Mineral and Coal Mining, (Sinar Grafika : Jakarta, 2012), p. 12

eliminates the ability of local governments to oversee the management of coal and mineral mining in their respective regions. As a result of this change, the central government now has all jurisdiction, and local governments are only able to issue business licenses and provide advice and supervision on their implementation. The implementation of this authority is strengthened through Government Regulation in Lieu of Law Number 96 of 2021 concerning the Implementation of Mineral and Coal Mining Business Activities and Business Licensing. In legal science, this change is referred to as legal reform, which not only changes or replaces old articles but also adds new articles to create better, fairer, more functional and legally certain legal regulations. Legal reform considers the principles of legal certainty, legal justice, and legal benefits, including legal structure, legal substance, and legal culture.<sup>11</sup>

One reason for transferring authority from the regional government to the central government is the government's efforts to improve the mining licensing system.<sup>12</sup> The issue of mining licensing is indeed one of the problems that still haunts mineral and coal mining activities to this day. Several fundamental problems influence the difficulty of overcoming issues in the licensing sector, namely the existence of sectoral egos that remain adamant about not submitting to efforts to simplify licensing and the perspective on permits that are still distorted so that permits are no longer viewed as one of the legal instruments to control activities, but rather as a source of income.<sup>13</sup>

A device that is preventive in nature and able to support the workings of the law and control the behavior of people or business entities (entrepreneurs) is a permit. A permit is a legality for individuals, groups, or business entities issued by state officials to carry out certain activities or activities with the obligation to carry out obligations stipulated in the permit in question. If, in its implementation, the recipient of the license does not carry out the duties, then the permit giver has the authority to impose sanctions. A state official stipulates the permit; thus, seen from its determination, the permit is a control instrument and a government tool to achieve its targets.<sup>14</sup>

Minerba Law stipulates that minerals and coal are controlled by the state and utilized for the greatest prosperity of the people. Furthermore, it is stipulated that the state or government, in this case the Minister of Energy and Mineral Resources (ESDM), has the right to manage all mining goods which are state assets by providing opportunities for management and exploitation of mining goods to private business entities, individuals, communities, and cooperatives, all of which must be legal entities in Indonesia. These opportunities are regulated through Mining Business Permits (IUP), People's Mining Permits (IPR), and Special Mining Business Permits (IUPK).<sup>15</sup> These permits are granted to provide real added value to national economic growth and sustainable regional development. The Constitutional Court as a state institution that functions as "The Guardian of Constitution" and has the authority to test laws against the Basic Law in accordance with Article 24C

---

<sup>11</sup> Tuti Widyaningrum, and Muhammad Rifqi Hamidi, 2024. We are updating the Mineral and Coal Mining Law Towards Sustainable Justice and Legal Certainty For Indonesian Society. *Iblam Law Review*, Vol. 4, No. 3, p. 13.

<sup>12</sup> Abdul Kadir, 2021. Completion dispute Administration Mining Business Permit After Enactment Law Number 3 of 2020, *Sultra Research of Law: Jurnal Hukum*, Vol. 3, No. 2, p. 28

<sup>13</sup> I Made Arya Utama, 2007, *Environmental Law : Licensing Legal System Insightful Environment for Sustainable Development*, Bandung: Pustaka Sutra, p. 10.

<sup>14</sup> Dwi Tuti Muryati, B. Rini Heryanti and Dhian Indah Astanti, 2016. Arrangement Mining Business Activities about Completion Dispute Mining. *Journal Dynamics Social*, Vol. 18, No. 1, pp. 25-26

<sup>15</sup> Asnawi, MI (2023). Implications Legal Management Legal Management Mining in Aspect Life Social Economy of Society. *Samudra Keadilan Law Journal*, 14, 45-60.

paragraph (1) of the 1945 Constitution, has provided a consistent interpretation regarding the state's right to control the main branches of production.<sup>16</sup>

The increasing number of mining business activities involving both foreign and national investment has caused massive exploitation and resulted in pollution and environmental damage. In addition, various problems have arisen, especially the use of land for mining activities, thus causing friction of interest between mining business actors, local communities, and local governments where the mining business activities are carried out.<sup>17</sup>

