

# Renewal Of Mineral Mining Regulations In The Framework Of Implementation Of Sustainable Development Goals (Sdgs) In Indonesia

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## Abstract

Renewal of Mineral Mining Regulations is urgently needed for the realization of the Sustainable Development Goals (SDGs). Because Indonesia is a country rich in Mineral Resources it has the potential to become an economic power to achieve sustainable national development. For the implementation of the program, the latest mining law regulations are needed in accordance with what they should be. The results of the study indicate that the mineral mining business has contributed significantly to the achievement of the Sustainable Development Goals (SDGs). However, in its implementation, to be able to process the potential of existing mineral mining products requires large costs and high technology which as a whole cannot be carried out by the state independently. For this reason, foreign investors are needed and investment arrangements in the mineral mining business sector related to the SDGs are needed as a framework through which companies can carry out activities that are integrated with the SDGs as a starting point in determining the direction of mineral mining business policies and with that the state can provide maximum legal protection to provide legal certainty and business to mineral mining businesses in Indonesia

**Keywords:** Renewal, Arrangement, Investment, Mineral Mining, SDGs

## INTRODUCTION

The government must be able to make policies in mining development optimally to improve economic stability and community prosperity.<sup>1</sup> The existence of mines in the bowels of the earth must be able to be managed properly. To achieve this, an integrated mining business legal system is needed, such as mineral mining management which involves various

elements of interest, including economic, social and environmental interests. So that the legal concept of sustainable mining development is needed as part of the sustainable development goals in the national context which is the ratification of the Sustainable Development Goals (SDGs) on a global scale.

Indonesia is a country that also plays a role in the SDGs from 189

countries which are then supported to be active in implementing the goals of the SDGs. SDGs are new development agreements that encourage changes that shift towards sustainable development based on human rights and development to promote social, economic and environmental development.<sup>2</sup> The SDGs are implemented with universal, integrated and inclusive principles to ensure that no one is left behind.

Indonesia's seriousness in supporting the goals of sustainable SDGs or sustainable development with Presidential Regulation No.59 of 2017 being the legal basis for implementing the SDGs in Indonesia, was followed by the Decree of the Minister of National Development Planning Agency concerning the Establishment of an Expert Team on SDGs on the SDGs. The world is a massive goal to have an impact, both positive and negative, on the SDGs. The positive side is foreign exchange visits and regional original income as well as having a workforce impact. Meanwhile, the negative impacts of mining include damage to the earth's surface, tailings, air pollution, the decline in the earth's surface, and damage due to the transportation of heavy equipment and equipment.<sup>3</sup>

Mining's large contribution to the achievement of the SDGs can be achieved if mining development implements an environmentally friendly Mining Development system while still considering economic and business aspects that can provide legal protection and business certainty to investors who invest their capital in the mining business sector. For this reason, the government is

obliged to follow up with environmentally friendly mining arrangements within the framework of sustainable mining development which is the implementation of the implementation of the objectives of the SDGs.

## LITERATURE REVIEW

The government has a position as the mining authority, in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia (UUD 1945), the state must regulate the level of utilization to prevent waste of the potential it controls and can optimize revenue. from the mining business so that the maximum profit can be obtained for the prosperity of the people.<sup>4</sup> In conducting exploration and exploitation of mineral mining communities, large capital and high technology are needed and no less important are the laws and regulations that support these activities, so that they can generate large profits at a reasonable scale and still pay attention to environmental safety and social life around. Exploration in the context of the utilization of natural resources in the mineral mining sector must be based on good regulations and laws. So that there will be prosperity and welfare without having to sacrifice the environment which can cause natural disasters and damage the social order of the community.

In the mining sector, problems related to the environment are ignored, such as those arising from the use of materials such as mercury, as well as problems related to the impact on water bodies as a result of the use of heavy metals. This condition is a problem for mining all over the world as well as for

multinational companies. This of course has a great influence on environmental management.<sup>5</sup>

The environmental and social problems caused by mining companies in the current era are getting better. This is because there are many regulations governing the environment that serve as a legal umbrella in the implementation of mining exploitation, but in practice, there are still many violations that occur as a result of weak government supervision and the absence of severe sanctions that can provide a deterrent effect for rogue mining entrepreneurs.