From an economic perspective, mining operations that require large areas of land often displace people's land, causing them to lose their sources of production. The loss of these natural resources greatly hampered the capacity of local people to produce their own needs and commodities.<sup>18</sup> Land owned and managed by the people, this will have an impact on the following conditions:

1. Loss of production resources (land and natural resources) paralyzes local communities' ability to produce their own goods and necessities.
2. The destruction of the consumption system and the paralysis of the production system make society increasingly dependent on goods and services from outside. For their daily needs, they are increasingly trapped in the economic trap. Cash tends to see land and natural resources as factors of production and can be exchanged for a certain amount of money, not much more.
3. The distribution system breakdown means that local distribution activities are increasingly dominated by the inflow of goods and services into the community.<sup>19</sup>

In addition, land issues can also arise due to various laws and regulations that facilitate the government and private sectors to obtain land to carry out their business activities, one of which is mining. Mining business is all efforts carried out by a person or legal entity or business entity to take mining materials to be further utilized for human interests. While mining activities are a series of activities from searching for and studying the feasibility to the utilization of minerals, both for the benefit of the company, the surrounding community, and the government (regional and central).<sup>20</sup>

Concretely, one of the things that illustrates the weaknesses in environmental and natural resource management is the emergence of mining land conflicts between mining business interests and the people due to the struggle for mining locations. In fact, many regions produce business permits, both mining business permits and people's mining permits. The mining sector is used as an instrument of regional original income. The problems that occur are that the landscape is changed in such a way due to mining activities, mining permits are given without meeting environmental, technical, administrative, abuse of authority, and financial requirements so that it can lead to corruption, and permits can even overlap with other permits, clash with regional spatial plans and forest areas. Therefore, it is interesting to study the protection and management of the environment in the transfer of forest area functions for mining businesses and legal instruments for the transfer of forest

---

<sup>16</sup>Tuti Widyaningrum , and Muhammad Rifqi Hamidi, *op.cit* . p . 15

<sup>17</sup> English : The Study of the History of the World in the Field of Literature ...

<sup>18</sup>Tuti Widyaningrum , and Muhammad Rifqi Hamidi, *op.cit* . p . 19

<sup>19</sup> M. Iqbal Asnawi , 2019. Implications Legal Management Mining in Aspect Life Social Economy of Society. *Samudra Keadilan Law Journal* , Vol. 14, No. 1 , p . 55.

<sup>20</sup> S religion, S, Analysis Draft Justice, Legal Certainty and Benefit in Management Environment. School : *Journal Islamic Legal Thought*, Vol.15 No.1, 2016, p . 20.

land in mining businesses.<sup>21</sup> The weakness of the legislation is that it treats mining by the people the same as large mining by commercial companies, making it difficult for miners from the local community to fulfill it while people's lives demand income for their survival. On the other hand, local governments do not have enough alternatives for miners to become their livelihood. As a result, illegal mining by the community continues to occur, and the local government is only limited to providing appeals and socialization without any real effort to help miners get out of the problems they will face if they no longer carry out mining activities<sup>22</sup>

Legal protection for the community is carried out by the government by requiring mining companies to carry out obligations to the mining community which include Human Resources (HR), Health, Economic Growth, Regional Development and Partnerships. <sup>23</sup>There needs to be justice where every activity of the mineral and/or coal mining project has a positive impact on the community, especially indigenous peoples in the places where the natural resource processing activities are carried out.<sup>24</sup> In order to provide protection to the community related to mining activities, the state has its own methods and mechanisms. Philipus M. Hadjon stated that as a country of law, Indonesia must provide legal protection to the community in accordance with Pancasila. Based on Pancasila, legal protection is based on the values of the Almighty God, humanity, unity, deliberation, and social justice. These Pancasila values aim to achieve shared prosperity based on the principle of family.<sup>25</sup>

In the management of natural resources, mining will come into contact with the use and utilization of other natural resources such as the land above it. The use of land for the interests of mining business activities often causes conflicts of interest that lead to conflicts or disputes .<sup>26</sup> Effective dispute resolution is the dream of every party involved in a business activity. Therefore, the disputing parties always try to find a way to resolve the dispute in order to always achieve a position of balance and to be able to survive. Dispute resolution can be through the courts, which is a pattern of dispute resolution that occurs between the disputing parties, where in the settlement of the dispute it is resolved by the court and its decision is binding.