The World Great potential to have a positive or negative impact on the goals of the SDGs. Many think that mining always gives bad things, especially environmental problems. When the SDGs that the world wants to achieve by 2030 is issued, the public and ordinary people will surely feel that of course, the mining world cannot participate in the success of this goal, and the worst thing is that it only complicates the existing problems. But often, the only mine turns a blind eye to the world to see how it actually contributes and even plays an important role in the success of the 2030 SDGs. The role of mining and its contribution to the SDGs includes 3 (three) parts, namely social inclusion, economic development and environmental resilience.<sup>6</sup>

Indonesia as one of the countries that have agreed on the implementation of the sustainable development goals (SDGs) is committed to the successful implementation of the SDGs through various activities and has taken strategic steps. To ensure the implementation of the SDGs goes well, the government has established the National Secretariat for the

Sustainable Development Goals (SDGs). The SDGs National Secretariat maintains various activities related to SDGs in Indonesia. Several stakeholders involved in ministries/agencies, the Central Bureau of Statistics, academics, experts, and civil society organizations.

In implementation, there are several agreed principles that are also adopted by Indonesia. The first principle is universality. This principle encourages the implementation of the SDGs in all countries, both developed and developing countries. In the national context, the implementation of the SDGs will be implemented in all regions of Indonesia. The second principle is integration. This principle implies that the SDGs are implemented in an integrated and interrelated manner in all social, economic and environmental dimensions. This second principle is firmly adhered to in the preparation of action plans, especially in relation to programs and activities and their budgeting. The last principle is "No One Left Behind" which ensures that the implementation of the SDGs must benefit all, especially the vulnerable and its implementation involves all stakeholders. This principle has also been applied in every stage/process of implementing the SDGs in Indonesia.

Sustainable Development Goals explicitly aim to eradicate poverty and hunger, reduce inequality within and between countries, improve water and energy management, and take urgent steps to address climate change. The SDGs emphasize the importance of efforts to increase processing and site rehabilitation to end poverty with strategic efforts and increase economic growth, implement

social policy measures to meet various social needs and policy measures to address climate change and environmental protection.<sup>7</sup>

Another principle of the sustainable development agenda that is also important to remember is that no one is left behind in achieving it.<sup>8</sup> For this reason, a legal basis is needed to maintain implementation not only at the national level but also at the provincial and district/city levels and even implementation in the field. This is to carry out the principle that the SDGs must reach all levels and members of society, without exception.<sup>9</sup> On the legal basis, the targets and objectives of the implementation of the Sustainable Development Goals (SDGs) are determined; National Coordination Team for SDGs Implementation; Preparation of Road Maps, National Action Plans (RAN) and Regional Action Plans (RAD) as derivatives of the RAN; funds and procedures for Coordination, Planning, Monitoring, Evaluation and Reporting on SDGs Implementation.<sup>10</sup> On July 4 2017, the legal basis for implementing the SDGs was issued in the form of Presidential Regulation Number 59 of 2017 concerning the Implementation of the Achievement of Sustainable Development Goals in the context of the Global Sustainable Development Goals (SDGs).

Development which is the integrity of sustainable national development with the SDGs requires no small investment to be able to utilize the Natural Resources owned with the goal of the greatest prosperity for the people of

Indonesia. For this reason, a mining regulation and law are needed that is in line with investment laws and regulations while still prioritizing environmental legal aspects. In this case, investors have the opportunity to get a reasonable profit to obtain and utilize the natural resources that exist in Indonesia while maintaining the environment from damage.

## RESEARCH METHOD

the main legal material by looking at concepts, theories, legal principles and statutory regulations.<sup>11</sup> This normative approach is used to explore, research and examine these objects as legal principles through national laws, international conventions in the mining sector and SDGs. The specification of the research is descriptive analysis because this research reveals and analyzes the current legal phenomena. The data analysis method used is a qualitative juridical analysis method equipped with a comparative study to lay the foundation for existing mining investments. Through this method, we will see the state's efforts to provide maximum legal protection to provide legal certainty to mineral mining businesses in Indonesia. Because there will be something that causes people to have to leave the old rules and start with new ones that are more in line with life.<sup>12</sup>

If we look at Posner's theory, which adheres to a normative directive that urges the law to ensure efficiency and use social wealth maximization analysis to find the concept of justice.<sup>13</sup> Because the law is needed for those who are weak and not yet strong socially, economically and politically to obtain social justice.<sup>14</sup>

Legal development is directed to support the realization of sustainable economic growth; regulate problems related to the economy, especially the business world and the industrial world. Therefore, basic laws, government regulations, presidential regulations/decrees/instructions, ministerial regulations/decrees/instructions, regional regulations (PERDA) and regional head regulations/decrees/instructions must be progressive, synchronous and non-conflicting so that they can create investment certainty, especially law enforcement and legal protection.<sup>15</sup> Because when viewed in general, there are many legal elements that complicate mining practices.<sup>16</sup>

## RESULT AND DISCUSSION

The principle of “No One Left Behind” ensures that the implementation of the SDGs must benefit all, especially the vulnerable and its implementation involves all stakeholders from the centre to local governments. The Mineral and Coal Mining Law which at the beginning of its amendment from Law No. 11 of 1967 to Law No. 4 of 2009 gave a spirit of supporting regional autonomy which resulted from the existence of a mining law which handed over responsibility for local governments to issue permits. Mining Business (IUP). The role of regional heads at that time was very strong and had a high bargaining value to investors in the mining sector, so they could easily fight for their people to get big profits from the existence of mining in their territory.

The law governing mining investment or anything related to mining

investment, especially mineral mining, must be able to accommodate the interests of sustainable mining business development which is part of the integrity of sustainable national development in line with the SDGs. There is a need for a special study to restructure the Law and all regulations governing Investment in Mineral Mining so that it can make a maximum contribution to the targets of the Sustainable Development Goals (TPB) or Sustainable Development Goals (SDGs) in Indonesia.

Concretely, the SDGs are a joint commitment that was agreed upon by 193 countries on September 25, 2015. The SDGs are documents that contain the objectives to maintain a sustainable improvement in the economic welfare of the community, maintain the sustainability of community social life, maintain environmental quality, as well inclusive development and implementation. governance that can maintain the improvement of the quality of life from one generation to the next. The Indonesian government views the SDGs as concrete actions to achieve sustainable development. To that end, the government aligns the goals and targets for achieving the implementation of the SDGs with the national development agenda, both in the National Long-Term Development Plan (RPJPN) and the National Medium-Term Development Plan (RPJMN).

The SDGs have 5 (five) basic principles, including: (1) people, namely determining poverty and reaching out in all its dimensions, and ensuring that all citizens of the world can fulfill their potential for dignity and knowledge and a healthy environment; (2) planet (earth),

namely establishing the protection of the planet from degradation, including through sustainable production and consumption, sustainable management of natural resources and taking action on climate change, so as to support the needs of present and future generations; (3) prosperity (welfare), ensuring that all human beings can enjoy and fulfill a prosperous life and that economic, social and technological progress is in harmony with nature; (4) peace (peace), namely creating a peaceful, good and inclusive society that is free from networks and violence; and (5) partnerships, namely revitalizing global partnerships for sustainable development based on the spirit of strengthening global solidarity, whether carried out by the government or non-government, especially the business sector.<sup>17</sup>

The achievement of Indonesia's SDGs implementation can be seen in the 2018 SDG Index. In this index, Indonesia achieved a score of 62.8, or Indonesia's position is ranked 99th out of 156 countries and can be categorized as a country that is quite good in TPB/SDGs supervision. Of the 17 goals, there are 5 (five) goals that have good performance and there is one goal that has decreased, namely Goal 15: Land Ecosystem. For other purposes, Indonesia's performance has remained relatively unchanged.<sup>18</sup>

In the National Medium Term Development Plan IV 2020-2024, the president's vision in terms of investment is to invite the widest possible investment to open jobs, cut investment barriers, slow licensing, and extortion. The government provides legal certainty for business and investment through simplification of licensing that hinders investment,

implementation of simplification, harmonization and investment licensing regulations at the central/ministerial levels of institutions and regions.

In increasing state revenues and advancing the regional economy, good coordination is needed between the central and provincial governments as well as regencies/cities. Such coordination can be carried out effectively through the authority of regional autonomy. In the development of regional potential, the potential of natural resources in an area is part of the regional economic potential which must be a source of regional original income so that it can become the economic strength of a region. The current implementation of regional authority in the management of Natural Resources is not in line with the existing and valid Mining Law, as of 11 December 2020, the authority of the provincial government to manage mineral and coal mining (minerba) has shifted to the central government. This is as stipulated in the Letter of the Ministry of Energy and Mineral Resources (ESDM) Number 1481/30.01/DJB/2020 dated December 8, 2020, which is addressed to Governors throughout Indonesia and contains 3 points. First, in accordance with Article 173C of Law No. 3 of 2020 that the authority for mining management by the provincial government which has been implemented based on Law No. 4 of 2009 and other laws governing the authority of mineral and coal mining areas will expire on December 10, 2020 or 6 months since Law No. 4 of 2009 took effect on 10 June 2020.