Apart from resolving disputes through the courts ( litigation ), in the national legal system there is a dispute resolution process through institutions outside the courts known as alternative dispute resolution or Alternative Dispute Resolution (ADR). Based on the provisions of Article 1 number 10 of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, it states that Alternative Dispute Resolution is an institution for resolving disputes or differences of opinion through procedures agreed upon by the parties, namely settlement outside the court by means of consultation, negotiation, mediation, conciliation, or expert assessment.

---

<sup>21</sup> Nur Nashriany Jufri , Tatiek Sri Djamiati , and Lilik Pudjiastuti , 2020. Management Environment in Redirection Function Forest Areas for Mining Businesses . Jurisprudence , Vol. 7, no. 1, p . 4

<sup>22</sup> Setiabudhi, D. O. ., Palilingan, T. N. ., Irwansyah, Palilingan, T. K. R. ., & Awaluddin, H. . (2022). Small Scale Mining by Local Communities: Measuring Progress Towards a Sustainable Environment. BiLD Law Journal, 7(2s), 469–473. Retrieved from <https://bildbd.com/index.php/blj/article/view/364> p. 470

<sup>23</sup> Muh. Fatuhrahman Bakri, and Rahmat Hidayatullah Abbas, 2023, Legal Protection of the Rights of Indigenous Peoples Against Exploration Mining in the Regency Tanatoraya . Officium Notarium, Vol. 3, no. 1, p . 82

<sup>24</sup> P radiatmika , PP, Widiati , IA, & Karma, N. M, Legal Protection for Communities in Mining Areas , Journal Legal Analogy , Vol. 2 No. 2, 2020 , p . 252.

<sup>25</sup> Manguling , Suleman, Paganna ' , YS et al ., Tracing Traditions and Culture Toraja ( Edition I), Tana Toraja, Department Culture Government Tana Toraja Regency , 2017 , p . 3.

<sup>26</sup> Van Leeuwen , Mathijs. " Crisis or continuity?: Framing land disputes and local conflict resolution in Burundi."Land Use Policy,Vol . 27, no. 3, 2010, : 753-762.

There are several reasons behind the emergence of interest and attention towards alternative dispute resolution, namely:<sup>27</sup> First, in Indonesia, the procedure for peaceful dispute resolution has long been and is commonly used by Indonesian society which has cultural roots that prioritize deliberation and consensus in the informal decision-making process; second, there is dissatisfaction with the resolution of cases through the courts, such as the high cost of the case, the length of time to resolve the case, and the complexity of the proceedings, so it is necessary to provide a dispute resolution mechanism that is more flexible and responsive to the needs of the disputing parties.

One way to resolve land disputes is through mediation, which is a dispute resolution process in which the disputing parties utilize the assistance of a neutral third party as a mediator who does not have the authority to make decisions. Dispute resolution through mediation according to the provisions of Law Number 30 of 1999 must be preceded by negotiation efforts. If negotiations fail, the parties can appoint a mediator. In principle, everyone can act as a mediator as long as they meet the requirements, namely being appointed or agreed upon by the parties and being able to act as a neutral mediator.<sup>28</sup>

As for the land conflict on Wawonii Island, Konawe Islands, Southeast Sulawesi. The conflict occurred between residents and companies on Wawonii Island, Konawe Islands. Residents are trying to defend the clove plantation land ready for harvest that was encroached on by the company that owns the nickel mining business permit (IUP) in this area, PT Gema Kreasi Perdana (GKP). Dozens of clove trees belonging to Mosolo Village residents that were ready to be harvested were destroyed by heavy equipment. The company is required not to force its will and to follow the rules to avoid a bigger conflict. Meanwhile, legal proof of land ownership based on evidence of hereditary physical control must meet the criteria<sup>29</sup>. According to Hamiruddin, according to the rules, the company can no longer carry out mining. This is because his party has won a lawsuit related to Regional Regulation Number 2 of 2021 concerning the Konkep Regional Spatial Plan 2021-2041. Residents are conducting a judicial review related to the regional regulation, especially Article 24 (d), Article 28, and Article 36 (c). Meanwhile, PT GKP Public Relations Coordinator Marlion explained that his party did not encroach on the land, but rather cleared the area. This is because the land is in a forest area that has been regulated in the forest area borrow-to-use permit (IPPKH) owned by the company.<sup>30</sup>