Second, as of 11 December , 2020, 7 provincial government authorities in the management of mineral and coal

mining have shifted to the central government. First, is the licensing service in the mineral and coal mining sector. Second, the implementation of guidance and supervision of licensing in the mineral and coal mining sector. Third, the auction of metal mineral mining business permits (WIUP) and coal WIUP areas. Fourth, presenting non-specific WIUP, non-metallic WIUP minerals, and rock WIUP. Fifth, present the approval of the annual work plan and budget (RKAB). Sixth, granting approval for mining business permit (IUP) holders. Seventh, other authorities that are implemented based on Law No. 4 of 2009 and implementers and other laws that regulate the regional authority of mining and coal mining provinces.

Point 3 explains that licensing services in the mineral and coal mining sector by the central government will be reopened on 11 December 2020, and implemented through the Investment Coordinating Board (BKPM). To support this, the provincial government is asked to provide several documents to the Director General of Mineral and Coal at the Ministry of Energy and Mineral Resources. The documents in question include exploration IUPs and production operations IUPs that have been issued before the enactment of Law No. 3 of 2020 and have been recorded in the Minerba One Data Indonesia (MODI) application including the completeness. Provincial governments are also asked to submit to mineral and coal mining actors who have submitted applications and requirements to further process the issuance of IUPs through BKPM. Especially for business actors who have been granted a non-metal mineral WIUP, a certain type of non-metallic WIUP, or a rock WIUP.

In addition, on the same date, the Ministry of Energy and Mineral Resources (ESDM) also issued a letter numbered 1482/30.01/DJB/2020 addressed to the Head of BKPM containing 4 points. First, the provisions of Article 173C of Law No. 3 of 2020, where there is a creator from mineral and coal sources from the central province. Second, the end of the moratorium on new licenses in the mineral and coal mining sector. Third, there is a change in the licensing nomenclature regarding those listed in the Minister of Energy and Mineral Resources Regulation No. 25 of 2015 with the licensing nomenclature in Law No. 3 of 2020 and Law No. 11 of 2020 of the Job Creation Law.

In this regard, to implement Presidential Instruction No. 4 of 2015 concerning One Stop Licensing Services at BKPM, the Ministry of Energy and Mineral Resources expects that licensing services in the mineral and coal mining sector can be served through BKPM starting December 11, 2020, although so far this has not been possible due to reasons from the ESDM itself which states that there is still no technical personnel who master mining licensing issues outside of their institutions. So even if it is implemented through the One Stop Licensing Service at BKPM, this is only an administrative technical nature in which the One-Stop Licensing Service at BKPM only accepts licensing files and the process itself is carried out by the Ministry of Energy and Mineral Resources.

The policy and authority of the provincial government to manage coal mineral mining (coal miner) to the central government only draws attention to the absence of regional authority to provide guidance and supervision to permit-holding companies, this will make it

difficult for citizens to access reports and inform the government because of the distance. increasingly distant because it is drawn to the central government. Before the two letters were published, people often had difficulties when they complained and reported to the provincial government because the mining area was relatively far from the provincial government. "When the job range is stretched further in Jakarta, it will add to the citizens' need for justice".<sup>19</sup>

Unlike the previous Mining Law, namely Law no. 4 of 2009 concerning Mineral and Coal Mining which has a spirit that supports regional autonomy. This can be seen from the existence of regulations that delegate responsibility to local governments to issue Mining Business Permits (IUP). With the authority possessed by the region to manage mining resources in its area, the regional government has the obligation and responsibility to manage and utilize these mining resources for the welfare of the community. The local government has a bargaining position or bargaining value in negotiating with investors where investors can be asked to make a direct contribution to the welfare of the community around the mine in which the local government is more aware of the condition of the area than the central government. In terms of welfare for the community, the regional head of government is the regional leader who is psychologically and in closer kinship with the people, so the target of maintaining welfare to be achieved is more on welfare in conditions that directly involve daily life. Welfare in real conditions is determined by two basic conditions, namely :<sup>20</sup>

1. The cost of living necessities remains stable, especially for basic needs, such as clothing, food and housing.
2. There is an income that can be relied on to support his family properly and expect that income to increase from time to time.

With the attention received from the government from this central issue, the local government will release the responsibility for the mining results, especially due to environmental damage caused by mining, control by the centre, and ineffectiveness. maximum result. As stated in the explanation of the Regional Government Law that to provide wider space for regions to regulate and manage the lives of their citizens, the central government in regulating policies must pay attention to local wisdom and vice versa when regulating regional policies and regional regulations. other policies also take into account the national interest. Thus, a balance will be created between synergistic national interests and still paying attention to local wisdom in the overall implementation.

The goal of sustainable development in realizing prosperity for the community is not only welfare in real conditions that directly involve daily life which is determined by two basic conditions as described previously. The goal of sustainable development in realizing prosperity for the community must be in the long term not only for now but also for the future, for that environmental protection must be a top priority because the damage will harm people's lives now and in the future.

Indonesia's rating in the 2020 SDG Index has increased, from 102 in 2019 to 101 out of 166 countries. it measures performance based on the



progress of the Index of 17 goals in the SDGs. Despite the improvement, there is still a lot of work to be done. In the report 'The Sustainable Development Goals and Covid-19', 10 of the 17 SDGs in Indonesia have improved where there is stagnation for goals 5 (Gender Equality), 11 (Sustainable Cities and Communities), 14 (Sea Ecosystems), 15 (Ecosystems). Mainland), and 17 (Partnerships to Achieve Goals). Despite positive developments in certain areas, Indonesia still faces challenges in terms of goals 2 (No Hunger), 3 (Healthy and Prosperous Lives), 6 (Clean Water and Adequate Sanitation), 9 (Industry, Innovation and Infrastructure), 10 (Reducing Inequality), 15 (Land Ecosystems), and 17 (Partnerships to Achieve Goals).<sup>21</sup>

The United Nations University World Institute for Development Economics Research (UNU WIDER) reports that 400 million people have fallen into poverty due to Covid-19. In Indonesia alone, it is reported that there are 1.63 million new poor people due to this pandemic. Regarding Decent Work and Economic Growth Goal 8, the International Labor Organization (ILO) predicts that 195 million people will be out of work. Meanwhile, the Indonesian Ministry of Manpower said 3.05 million people had lost their jobs. In addition, there is an increase in the number of masks and personal protective equipment waste, which affects the goals of 14 Marine Ecosystems and 15 Land Ecosystems.<sup>22</sup>

Certainly, this condition cannot be guaranteed to open the SDGs in Indonesia. The 10 year time limit is added with new challenges due to the pandemic,

the world situation seems to have changed, and the term new normal means that we are already in a changing world condition. This condition requires us to go back and adjust our strategy in achieving the SDGs. For this reason, it is necessary to regulate investment in the Mineral Mining sector within the framework of implementing the Sustainable Development Goals (SDGs) in Indonesia. Because the pattern of mining and mining laws is very important in the face of changing expectations about the contribution of mining to sustainable development.<sup>23</sup>

## CONCLUSION

The mineral mining business within the framework of implementing the Sustainable Development Goals (SDGs) will be able to provide legal protection for mining businesses in Indonesia if it is carried out by implementing the SDGs into the operations and business strategies of mining companies, thus companies can show respect and build trust in the community. So that companies can avoid political, legal and compliance risks that have the power to deal with outside disturbances that are often in the name of the community by threatening and blackmailing the company. Where the risk is no longer material loss but can cause a business or company to be forced to close and not operate again. The concept of implementing the Sustainable Development Goals (SDGs) in the renewal of investment arrangements in the mineral mining sector, especially in providing legal protection for mining businesses in Indonesia, is highly dependent on government management in

managing to mine. The transfer of mining management authority from the regional government to the central government is part of the government's management strategy in managing to mine. Good management will bring the mining business to maximum profit for the prosperity of the people and be part of the achievement of the Sustainable Development Goals (SDGs) because mining laws that do not guarantee legal certainty will not create a good mining investment climate. So that the prosperity of the people will not be maximized even though they use mineral mining resources as much as possible.

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