## CONCLUSION

Mining is a sector that receives serious attention from the government, considering that mining business activities provide a significant contribution to the inflow of foreign exchange. One of the factors that investors consider when investing is the issue of legal certainty. Without legal certainty, people do not know what to do and eventually cause unrest, and will cause a sense of injustice. In order for the law or implementation of a regulation to work, a device is needed that supports the coercive nature of the rule of law, so that everyone must implement it. A regulation that is

---

<sup>27</sup> Umar Hasan, et al. Mediation Model Completion Land Disputes in the Perspective of Customary Law. *Journal Innovative*, Vol. XII, No. 1, January 2019.

<sup>28</sup> Megawati Ilhyamuis, Farida Patitingi, and Kahar Lahaer. Alternatives Completion Dispute Mining: Study of Land Disputes Between Krungsi'e Communities Dongi and PT Vale Indonesia Tbk. *Amanna Gappa*, Vol. 30, no. 1, 2022. p. 8.

<sup>29</sup> Farida Patitingi. Confirmation of Land Ownership Rights Basis Physique Down Hereditary in Practice Land Registration. *Amanna Gappa*, Vol. 19, no. 4, December 2011. p. 362.

<sup>30</sup> Saiful Rijal Yunus, "Land Conflict in Wawonii Repeatedly, Dozens Tree "Cloves of Residents Attacked by Companies", <https://www.kompas.id/baca/nusantara/2023/08/11/konflik-lahan-di-wawonii-kembali-terulang-puluhan-pohon-cengkeh-warga-diterjang-perusahaan>, accessed on September 28, 2024.



implemented consistently will provide legal authority and provide values of justice, certainty and legal benefits. In carrying out mining efforts, of course, it requires large areas of land, often displacing land owned by the people, which causes people to lose their sources of production. The use of land/land for the interests of mining business activities often causes conflicts of interest that lead to conflicts or disputes. In resolving these disputes, they can be resolved through the courts, besides that, they can also be resolved through institutions outside the courts known as alternative dispute resolution which can be done through consultation, negotiation, mediation, conciliation, or expert assessment.

## BIBLIOGRAPHY

### Book

I Made Arya Utama, 2007, *Environmental Law: Environmentally Aware Licensing Legal System for Sustainable Development*, Bandung: Pustaka Sutra.

Irwansyah. *Legal Research, Choice of Methods & Article Writing Practices*, 2nd Edition, Mirra Buana Media, Yogyakarta, 2020.

Nandang Sudrajat, *Theory and Practice of Indonesian Mining According to Law*, (Pustaka Yustisia: Yogyakarta, 2010).

Salim HS, *Mineral and Coal Mining Law*, (Sinar Grafika : Jakarta, 2012).

### Journal

Abdul Kadir. Settlement of Mining Business Permit Administrative Disputes After the Enactment of Law Number 3 of 2020, *Sultra Research of Law: Jurnal Hukum*, Vol. 3, No. 2, 2021.

Andi Batari Anindhita, Farida Patittingi, and Chalis Al Rossi. Comparison of Positive and Negative Publication Systems of Land Registration : A Legal Certainty Perspective. *Amanna Gappa*, Vol. 29, No. 2, 2020.

Asnawi, MI Legal Implications of Legal Management of Mining Management in the Aspects of Community Socio-Economic Life. *Samudra Keadilan Law Journal*, 14, 45, 2023.

Birkah Latif., SM Noor., Juajir Sumardi., and Irwansyah, 2019. Sustainable Development and Sea Protection : Trade on Fish and Fishery Product, *IOP Conference Series : Earth and Environmental Science*, 343 (1), pp. 206-209. Available at: [https://www.researchgate.net/publication/337061782\\_Sustainable\\_development\\_and\\_sea\\_protection\\_Trade\\_on\\_fish\\_and\\_fishery\\_product](https://www.researchgate.net/publication/337061782_Sustainable_development_and_sea_protection_Trade_on_fish_and_fishery_product)

Dwi Tuti Muryati, B. Rini Heryanti and Dhian Indah Astanti,. Regulation of Mining Business Activities in Relation to Mining Dispute Resolution. *Journal of Social Dynamics*, Vol. 18, No. 1, 2016.

Farida Patittingi. Affirmation of the Basis of Hereditary Physical Ownership Rights in Land Registration Practices. *Amanna Gappa*, Vol. 19, no. 4, December 2011.

Manguling, Suleman, Paganna', YS et al., *Searching for Toraja Customs and Culture* (Edition I), Tana Toraja, Tana Toraja Regency Government Culture Service, 2017.

Megawati Ilhyamuis, Farida Patittingi, and Kahar Lahaer. Alternative Mining Dispute Resolution: Study of Land Disputes Between Krungsi'e Communities Dongi and PT Vale Indonesia Tbk. *Amanna Gappa*, Vol. 30, No. 1, 2022.

Muh. Fatuhrahman Bakri, and Rahmat Hidayatullah Abbas, Legal Protection of Indigenous Peoples' Rights Against Mining Exploration in Tanatoraja Regency. *Officium Notarium*, Vol. 3, no. 1, 2023.

M. Iqbal Asnawi. Legal Implications of Mining Management in the Social and Economic Aspects of Community Life. *Samudra Keadilan Law Journal*, Vol. 14, No. 1, 2019.

Nur Nashriany Jufri, Tatiek Sri Djamiati , and Lilik Pudjiastuti . Environmental Management in the Conversion of Forest Areas for Mining Businesses. *Jurisprudentie* , Vol. 7, No. 1, 2020.

Pradiatmika , PP, Widiati, IA, & Karma, N. M , Legal Protection for Communities in Mining Areas, *Jurnal Analogi Hukum*, Vol. 2 No. 2, 2020.

S religion , S, Analysis of the Concept of Justice, Legal Certainty and Benefit in Environmental Management. *Mazahib : Journal of Islamic Legal Thought*, Vol.15 No.1, 2016.

Setiabudhi, D. O. ., Palilingan, T. N. ., Irwansyah, Palilingan, T. K. R. ., & Awaluddin, H. . (2022). Small Scale Mining by Local Communities: Measuring Progress Towards a Sustainable Environment. *BiLD Law Journal*, 7(2s), 469–473. Retrieved from <https://bildbd.com/index.php/blj/article/view/364>

Tuti Widyaningrum, and Muhammad Rifqi Hamidi, Reform of Mineral and Coal Mining Law Towards Sustainable Justice and Legal Certainty for Indonesian Society . *Iblam Law Review* , Vol. 4, No. 3, 2024.

Umar Hasan, et al. Land Dispute Resolution Mediation Model in Customary Law Perspective. *Inovatif Journal*, Vol.XII , No.1, January 2019.

Van Leeuwen , Mathijs . " Crisis or continuity ?: Framing land disputes and local conflict resolution in Burundi." *Land Use Policy*, Vol . 27, No. 3, 2010, 753-762.

### Website

“MINISTRY OF EMR PERFORMANCE REPORT 2020”. Jakarta, 2021, Data downloaded at: <https://www.esdm.go.id/assets/media/content/content-laporan-kinerja-kesdm-2020.pdf>

“MINISTRY OF ENERGY AND MINERAL RESOURCES PERFORMANCE REPORT 2021”, Jakarta, 2022, p. 231. Data downloaded at: <https://www.esdm.go.id/assets/media/content/content-laporan-kinerja-kementerian-esdm-2021.pdf>

“MINISTRY OF ENERGY AND MINERAL RESOURCES PERFORMANCE REPORT 2022”, Jakarta, 2023, p. 268. Can be downloaded at: <https://www.esdm.go.id/assets/media/content/content-laporan-kinerja-kementerian-esdm-tahun-2022.pdf>

<https://www.jatam.org/2020-adalah-tahun-panen-ijon-politik-tambang-kriminalalisasi-hingga-berujung-bencana/> . Press Release (01/25/2021).

Saiful Rijal Yunus, “Land Conflict in Wawonii Recurs, Dozens of Residents' Clove Trees Destroyed by Company”, <https://www.kompas.id/baca/nusantara/2023/08/11/konflik-lahan-di-wawonii-kembali-terulang-puluhan-pohon-cengkeh-warga-diterjang-perusahaan> , accessed on September 28, 2024.